

SENATE BILL NO. 566

INTRODUCED BY B. HAWKS

BY REQUEST OF THE SENATE FINANCE AND CLAIMS STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE PROVISIONS OF THE APPROPRIATIONS ACT THAT PROVIDE FUNDING FOR THE UNIVERSITY SYSTEM; PROVIDING A CREDIT TRANSFERABILITY INCENTIVE; PROVIDING A DISTANCE LEARNING INCENTIVE; PROVIDING FOR A REPORT ON STUDENT ASSISTANCE AND FINANCIAL AID; REVISING THE DEFINITIONS OF "BASE BUDGET" AND "PRESENT LAW BASE"; ESTABLISHING A LOAN FORGIVENESS PROGRAM FOR CERTAIN TEACHERS AND CERTIFIED PERSONNEL; REVISING ELIGIBILITY FOR AND AMOUNTS OF THE GOVERNOR'S POSTSECONDARY SCHOLARSHIP PROGRAM; AMENDING SECTION SECTIONS 17-7-102 AND 20-26-612, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Credit transferability incentive.** (1) The university system is encouraged to:

(a) create 11 faculty councils to work on the transferability of credits between units of the university system;

(b) create transfer pathways in 11 different program and subject areas, which may include common coursework, a common curriculum, common course content, articulation agreements, and other matters considered appropriate;

(c) increase the number of presecondary and postsecondary educational credits that are accepted by the university system by 15% above the fiscal year 2007 baseline, including but not limited to dual enrollment, running start, advanced placement, and technology preparation; and

(d) reduce the number of appeals of transfer credit decisions below the rate that is documented for the 2006-07 base year, toward the goal of reducing the rate by at least 50% by 2009-10.

(2) By August 2008, the office of the commissioner of higher education shall report to the education and local government interim committee success in achieving the measures contained in subsection (1). If the measures contained in subsection (1) are achieved, then the education and local government interim committee shall recommend to the office of budget and program planning that the appropriation of \$312,500, contained in

House Bill No. 820 and designated as "one-time-only", be treated as present law base and be part of the base budget for the executive budget submitted to the 61st legislature.

NEW SECTION. Section 2. Distance learning incentive. (1) The university system is encouraged to expand and coordinate the distance learning program across the university system. The university system is urged to:

(a) increase by 10%, above the fiscal year 2007 baseline, the number of students enrolled in distance learning education courses, toward a biennial goal of 20%;

(b) increase by 10%, above the fiscal year 2007 baseline, the number of distance learning courses and programs that are offered, which would be a total of approximately 60 new courses and programs; and

(c) increase by 10%, above the fiscal year 2007 baseline, the number of new credit and noncredit distance education programs that are intended to serve primarily workers in need of career training and employers in need of specially skilled workers, which would be a total of approximately 30 new courses.

(2) By August 2008, the office of the commissioner of higher education shall report to the education and local government interim committee success in achieving the measures contained in subsection (1). If the measures contained in subsection (1) are achieved, then the education and local government interim committee shall recommend to the office of budget and program planning that the appropriation of \$225,000, contained in House Bill No. 820 and designated as "one-time-only", be treated as present law base and be part of the base budget for the executive budget submitted to the 61st legislature.

NEW SECTION. Section 3. Student assistance -- financial aid report. The appropriation in House Bill No. 820 for the Montana university system includes funding for a report to the education and local government interim committee by August 2008 that includes the following:

(1) A segment of the report must address the various components of student financial aid, both federal and state funded, including the Baker grant program, the Montana higher education grant program, Pell grants, the leveraging educational assistance partnership (LEAP) program, the special leveraging educational assistance partnership (SLEAP) program, the governor's scholarship program, the Montana partnering for affordable college tuition (MPACT) program, tuition waivers, Montana university system honors scholarships, work study, and federal Perkins loans. The report must include findings and recommendations for how the components of the student financial aid program may best achieve the shared policy goals of affordability approved by the interim postsecondary education policy and budget subcommittee.

