



**MEETING PROJECT NAME: Education Advocates' Meeting**

**DATE OF MEETING: May 21, 2019**

**TIME: 9:05 AM – 9:55 AM**

**LOCATION: OPI - 1201 11th Avenue Conference Room**

**ATTENDEES:**

**PRESENT**

Representative Llew Jones, Montana House of Representatives (via phone)

Representative Wendy McKamey, Montana House of Representatives (via phone)

Pete Donovan, Executive Director, Board of Public Education (BOPE)

Dianne Burke, Montana Quality Education Coalition (MQEC) (via phone)

Alison Harmon, Dean of Education, MSU (via phone)

Pad McCracken, Legislative Services

Dan Rask, Executive Director, Montana Small School Alliance (MSSA) (via phone)

Angela McLean, Office of Commissioner of Higher Education (OCHE) (via phone)

Aurora Moore, Education Northwest (via phone)

**OPI STAFF**

Elsie Arntzen, State Superintendent

Ken Bailey, Chief Financial Officer

Susie Hedalen, Deputy Superintendent for Education Services

Jule Walker, Deputy Superintendent for Operations

Dylan Klapmeier, Director of Communications and Federal Relations (via phone)

John Perkins, Director of Public Policy (via phone)

**RECORD-KEEPER**

Virginia Díaz, Administrative Clerk, Office of Public Instruction



TOPIC	PRESENTER INFO
<p><b>HB 351</b>  <i>Ken Bailey,</i>  <i>John Perkins</i></p>	<ul style="list-style-type: none"> <li>● <b>HB 351 – Transformational Learning</b> <ul style="list-style-type: none"> <li>○ Clarification was sought from Rep. Jones and Rep. McKamey regarding HB 351 to ensure the OPI, together with education Partners follow and fulfill the law.</li> </ul> </li> </ul>
<p><b>ESSA Plan</b>  <i>Susie</i>  <i>Hedalen</i></p>	<ul style="list-style-type: none"> <li>● In accordance with federal law, the OPI has submitted a definition for “ineffective teacher” to U.S. Education Secretary Betsy DeVos. <a href="#">Read more on the OPI’s ESSA page.</a> Confirmation of receipt of the letter has been received.</li> </ul>
<p><b>HB 211</b>  <i>Ken Bailey,</i>  <i>John Perkins</i></p>	<ul style="list-style-type: none"> <li>● <b>HB 211 – Quality Educator Loan Forgiveness Program</b> <ul style="list-style-type: none"> <li>○ Clarification was sought from Rep. Jones and Rep. McKamey regarding HB 211 to ensure the OPI, together with education Partners follow and fulfill the law.</li> </ul> </li> </ul>



## HB 351 – Transformational Learning

### 1. Intent statement

- a. The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that transformational learning is an appropriate means of fulfilling the people's goal of developing the full educational potential of each person. The provision of and participation in transformational learning under [sections 1 and 2] and in compliance with accreditation standards of the board of public education is constitutionally compliant and protected. The legislature declares that any public or private regulation that discriminates against a district or pupil participating in transformational learning is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution.

### 2. Transformational learning definition

- a. A flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that
  - i. Is customized to address each pupil's strengths, needs, and interests
  - ii. Includes continued focus on each pupil's proficiency over content
  - iii. Actively engages each pupil in determining what, how, when, and where each pupil learns

### 3. Qualification of school districts for funding

- a. Application process
  - i. Form developed and supplied by OPI
  - ii. Approved by and submitted by the Board of Trustees
  - iii. Signed by the presiding officer of the Board of Public Education (BOPE)
- b. Application content
  - i. Identify the number of full time equivalent educators (FTE) who will participate in the district's TL program
  - ii. include the district's definition of proficiency within the meaning of that term as used in 20-9-311(4)(d). The definition must not require seat time as a condition or other element of determining proficiency. The definition must be incorporated in the district's policies and must be used for purposes of determining content and course mastery and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district's transformational learning program
  - iii. include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:
    1. Develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture, and that is rooted in relationships with teachers, family, peers, and community members
    2. Embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections



