



AN ACT GENERALLY REVISING LAWS RELATED TO COMMUNITY COLLEGES; CLARIFYING THE PROCEDURE FOR THE ORGANIZATION OF AND FUNDING FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING THE ELECTION PROCEDURE FOR THE ORGANIZATION OF A NEW COMMUNITY COLLEGE DISTRICT; REVISING AND CLARIFYING THE FUNDING SOURCES AND ACCOUNTING STRUCTURE FOR COMMUNITY COLLEGES; CONSOLIDATING VARIOUS EXISTING PROPERTY TAX LEVIES INTO ONE OPERATING LEVY FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING DEFINITIONS; AMENDING SECTIONS 2-9-212, 17-7-102, 19-20-605, 20-7-702, 20-7-704, 20-7-705, 20-9-134, 20-15-103, 20-15-105, 20-15-201, 20-15-202, 20-15-203, 20-15-204, 20-15-208, 20-15-209, 20-15-305, 20-15-309, 20-15-310, 20-15-311, 20-15-312, 20-15-313, AND 20-15-321, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Funding for new community college district -- state appropriation. (1) The board of trustees of a newly created community college district shall, by August 1 immediately preceding the regular legislative session at which the district will first seek a state appropriation, submit to the board of regents enrollment projections for each year of the ensuing biennium and an annual budget pursuant to 20-15-312 for the first year of the ensuing biennium.

(2) The state general fund appropriation for the district must be determined as follows:

(a) for the first year of the ensuing biennium:

(i) divide the total state appropriation minus any reversions calculated under 17-7-142 and any one-time-only appropriations of all community colleges in the budget base fiscal year by the total number of full-time equivalent resident students of all community colleges in the budget base fiscal year; and

(ii) multiply the result of subsection (2)(a)(i) by the projected number of full-time equivalent resident

students of the new community college for the first year of the ensuing biennium.

(b) for the second year of the ensuing biennium multiply the amount calculated in subsection (2)(a)(i) by the projected number of full-time equivalent resident students of the new community college for the second year of the ensuing biennium.

(3) After each fiscal year of the first biennium the new community college district receives a state appropriation, the commissioner of higher education shall determine the fiscal impacts that would have resulted had the actual number of full-time equivalent resident students for that fiscal year been used to determine that fiscal year's state appropriation and determine any overpayment to the community college for that fiscal year. An overpayment determined under this subsection must revert to the state in the same manner of reversions calculated under 17-7-142.

(4) After the first biennium a new community college district receives a state appropriation, the state appropriation for the district in subsequent bienniums must be determined as described in 20-15-310.

Section 2. Operating levy for community college districts created on or after January 1, 2021.

(1) This section applies only to community college districts created on or after January 1, 2021. The legislature intends that a newly created community college district have a single unified operating district levy to support the district's current fund.

(2) Subject to 15-10-420, a community college district may impose an operating levy to support the district's current unrestricted subfund under the provisions of this section.

(3) A newly created community college district may impose an operating levy under this section only after voter approval for a new mill levy as described in 15-10-425.

(4) A community college district may exceed the mill levy limit under 15-10-420 for the operating levy only after voter approval for increasing a mill levy as described in 15-10-425.

Section 3. Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay contributions. (1) Subject to 15-10-420 and subsection (2) of this section, a political subdivision, except for a school district, may levy an annual property tax in the amount necessary to fund the contribution for insurance, deductible reserve fund, and self-insurance

reserve fund as authorized in this section and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5). For the purposes of this section, "political subdivision" includes a community college district created prior to January 1, 2021.

(2) (a) If a political subdivision makes contributions for group benefits under 2-18-703, the amount in excess of the base contribution as determined under 2-18-703(4)(c) for group benefits under 2-18-703 is not subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this section must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a).

(i) Contributions for group benefits paid wholly or in part from user charges generated by proprietary funds, as defined by generally accepted accounting principles, are not included in the amount exempted from the mill levy calculation limitation provided for in 15-10-420.

(ii) If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

(b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

(c) A levy under this section in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

(3) (a) For the purposes of this section, "group benefits" means group hospitalization, health, medical, surgical, life, and other similar and related group benefits provided to officers and employees of political subdivisions, including flexible spending account benefits and payments in lieu of group benefits.

