

HOUSE BILL NO. 375

INTRODUCED BY G. HERTZ

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FOR ACCREDITED TRIBALLY CONTROLLED SCHOOLS; REVISING THE QUALITY EDUCATOR PAYMENT, THE INDIAN EDUCATION FOR ALL PAYMENT, AND THE AMERICAN INDIAN ACHIEVEMENT GAP PAYMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 20-1-101, 20-9-327, 20-9-329, AND 20-9-330, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Funding for accredited tribally controlled schools. A tribally controlled

school that is accredited by the board of public education is eligible for:

- (1) the quality educator payment under 20-9-327;
- (2) the Indian education for all payment under 20-9-329; and
- (3) the American Indian achievement gap payment under 20-9-330.

Section 2. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Accreditation standards" means the body of administrative rules governing standards such as:
 - (a) school leadership;
 - (b) educational opportunity;
 - (c) academic requirements;
 - (d) program area standards;
 - (e) content and performance standards;
 - (f) school facilities and records;
 - (g) student assessment; and
 - (h) general provisions.
- (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is



1 offered or for which a pupil is enrolled.

2 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana
3 state university-Bozeman.

4 (4) "At-risk student" means any student who is affected by environmental conditions that negatively
5 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

6 (5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time
7 pupils physically attending or receiving educational services at an offsite instructional setting from the public
8 schools of a district.

9 (6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the
10 Montana constitution and 2-15-1507.

11 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,
12 subsection (2), of the Montana constitution and 2-15-1505.

13 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,
14 subsection (2), of the Montana constitution and 2-15-1506.

15 (9) "County superintendent" means the county government official who is the school officer of the county.

16 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with
17 a superintendent's endorsement that has been issued by the superintendent of public instruction under the
18 provisions of this title and the policies adopted by the board of public education and who has been employed by
19 a district as a district superintendent.

20 (11) (a) "Educational program" means a set of educational offerings designed to meet the program area
21 standards contained in the accreditation standards.

22 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

23 (12) "Indian tribe" means an Indian tribe that is:

24 (a) recognized by federal law or formally acknowledged by the state of Montana; and

25 (b) located within the boundaries of the state of Montana.

26 ~~(12)~~(13) "K-12 career and vocational/technical education" means organized educational activities that
27 have been approved by the office of public instruction and that:

28 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills
29 that the pupil needs to prepare for further education and for careers in the current or emerging employment
30 sectors; and

1 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order
 2 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
 3 occupation-specific skills of the pupil.

4 ~~(13)~~(14) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
 5 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

6 (b) The term does not include lunch time and periods of unstructured recess.

7 ~~(14)~~(15) "Offsite instructional setting" means an instructional setting at a location, separate from a main
 8 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the
 9 district.

10 ~~(15)~~(16) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
 11 applicable principal's endorsement that has been issued by the superintendent of public instruction under the
 12 provisions of this title and the policies adopted by the board of public education and who has been employed by
 13 a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including
 14 a principal.

15 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in
 16 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)
 17 but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under
 18 the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to
 19 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of
 20 the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state
 21 at public expense.

22 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools
 23 while under the supervision of a teacher.

24 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and
 25 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as
 26 established by the board of public education.

27 ~~(19)~~(20) "Regents" means the board of regents of higher education.

28 ~~(20)~~(21) "Regular school election" or "trustee election" means the election for school board members held
 29 on the day established in 20-20-105(1).

30 ~~(21)~~(22) "School election" means a regular school election or any election conducted by a district or

1 community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high
2 school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for
3 decision in accordance with the provisions of this title.

4 ~~(22)~~(23) "School food services" means a service of providing food for the pupils of a district on a nonprofit
5 basis and includes any food service financially assisted through funds or commodities provided by the United
6 States government.

7 ~~(23)~~(24) "Special school election" means an election held on a day other than the day of the regular
8 school election, primary election, or general election.

9 ~~(24)~~(25) "State board of education" means the board composed of the board of public education and the
10 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

11 ~~(25)~~(26) "State university" means Montana state university-Bozeman.

12 ~~(26)~~(27) "Student with limited English proficiency" means any student:

13 (a) (i) who was not born in the United States or whose native language is a language other than English;

14 (ii) who is an American Indian and who comes from an environment in which a language other than
15 English has had a significant impact on the individual's level of English proficiency; or

16 (iii) who is migratory, whose native language is a language other than English, and who comes from an
17 environment in which a language other than English is dominant; and

18 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
19 sufficient to deny the student:

20 (i) the ability to meet the state's proficiency assessments;

21 (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

22 (iii) the opportunity to participate fully in society.

23 ~~(27)~~(28) "Superintendent of public instruction" means that state government official designated as a
24 member of the executive branch by the Montana constitution.

25 ~~(28)~~(29) "System" means the Montana university system.

26 ~~(29)~~(30) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
27 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
28 the policies adopted by the board of public education and who is employed by a district as a member of its
29 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
30 emergency authorization of employment has been issued under the provisions of 20-4-111.