## HB 351 – Transformational Learning

3. Provide effective professional development to assist employees in transitioning to a transformational learning model
4. Ensure equality of educational opportunity to participate by all pupils of the district
4. BOPE administration – annual duties
  - a. Establish by rule the opening and closing dates for receipt of applications and annual reports
  - b. Qualify (approve) districts that submit an application until the appropriation is exhausted
    - i. Approval is for four years
  - c. Defer remaining applications and annual reports requesting expansion to future years
    - i. After one full year has passed the application must be updated
  - d. Require participating districts to submit an annual report with a report of progress and any change in funding due to additional participating FTE
  - e. The bill requires FY 2020 payment by June 30, but the Board can decide on payment timing for this year
  - f. In future years payment must be made by October 30
5. BOPE administration – biennial duties
  - a. Report progress made to the interim education committee
6. State funding
  - a. The bill appropriates \$2.6M for the biennium and provides for inflationary increases in future years
  - b. Approved school districts will receive 50% of the quality educator payment multiplied by the number of FTE participating in the program per the application plan as amended in annual reports
  - c. Statewide funding is capped by a formula related to the statewide count of FTE that escalates to a total of \$2.2M in FY 2023.
  - d. No single school district can receive more than 25% of the statewide funding in either FY 2020 or FY 2021 – there is no such restriction in the following years.
7. School district financials – trustees may
  - a. Levy an annual permissive property tax not to exceed the state funding
    - i. Must deposit the proceeds in the flex fund and use only for TL
  - b. Transfer state or local revenue from any budgeted or nonbudgeted fund, other than debt service or retirement, to the flex fund
    - i. Can only use for TL
    - ii. Transfers are not considered expenditures to be applied against budget authority
    - iii. Any transfers not expended for TL for two full school years after transfer must be transferred back to their origin
    - iv. If the origin of the funds is a nonvoted levy, the district may not increase the levy to restore the funds
8. Gray areas
  - a. State funding and the allowed permissive property tax are tied to FTE participating while the fund transfers are not limited in any way. How will this relate to the actual costs of



## HB 351 – Transformational Learning

- programs? Should a requirement of annual reporting be to include an accounting of program costs?
- b. How can we get this program in place and qualify districts for this year? Does the BOPE have to request the OPI to perform the administrative tasks it would like the OPI to perform?
  - c. The statute requires the BOPE to **establish by rule** the opening and closing dates for receipt of applications and annual reports. Does this mean we have to go through the rulemaking process before we begin?
  - d. Who has the knowledge of TL to design a meaningful application and evaluate proposals? Is training necessary?
  - e. Will the application requirements in 3.b.ii affect the accreditation process?



AN ACT REVISING EDUCATION LAWS TO SUPPORT TRANSFORMATIONAL LEARNING; PROVIDING INCENTIVES FOR SCHOOL DISTRICTS TO IMPLEMENT TRANSFORMATIONAL LEARNING; SPECIFYING A QUALIFYING PROCESS FOR TRANSFORMATIONAL LEARNING PLANS; PROVIDING DEFINITIONS; PROVIDING LIMITED LEVY AND TRANSFER AUTHORITY TO DISTRICTS IMPLEMENTING A QUALIFIED TRANSFORMATIONAL LEARNING PLAN; ENSURING TAXPAYER TRANSPARENCY IN IMPOSITION OF LEVY INCREASES; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-116; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Transformational learning -- legislative intent.** The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that transformational learning is an appropriate means of fulfilling the people's goal of developing the full educational potential of each person. The provision of and participation in transformational learning under [sections 1 and 2] and in compliance with accreditation standards of the board of public education is constitutionally compliant and protected. The legislature declares that any public or private regulation that discriminates against a district or pupil participating in transformational learning is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution.

**Section 2. Incentives for creation of transformational learning programs.** (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (4) and (5).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by

the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board's application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district's transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator's full-time equivalent assignment that is dedicated to the district's transformational learning program;

(b) include the district's definition of proficiency within the meaning of that term as used in 20-9-311(4)(d). The definition must not require seat time as a condition or other element of determining proficiency. The definition must be incorporated in the district's policies and must be used for purposes of determining content and course mastery and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district's transformational learning program.

