

HOUSE BILL NO. 864

INTRODUCED BY D. BEDEY, B. BARKER, L. JONES, M. NIKOLAKAKOS, E. TILLEMAN, K. WALSH

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE PROVISIONS OF HOUSE BILL NO. 2;
EXPANDING USE OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; REVISING DEFINITIONS;
PROVIDING FOR TRANSFERS TO AND FROM THE COMMUNITY COLLEGE FTE ADJUSTMENT
ACCOUNT; INCREASING THE RESIDENT NONBENEFICIARY STUDENT PAYMENT FOR TRIBAL
COLLEGES; PROVIDING FOR A STUDY BY THE EDUCATION INTERIM BUDGET COMMITTEE OF
INTERLIBRARY RESOURCE SHARING PROGRAMS AND THE STRUCTURE AND ORGANIZATION OF
THE OFFICE OF PUBLIC INSTRUCTION; AMENDING SECTIONS 20-9-516, 20-15-310, 20-15-328, AND 20-
25-428, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology
account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide,
contingent on appropriation from the legislature, funding for the following in priority order:

(a) school technology purposes, including but not limited to purposes as provided in 20-9-534; and

(b) state debt service assistance as provided in 20-9-371.

(2) There must be deposited in the account:

(a) an amount of money equal to the income attributable to the difference between the average
sale value of 18 million board feet and the total income produced from the annual timber harvest on common
school trust lands during the fiscal year; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) If in any fiscal year the amount of revenue in the school facility and technology account is
sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346(2)(b) and if in that
same fiscal year the amount of revenue available in the school major maintenance aid account established in

20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction."

Section 2. Section 20-15-310, MCA, is amended to read:

"20-15-310. Appropriation -- definitions. (1) As used in [20-15-328] and this section, the following definitions apply:

(a) "Adjusted base" means the state appropriation to a community college in the base year:

(i) (A) plus the payment made to the community college for the base year pursuant to 20-15-328(3)(a); or

(B) minus the FTE increase funding factor divided by the FTE decrease funding factor times the payment made to the state for the base year pursuant to 20-15-328(3)(b); and

(C) minus any one-time-only legislative appropriations in the base year minus any one-time-only legislative appropriations, except for one-time-only legislative appropriations made for fiscal year 2022, and appropriations for auditing purposes, as well as any reversion pursuant to 17-7-142 before July 1, 2023, and adjusted for actual weighted FTE as determined by the commissioner of higher education in [20-15-328 (2)];.

(ii) The amount calculated in subsection (1)(a)(i) is then multiplied by the inflationary factor for the second year of the current biennium.

(b) "Base year" means the first year of the current biennium.

(c) "Concurrent enrollment" means the form of dual enrollment through which a high school student receives instruction in a community college course from a high school instructor.

(d) "CTE FTE" means the FTE derived from students in courses determined by the commissioner of higher education to be career and technical education, based on national standard course classifications. For the purposes of the community college funding formula, FTE generated from a dual enrollment CTE course must be included in the calculation of CTE FTE and not in the concurrent enrollment or early college FTE categories.

(e) "Dual enrollment" means the circumstance in which a high school student is enrolled in both the student's high school and in a community college.

(f) "Early college" means the form of dual enrollment through which a high school student receives instruction in a community college course from a faculty member of the community college.

(g) "FTE" or "full-time equivalent" means the total number of undergraduate resident student credit hours in an academic year divided by 30.

(h) "FTE categories" means CTE FTE, general education FTE, the FTE derived from concurrent enrollment, and the FTE derived from early college. For the purposes of the community college funding formula, FTE generated from a dual enrollment CTE course must be included in the calculation of CTE FTE and not in the concurrent enrollment or early college FTE categories.

(i) "FTE decrease funding factor" means a dollar figure for each year of the ensuing biennium that is determined by the legislature and must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(j) "FTE increase funding factor" means a dollar figure for each year of the ensuing biennium that is determined by the legislature and must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(k) "FTE weighting factor" means a multiplier that is applied to changes in resident FTE in each of the FTE categories and that is determined by the legislature and must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(l) "General education FTE" means the FTE derived from nondual enrollment students in courses determined by the commissioner of higher education to not be career and technical education, based on national standard course classifications.