(b) The term does not include casualty insurance as defined in 33-1-206, marine insurance as authorized in 33-1-209 and 33-1-221 through 33-1-229, property insurance as defined in 33-1-210, surety insurance as defined in 33-1-211, and title insurance as defined in 33-1-212."

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

"17-7-102. (Temporary) 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) (a) "Base budget" means 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.

(b) The term does not include:

(i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

(ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in 75-11-521 are not met.

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

(6) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 4.5% of all general fund appropriations in the second year of the biennium.

(7) "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.

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

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

(10) "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.

(11) "Operating reserve" means an amount equal to 8.3% of all general fund appropriations in the second year of the biennium.

(12) "Present law base" means 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.

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

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

(15) "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 supervised and coordinated by the board of regents pursuant to 20-15-103. (Terminates June 30, 2028--sec. 11, Ch. 269, L. 2015.)

17-7-102. (Effective July 1, 2028) 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 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) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 4.5% of all general fund appropriations in the second year of the biennium.
- (7) "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.

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

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

(10) "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.

(11) "Operating reserve" means an amount equal to 8.3% of all general fund appropriations in the second year of the biennium.

(12) "Present law base" means 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.

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

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

(15) "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 supervised and coordinated by the board of regents pursuant to 20-15-103."

Section 5. Section 19-20-605, MCA, is amended to read:

"19-20-605. Pension accumulation account -- employer's contribution. (1) The pension accumulation account is the account in which the reserves for payment of retirement allowances and benefits must be accumulated and from which retirement allowances and benefits must be paid to retirees or their beneficiaries. Employer contributions to the pension accumulation account must be made as provided in 19-20-609 and this section.

(2) Except as provided in subsection (3), for each member employed during the whole or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 9.85% of total earned compensation, plus the supplemental contribution required under 19-20-609.

(3) For each member employed by a school district, an education cooperative, a county, or a community college during the whole or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 7.47% of total earned compensation, plus the supplemental contribution required under 19-20-609.

(4) Beginning July 1, 2013, for each retired member who returns to covered employment under the provisions of 19-20-731 during all or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 9.85% of the total earned compensation paid to the retired member, plus the supplemental contribution required under 19-20-609.

(5) (a) If the employer is a school district or a community college district created prior to January 1, 2021 ~~or community college district~~, the trustees shall budget and pay for the employer's contribution under the provisions of 20-9-501.

(b) If the employer is a community college district created on or after January 1, 2021, the trustees shall budget and pay for the employer's contribution from the district's current unrestricted subfund.

(6) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's contribution.

(7) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under the budget.

(8) All interest and other earnings realized on the money of the retirement system must be credited to the pension accumulation account, and the amount required to allow regular interest on the annuity savings account must be transferred to that account from the pension accumulation account.

(9) The board may transfer from the pension accumulation account to the expense account an amount necessary to cover expenses of administration."

Section 6. Section 20-7-702, MCA, is amended to read:

"20-7-702. Authorization to establish adult education programs. The trustees of a district or a community college district created prior to January 1, 2021, ~~or community college district~~ may establish and operate an adult education program at any time of the day when facilities and personnel are available. An adult education program may provide both basic and secondary general education, career and technical education, vocational-technical education, American citizenship education, including courses in the English language and American history and government, or any other areas of instruction approved by the trustees."

Section 7. Section 20-7-704, MCA, is amended to read:

"20-7-704. Adult education tuition and fees. The trustees of a district or a community college district created prior to January 1, 2021, ~~or community college district~~ shall have the authority to ~~may~~ charge tuition for instruction and ~~to~~ charge fees for the use of equipment and materials. The amount of ~~such~~ the tuition and fees ~~shall~~ must be determined on a per-course basis or on the basis of the cost of the entire adult education program. All proceeds from tuition and fees ~~shall~~ must be deposited in the adult education fund."

Section 8. Section 20-7-705, MCA, is amended to read:

"20-7-705. Adult education fund. (1) A separate adult education fund must be established when an adult education program is operated by a district or a community college district created prior to January 1, 2021~~or community college district~~. The financial administration of the fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

(2) Whenever the trustees of a district establish an adult education program under the provisions of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult education fund is the depository for all district money received by the district in support of the adult education program. Federal and state adult education program money must be deposited in the miscellaneous programs fund.