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture, and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) On an annual basis, the board of public education shall:

(a) establish by rule the opening and closing dates for receipt of applications and annual reports;

(b) qualify districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) and the flexibilities in subsection (5) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of date received, if and when additional funds become available for distribution;

(c) require each participating school district to submit an annual report demonstrating continued

qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined in the order of date received among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

(d) on or before September 15 of even-numbered years, report to the education interim committee on the progress made by districts operating under approved transformational learning plans.

(4) (a) Except as provided in subsection (4)(d), for a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on continued compliance with annual reporting requirements under subsection (3), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection (4) must be distributed directly to the school district's flexibility fund established under 20-9-543 no later than June 30 of fiscal year 2020 and by October 1 of each year beginning fiscal year 2021 by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program.

(c) For fiscal years 2020 and 2021, a school district may not receive more than 25% of the total amount of payments made under this subsection.

(d) Applications qualified by the board of public education in fiscal year 2020 must be funded beginning in fiscal year 2020.

(5) During each year that a school district remains qualified for funding under subsection (4), the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (4). Proceeds of the levy must

be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

(6) (a) Any funds transferred pursuant to subsection (5)(b) may be expended by the district solely for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection (5)(b) and this subsection (6) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(7) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (8).

(8) For the purposes of this title, the following definitions apply:

(a) "Transformational learning" means a flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that:

- (i) is customized to address each pupil's strengths, needs, and interests;
- (ii) includes continued focus on each pupil's proficiency over content; and
- (iii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) "Transformational learning aid" means 50% of the quality educator payment defined in 20-9-306 multiplied by:

(i) for fiscal year 2020, 5% of the statewide number of full-time equivalent educators from fiscal year 2019 calculated as provided in 20-9-327;

(ii) for fiscal year 2021, 7.5% of the statewide number of full-time equivalent educators from fiscal year 2020 calculated as provided in 20-9-327; and

(iii) for fiscal year 2022 and subsequent fiscal years, 10% of the statewide number of full-time equivalent

educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327.

**Section 3.** Section 20-9-116, MCA, is amended to read:

**"20-9-116. Resolution of intent to increase nonvoted levy -- notice.** (1) The trustees of a school district shall adopt a resolution ~~no later than June 1 in fiscal year 2017 only and~~ no later than March 31 of in fiscal year 2018 and subsequent fiscal years each fiscal year and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:

- (a) the tuition fund under 20-5-324;
- (b) the adult education fund under 20-7-705;
- (c) the building reserve fund under 20-9-502 and 20-9-503;
- (d) the transportation fund under 20-10-143 and 20-10-144; ~~and~~
- (e) the bus depreciation reserve fund under 20-10-147; and
- (f) the flexibility fund established in 20-9-543 for the purposes in [section 2].

(2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1)(a) through ~~(1)(e)~~ (1)(f) imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

(b) publishing a copy of the resolution in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting a copy of the resolution to the school district's website."

**Section 4. Appropriation.** There is appropriated \$2.6 million from the general fund to the office of public instruction for the biennium beginning July 1, 2019, for distributions of transformational learning aid to districts pursuant to [section 2(4)]. The superintendent shall allocate a sufficient portion of the appropriation for

distributions in fiscal year 2020 and fiscal year 2021 that are estimated to allow for levels of district participation within this biennial appropriation and pursuant to the definition of "transformational learning aid" in [section 2(8)].

**Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [sections 1 and 2].

**Section 6. Effective date.** [This act] is effective on passage and approval.

**Section 7. Termination.** [This act] terminates June 30, 2027.

- END -

I hereby certify that the within bill,  
HB 0351, originated in the House.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

HOUSE BILL NO. 351

INTRODUCED BY W. MCKAMEY, F. ANDERSON, B. BEARD, D. BEDEY, M. BLASDEL, K. BOGNER,  
S. FITZPATRICK, M. FUNK, B. GRUBBS, G. HERTZ, L. JONES, J. KASSMIER, D. LOGE, S. MORIGEAU,  
T. RUNNINGWOLF, D. SALOMON, S. VINTON, P. WEBB