(2) The report must address the impact that all student assistance programs have on progress toward the board of regents 2006-2010 strategic plan goal I(2), to make higher education more affordable by offering more need-based financial aid and scholarships, and on the following measures:

- (a) reducing the gap between expected family contributions and average cost of attendance;
- (b) increasing the percentage of students who receive financial aid or scholarships; and
- (c) increasing the average aid and scholarship award amount.

Section 4. Section 17-7-102, MCA, is amended to read:

"17-7-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

- (a) the governor or the governor's designated representative for executive branch agencies;
- (b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;
- (c) the speaker for the house of representatives;
- (d) the president for the senate;
- (e) appropriate legislative committees or a designated representative for legislative branch agencies;

or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means, subject to [sections 1 and 2], the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means, subject to [sections 1 and 2], that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- (c) inflationary or deflationary adjustments; and
- (d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

NEW SECTION. SECTION 5. QUALITY EDUCATOR LOAN FORGIVENESS PROGRAM. THERE IS A QUALITY EDUCATOR LOAN FORGIVENESS PROGRAM ADMINISTERED BY THE BOARD OF REGENTS THROUGH THE OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION. THE PROGRAM MUST PROVIDE FOR THE DIRECT REPAYMENT OF EDUCATIONAL

LOANS OF ELIGIBLE QUALITY EDUCATORS IN ACCORDANCE WITH POLICIES AND PROCEDURES ADOPTED BY THE BOARD OF REGENTS IN ACCORDANCE WITH [SECTIONS 5 THROUGH 10].

NEW SECTION. SECTION 6. DEFINITIONS. FOR PURPOSES OF [SECTIONS 5 THROUGH 10], UNLESS THE CONTEXT REQUIRES OTHERWISE, THE FOLLOWING DEFINITIONS APPLY:

(1) "EDUCATION COOPERATIVE" MEANS A COOPERATIVE OF MONTANA PUBLIC SCHOOLS AS DESCRIBED IN 20-7-451.

(2) "EDUCATIONAL LOANS" MEANS ALL LOANS MADE PURSUANT TO A FEDERAL LOAN PROGRAM, EXCEPT FEDERAL PARENT LOANS FOR UNDERGRADUATE STUDENTS (PLUS) LOANS, AS PROVIDED IN 20 U.S.C. 1078-2.

(3) "FEDERAL LOAN PROGRAM" MEANS EDUCATIONAL LOANS AUTHORIZED BY 20 U.S.C. 1071, ET SEQ., 20 U.S.C. 1087A, ET SEQ., AND 20 U.S.C. 1087AA, ET SEQ.

(4) (A) "QUALITY EDUCATOR" MEANS A FULL-TIME EQUIVALENT EDUCATOR, AS REPORTED TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR ACCREDITATION PURPOSES IN THE PREVIOUS SCHOOL YEAR, WHO:

(I) HOLDS A VALID CERTIFICATE UNDER THE PROVISIONS OF 20-4-106 AND IS EMPLOYED BY AN ENTITY LISTED IN SUBSECTION (4)(B) OF THIS SECTION IN A POSITION THAT REQUIRES AN EDUCATOR LICENSE IN ACCORDANCE WITH ADMINISTRATIVE RULES ADOPTED BY THE BOARD OF PUBLIC EDUCATION; OR

(II) IS A LICENSED PROFESSIONAL UNDER 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, OR 37-25-302 AND IS EMPLOYED BY AN ENTITY LISTED IN SUBSECTION (4)(B) OF THIS SECTION TO PROVIDE SERVICES TO STUDENTS.

(B) FOR PURPOSES OF SUBSECTION (4)(A), AN ENTITY MEANS:

(I) A SCHOOL DISTRICT;

(II) AN EDUCATION COOPERATIVE;

(III) THE MONTANA SCHOOL FOR THE DEAF AND BLIND, AS DESCRIBED IN 20-8-101; AND

(IV) A STATE YOUTH CORRECTIONAL FACILITY, AS DEFINED IN 41-5-103.

