

1 **** BILL NO. ****
 2 INTRODUCED BY ****
 3 BY REQUEST OF THE ****

CC FUNDING REVISION FOR LFC ED

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING COMMUNITY COLLEGE FUNDING
 6 LAWS; ESTABLISHING A BASE PLUS FORMULA THAT IS ADJUSTED FOR ACTUAL FTE IN WEIGHTED
 7 CATEGORIES; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND PROVIDING A STATUTORY
 8 APPROPRIATION; AMENDING SECTIONS 17-7-142, 17-7-502, 20-15-310, AND 20-15-312, MCA;
 9 PROVIDING AN EFFECTIVE DATE; PROVIDING AN APPLICABILITY DATE."

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

13 **Section 1.** Section 17-7-142, MCA, is amended to read:

14 **"17-7-142. Calculation of reversions for funded resident enrollment growth in Montana**

15 **university system ~~and community colleges~~.** (1) The reversion calculation in this section is effective only in
 16 those years when the legislature funds resident enrollment growth based upon resident enrollment projections
 17 and requires a reversion by the Montana university system ~~or a community college~~ if the resident enrollment
 18 projections are not met.

19 (2) The reversion must be calculated based upon the marginal funding for each resident FTE
 20 identified in the general appropriations act.

21 (3) The total reversion is calculated based upon the difference between the FTE resident enrollment
 22 projection and the actual FTE resident enrollment or the FTE resident enrollment projection and the prior 3-year
 23 average FTE resident enrollment, whichever is lower."

25 **Section 2.** Section 17-7-502, MCA, is amended to read:

26 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

27 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 28 the need for a biennial legislative appropriation or budget amendment.

1 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
2 both of the following provisions:

3 (a) The law containing the statutory authority must be listed in subsection (3).

4 (b) The law or portion of the law making a statutory appropriation must specifically state that a
5 statutory appropriation is made as provided in this section.

6 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
7 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
8 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;
9 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-
10 106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410;
11 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-
12 107; 20-9-534; 20-9-622; 20-9-905; [\[section 4\]](#); 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-
13 1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-
14 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-
15 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
16 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-
17 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 87-7-123; 81-10-103; 82-11-161; 85-2-
18 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
22 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
23 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
24 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
25 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
26 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
27 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
28 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion

1 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
 2 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 3 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 4 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates
 5 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
 6 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
 7 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
 8 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the
 9 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,
 10 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
 11 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
 12 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
 13 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;
 14 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,
 15 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

16

17 **Section 3.** Section 20-15-310, MCA, is amended to read:

18 **"20-15-310. Appropriation -- definitions.** (1) It is the intent of the legislature that all community
 19 college spending, other than from restricted funds, designated funds, or funds generated by an optional, voted
 20 levy, be governed by the provisions of this part and the state general appropriations act.

21 (2) (a) ~~The~~ Except as provided in subsection (2)(b), the state general fund appropriation for each
 22 community college must be determined as follows:

23 (i) for the first year of the next biennium, multiply the adjusted base by the inflationary factor for the first
 24 year of the next biennium, and to this number add the result of multiplying:

25 (A) the FTE funding factor for the first year of the next biennium; and

26 (B) any change in the projected weighted resident FTE changes for the first year of the next biennium
 27 from the actual weighted resident FTE in the base year.

28 (ii) for the second year of the next biennium, multiply the adjusted base by the inflationary factor for the

1 first year of the next biennium, multiply this result by the inflationary factor for the second year of the next
2 biennium, and to this number add the result of multiplying:

3 (A) the FTE funding factor for the second year of the next biennium; and

4 (B) any change in the projected weighted resident FTE changes for the second year of the next
5 biennium from the actual weighted resident FTE in the base year.

6 (b) If the legislature approves a new community college district under the provisions of this chapter, the
7 legislature shall establish appropriations for the new community college for the next biennium based on a
8 budget proposal submitted by the trustees-elect of the new community college district and in consultation with
9 the commissioner of higher education, and the formula described in this section and adjustments described in
10 [section 4] must apply beginning in the following biennium.

11 ~~(i) multiply the variable cost of education per student by the full-time equivalent student count and add~~
12 ~~the budget amount for the fixed cost of education; and~~

13 ~~(ii) multiply the total in subsection (2)(a)(i) by the state share.~~

14 ~~(b) The variable cost of education per student, the budget amount for fixed costs, and the state share~~
15 ~~for each community college must be determined by the legislature. The state share for each community college,~~
16 ~~expressed as a percentage, and the variable cost of education per student must be specified in the~~
17 ~~appropriations act appropriating funds to the community colleges for each biennium.~~

18 ~~(3) Except as provided in subsection (4), the state general fund appropriation for each full-time~~
19 ~~equivalent resident student at a community college may not exceed the weighted average of state support per~~
20 ~~resident full-time equivalent student among community colleges and 2-year and 4-year campuses of the~~
21 ~~Montana university system in the most recent year plus an amount equal to two standard deviations of the most~~
22 ~~recent 6 years of weighted averages of state support per resident full-time equivalent student among~~
23 ~~community colleges and 2-year and 4-year campuses of the Montana university system.~~

24 ~~(4) If enrollment for a community college is less than 200 full-time equivalent resident students for 2~~
25 ~~consecutive fiscal years, the maximum state general fund appropriation in the subsequent fiscal year for that~~
26 ~~community college may not exceed the lesser of:~~

27 ~~(a) the weighted average of state support per resident full-time equivalent student within the Montana~~
28 ~~university system; or~~

