



AN ACT GENERALLY REVISING STATE FINANCE LAWS RELATED TO APPROPRIATING FEDERAL FUNDS FOR COVID-19 RELIEF FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ESTABLISHING A TEMPORARY MAINTENANCE OF EQUITY PAYMENT FOR SCHOOL DISTRICTS; TEMPORARILY SUSPENDING ANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; TEMPORARILY MODIFYING FINANCIAL SUPPORT FOR UNANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; ALLOWING COVID-19 RELIEF APPROPRIATIONS TO CONTINUE INTO THE BIENNIUM BEGINNING JULY 1, 2021; APPROPRIATING FUNDS TO THE OFFICE OF STATE PUBLIC DEFENDER FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING MODIFICATIONS RELATED TO APPROPRIATIONS AND AUTHORIZATIONS; AMENDING SECTIONS 20-6-326, 20-9-166, AND 20-9-314, MCA; AMENDING SECTION 1, CHAPTER 483, LAWS OF 2019; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Maintenance of equity payment. If the superintendent of public instruction determines that in the absence of the payment under this section the state will not be in compliance with the maintenance of equity requirements of section 2004(b)(1) or (b)(2) of the American Rescue Plan Act of 2021, the superintendent shall provide a maintenance of equity payment from the BASE aid appropriation in House Bill No. 2 to school districts only as necessary and in the minimum amount required to ensure compliance. A school district receiving a maintenance of equity payment shall deposit the money in the district's miscellaneous programs fund and may use the money for general operations and instruction as determined by the board of trustees.

Section 2. Section 20-6-326, MCA, is amended to read:

"20-6-326. Procedure for expansion of elementary school district into K-12 school district --

trustee resolution. (1) An existing elementary district that is not part of a unified school system or governed by a joint board with a high school district may expand into a K-12 district under the procedures outlined in this section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

(2) The expansion to a K-12 district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the county superintendent to order an election to allow the electors of the elementary district to consider the proposition of expanding the elementary school district into a K-12 district. The trustees of an existing elementary district with an ANB of at least 1,000 may not pass a resolution for expansion more than one time within a 5-year period.

(3) (a) If the proposition for the expansion is approved by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416, for a period of 2 years from the date of the certification of the election the elementary trustees have the authority to propose to the electors of the elementary district:

(i) a transition costs levy pursuant to 20-9-502; and

(ii) a general obligation bond pursuant to Title 20, chapter 9, part 4, for the purpose of building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school to accommodate high school students.

(b) The bond limitations pursuant to 20-9-406 imposed on a district proposing a bond under subsection (3)(a) must be calculated on the limits for a K-12 district with the high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(c) A bond approved under subsection (3)(a) becomes a bond of, and may not be issued until the creation of, the K-12 district formed pursuant to subsection (4).

(d) A district that issues a bond under this subsection (3) is eligible for facility reimbursements and advances pursuant to 20-9-366 through 20-9-371 that, until the new high school has enrolled students in all grades and has established an actual ANB for budgeting purposes, must be based on an estimated high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(e) Until the county superintendent orders the creation of a new high school district and attachment of

the expanding elementary district to form a new K-12 district pursuant to subsection (4), the existing high school district remains intact for all purposes.

(4) If elementary electors approve a bond pursuant to subsection (3), on July 1 following the approval of the bond the county superintendent shall order the creation of a new high school district with identical boundaries to the expanding elementary district and the immediate attachment of the expanding elementary district to form a K-12 district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts affected by the creation of the district. The trustees of the expanding elementary district must be designated as the trustees of the new K-12 district.

(5) Prior to the first school fiscal year in which the K-12 district will enroll students in a particular high school grade, the K-12 trustees shall prepare operating budgets for the new high school according to the school budgeting provisions of this title, except that:

(a) the ANB for any inaugural grades for the high school program of the K-12 district must be estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of the elementary program in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades in which the high school will enroll students for the first time in the ensuing school year;

(b) the number of quality educators for the high school program must be estimated by the trustees and may not exceed the number resulting from dividing the ANB estimated under subsection (5)(a) by 10;

(c) the taxable value for budgeting purposes of both the elementary and high school programs of the K-12 district must be based on the taxable value as most recently determined by the department of revenue;

(d) the general fund budget adopted by the trustees must be based on only the basic entitlement, the quality educator payment, and the budget components derived from ANB counts; and

(e) the district's BASE aid for the upcoming year must be based on the general fund budget adopted by the trustees for the upcoming school year.