(3) The trustees of a district may authorize the levy of a tax on the taxable value of all taxable property within the district for the operation of an adult education program.

(4) Whenever the trustees of a district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the final budget. Any expenditures in support of the adult education program under the final adult education budget must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(5) When a tax levy for an adult education program is included as a revenue item on the final adult education budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142."

Section 9. Section 20-9-134, MCA, is amended to read:

"20-9-134. Completion, filing, and delivery of final budgets. After the final budget of the elementary, high school, or community college district has been adopted by the trustees, the county superintendent shall complete all the remaining portions of the budget forms and shall:

(1) send the final budget information to the superintendent of public instruction, on the forms provided by the superintendent, on or before September 15; and

(2) in the case of the community college districts, send the final budget information to the board of regents, on the forms provided by the community college coordinator, on or before ~~September 4~~ August 15."

Section 10. Section 20-15-103, MCA, is amended to read:

"20-15-103. Supervision and coordination by board of regents. ~~Community college districts shall be under the supervision and coordination of the regents.~~ Pursuant to Article X, section 9, of the Montana constitution, the community college districts are assigned to the board of regents of higher education for supervision and coordination as public educational institutions outside the Montana university system. The regents shall:

- (1) supervise community college districts in accordance with the provisions of this section and 20-15-105;
- (2) appoint a coordinator of community college districts and prescribe the duties of the coordinator;
- (3) formulate and put into effect general policies for the supervision and coordination of community college districts;
- (4) after consultation with the community college trustees, develop and implement policies that distinguish the regents' authority to supervise and coordinate and the trustees' authority to administer and control community colleges; and
- (5) ~~call an election, determine the results of the election, and order and implement the organization of a community college district in accordance with this chapter~~ on approval of a proposition to organize a community college district, provide a recommendation to the legislature pursuant to 20-15-209."

Section 11. Section 20-15-105, MCA, is amended to read:

"20-15-105. Courses of instruction -- tuition and fees. (1) A community college district shall provide instruction in ~~academic, occupational, and adult~~ transfer, career and technical, and adult postsecondary education, subject to the approval of the board of regents of higher education. The board of trustees ~~of such of~~ a community college district may, in ~~their~~ its discretion and upon approval of the board of regents, prescribe:

- (a) tuition rates for in-district students, out-of-district students who are residents of the state of Montana, and students who are not residents of the state of Montana;
- (b) matriculation charges; and
- (c) incidental fees, including building fees, for students in the community college.

(2) ~~In addition thereto, such~~ The board of trustees of a community college district may prescribe ~~such~~ other fees ~~as~~ it considers necessary to maintain courses, taking into consideration ~~such~~ other funds ~~as may be~~ available under law for the support of ~~such~~ courses."

Section 12. Section 20-15-201, MCA, is amended to read:

"20-15-201. Requirements for organization of community college district. The registered electors in any area of the state of Montana may request an election for the organization of a community college district where the proposed community college district conforms to the following requirements:

- (1) The proposed area coincides with the then-existing boundaries of contiguous elementary or K-12 districts of one or more counties.
- (2) The taxable value of the proposed area is at least \$10 million.
- (3) There are at least 700 pupils regularly enrolled in public and private high schools located in the proposed area."

Section 13. Section 20-15-202, MCA, is amended to read:

"20-15-202. Petition for organization of community college district. (1) When the area of a proposed community college district satisfies the specified requirements under 20-15-201, the registered electors of the area may petition the ~~regents~~ board of county commissioners to call an election for the organization of a community college district. ~~Such~~The petition ~~shall~~ must be signed by at least 20% of the registered electors within each county or a part of a county included in the area of the proposed community college district.

(2) When the area to be included within the proposed community college district lies in more than one county, the qualified electors of the proposed area shall present a petition to the board of county commissioners in each county. Each petition must contain the signatures of at least 20% of the qualified electors of the proposed district that lies within that county.

(3) The petition must include:

- (a) a legal description or map of the proposed community college district boundaries;
- (b) the proposed name of the community college district;

(c) a description of the educational services the proposed community college district will offer;

(d) an estimate of the number of persons expected to use the services within the district; and

(e) a notice that the creation of a community college district may, with subsequent voter approval,

result in the levying of property taxes to support:

(i) a portion of the operating costs of the community college district; and

(ii) the repayment of bonds issued as authorized by law."