AN ACT REVISING EDUCATION LAWS TO SUPPORT TRANSFORMATIONAL LEARNING; PROVIDING INCENTIVES FOR SCHOOL DISTRICTS TO IMPLEMENT TRANSFORMATIONAL LEARNING; SPECIFYING A QUALIFYING PROCESS FOR TRANSFORMATIONAL LEARNING PLANS; PROVIDING DEFINITIONS; PROVIDING LIMITED LEVY AND TRANSFER AUTHORITY TO DISTRICTS IMPLEMENTING A QUALIFIED TRANSFORMATIONAL LEARNING PLAN; ENSURING TAXPAYER TRANSPARENCY IN IMPOSITION OF LEVY INCREASES; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-116; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2021 Biennium

Bill # HB0351

Title: Encourage transformational learning

Primary Sponsor: McKamey, Wendy

Status: As Amended

- Significant Local Gov Impact     
  Needs to be included in HB 2     
  Technical Concerns  
 Included in the Executive Budget     
  Significant Long-Term Impacts     
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
<b>Expenditures:</b>				
General Fund	\$1,088,459	\$1,631,599	\$2,185,570	\$2,220,518
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$1,088,459)</u>	<u>(\$1,631,599)</u>	<u>(\$2,185,570)</u>	<u>(\$2,220,518)</u>

**Description of fiscal impact:** HB 351 provides a state distribution to schools in support of transformational learning, allows for a permissive levy to a school district's flexibility fund, provides definitions and process for handling the transformational learning program, and appropriates \$2.6 million state general fund for the 2021 biennium. The Office of Public Instruction determined a need for 0.50 FTE.

### FISCAL ANALYSIS

#### Assumptions:

#### Office of Public Instruction (OPI)

1. Transformational learning is defined in HB 351 as a flexible system of pupil-centered learning designed to develop the full educational potential of each pupil.
2. A school board interested in developing a transformational learning program will complete an application that has been developed by the OPI and provided to the Board of Public Education (BPE). The BPE will approve transformational learning programs for a duration of four consecutive years for qualifying districts.
3. The applications received by the BPE will be reviewed, approved, and retained in the order of which they have been received. Approvals will occur until the total amount of state funding appropriated for the fiscal year is exhausted. Additional qualifying first-time applications and annual reports requesting expansions past

this point will be held in the order received until the ensuing fiscal year where these applications are to be considered as “first received” in the new fiscal year, if there is an appropriation.

4. Districts are required to annually report to the BPE the progress of the submitted transformational learning plan. The BPE is, in turn, required to report to the legislative interim committee the progress of transformational learning plans by September 15<sup>th</sup> of each even numbered year.
5. As a portion of the district annual reporting to the BPE, adjusted FTE are to be reported and the transformational learning payment is to be adjusted accordingly. These payment adjustments are to be considered in the order they are received by the BPE and are to be considered in the order of having been received in relation to the first-time applications and reports requesting program expansion. Additionally, applications that have been deferred to a subsequent year must be annually updated to retain its priority by original date received.
6. The OPI is to provide a state payment for the four consecutive years following the year of approval of the transformational learning program application. The payment is limited by the amount of transformational learning aid described in section 2(7)(b) of HB 351 to be 50% of the total quality educator payment defined in 20-9-306, MCA, multiplied by 5% in FY 2020, 7.5% in FY 2021 & 10% in FY 2022 & future years of the statewide number of full-time equivalent educators calculated as provided in 20-9-327, MCA, as estimated in the table below:

	½ QEC	Statewide FTE	% of FTE	Transformational Aid
FY 2020	\$1,637.50	12,619	5.0%	\$1,033,151
FY 2021	\$1,667.50	12,619	7.5%	\$1,578,118
FY 2022	\$1,689.00	12,619	10.0%	\$2,131,287
FY 2023	\$1,716.00	12,619	10.0%	\$2,165,420