(5) "SCHOOL DISTRICT" MEANS A PUBLIC SCHOOL DISTRICT, AS PROVIDED IN 20-6-101 AND 20-6-701.

NEW SECTION. SECTION 7. CRITICAL QUALITY EDUCATOR SHORTAGE AREAS. (1) THE BOARD OF PUBLIC EDUCATION, IN CONSULTATION WITH THE OFFICE OF PUBLIC INSTRUCTION, SHALL IDENTIFY:

(A) GEOGRAPHIC REGIONS OF THE STATE THAT ARE IMPACTED BY CRITICAL QUALITY EDUCATOR SHORTAGES; AND

(B) SPECIFIC CERTIFICATION OR ENDORSEMENT AREAS THAT ARE IMPACTED BY CRITICAL QUALITY EDUCATOR SHORTAGES.

(2) QUALITY EDUCATORS WORKING IN AN IMPACTED GEOGRAPHIC REGION OR AN IMPACTED CERTIFICATION OR ENDORSEMENT AREA ARE ELIGIBLE FOR REPAYMENT OF ALL OR PART OF THE QUALITY EDUCATOR'S OUTSTANDING EDUCATIONAL LOANS EXISTING AT THE TIME OF APPLICATION IN ACCORDANCE WITH THE ELIGIBILITY AND AWARD CRITERIA ESTABLISHED UNDER [SECTIONS 5 THROUGH 10].

NEW SECTION. SECTION 8. LOAN REPAYMENT ASSISTANCE. LOAN REPAYMENT ASSISTANCE MAY BE PROVIDED ON BEHALF OF A QUALITY EDUCATOR WHO:

(1) IS EMPLOYED IN A GEOGRAPHIC REGION DESCRIBED IN [SECTION 7(1)(A)] OR IN A CERTIFICATION OR ENDORSEMENT AREA DESCRIBED IN [SECTION 7(1)(B)]; AND

(2) HAS AN EDUCATIONAL LOAN THAT IS NOT IN DEFAULT AND THAT HAS A MINIMUM UNPAID CURRENT BALANCE OF AT LEAST \$1,000 AT THE TIME OF APPLICATION.

NEW SECTION. SECTION 9. LOAN REPAYMENT ASSISTANCE DOCUMENTATION. (1) A QUALITY EDUCATOR SHALL SUBMIT AN APPLICATION FOR LOAN REPAYMENT ASSISTANCE TO THE BOARD OF REGENTS IN ACCORDANCE WITH POLICIES AND PROCEDURES ADOPTED BY THE BOARD OF REGENTS. THE APPLICATION MUST INCLUDE OFFICIAL VERIFICATION OR PROOF OF THE APPLICANT'S TOTAL UNPAID ACCUMULATED EDUCATIONAL LOAN DEBT AND OTHER DOCUMENTATION REQUIRED BY THE BOARD OF REGENTS THAT IS NECESSARY FOR VERIFICATION OF THE APPLICANT'S ELIGIBILITY.

(2) A QUALITY EDUCATOR IS ELIGIBLE FOR LOAN REPAYMENT ASSISTANCE FOR UP TO A MAXIMUM OF 4 YEARS. THE TOTAL ANNUAL LOAN REPAYMENT ASSISTANCE FOR AN ELIGIBLE QUALITY EDUCATOR MAY NOT EXCEED \$3,000. THE BOARD OF REGENTS MAY REQUIRE AN ELIGIBLE QUALITY EDUCATOR TO PROVIDE DOCUMENTATION THAT THE QUALITY EDUCATOR HAS EXHAUSTED REPAYMENT ASSISTANCE FROM OTHER FEDERAL, STATE, OR LOCAL LOAN FORGIVENESS, DISCHARGE, OR REPAYMENT INCENTIVE PROGRAMS.