Section 14. Section 20-15-203, MCA, is amended to read:

"20-15-203. ~~Call of community~~ Community college district organization election -- notice --

proposition statement. ~~(1) A petition for the organization of a community college district must be presented to the county election administrator responsible for conducting elections pursuant to 20-15-208. The county election administrator shall notify the regents of the petition and examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.~~

~~(2) If the county election administrator determines that the petition satisfies the requirements, the county election administrator shall notify the regents and conduct an election on the community college district organization proposition. The election must be held on the next regular school election day that, pursuant to 13-1-504(4), is not less than 85 days after the order.~~

(1) On a determination that a petition complies with the provisions of 20-15-202, the board of county commissioners of each county in which the proposed community college district lies shall give notice of elections to be held within the boundaries of the proposed district for the purposes of:

(a) determining whether a community college district should be organized; and

(b) electing trustees as provided under the provisions of this part.

(2) The elections must be conducted in accordance with Title 13, chapter 1, part 5.

(3) At the election the proposition for organization must be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of..... (elementary or K-12 districts must be listed by county), State of Montana, a community college district for the offering of ~~13th and 14th-year courses,~~ transfer, career and technical, and adult postsecondary education, to be known as the

Community College District of....., Montana, under the provisions of the laws authorizing community college districts in Montana, as requested in the petition filed with the county election administrator on the..... day of....., 20...? The creation of a community college district may, with subsequent voter approval, result in the levying of property taxes to support:

(1) a portion of the operating costs of the community college district; and

(2) the repayment of bonds issued as authorized by law.

☐ FOR organization.

☐ AGAINST organization."

Section 15. Section 20-15-204, MCA, is amended to read:

"20-15-204. Election of trustees -- districts from which elected -- terms of office. (1) Pursuant to 20-15-208, ~~the board of regents shall call and~~ the county election administrator shall conduct the election of trustees of the proposed community college district at the same time as the election to be held for the approval of the community college district's organization.

(2) If the county election administrator determines that the proposal to organize a new community college district has carried pursuant to 20-15-209, the county election administrator shall determine which candidates have been elected trustees.

(3) Seven trustees must be elected at large, except that if there is in the proposed community college district one or more high school districts or part of a high school district within the community college district with more than 43% and not more than 50% of the total population of the proposed district, as determined by the last census, then each such district or part of district shall elect three trustees and the remaining trustees must be elected at large from the remainder of the proposed community college district. Should any high school district or part of a high school district within the community college district have more than 50% of the population of the proposed district, then four trustees must be elected from that high school district or part of a high school district and the remaining trustees must be elected at large from the remainder of the proposed community college district.

(4) If the trustees are elected at large throughout the entire proposed community college district, the three receiving the greatest number of votes must be elected for a term of 3 years, the two receiving the next

greatest number of votes, for a term of 2 years, and the two receiving the next greatest number of votes, for a term of 1 year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the three who shall serve for 3 years, the two who shall serve for 2 years, and the two who shall serve for 1 year. Thereafter, all trustees elected shall serve for terms of 3 years each."

Section 16. Section 20-15-208, MCA, is amended to read:

"20-15-208. Conduct of community college district elections -- cost. (1) An election for the organization of the community college district and the concurrent election of trustees for the proposed community college district must be supervised by the board of regents acting as the governing body for the election and conducted by the county election administrator.

(2) For any community college district election held subsequent to the initial ~~election~~ elections under subsection (1), the community college district's board of trustees is the governing body for the election and the county election administrator shall conduct the election.

(3) If a proposed or existing community college district is within the boundaries of more than one county, the county election administrator of the county with the highest number of qualified electors in the proposed or existing community college district shall conduct the election.

(4) A community college district election must be conducted in accordance with Title 13, chapter 1, part 5.