(m) "Inflationary factor" means the percentage calculated pursuant to 20-9-326, not to exceed 3% and subject to final determination by the legislature as specified in the appropriations act appropriating funds to the community colleges for each biennium.

(n) "Weighted FTE" means, for each FTE category, the sum of the FTE in each that FTE category multiplied by the corresponding FTE weighting factor.

(2) It is the intent of the legislature that all community college spending, other than from restricted funds, designated funds, or funds generated by an optional, voted levy, be governed by the provisions of this part and the state general appropriations act.

(3) The state general fund appropriation for each community college must be determined as follows:

(a) For the first year of the next biennium, multiply the adjusted base by the inflationary factor for the first year of the next biennium, and to this number for each FTE category add the result of multiplying:

(i) any change in the projected weighted ~~resident~~ FTE changes for the first year of the next biennium from the actual weighted ~~resident~~ FTE in the base year; and

(ii) the FTE decrease funding factor or the FTE increase funding factor as appropriate for the first year of the next biennium.

(b) For the second year of the next biennium, multiply the adjusted base by the inflationary factor for the first year of the next biennium, multiply this result by the inflationary factor for the second year of the next biennium, and to this number for each FTE category add the result of multiplying:

(i) any change in the projected weighted ~~resident~~ FTE changes for the second year of the next biennium from the actual weighted ~~resident~~ FTE in the base year; and

(ii) the FTE decrease funding factor or the FTE increase funding factor as appropriate for the second year of the next biennium."

Section 3. Section 20-15-328, MCA, is amended to read:

"20-15-328. Adjustments based on actual weighted FTE -- special revenue account -- statutory appropriation -- annual transfer. (1) There is a community college FTE adjustment account in the state special revenue fund provided for in 17-2-102. The account is statutorily appropriated, as provided in 17-7-502, to the commissioner of higher education for the purposes described in this section.

(2) Beginning at the end of fiscal year ~~2024~~ 2025, at the end of each fiscal year the commissioner of higher education, utilizing the FTE decrease funding factor and the FTE increase funding factor as appropriate, shall determine the fiscal impacts resulting from the weighted FTE projections on which that fiscal year's state appropriation to a community college was based, pursuant to 20-15-310, and the fiscal impacts that would have resulted had the actual weighted FTE for that fiscal year been used to determine that fiscal year's state appropriation and shall determine any overpayment or underpayment to the community college for that fiscal year.

(3) At the end of each odd fiscal year, the commissioner shall calculate the net underpayment or overpayment ~~resulting from the underpayment or overpayment of the prior fiscal year and current fiscal year~~ determined under subsection (2) and:

(a) the commissioner shall distribute any net underpayment determined under this subsection (3) to a community college from the community college FTE adjustment account by ~~October~~ July 15 of the current calendar year; or

(b) a community college receiving a net overpayment determined under this subsection (3) shall pay a fee equal to the overpayment to the commissioner by ~~October~~ July 15 of the current calendar year for deposit in the community college FTE adjustment account.

(4) (a) By August 1 each year, after overpayments have been received and underpayments have been made, any funds remaining in the account must be transferred into the general fund.

(b) If the amount of underpayments exceeds the amount of overpayments, the state treasurer shall transfer the difference of the payments from the general fund to this account for providing underpayments pursuant to subsection (3)."

Section 4. Section 20-25-428, MCA, is amended to read:

"20-25-428. Tribal college payment for services provided to resident nonbeneficiary students.

(1) Subject to a line item appropriation for purposes of this section, the regents shall provide a payment to tribal colleges for enrolled resident nonbeneficiary students who are taking courses for which credit is transferable to another Montana college or university.

(2) (a) Each tribal college shall apply to the regents for this payment. Except as provided in subsection (7), the money must be distributed on a prorated basis according to the eligible resident nonbeneficiary student enrollment in each tribal college during the previous year.