1 ~~(b) the weighted average of state support per resident full-time equivalent student within the~~
2 ~~community college system.~~

3 ~~(5) At any time enrollment at a community college falls below 200 full-time equivalent resident~~
4 ~~students, the community college shall submit a business plan to the board of regents for review, approval, and~~
5 ~~monitoring. The business plan must include identifying what measures the community college will take to~~
6 ~~increase enrollment. The plan must be submitted to the board of regents within 1 month after enrollment falls~~
7 ~~below 200 full-time equivalent resident students.~~

8 ~~(6) The student count may not include those enrolled in community service courses as defined by the~~
9 ~~board of regents.~~

10 ~~(7)(3)~~ As used in this ~~section part~~, the following definitions apply:

11 (a) "Adjusted base" means the state appropriation to a community college in the base year minus any
12 one-time-only legislative appropriations or appropriations for auditing purposes and adjusted for actual resident
13 enrollment as described in [section 4], then multiplied by the inflationary factor for the second year of the
14 current biennium.

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

16 (c) "CTE FTE" means the FTE derived from non-dual-enrollment students in courses determined by
17 the commissioner of higher education to be CTE, based on national standard course classifications.

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

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

22 (f) "Early college" means the form of dual enrollment in which a high school student receives
23 instruction in a community college course at the community college campus or via remote means from a faculty
24 member of the community college.

25 (g) "FTE categories" means CTE, general education, concurrent enrollment, and early college.

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

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

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

7 (k) "General education FTE" means the FTE derived from non-dual-enrollment students in courses
 8 determined by the commissioner of higher education to not be CTE, based on national standard course
 9 classifications.

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

13 (m) "Weighted resident FTE" means the sum of the FTE in each FTE category multiplied by the
 14 corresponding FTE weighting factor.

15 ~~(a) "Adjusted cost of education" means the cost of education minus any reversion calculated under~~
 16 ~~17-7-142, expenditures from one-time-only legislative appropriations, and expenditures funded by local mill~~
 17 ~~levies provided for in 2-9-212 and 20-9-501 in excess of the 2012 mill levy levels.~~

18 ~~(b) "Cost of education" means the actual costs incurred by the community colleges during the budget~~
 19 ~~base fiscal year, as reported on the current unrestricted operating fund schedule that is statutorily required to~~
 20 ~~be submitted to the board of regents.~~

21 ~~(c) "Fixed cost of education" means that portion of the adjusted cost of education, as determined by~~
 22 ~~the legislature, that is not influenced by increases or decreases in student enrollment.~~

23 ~~(d) "Variable cost of education per student" means that portion of the adjusted cost of education, as~~
 24 ~~determined by the legislature, that is subject to change as a result of increases or decreases in student~~
 25 ~~enrollment, divided by the actual student enrollment during the budget base fiscal year."~~

26
 27 **NEW SECTION. Section 4. Annual adjustments based on actual weighted resident FTE --**
 28 **special revenue account -- statutory appropriation.** (1) There is a community college weighted resident FTE

1 adjustment account in the state special revenue fund provided for in 17-2-102. The account is statutorily
2 appropriated, as provided in 17-7-502, for the purposes described in this section.

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

9 (3) The commissioner shall distribute any underpayment as determined under subsection (2) to a
10 community college from the community college weighted resident FTE adjustment account by October 15.

11 (4) A community college receiving an overpayment determined under subsection (2) shall return the
12 overpayment to the commissioner by October 15 for deposit in the community college weighted resident FTE
13 adjustment account.

14

15 **Section 5.** Section 20-15-312, MCA, is amended to read:

16 **"20-15-312. Calculation and approval of operating budget.** (1) Annually by September 1, the board
17 of trustees of a community college shall submit an operating budget to the board of regents for their review. The
18 operating budget of the community college must be financed in the following manner:

19 (a) The general fund appropriation must be determined pursuant to 20-15-310.

20 (b) The mandatory levy amount ~~which must represent a specific percentage of the combined total of~~
21 ~~the fixed cost of education and the variable cost of education, as those terms are defined in 20-15-310, and as~~
22 ~~determined by the legislature. This percentage~~ must be specified as a percentage of the operating budget for
23 each community college by the board of trustees of the district and approved by the board of regents.

24 (c) The funding obtained pursuant to subsections (1)(a) and (1)(b) plus the revenue derived from
25 tuition and fee schedules approved by the board of regents and unrestricted income from any other source is
26 the amount of the unrestricted budget. A detailed expenditure schedule for the unrestricted budget must be
27 submitted to the board of regents for their review and approval.

28 (d) The amount estimated to be raised by the voted levy must be detailed separately in an

1 expenditure schedule.

2 (e) The spending of each restricted or designated funding source must be detailed separately in an
3 expenditure schedule.

4 (f) The expenditure schedules provided in subsections (1)(c) through (1)(e) represent the total
5 operating budget of the community college.

6 (2) The board of regents shall review the proposed total operating budget and all its components and
7 make any changes it determines necessary. The board of trustees of a community college district shall operate
8 within the limits of the operating budget approved by the board of regents."
9

10 NEW SECTION. Section 6. Codification instruction. [Section 4] is intended to be codified as an
11 integral part of Title 20, chapter 15, part 3, and the provisions of Title 20, chapter 15, part 3, apply to [section 4].
12

13 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2021.
14

15 NEW SECTION. Section 8. Applicability. [This act] applies to community college budgets for fiscal
16 years beginning on or after July 1, 2021.
17

18 - END -