7. If all 398 operating school districts qualified for the transformational learning program and all were fully funded for all FTE statewide, the program could cost \$20 million. The bill limits the appropriation to 10% of all FTE.
8. For FY 2020, the transformation learning payment to be made to school districts would be calculated as 50% of the total quality educator payment defined in 20-9-306(16), MCA, for FY 2020 multiplied by the number of each qualifying district’s full-time equivalent educators reported under Section 2(2)(a)(i) of the bill. The transformational learning state payment would be distributed no later than June 30 of FY 2020. Districts are to deposit these state payments into the school district flexibility fund.
9. The bill defines the transformation learning payment, for fiscal years beginning 2021 and beyond, to be made to school districts to be calculated as 50% of the total quality educator payment defined in 20-9-306(16), MCA, of the prior fiscal year, multiplied by the number of each district’s full-time equivalent educators reported under Section 2(2)(a)(i) of the bill. The transformational learning state payment is to be distributed no later than October 1 in years following FY 2020. Districts are to deposit these state payments into the school district flexibility fund.
10. Section 2(4)(c) allows no school district to receive more than 25% of the total amount of transformational learning aid payments made in FY 2020 and FY 2021. The limit per school district does not continue beyond the 2021 biennium.
11. HB 351 allows additional funding for the transitional learning program may be permissively levied by the school district to the flexibility fund in an amount up to the state transformational learning payment received by the school district. Districts intending to permissively levy for transitional learning programs are directed to notice the increase in levy by March 31 in compliance with 20-9-116, MCA. Although districts will not be able to notice this permissive levy increase by March 31, 2019, for FY 2020 levies, the district could impose the levies during the FY 2020 budget cycle.
12. Section 2(5) provides that a school district’s trustees may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district’s flexibility fund

provided by 20-9-543, MCA, as long as the school district remains qualified for a transformational learning aid payment.

13. The Superintendent of Public Instruction is directed to include the request for an appropriation in the OPI budget request each biennium for the transitional learning payments.
14. HB 351 includes an appropriation to the OPI from the state general fund in an amount of \$2.6 million for transformational learning payments for the 2021 biennium.
15. The OPI estimates it would add 0.50 FTE to administer the transformational learning program and its distributions. The specialist would cost \$42,372 annually for salary and benefits in FY 2020 and FY 2021. The operating budget for this position is \$3,500 ongoing plus one-time-only costs of \$1,600 for an office package and \$1,200 for a computer in FY 2020, plus 17% indirect costs. The total general fund cost for FY 2020 would be \$55,308 and FY 2021 costs would be \$53,481 for salary and benefits, operating, and indirect costs. FY 2022 and FY 2023 expenditures are increased by 1.5% over FY 2021 expenditures.

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Local Assist (Transformational Learning Aid)	\$1,033,151	\$1,578,118	\$2,131,287	\$2,165,420
Personal Services (OPI)	\$42,372	\$42,210	\$42,843	\$43,486
Operating Expenses (OPI)	\$4,900	\$3,500	\$3,553	\$3,606
Indirect Costs (OPI)	\$8,036	\$7,771	\$7,887	\$8,006
<b>TOTAL Expenditures</b>	<b>\$1,088,459</b>	<b>\$1,631,599</b>	<b>\$2,185,570</b>	<b>\$2,220,518</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$1,088,459	\$1,631,599	\$2,185,570	\$2,220,518
<b>TOTAL Funding of Exp.</b>	<b>\$1,088,459</b>	<b>\$1,631,599</b>	<b>\$2,185,570</b>	<b>\$2,220,518</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$1,088,459)	(\$1,631,599)	(\$2,185,570)	(\$2,220,518)

**Effect on County or Other Local Revenues or Expenditures:**

1. HB 351 allows the school district to permissively levy an amount equal to the amount of transitional learning payment the district would receive from the state. Local property taxes could permissively increase levies by \$2.6 million over the 2021 biennium.
2. HB 351 requires the OPI to begin payments to schools in FY 2020 and to direct those funds to the school district's flexibility fund in 20-9-543, MCA. Districts qualifying for the transitional learning payment would need to know the amount of state payment to be received in order to prepare and adopt district budgets with appropriate budget authority.

	<u>2-22-19</u>		<u>2/22/19</u>
Sponsor's Initials	Date	Budget Director's Initials	Date