~~(5) The cost of conducting an initial community college district election under subsection (1) must be paid by the university system."~~

Section 17. Section 20-15-209, MCA, is amended to read:

"20-15-209. Determination of approval or disapproval of proposition -- subsequent procedures if approved. (1) To carry, the proposal to organize the community college district must receive a majority of the total number of votes cast. The county election administrator shall determine whether the proposal has received the majority of the votes cast for each county within the proposed district and shall certify the results to the regents. Prior to the legislative session immediately following the an affirmative community college district

organization election;

(a) by August 15, the trustees-elect of the proposed community college district shall submit to the board of regents an analysis of the educational and workforce needs in the proposed community college district and planned course offerings to meet the needs; and

(b) by December 1, the regents shall inform the legislature of the results of the election and shall provide a recommendation to the legislature based solely on an evaluation of the analysis in subsection (1)(a).

(2) Authority to approve a new community college district lies solely with the legislature. The legislature shall, by joint resolution at its next regular session, consider creation of the proposed community college district. If the legislature approves a new community college district, the regents board of county commissioners of each county in which the proposed community college district is located shall make an order declaring the community college district organized and cause a copy of the order to be recorded in the office of the county clerk and recorder in each county in which a portion of the new district is located. The board of county commissioners shall notify the board of regents of the district's organization.

(2)(3) Within 30 days of the date of the organization order, the regents board of trustees of the community college district shall set a date and call notice an organization meeting for the board of trustees of the community college district and shall notify the elected trustees of their membership and of the organization meeting. The notification must designate a temporary presiding officer and secretary for the purposes of organization."

Section 18. Section 20-15-305, MCA, is amended to read:

"20-15-305. Adult education tax levy. A community college district created prior to January 1, 2021, is considered a district for the purposes of adult education and under the provisions for adult education may, subject to 15-10-420, levy a tax for the support of its adult education program when the superintendent of public instruction approves the program."

Section 19. Section 20-15-309, MCA, is amended to read:

"20-15-309. ~~Proposed budget~~ Biennial budgeting. The board of trustees of a community college district shall submit a proposed budget enrollment projections and other data necessary for calculating the state

~~appropriation under 20-15-310 to the board of regents by August 45 1 immediately preceding each regular legislative session. The proposed budget shall be for the next biennium and in a form approved by the state budget director and the commissioner of higher education and shall be calculated in the same manner as the operating budget described in 20-15-312. The board of regents shall review the proposed budget and all its components and make any changes it determines necessary. By the following September 1, the board of regents shall submit its proposal for funding the community colleges to the budget director and the legislative fiscal analyst."~~

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

"20-15-310. Appropriation -- definitions. (1) 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. To be eligible for a state appropriation, a community college district created on or after January 1, 2021, must impose an operating levy pursuant to [section 2] of at least 1.5 mills.

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

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

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

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

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

community colleges and 2-year and 4-year campuses of the Montana university system.

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

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

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

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

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

(7) As used in this section, the following definitions apply:

(a) "Adjusted cost of education" means the cost of education minus any reversion calculated under 17-7-142, expenditures from one-time-only legislative appropriations, and, for a community college created prior to January 1, 2021, expenditures funded by local mill levies provided for in 2-9-212 and 20-9-501 in excess of the 2012 mill levy levels, ~~and expenditures funded by local mill levies provided for in 2-9-212 and 20-9-501 in excess of the 2012 mill levy levels.~~

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

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

(d) "Variable cost of education per student" means that portion of the total adjusted cost of education at all Montana community colleges, as determined by the legislature, that is subject to change as a result of

increases or decreases in student enrollment, divided by the actual total student enrollment at all Montana community colleges during the budget base fiscal year."

Section 21. Section 20-15-311, MCA, is amended to read:

"20-15-311. Funding sources. (1) The annual operating current fund budget of a community college district must created on or after January 1, 2021, may be financed from the following sources:

- (1)(a) the estimated revenue to be realized from student tuition and fees, except revenue related to community service courses, as defined by the board of regents;
- (2) subject to 15-10-420, a mandatory mill levy on the community college district;
- (3) subject to 15-10-420, the adult education levy authorized under provisions of 20-15-305;
- (4)(b) the state general fund appropriation pursuant to 20-15-310;
- (c) the operating levy pursuant to [section 2];
- (5) an optional voted levy on the community college district that must be submitted to the electorate in accordance with general school election laws and 15-10-425;
- (6)(d) all other income, revenue, balances, or reserves not restricted by a source outside the community college district to a specific purpose;
- (7)(e) income, revenue, balances, or reserves restricted by a source outside the community college district to a specific purpose. Student fees paid for community service courses, as defined by the board of regents, are considered restricted to a specific purpose.
- (8)(f) income from a political subdivision that is designated a community college service region under 20-15-241.

