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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."

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

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

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."

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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 due to an increase in
11 the actual FTE over projected FTE applying the FTE increase funding factor pursuant to 20-15-328(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 reversion when actual FTE is lower than projected FTE applying the FTE decrease
14 funding factor to the difference for the base year pursuant to 20-15-328(3)(b); and

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

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

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

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

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

1 categories.

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

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

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

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

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

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

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

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

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

27 (n) "Weighted FTE" means, for each FTE category, the sum of the FTE in each that FTE category

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1 multiplied by the corresponding FTE weighting factor.

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

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

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

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

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

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

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

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

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

22 **"20-15-328. Adjustments based on actual ~~weighted~~-FTE -- special revenue account -- statutory
23 appropriation -- annual transfer.** (1) There is a community college FTE adjustment account in the state
24 special revenue fund provided for in 17-2-102. The account is statutorily appropriated, as provided in 17-7-502,
25 to the commissioner of higher education for the purposes described in this section.

26 (2) Beginning at the end of fiscal year ~~2024~~ 2025, at the end of each fiscal year the commissioner
27 of higher education, utilizing the FTE decrease funding factor and the FTE increase funding factor as

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

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

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

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

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

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

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

22 **"20-25-428. Tribal college payment for services provided to resident nonbeneficiary students.**

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

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