## HB 211 – Quality Educator Loan Forgiveness Program

1. Tax Exempt
  - a. Loan repayment assistance is exempt from Montana state tax.
2. Impacted School definition
  - a. A special education cooperative
  - b. The Montana School for the Deaf and Blind
  - c. The Montana Youth Challenge program
  - d. A state youth correctional facility
  - e. A public school located on an Indian reservation
  - f. A public school that driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.
    - i. OPI uses google maps to determine drive time
    - ii. Cities with population greater than 15,000 are Billings, Missoula, Great Falls, Bozeman, Butte, Helena, and Kalispell
  - g. Note that the definition is no longer tied to the Critical Quality Educator Shortage Report
3. Quality Educator definition
  - a. Full time equivalent educator as reported for accreditation purposes in the current school year
  - b. Holds a valid certificate as found in 20-4-106, MCA, and is employed by a public school district or a through d above in a position that requires a license or
  - c. Is a licensed professional according to specific statutes
    - i. 37-8-405 Nurse
    - ii. 37-8-415 Practical Nurse
    - iii. 37-11-301 Physical Therapist must be licensed
    - iv. 37-15-301 Speech Pathologist and Audiologist
    - v. 37-17-302 Psychologist
    - vi. 37-22-301 Social Worker
    - vii. 37-23-201 Licensed Clinical Professional Counselor or Professional Counselor
    - viii. 37-34-301 Occupational Therapist
    - ix. 37-25-302 Nutritionist
4. Critical Quality Educator Shortage Area definition
  - a. A specific licensure or endorsement area in an impacted school in which
    - i. In any of the 3 immediate preceding school years a position was
      1. Filled through the procedures set forth in
        - a. 19-20-732 Retired teacher, specialist, or administrator
        - b. 20-4-106(1)(e) Class 5 provisional certificate
        - c. 20-4-111 Emergency authorization
      2. Filled from a candidate pool of less than five qualified candidates
      3. Advertised and remained vacant and unfilled due to a lack of candidates for a period in excess of 30 days



## HB 211 – Quality Educator Loan Forgiveness Program

- ii. A vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates
5. Educational Loans definition
  - a. All loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans as provided in 20 U.S.C 1078-2
6. Board of Public Education responsibility in consultation with the OPI
  - a. Maintain and make publicly available a current list of impacted schools
  - b. Identify within each impacted school critical quality educator shortage areas
  - c. Establish a process for impacted schools to qualify as a critical quality educator shortage area a current vacancy that meets the criteria shown in 4.a.i.3 above
    - i. The Board must develop a form for such an application
    - ii. The Board must approve or deny within 5 days of receipt
    - iii. Qualified educators in a position under this process are eligible for loan repayment assistance independent of the critical quality educator shortage report
  - d. Publish by December 1 an annual report listing critical quality educator shortages according to 4.a.i above. This listing will serve as eligibility basis for the program along with the process described in 6.c.
    - i. Note there is no longer any wiggle room for the OPI to define an impacted school or a critical quality educator shortage area. The “rubric” concept will be discontinued
7. Eligibility
  - a. Must be a quality educator
  - b. Newly hired
  - c. In an impacted school
  - d. In a critical quality educator shortage area
  - e. Has an educational loan that is not in default and has a current balance in excess of \$1,000 at the time of application
  - f. For up to 3 years and a 1 year option funded by the impacted school
  - g. Still employed at the impacted school of the original application or another impacted school in the same district
8. Payments
  - a. Superintendent may remit payment of the loan on behalf of the quality educator in years one through three
    - i. Assume this means payment is made to the holder of the loan
  - b. School district may remit payment of the loan on behalf of the quality educator in year 4
  - c. Amounts up to
    - i. Year 1 - \$3,000
    - ii. Year 2 - \$4,000
    - iii. Year 3 - \$5,000
    - iv. Year 4 - \$5,000
  - d. If the state appropriation for this program (\$500,000 per year) is not sufficient, payment amounts must be prorated



## HB 211 – Quality Educator Loan Forgiveness Program

9. Gray areas
  - a. “Newly hired” eligibility requirement.
    - i. If a teacher was hired last year and meets all other eligibility criteria, are they eligible for the program this year and next? Hired two years ago?
    - ii. If an experienced teacher moves to an impacted school and meets all other eligibility criteria, is the teacher eligible for three years? What if the move is between two schools in the same district?
  - b. School system vs school.
    - i. We currently gather recruitment data from TEAMS on a school system basis rather than a school basis. Can we assume that if a critical shortage is identified on the basis of a recruitment for a school that the shortage applies to all schools in the school system?
  - c. Drive time for definition of impacted school.
    - i. The OPI has used online google maps to determine the drive time for classifying schools as impacted or not impacted. The drive time can vary based upon traffic and time of day. In most cases it won’t happen, but we need to formalize the method we use.
  - d. Schools on a reservation.
    - i. Included in the definition of an impacted school is “a public school located on an Indian reservation.” In the past OPI has interpreted this to mean “a school district that has reservation land within its borders.” Is this acceptable?



AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO RECRUITMENT AND RETENTION; REVISING ELIGIBILITY FOR THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM TO BETTER TARGET ASSISTANCE; ALLOWING A QUALITY EDUCATOR RECEIVING LOAN REPAYMENT ASSISTANCE TO EXCLUDE THE REPAYMENT FROM ADJUSTED GROSS INCOME FOR STATE INCOME TAX PURPOSES; ALLOWING IMPACTED SCHOOLS TO PROVIDE LOAN REPAYMENT ASSISTANCE TO ELIGIBLE TEACHERS AFTER COMPLETING A FOURTH YEAR; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-30-2110, 20-4-134, 20-4-501, 20-4-502, 20-4-503, 20-4-504, AND 20-4-505, MCA; REPEALING SECTION 20-4-506, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 15-30-2110, MCA, is amended to read:

**"15-30-2110. Adjusted gross income.** (1) Subject to subsection ~~(14)~~ (15), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability as determined under subsection ~~(15)~~ (16);

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection ~~(16)~~ (17), the first \$4,070 of all pension and annuity income received as defined in 15-30-2101;

(ii) subject to subsection ~~(16)~~ (17), for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical care savings account inherited by an immediate family member as provided in 15-61-202(6);

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and

taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

(s) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104; and

(t) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit. In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the

Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the

excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in

53-25-118.

(13) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

- (i) is a health care professional licensed in Montana as provided in Title 37;
- (ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;
- (iii) has had a student loan incurred as a result of health-related education; and
- (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (13)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(14) A taxpayer may exclude the amount of loan repayment assistance received during the tax year pursuant to Title 20, chapter 4, part 5, not to exceed \$5,000, from the taxpayer's adjusted gross income.

~~(14)~~(15) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

~~(15)~~(16) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the following order as applicable:

- (a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax year;
- (b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year but did not result in a reduction in state income tax liability in that prior tax year; and
- (c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

~~(16)~~(17) By November 1 of each year, the department shall multiply the amount of pension and annuity

income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(s) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

**Section 2.** Section 20-4-134, MCA, is amended to read:

**"20-4-134. Professional stipends for teachers certified by national board for professional teaching standards.** (1) Pursuant to subsection (5), an annual stipend of up to \$1,500 must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

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

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

(2) An annual stipend of up to \$2,500 must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as:

(a) a school in a high-poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or

(b) ~~a school impacted by a critical quality educator shortage pursuant to 20-4-503~~ an impacted school as defined in 20-4-502.

(3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1 after the teacher obtains certification or recertification from the national board for professional teaching standards.

(4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

(5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.

(6) (a) For a stipend under subsection (1), the state shall pay \$500 and another \$1 for each \$1 contributed by the teacher's school district, up to a maximum state contribution of \$1,000.

(b) For a stipend under subsection (2), the state shall pay \$1,000 and another \$2 for each \$1 contributed by the teacher's school district, up to a maximum state contribution of \$2,000."

**Section 3.** Section 20-4-501, MCA, is amended to read:

**"20-4-501. Quality educator loan assistance program -- purpose.** (1) There is a quality educator loan assistance program administered by the ~~board of regents through the office of the commissioner of higher education~~ superintendent of public instruction. The program must provide for the direct repayment of educational loans of eligible quality educators in accordance with policies and procedures adopted by the ~~board of regents~~ superintendent of public instruction in accordance with this part.

(2) The purpose of this program is to aid quality educator recruitment and retention for those schools most impacted by critical quality educator shortages. The program must be implemented in a manner that maximizes recruitment and retention assistance to impacted schools."

**Section 4.** Section 20-4-502, MCA, is amended to read:

**"20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:

(a) in any of the 3 immediate preceding school fiscal years a position was:

(i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

(ii) filled from a candidate pool of less than five qualified candidates; or

(iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in excess of 30 days; or

(b) a vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates.