(2) The annual current fund budget of a community college district created prior to January 1, 2021, may be financed from the following sources:

- (a) the estimated revenue to be realized from student tuition and fees, except revenue related to community service courses, as defined by the board of regents;
- (b) the state general fund appropriation pursuant to 20-15-310;
- (c) subject to 15-10-420, a mandatory mill levy on the community college district;
- (d) pursuant to 20-9-501, a retirement levy;

- (e) pursuant to 2-9-212, a levy for employer contributions to group benefits plans;
- (f) subject to 15-10-420, the adult education levy authorized under 20-15-305;
- (g) an optional voted levy on the community college district that must be submitted to the electorate in accordance with general school election laws and 15-10-425;
- (h) all other income, revenue, balances, or reserves not restricted by a source outside the community college district to a specific purpose;
- (i) income, revenue, balances, or reserves restricted by a source outside the community college district to a specific purpose. Student fees paid for community service courses, as defined by the board of regents, are considered restricted to a specific purpose.
- (j) income from a political subdivision that is designated a community college service region under 20-15-241."

Section 22. Section 20-15-312, MCA, is amended to read:

"20-15-312. Calculation Review and approval of annual operating budget. (1) Annually by ~~September 4~~ August 15, the board of trustees of a community college shall submit an operating budget to the board of regents for their review. The operating budget of the community college must be ~~financed in the following manner:~~

- ~~(a) The general fund appropriation must be determined pursuant to 20-15-310.~~
- ~~(b) The mandatory levy amount must represent a specific percentage of the combined total of the fixed cost of education and the variable cost of education, as those terms are defined in 20-15-310, and as determined by the legislature. This percentage must be specified for each community college by the board of trustees of the district and approved by the board of regents.~~
- ~~(c) The funding obtained pursuant to subsections (1)(a) and (1)(b) plus the revenue derived from tuition and fee schedules approved by the board of regents and unrestricted income from any other source is the amount of the unrestricted budget. A detailed expenditure schedule for the unrestricted budget must be submitted to the board of regents for their review and approval.~~
- ~~(d) The amount estimated to be raised by the voted levy must be detailed separately in an expenditure schedule.~~

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

~~(f) The expenditure schedules provided in subsections (1)(c) through (1)(e) represent the total operating budget of the community college submitted in a manner prescribed by the board of regents and include at a minimum:~~

~~(a) detailed revenue and expenditure estimates for the current fiscal year and actual revenue and expenditure reports for the most recently completed fiscal year in all funds and subfunds;~~

~~(b) a list of any property tax levies for the current year, displaying the amount to be raised in dollars and mills and any applicable statutory limitations; and~~

~~(c) the percentage of the proposed current fund budget funded by local property taxes.~~

(2) The board of regents shall review and approve the proposed total operating budget and all its components ~~and make any changes it determines necessary, ensuring the proposed budget complies with applicable laws and accounting standards.~~ The board of trustees of a community college district shall operate within the limits of the operating budget approved by the board of regents."

Section 23. Section 20-15-313, MCA, is amended to read:

"20-15-313. Tax levy. (1) By the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values, the board of county commissioners of any county where a community college district is located shall, ~~subject to 15-10-420,~~ fix and levy a tax on all the real and personal property within the community college district at the rate required to finance ~~the mandatory mill levy prescribed by 20-15-312(1)(b) and the voted levy prescribed by 20-15-311(5) if one has been approved by the voters,~~ subject to statutory conditions and limitations, any district levy authorized by law.

(2) When a community college district has territory in more than one county, the board of county commissioners in each county shall fix and levy the community college district tax on all the real and personal property of the community college district situated in its county.

Section 24. Section 20-15-321, MCA, is amended to read:

"20-15-321. ~~General fund~~ Current unrestricted subfund cash reserve. At the end of each school

fiscal year the board of trustees of a community college district may designate a portion of the ~~general fund~~ current unrestricted subfund end-of-the-year cash balance as a cash reserve for the purpose of paying ~~general fund~~ current unrestricted subfund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. The amount of the ~~general fund~~ current unrestricted subfund cash balance that is earmarked as cash reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year."