(b) To qualify, a resident nonbeneficiary student must meet the residency requirements as prescribed for the system by the regents and must be enrolled in courses for which credit is transferable to another Montana college or university.

(c) The distribution for any resident nonbeneficiary student payment must be limited to a maximum annual amount of ~~\$3,280~~ \$4,183 for each full-time equivalent student.

(3) A payment is contingent on the tribal college:

(a) being accredited or being a candidate for accreditation by the northwest commission on colleges and universities;

(b) entering into a contract or a state-tribal cooperative agreement, pursuant to Title 18, chapter 11, with the regents to provide the regents with documentation on:

(i) the number of resident nonbeneficiary students for whom the tribal college is entitled to a payment under this section; and

(ii) the curriculum to ensure that the content and quality of courses offered by the tribal college are consistent with the standards adopted by the system;

(c) providing the regents with documentation that credits for the courses in which the resident nonbeneficiary students are enrolled will be accepted at another Montana college or university; and

(d) filing with the regents evidence that the college's enrollment of Indian students is at least 51%, as required by the Tribally Controlled Community College Assistance Act of 1978, 25 U.S.C. 1804.

(4) (a) By June 15 of each year, a tribal college shall report to the regents the number of eligible resident nonbeneficiary students who attended the tribal college in that academic year.

(b) By August 15 of each year, the regents shall calculate the payment for each tribal college based on the number of eligible students submitted pursuant to subsection (4)(a) and distribute the funds to each tribal college.

(5) If funding is available pursuant to subsection (1), the legislature intends that the money be an amount in addition to the system budget approved in the general appropriations act.

(6) All funds appropriated under subsection (1) that are unspent revert to the state general fund.

(7) Prior to receiving money pursuant to subsection (1), each tribal college shall grant to eligible resident nonbeneficiary students who meet the residency requirements, as prescribed for the system by the regents, fee waivers in the same percentage as the number of Indian students who are receiving fee waivers to attend a unit of the system bears to the total enrollment in the system.

(8) The calculation in subsection (7) is not intended to allow the university system to retain the calculated amount of funds. Waivers must be given to eligible students.

(9) As used in this section, "resident nonbeneficiary student" means a resident of the state of

1 Montana who is not:

2 (a) a member of an Indian tribe; or

3 (b) a biological child of a member of an Indian tribe, living or deceased."

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5 NEW SECTION. **Section 5. Interim studies by interim budget committee.** During the interim
6 following the 69th legislative session, the education budget committee provided for in 5-12-501 shall direct:

7 (1) a study of the educational and fiscal impact of state funding to support interlibrary resource
8 sharing programs across the state's public, school, academic, special, and tribal libraries; and

9 (2) a comprehensive study of the organization and structure of the office of public instruction.

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11 NEW SECTION. **Section 6. Reporting.** The following agencies shall provide quarterly reports to the
12 education budget committee established in 5-12-501 as follows:

13 (1) the Montana historical society shall provide updates on the Montana 250th commission
14 activities;

15 (2) the office of public instruction shall provide updates on:

16 (a) the transformational learning program if House Bill No. 573 is passed and approved;

17 (b) the implementation of the high-quality instructional materials initiative if House Bill No. 462 is
18 passed and approved;

19 (c) the office of public instruction's database modernization project and associated information
20 technology projects; and

21 (d) implementation of revised math content standards; AND

22 (E) ALL EXPENDITURES FROM THE IN-STATE TREATMENT APPROPRIATION IN HOUSE BILL NO. 2;

23 (3) the Montana digital academy shall provide updates on the frontier learning lab initiative if
24 funded in House Bill No. 2;

25 (4) the office of the commissioner of higher education shall provide updates on the activities of the
26 NAGPRA-Repatriation support team if funded in House Bill No. 2; and

27 (5) the school for the deaf and blind shall report on the school's education initiative for the
28 professional development of interpreters. The school shall also report on any funds expended in the previous

and current quarter and the purpose of those expenditures.

