

1

HOUSE BILL NO. 864

2

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

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4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE PROVISIONS OF HOUSE BILL NO. 2;  
5 EXPANDING USE OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; REVISING DEFINITIONS;  
6 PROVIDING FOR TRANSFERS TO AND FROM THE COMMUNITY COLLEGE FTE ADJUSTMENT  
7 ACCOUNT; INCREASING THE RESIDENT NONBENEFICIARY STUDENT PAYMENT FOR TRIBAL  
8 COLLEGES; PROVIDING FOR A STUDY BY THE EDUCATION INTERIM BUDGET COMMITTEE OF  
9 INTERLIBRARY RESOURCE SHARING PROGRAMS AND THE STRUCTURE AND ORGANIZATION OF  
10 THE OFFICE OF PUBLIC INSTRUCTION; AMENDING SECTIONS 20-9-516, 20-15-310, 20-15-328, AND 20-  
11 25-428, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

12

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

14

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

16 **"20-9-516. School facility and technology account.** (1) There is a school facility and technology  
17 account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide,  
18 contingent on appropriation from the legislature, funding for the following in priority order:

19 (a) school technology purposes, including but not limited to purposes as provided in 20-9-534; and  
20 (b) state debt service assistance as provided in 20-9-371.

21 (2) There must be deposited in the account:

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

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

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

1 same fiscal year the amount of revenue available in the school major maintenance aid account established in  
2 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that  
3 fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to  
4 the school major maintenance aid account not to exceed the amount required to avoid a proration reduction."

5

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

7 **"20-15-310. Appropriation -- definitions.** (1) As used in [20-15-328] and this section, the following  
8 definitions apply:

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

10 (i) (A) plus the payment made to the community college for the base year pursuant to 20-15-  
11 328(3)(a); or

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

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

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

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

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

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



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

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

(a) For the first year of the next biennium, multiply the adjusted base by the inflationary factor for 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  
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 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 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  
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 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  
revenue fund provided for in 17-2-102. The account is statutorily appropriated, as provided in 17-7-502,  
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  
shall determine the fiscal impacts resulting from the weighted FTE projections on which that fiscal  
year 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

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1 year's state appropriation to a community college was based, pursuant to 20-15-310, and the fiscal impacts that  
2 would have resulted had the actual weighted FTE for that fiscal year been used to determine that fiscal year's  
3 state appropriation and shall determine any overpayment or underpayment to the community college for that  
4 fiscal year.

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

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

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

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

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

19

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

21 **"20-25-428. Tribal college payment for services provided to resident nonbeneficiary students.**

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

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

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

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

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

9 (b) entering into a contract or a state-tribal cooperative agreement, pursuant to Title 18, chapter  
10 11, with the regents to provide the regents with documentation on:

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

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

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

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

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

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

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

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

27 (7) Prior to receiving money pursuant to subsection (1), each tribal college shall grant to eligible

1      resident nonbeneficiary students who meet the residency requirements, as prescribed for the system by the  
2      regents, fee waivers in the same percentage as the number of Indian students who are receiving fee waivers to  
3      attend a unit of the system bears to the total enrollment in the system.

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

6                (9)      As used in this section, "resident nonbeneficiary student" means a resident of the state of  
7      Montana who is not:

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

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

10

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

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

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

16

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

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

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

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

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

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

27                (d)      implementation of revised math content standards;

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

**COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION -- DIRECTIONS TO CODE**

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

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

21                   **"20-9-516. School facility and technology account -- statutory appropriation for school**  
22 **technology purposes.** (1) There is a school facility and technology account in the state special revenue fund  
23 provided for in 17-2-102. The purpose of the account is to provide, ~~contingent on appropriation from the~~  
24 legislature, funding for the following in priority order:

25 (a) school technology purposes as provided in 20-9-534 subsection (3);  
26 (b) contingent on appropriation from the legislature, other technology purposes;  
27 (c) contingent on appropriation from the legislature, school major maintenance aid as provided in

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1    20-9-525; and

2            (b)(d) contingent on appropriation from the legislature, state debt service assistance as provided in  
3    20-9-371.

4            (2)    There must be deposited in the account:

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

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

9            (c)    earnings from the school facilities fund within the coal severance tax trust fund as provided in  
10   17-5-703; and

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

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

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

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

23  
24            **COORDINATION SECTION. Section 10. Coordination instruction.** If both House Bill No. 251 and  
25   [this act] are passed and approved, then [section 2(6)(f) of House Bill No. 251], amending 20-6-805, must be  
26   replaced with:

27            "(f)    based on the information provided by the office of public instruction in subsection (5)(b), limit

1 the estimated total additional state cost attributable to the basic entitlement in the third year of operations for  
2 public charter schools newly approved by the board to the amount specified by the legislature in the  
3 appropriations act for the purposes of this program; and"

4

5 **COORDINATION SECTION.** **Section 11. Coordination instruction.** If House Bill No. 251, House Bill  
6 No. 2, and [this act] are all passed and approved, then the following language must be added to House Bill No.  
7 2 following the Office of Public Instruction appropriations:

8 "Pursuant to 20-6-805, in approving applications for public charter schools, the Board of Public  
9 Education shall ensure that the estimated total additional state cost attributable to the basic entitlement in the  
10 third year of operations for public charter schools newly approved by the board does not exceed \$1 million for  
11 newly approved public charter schools first eligible to open in school fiscal year 2027 and \$1 million for newly  
12 approved public charter schools first eligible to open in school fiscal year 2028."

13

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

15

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

17

- END -