(3) THE BOARD OF REGENTS MAY REMIT PAYMENT OF THE LOAN ON BEHALF OF THE QUALITY EDUCATOR IN ACCORDANCE WITH THE REQUIREMENTS OF [SECTIONS 5 THROUGH 10] AND POLICIES AND PROCEDURES ADOPTED BY THE BOARD OF REGENTS.

NEW SECTION. SECTION 10. FUNDING -- PRIORITIES. (1) IF THE FUNDING FOR [SECTIONS 5 THROUGH 10] IN ANY YEAR IS LESS THAN THE TOTAL AMOUNT FOR WHICH MONTANA TEACHERS QUALIFY, THE BOARD OF REGENTS SHALL PROVIDE PREFERENCE IN THE AWARD OF LOAN REPAYMENT ASSISTANCE TO QUALITY EDUCATORS WORKING IN THE GEOGRAPHIC REGIONS THAT ARE MOST IMPACTED BY QUALITY EDUCATOR SHORTAGES IDENTIFIED AS PROVIDED IN

[SECTION 7].

(2) [SECTIONS 5 THROUGH 10] MAY NOT BE CONSTRUED TO REQUIRE THE PROVISION OF LOAN REPAYMENT ASSISTANCE WITHOUT AN EXPRESS APPROPRIATION FOR THAT PURPOSE. [SECTIONS 5 THROUGH 10] MAY NOT BE CONSTRUED TO REQUIRE LOAN REPAYMENT ASSISTANCE FOR SCHOOL YEARS PRIOR TO [THE EFFECTIVE DATE OF THIS SECTION].

SECTION 11. SECTION 20-26-612, MCA, IS AMENDED TO READ:

"20-26-612. Types and amounts of scholarships -- recipient qualifications. (1) Following consultation with the council and selection of eligible recipients, the board shall pay the costs of a governor's postsecondary scholarship at a postsecondary institution or, subject to the provisions of 20-26-602(4), at a Montana private college in which a recipient has enrolled.

(2) Subject to the provisions of subsections (6), (7), and (9), scholarships must be provided in each fiscal year to eligible recipients who are Montana residents on the basis of need and merit as follows:

~~—— (a) merit-based scholarships of \$2,000 a year awarded to 40 at-large students who enroll in 4-year postsecondary institutions;~~

~~—— (b) a merit-based scholarship of \$1,000 a year, which may be awarded to one graduate of each of Montana's accredited high schools, including accredited nonpublic high schools, who enrolls in a 4-year postsecondary institution;~~

~~—— (c) a merit-based scholarship of \$1,000 a year, which may be awarded to one graduate of each of Montana's accredited high schools, including accredited nonpublic high schools, who enrolls in a 2-year postsecondary institution;~~

~~—— (d) merit-based scholarships of \$1,000 a year awarded to 70 at-large students who enroll in 2-year postsecondary programs;~~

~~—— (e) a scholarship of \$1,000 a year based on recognition of financial need awarded to 180 students, including students who return to school as nontraditional students, who enroll in a 2-year postsecondary program;~~

~~—— (f) scholarships of \$1,000 a year based on recognition of financial need awarded to 100 students, including students who return to school as nontraditional students, who enroll in 2-year postsecondary programs and who major in the area of health sciences; and~~

~~—— (g) scholarships of \$1,000 a year based on financial need awarded to 220 students, including students who return to school as nontraditional students, who enroll in 2-year postsecondary programs and who are seeking a certificate or degree in the field of~~

(a) Scholarships may be for either \$1,000 or \$2,000.

(b) Merit-based and need-based scholarships must be awarded in approximately equal monetary amounts.

(c) A merit-based scholarship must be awarded to at least one graduate of every accredited high school in Montana, including accredited nonpublic high schools.

(d) At least a portion of the money appropriated for need-based scholarships must be designated for applicants who plan to attend 2-year postsecondary institutions or 2-year programs at 4-year postsecondary institutions and who plan to focus on specific areas of study that address current or projected critical workforce shortage areas in Montana, such as the fields of health sciences and technology.