NEW SECTION. Section 7. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION -- DIRECTIONS TO CODE COMMISSIONER. IF BOTH HOUSE BILL NO. 252 AND [THIS ACT] ARE PASSED AND APPROVED, THE CODE COMMISSIONER IS DIRECTED TO CHANGE "QUALITY EDUCATOR" TO "QUALITY EDUCATOR AND QUALIFIED STAFF" IN TITLE 5, TITLE 20, AND ALL LEGISLATION ENACTED BY THE 2025 LEGISLATURE WHENEVER A REFERENCE TO "QUALITY EDUCATOR" APPEARS IN RELATION TO THE QUALITY EDUCATOR PAYMENT PROVIDED FOR IN 20-9-327.

COORDINATION SECTION. SECTION 9. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 515 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 20-9-516, THEN THE SECTIONS AMENDING 20-9-516 ARE VOID AND 20-9-516 MUST BE AMENDED AS FOLLOWS:

"20-9-516. School facility and technology account -- statutory appropriation for school technology purposes. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide, ~~contingent on appropriation from the legislature,~~ funding for the following in priority order:

- (a) school technology purposes ~~as provided in 20-9-534 subsection (3);~~
- (b) ~~contingent on appropriation from the legislature,~~ other technology purposes;
- (c) ~~contingent on appropriation from the legislature,~~ school major maintenance aid as provided in 20-9-525; and
- ~~(b)(d)~~ ~~contingent on appropriation from the legislature,~~ state debt service assistance as provided in 20-9-371.

(2) There must be deposited in the account:

- (a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5);

(c) earnings from the school facilities fund within the coal severance tax trust fund as provided in 17-5-703; and

(d) if applicable, excess interest and income revenue as provided in 20-9-622.

(3) (a) The amount of \$1 million a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account established in this section for grants for school technology purposes.

(b) By the last working day in August, the superintendent of public instruction shall allocate a portion of the \$1 million for school technology purposes to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts for the purposes of 20-9-533.

~~(3) If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346 (2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525 (5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction."~~

COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 251 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2(6)(F) OF HOUSE BILL NO. 251], AMENDING 20-6-805, MUST BE REPLACED WITH:

"(F) BASED ON THE INFORMATION PROVIDED BY THE OFFICE OF PUBLIC INSTRUCTION IN SUBSECTION (5)(B), LIMIT THE ESTIMATED TOTAL ADDITIONAL STATE COST ATTRIBUTABLE TO THE BASIC ENTITLEMENT IN THE THIRD YEAR OF OPERATIONS FOR PUBLIC CHARTER SCHOOLS NEWLY APPROVED BY THE BOARD TO THE AMOUNT SPECIFIED BY THE LEGISLATURE IN THE APPROPRIATIONS ACT FOR THE PURPOSES OF THIS PROGRAM; AND"

COORDINATION SECTION. SECTION 11. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 251, HOUSE BILL NO. 2, AND [THIS ACT] ARE ALL PASSED AND APPROVED, THEN THE FOLLOWING LANGUAGE MUST BE ADDED TO HOUSE BILL NO. 2 FOLLOWING THE OFFICE OF PUBLIC INSTRUCTION APPROPRIATIONS:

"PURSUANT TO 20-6-805, IN APPROVING APPLICATIONS FOR PUBLIC CHARTER SCHOOLS, THE BOARD OF

1 PUBLIC EDUCATION SHALL ENSURE THAT THE ESTIMATED TOTAL ADDITIONAL STATE COST ATTRIBUTABLE TO THE BASIC
2 ENTITLEMENT IN THE THIRD YEAR OF OPERATIONS FOR PUBLIC CHARTER SCHOOLS NEWLY APPROVED BY THE BOARD
3 DOES NOT EXCEED \$1 MILLION FOR NEWLY APPROVED PUBLIC CHARTER SCHOOLS FIRST ELIGIBLE TO OPEN IN SCHOOL
4 FISCAL YEAR 2027 AND \$1 MILLION FOR NEWLY APPROVED PUBLIC CHARTER SCHOOLS FIRST ELIGIBLE TO OPEN IN
5 SCHOOL FISCAL YEAR 2028."

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7 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 2025.

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9 NEW SECTION. Section 13. Termination. [Sections 5 and 6] terminate December 31, 2026.

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