(6) Until the first school year in which the K-12 school district enrolls high school students in all grades and for a period of time not to exceed 6 years following the creation of the K-12 district:

(a) the high school district shall provide high school instruction to high school students of the K-12 district in any grades in which the K-12 district is not enrolling students;

(b) the K-12 district shall be responsible for providing transportation for its students enrolled in the

high school district pursuant to subsection (6)(a), may establish a transportation budget for this purpose, and may receive state and county reimbursements under Title 20, chapter 10; and

(c) the K-12 district shall pay the high school district 20% of the per-ANB maximum rate established in 20-9-306 for each of its students enrolled in the high school district with one-half of the amount due by December 31 of the year following the year of attendance and the remainder due no later than June 15 of the year following the year of attendance. The K-12 trustees shall establish a tuition fund and levy to fund these payments.

(7) (a) Bonded indebtedness of the high school district that is outstanding as of the date of creation of the K-12 district must remain secured by and be the indebtedness of the original territory against which the bonds of the high school district were issued and must be paid by tax levies against the original territory.

(b) Bonded indebtedness of the high school district that is issued by the high school district following the creation of the K-12 district is secured by the territory of the high school district as of the date of issuance of the high school district bonds and must be paid by tax levies against the territory of the high school district. However, if bonds of the high school district were approved at a bond election conducted before the creation of the K-12 district, all bonds of the high school district issued by the high school district under the bond election authority must remain secured by and be the indebtedness of the territory of the high school district as of the date the bond authority was approved by voters and must be paid by tax levies against that territory.

(c) Bonded indebtedness of the K-12 district is secured by the territory of the K-12 district as of the date of issuance of the K-12 district bonds and must be paid by tax levies against the territory of the K-12 district.

(d) Bonded indebtedness of the elementary district that is outstanding as of the date of creation of the K-12 district must become upon the date of creation of the K-12 district the bonded indebtedness of the K-12 district and must be secured by the territory of the K-12 district and paid by tax levies against the territory of the K-12 district. The debt service on the bonds must be allocated to the elementary program of the K-12 district.

(e) Bonded indebtedness of the high school district or the K-12 district that is subsequently affected by a later reorganization of the high school district or the K-12 district is governed by the provisions of Title 20, chapter 6, part 4.

(8) When a K-8 district expands to a K-12 district as provided for in this section, a principal, teacher,

or other certified employee of the original high school district who has a right of tenure under Montana law must be given preference in hiring for a vacant position in the new K-12 district for which the employee is qualified with the required certification endorsements."

Section 3. Section 20-9-166, MCA, is amended to read:

"20-9-166. ~~State financial aid for~~ (Temporary) Financial support for transportation budget amendments and covid-19-related enrollment increases. ~~Whenever a final budget amendment has been adopted for the general fund to finance the cost of an amendment resulting from increased enrollment, the trustees may apply to the superintendent of public instruction for an increased payment from the state for direct state aid.~~ (1) Whenever a final budget amendment has been adopted for the transportation fund, the trustees may apply to the superintendent of public instruction for an increased payment for state transportation reimbursement. The superintendent of public instruction shall adopt rules for the application for state transportation reimbursement. The superintendent of public instruction shall approve or disapprove each application for ~~increased state aid made in accordance with 20-9-314 and this section~~ state transportation reimbursement. When the superintendent of public instruction approves an application, the superintendent of public instruction shall determine the additional amount of ~~direct state aid or the~~ state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment or additional pupil transportation obligations. The superintendent of public instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for ~~the general fund or the~~ transportation fund. The superintendent of public instruction shall disburse the state aid to the eligible district at the time the next regular state aid payment is made.

(2) (a) Any increase in enrollment for a district at the October enrollment count for fiscal years 2022 and 2023 compared to the enrollment count of the district in October of the immediately preceding fiscal year is declared by the legislature to be related to the uncertainty created by covid-19 and qualifies the district for additional financial support as described in this subsection (2). The legislature also declares that the state's fiscal challenges in the biennium beginning July 1, 2021, are a direct result of the economic downturn resulting from covid-19.

(b) Subject to reduction under subsection (2)(c), the amount of additional financial support the district qualifies for must be calculated by the superintendent of public instruction as the difference between the district's BASE budget for that fiscal year and the amount of the district's BASE budget if the district's budget limit ANB for that fiscal year was calculated using the district's actual October enrollment count in the current school year in place of the average of the preceding year's October and February enrollment counts.

(c) (i) The total amount of the additional financial support for a district must be reduced by 10% of the Title I allocation and any portion of an amount allocated on a per-quality-educator basis to the district as of the enrollment count date pursuant to:

(A) the Coronavirus Response and Relief Supplemental Appropriations Act of 2021; and

(B) the American Rescue Plan Act of 2021, except for the 20% portion of the funds specifically earmarked and restricted to spending on learning loss programs.

(ii) The superintendent of public instruction shall consider the 10% amount calculated under this subsection (2)(c) as an expense eligible for reimbursement under catalog of federal domestic assistance number 84.425D.