Section 25. Transition. For a proposed community college district or a community college district approved by the 2021 legislature, the legislature intends that [this act] apply to the district prospectively as of July 1, 2021.

Section 26. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 15, part 3, and the provisions of Title 20, chapter 15, part 3, apply to [sections 1 and 2].

Section 27. Coordination instruction. (1) If both House Bill No. 67 and [this act] are passed and approved and House Bill No. 67 includes a section that amends 20-15-310, then [section 20 of this act], amending 20-15-310, is void.

(2) If both House Bill No. 67 and [this act] are passed and approved and House Bill No. 67 includes a section that amends 20-15-312, then the section of House Bill No. 67 amending 20-15-312 is void.

(3) If both House Bill No. 67 and [this act] are passed and approved and House Bill No. 67 includes a section that amends 20-15-310, then [section 1 of this act] is void and must be replaced with:

"NEW SECTION. **Section 1. Funding for a new community college district.** (1) The board of trustees of a newly created community college district shall, by August 1 immediately preceding the regular legislative session at which the district will first seek a state appropriation, submit to the board of regents enrollment projections for each year of the ensuing biennium and an annual budget pursuant to 20-15-312 for the first year of the ensuing biennium.

(2) The state general fund appropriation for the district must be determined as follows:

(a) for the first year of the ensuing biennium:

(i) divide the total adjusted base of all community colleges by the total FTE of all community colleges

in the base year;

(ii) multiply the result of subsection (2)(a)(i) by the inflationary factor for the second year of the current biennium and then multiply by the inflationary factor for the first year of the ensuing biennium; and

(iii) multiply the result of subsection (2)(a)(ii) by the projected weighted resident FTE of the new community college for the first year of the ensuing biennium.

(b) for the second year of the ensuing biennium:

(i) multiply the number calculated in subsection (2)(a)(ii) by the inflationary factor for the second year of the ensuing biennium; and

(ii) multiply the result of subsection (2)(b)(i) by the projected weighted resident FTE of the new community college for the second year of the ensuing biennium.

(3) (a) After each fiscal year of the first biennium the new community college district receives a state appropriation, the commissioner of higher education shall determine the fiscal impacts that would have resulted had the actual FTE for that fiscal year been used to determine that fiscal year's state appropriation and determine any overpayment or underpayment to the community college for that fiscal year.

(b) 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:

(i) 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 15 of the current calendar year; or

(ii) 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 15 of the current calendar year for deposit in the community college FTE adjustment account.

(4) After the first biennium a new community college district receives a state appropriation, the state appropriation for the district in subsequent biennia must be determined as described in 20-15-310."

Section 28. Effective date. [This act] is effective July 1, 2021.

- END -

I hereby certify that the within bill,
HB 179, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 179

INTRODUCED BY D. BEDEY

AN ACT GENERALLY REVISING LAWS RELATED TO COMMUNITY COLLEGES; CLARIFYING THE PROCEDURE FOR THE ORGANIZATION OF AND FUNDING FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING THE ELECTION PROCEDURE FOR THE ORGANIZATION OF A NEW COMMUNITY COLLEGE DISTRICT; REVISING AND CLARIFYING THE FUNDING SOURCES AND ACCOUNTING STRUCTURE FOR COMMUNITY COLLEGES; CONSOLIDATING VARIOUS EXISTING PROPERTY TAX LEVIES INTO ONE OPERATING LEVY FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING DEFINITIONS; AMENDING SECTIONS 2-9-212, 17-7-102, 19-20-605, 20-7-702, 20-7-704, 20-7-705, 20-9-134, 20-9-501, 20-15-103, 20-15-105, 20-15-201, 20-15-202, 20-15-203, 20-15-204, 20-15-208, 20-15-209, 20-15-305, 20-15-309, 20-15-310, 20-15-311, 20-15-312, 20-15-313, 20-15-314, AND 20-15-321, 20-15-403, AND 20-15-404, MCA; REPEALING SECTION 20-15-305, MCA; AND PROVIDING AN EFFECTIVE DATE.