(3) (a) A recipient who is awarded a scholarship to attend a 2-year postsecondary program is eligible to receive the scholarship for a maximum of 2 consecutive years, provided the recipient meets the requirements provided in 20-26-613.

(b) A recipient who is awarded a scholarship to attend a 4-year postsecondary institution or, subject to the availability of private funds, to a Montana private college is eligible to receive the scholarship for a maximum of 4 consecutive years, provided the recipient meets the requirements provided in 20-26-613.

(4) The recipient of a scholarship award is not precluded from receiving other financial aid, awards, or scholarships that would result in an overpayment of financial aid as determined by the postsecondary institution's or Montana private college's financial aid office.

(5) Each scholarship must be distributed in equal installments that correspond with the terms of the postsecondary institution's or the Montana private college's academic year.

(6) If a Montana high school has no graduates who qualify for a scholarship awarded under subsection ~~(2)(b)~~ or (2)(c) or if a recipient of a scholarship becomes ineligible for renewal of a scholarship, the money for those scholarships reverts and may be reallocated by the commissioner of higher education to scholarships for at-large students.

(7) Except when a donor of private funds designates that scholarship funds must be given to students attending a Montana private college, the board, following consultation with the council, shall establish criteria and procedures for distributing funds from private sources for scholarships to students enrolled in postsecondary institutions. Funds from private sources may not be used as an offset to general fund appropriations.

(8) Except when a donor of private funds designates that scholarship funds must be given to students attending a Montana private college, scholarship awards are determined solely by the board following consultation with the council. Scholarship awards are not subject to appeal.

(9) Except for funds donated from private sources, the obligation for funding the governor's postsecondary scholarship program is an obligation of the state. This section may not be construed to require the board to provide a scholarship to an eligible student without a line item appropriation to the board."

COORDINATION SECTION. SECTION 12. COORDINATION INSTRUCTION. IF SENATE BILL NO. 335 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN [SECTION 6 OF THIS ACT] IS AMENDED TO READ:

"NEW SECTION. Section 6. Definitions. For purposes of [sections 5 through 10], unless the context requires otherwise, the following definitions apply:

- (1) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.
- (2) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.
- (3) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.
- (4) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, who:
 - (i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (4)(b) of this section in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or
 - (ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) of this section to provide services to students.
- (b) For purposes of subsection (4)(a), an entity means:
 - (i) a school district;
 - (ii) an education cooperative;
 - (iii) the Montana school for the deaf and blind, as described in 20-8-101; ~~and~~
 - (iv) a state youth correctional facility, as defined in 41-5-103; and
 - (v) the Montana youth challenge program.
- (5) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

COORDINATION SECTION. SECTION 13. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 417 AND [THIS ACT] ARE BOTH PASSED AND APPROVED AND IF HOUSE BILL NO. 417 AMENDS SECTION 20-9-327, MCA, TO INCLUDE

REFERENCES TO SECTIONS 37-17-302 AND 37-22-301, MCA, THEN [SECTION 6 OF THIS ACT] IS AMENDED TO READ:

"NEW SECTION. Section 6. Definitions. For purposes of [sections 5 through 10], unless the context requires otherwise, the following definitions apply:

(1) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.
 (2) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(3) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(4) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (4)(b) of this section in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) of this section to provide services to students.

(b) For purposes of subsection (4)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) a state youth correctional facility, as defined in 41-5-103.

(5) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

NEW SECTION. SECTION 14. CODIFICATION INSTRUCTION. [SECTIONS 5 THROUGH 10] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 20, CHAPTER 4, AND THE PROVISIONS OF TITLE 20, CHAPTER 4, APPLY TO [SECTIONS 5 THROUGH 10].

NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2007.

NEW SECTION. Section 16. Termination. ~~[This act] terminates~~ [SECTIONS 1 THROUGH 4] TERMINATE June 30, 2009.

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