(d) The only increases in financial support resulting from increased enrollment are the increases described in this subsection (2). The superintendent of public instruction shall allocate the additional financial support to a qualifying district, first from federal money appropriated by the legislature for this purpose and if necessary, from the BASE aid appropriation in House Bill No. 2.

(e) A district receiving additional financial support under this subsection (2) shall deposit the money in the district's miscellaneous programs fund and use it to address costs associated with the enrollment increase. (Terminates June 30, 2023)."

Section 4. Section 20-9-314, MCA, is amended to read:

"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. ~~A-Except for the ensuing school fiscal years of 2022 and 2023,~~ a district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an anticipated unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the anticipated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the adjusted enrollment exceeds the enrollment used for the budgeted average number belonging; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 4% or 40 students, whichever is less.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in subsection (3) minus the sum of:

(a) the enrollment used to calculate the budgeted average number belonging for the ensuing school

fiscal year; and

(b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year.

(6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the superintendent of public instruction shall recalculate the district's BASE budget and maximum budget limitations, adopted budget, and BASE aid using the actual enrollment in place of the adjusted enrollment and:

(i) any BASE aid received by the district in excess of the amount recalculated is an overpayment subject to the refund provisions of 20-9-344(4); and

(ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used to reduce the BASE budget levy calculated as provided in 20-9-141 to the extent of any BASE budget levy revenue overpayment and to reduce the over-BASE budget levy to the extent of any over-BASE budget levy revenue overpayment in the ensuing school fiscal year. In order to return the full amount of the overpayment to local taxpayers, the amount of the reduction in the BASE budget mills levied as a result of any overpayment must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills."

Section 5. Appropriations -- authorization to spend federal money. (1) There are federal special revenue funds appropriated to the agencies listed below for the fiscal year beginning July 1, 2020.

Appropriation authority is intended to be allocated to the following items. Appropriations are authorized to continue in the biennium beginning July 1, 2021.

Agency	Amount	
Office of Public Instruction	\$153,089,519	[Basic Allocation to School Districts]
	\$3,400,000	[Supplemental Allocation to School Districts]
	\$120,000	[Allocation to Other Educational Institutions]

	\$2,500,000	[Special Needs Allocation]
	\$1,200,000	[Targeted Support to School Districts]
	\$939,449	[Education Leadership in Montana]
	\$8,000,000	[OPI Database Modernization]
	\$850,497	[Administration]
Department of Commerce	\$183 million	[Emergency Rental Assistance]
Department of Labor and Industry	\$5,251,366	[Unemployment Insurance Administration]
Department of Transportation	\$52.7 million	[Transportation Infrastructure]
	\$50 million	[Restricted]

(2) The appropriations to the office of public instruction in subsection (1) are restricted as follows:

(a) For Basic Allocation to School Districts, the amount allocated to school districts is to be based on federal law. The office of public instruction shall distribute funds through a grants for expenses method that is consistent with Section 313(d) of ESSER II.

(b) For Supplemental Allocation to School Districts, the office of public instruction shall allocate the funds as follows:

(i) a school district with less than 6 quality educators receives \$10,000;

(ii) a school district with 6 or more quality educators that receives less than an amount equal to \$10,000 times the number of the district's quality educators in the basic allocation receives an amount for every quality educator plus an additional \$50 for every quality educator that the district is below the statewide average of quality educators for each district;

(iii) the amount for every quality educator must be calculated to use the \$3.4 million appropriation; and

(iv) the office of public instruction shall distribute the funds in the same manner as used for the basic allocation.

(c) For Allocation to Other Educational Institutions, an allocation to the School for the Deaf and Blind, Pine Hills, and the Youth Academy are to be made on a per-quality-educator basis. The office of public instruction shall distribute the funds in the same manner as used for the basic allocation.

(d) For Special Needs Allocation, allocations to school districts and special education cooperatives are to be made consistent with the allowable cost payment for special education funding. The office of public

instruction shall distribute the funds in the same manner as used for the basic allocation.

(e) For Targeted Support to School Districts:

(i) grants may be made at the discretion of the office of public instruction to school districts with significant challenges related to learning loss or fluctuations in enrollment. The office of public instruction shall distribute the funds in the same manner as used for the basic allocation.

(ii) grants may only be awarded after a district has expended all other federal funds allocated to it for responding to the covid-19 pandemic; and

(iii) a district may use these funds to provide support to a special education cooperative, of which it is a member, for expenses that are consistent with Section 313(d) of ESSER II.

(f) For Education Leadership in Montana, the office of public instruction shall create a system to build the capacity of principals, teachers, and other leaders to ensure recovery of each school from the effects of the covid-19 pandemic in a model that addresses the learning opportunities missed and needed by each person to reach their full educational potential.

(g) For OPI Database Modernization, funds must be used by the office of public instruction to repair, improve, or replace existing data systems to respond to learning loss associated with the pandemic. Actions taken must be consistent with the provisions of 20-7-104.