1 ~~(30)~~(31) "Textbook" means a book or manual used as a principal source of study material for a given
2 class or group of students.

3 ~~(31)~~(32) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
4 to sell, or offering for adoption textbooks to districts in the state.

5 (33) "Tribally controlled school" means an elementary or secondary school established and controlled
6 by an Indian tribe pursuant to the laws of an Indian tribe or federal law, including but not limited to the Indian
7 Self-Determination and Education Assistance Act, 25 U.S.C. 5301, et seq., or the Tribally Controlled Schools Act
8 of 1988, 25 U.S.C. 2501, et seq.

9 ~~(32)~~(34) "Trustees" means the governing board of a district.

10 ~~(33)~~(35) "University" means the university of Montana-Missoula.

11 ~~(34)~~(36) "Vocational-technical education" means vocational-technical education of vocational-technical
12 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled
13 community college, as designated by the board of regents."
14

15 **Section 3.** Section 20-9-327, MCA, is amended to read:

16 **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

17 (i) public school districts, as defined in 20-6-101 and 20-6-701;

18 (ii) special education cooperatives, as described in 20-7-451;

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

20 (iv) state youth correctional facilities, as defined in 41-5-103; ~~and~~

21 (v) the Montana youth challenge program; and

22 (vi) tribally controlled schools, as defined in 20-1-101 and accredited as provided in [section 1].

23 (b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded
24 under the provisions of this section except by approval of the superintendent of public instruction.

25 (2) (a) The quality educator payment for special education cooperatives must be distributed directly to
26 those entities by the superintendent of public instruction.

27 (b) The quality educator payment for the Montana school for the deaf and blind must be distributed to
28 the Montana school for the deaf and blind.

29 (c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be
30 distributed to those facilities by the department of corrections.

1 (d) The quality educator payment for the Montana youth challenge program must be distributed to that
2 program by the department of military affairs.

3 (e) The quality educator payment for tribally controlled schools must be distributed directly to those
4 entities by the superintendent of public instruction.

5 (3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time
6 equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the
7 previous school year, each of whom:

8 (a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in
9 subsection (1) of this section in a position that requires an educator license in accordance with the administrative
10 rules adopted by the board of public education;

11 (b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301,
12 37-23-201, 37-24-301, or 37-25-302; and

13 (ii) is employed by an entity listed in subsection (1) to provide services to students; or

14 (c) (i) holds an American Indian language and culture specialist license; and

15 (ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language
16 immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30, 2019--sec.
17 10, Ch. 442, L. 2015.)"

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19 **Section 4.** Section 20-9-329, MCA, is amended to read:

20 **"20-9-329. Indian education for all payment.** (1) The state shall provide an Indian education for all
21 payment to public school districts, as defined in 20-6-101 and 20-6-701, and to tribally controlled schools, as
22 defined in 20-1-101 and accredited as provided in [section 1], to implement the provisions of Article X, section
23 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

24 (2) (a) The For a public school district, the Indian education for all payment is calculated as provided in
25 20-9-306 and is a component of the BASE budget of the district.

26 (b) For a tribally controlled school, the Indian education for all payment is calculated pursuant to 20-9-306
27 by using the count of regularly enrolled students who were enrolled as of the first Monday in October of the prior
28 school year as reported to the office of public instruction.

29 (3) The public school district or tribally controlled school shall deposit the payment in the general fund
30 of the district or tribally controlled school.

1 (4) A public school district or tribally controlled school that receives an Indian education for all payment
 2 may not divert the funds to any purpose other than curriculum development, providing curriculum and materials
 3 to students, and providing training to teachers about the curriculum and materials. A public school district or
 4 tribally controlled school shall file an annual report with the office of public instruction, in a form prescribed by the
 5 superintendent of public instruction, that specifies how the Indian education for all funds were expended."
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7 **Section 5.** Section 20-9-330, MCA, is amended to read:

8 **"20-9-330. American Indian achievement gap payment.** (1) The state shall provide an American
 9 Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, and to tribally
 10 controlled schools, as defined in 20-1-101 and accredited as provided in [section 1], for the purpose of closing
 11 the educational achievement gap that exists between American Indian students and non-Indian students.

12 (2) (a) The American Indian achievement gap payment is calculated as provided in 20-9-306, using the
 13 number of American Indian students enrolled in the public school district or tribally controlled school based on
 14 the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the
 15 office of public instruction.

16 (b) A school district may not require a student to disclose the student's race.

17 (3) The public school district or tribally controlled school shall deposit the payment in the general fund
 18 of the district or tribally controlled school.

19 (4) On or before September 15 of even-numbered years, the office of public instruction shall report to
 20 the governor and the legislature on the change in status of standardized test scores, graduation rates, and
 21 drop-out rates of American Indian students."
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23 NEW SECTION. **Section 6. Notification to tribal governments.** The secretary of state shall send a
 24 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 25 Chippewa tribe.

26
 27 NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an
 28 integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 1].
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30 NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