(h) For Administration, funds must be used by the office of public instruction for the administration of ESSER II activities.

(3) The appropriation of \$50 million to the department of transportation in subsection (1) is restricted to the maintenance program for contractor payments.

(4) The department of commerce shall consult with the department of public health and human services regarding the implementation and expenditure of the Emergency Rental Assistance appropriation relating to utility assistance, case management, or other matters. The department of commerce may subgrant funds as appropriate for implementation and expenditure of the funds.

Section 6. Appropriation. There is appropriated \$350,000 from the general fund to the office of public defender for the fiscal year ending June 30, 2021. This appropriation is intended to provide necessary and ordinary expenditures for the fiscal year ending June 30, 2021. The unspent balance of this appropriation

reverts to the general fund.

Section 7. Section 1, Chapter 483, Laws of 2019, is amended to read:

Community college reversions for the biennium beginning July 1, 2019. The following language in House Bill No. 2, Chapter 423, Laws of 2019, at page E-4 is amended as follows:

"The general fund appropriation for Community College Assistance is calculated to fund education in the community colleges for an estimated 2,083 resident FTE in FY 2020 and 2,143 in FY 2021. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. ~~If actual resident FTE student enrollment is less than the estimated numbers for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.~~"

Section 8. Modifications to appropriations and authorizations. (1) The governor, or the budget director under the direction of the governor, is authorized to redirect appropriations and authorizations to other projects or appropriations within [this act] to ensure conformity with applicable federal laws, regulations, and guidance issued by federal agencies.

(2) (a) If a proposed line-item transfer or a fund switch in [this act] exceeds \$100,000, the budget director shall submit a legal analysis and detailed description of the requested line-item transfer or fund switch to the legislative fiscal analyst 30 days prior to the next scheduled meeting of the legislative finance committee.

(b) For the purposes of this section, the following definitions apply:

(i) "Fund switch" means a change in a line-item fund source or account to another fund source or account.

(ii) "Line-item transfer" means the transfer of appropriation authority from one line item to a different line item.

(3) The legislative finance committee shall review the proposed line-item transfer or fund switch at the next meeting. A representative of the office of budget and program planning must be present at the meeting to discuss the proposal. The legislative finance committee may take up to 15 days following its meeting to review and comment on the proposal. The office of budget and program planning may provide a response to the

comments within 15 days of receiving the committee's comments.

(4) The governor, or the budget director at the direction of the governor, is authorized to adjust the parameters of a program or service appropriated in [this act] to ensure conformity with applicable federal laws, regulations, and guidance issued by federal agencies. If the parameters of a program are adjusted, the office of budget and program planning shall notify the legislative finance committee of the change at its next scheduled meeting. The legislative finance committee may take up to 15 days following its meeting to review and comment on the proposal. The office of budget and program planning may provide a response to the comments within 15 days of receiving the committee's comments.

(5) If a proposed line-item transfer or a fund switch or a modification to the parameters of a program or service is of an urgent nature, the budget director shall notify the legislative fiscal analyst as soon as possible and the 30-day notice is not required. The legislative finance committee shall convene as soon as possible to review the proposal and provide comment. The meeting may be held in a virtual setting.

Section 9. Coordination instruction. If both House Bill No. 3 and [this act] are passed and approved, [section 3(2)] of House Bill No. 3 must read:

"(2) There is appropriated \$650,000 in federal funds, generated from interest income on the Coronavirus Relief Fund, to the office of budget and program planning for the fiscal year ending June 30, 2021, for coronavirus-related purposes."

Section 10. Effective date. [This act] is effective on passage and approval.

Section 11. Termination. [Sections 1 and 3] terminate June 30, 2023.

- END -

I hereby certify that the within bill,
HB 630, 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. 630

INTRODUCED BY D. BEDEY, L. JONES

AN ACT GENERALLY REVISING STATE FINANCE LAWS RELATED TO APPROPRIATING FEDERAL FUNDS FOR COVID-19 RELIEF FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ESTABLISHING A TEMPORARY MAINTENANCE OF EQUITY PAYMENT FOR SCHOOL DISTRICTS; TEMPORARILY SUSPENDING ANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; TEMPORARILY MODIFYING FINANCIAL SUPPORT FOR UNANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; ALLOWING COVID-19 RELIEF APPROPRIATIONS TO CONTINUE INTO THE BIENNIUM BEGINNING JULY 1, 2021; APPROPRIATING FUNDS TO THE OFFICE OF STATE PUBLIC DEFENDER FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING MODIFICATIONS RELATED TO APPROPRIATIONS AND AUTHORIZATIONS; AMENDING SECTIONS 20-6-326, 20-9-166, AND 20-9-314, MCA; AMENDING SECTION 1, CHAPTER 483, LAWS OF 2019; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.