~~(1)~~(2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

~~(2)~~(3) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

~~(3)~~(4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(5) "Impacted school" means:

(a) a special education cooperative;

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

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a state youth correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

~~(4)~~(6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection ~~(4)~~(b) ~~(6)~~(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection ~~(4)~~(b) ~~(6)~~(b) of this section to provide services to students.

(b) For purposes of subsection ~~(4)~~(a) ~~(6)~~(a), an entity means:

(i) a school district;

(ii) an education cooperative;

- (iii) the Montana school for the deaf and blind, as described in 20-8-101;
  - (iv) the Montana youth challenge program; and
  - (v) a state youth correctional facility, as defined in 41-5-103.
- ~~(5)(7)~~ "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

**Section 5.** Section 20-4-503, MCA, is amended to read:

**"20-4-503. Critical quality educator shortages.** (1) The board of public education, in consultation with the office of public instruction, shall identify:

(a) ~~specific schools that are~~ maintain and make publicly available a current list of impacted by critical quality educator shortages schools; and

(b) based on reporting by impacted schools or school districts in which impacted schools are located, identify within each the schools identified in subsection (1)(a) impacted school, the specific quality educator licensure or endorsement areas that are impacted by critical quality educator shortages shortage areas under 20-4-502(1)(a). The board of public education shall also establish a process for impacted schools to report and qualify, no later than 5 days after submission of a written report on a form developed by the board, a current vacancy for a critical quality educator shortage area under the criteria set forth in 20-4-502(1)(b). Critical quality educator shortage areas qualifying under 20-4-502(1)(b) are eligible for loan repayment assistance independent of the report under subsection (2) of this section.

(2) ~~In identifying impacted schools under subsection (1)(a), the board of public education, in consultation with the office of public instruction, shall consider including the following:~~

- ~~— (a) special education cooperatives;~~
- ~~— (b) the Montana school for the deaf and blind, as described in 20-8-101;~~
- ~~— (c) the Montana youth challenge program, as established in 10-1-1401;~~
- ~~— (d) state youth correctional facilities, as defined in 41-5-103;~~
- ~~— (e) public schools that are located on an American Indian reservation; and~~
- ~~— (f) public schools that, driving at a reasonable speed for the road surface, are located:~~
  - ~~— (i) more than 45 minutes from a city with a population greater than 10,000 based on the most recent federal decennial census; or~~
  - ~~— (ii) more than 30 minutes from a city with a population greater than 4,300 based on the most recent~~

federal decennial census.

~~(3)(2)~~ The board of public education shall publish by December 1 an annual report listing the schools and the licensure or endorsement areas identified as impacted by critical quality educator shortages, explaining the reasons that specific schools and licensure or endorsement areas have been identified and providing information regarding any success in retention critical quality educator shortage areas under 20-4-502(1)(a) in each impacted school. The report must apply to the school year that begins July 1 following the publication of the report in order to assist recruitment by impacted schools. ~~For the school year beginning July 1, 2017, eligibility for the program may be governed by the report adopted by the board of public education by December 1, 2017.~~ For the school year beginning July 1, 2019, eligibility for the program based on the criteria under 20-4-502(1)(a) must be governed by the report adopted by the board of public education by December 1, 2019.

~~(4)(3)~~ A quality educator working at a school identified in subsection (1) an impacted school in a critical quality educator shortage area is eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under this part. If a quality educator is eligible for loan assistance and remains employed in the same impacted school or another impacted school within the same school district and in the same critical quality educator shortage area for which the quality educator was originally eligible, the quality educator remains eligible for up to 3 years of state-funded loan repayment assistance and an additional 1 year of loan repayment assistance funded by the impacted school or the district under which the impacted school is operated pursuant to 20-4-504(2). Both state-funded and locally funded loan repayment assistance under this section is exempt from taxation as specified in 15-20-2110(14)."

**Section 6.** Section 20-4-504, MCA, is amended to read:

**"20-4-504. Loan repayment assistance.** (1) Loan repayment assistance may be provided on behalf of a quality educator who:

(1)(a) is employed newly hired in an identified impacted school described in 20-4-503(1) in a critical quality educator shortage area; and

(2)(b) has an educational loan that is not in default and that has a minimum unpaid current balance of at least \$1,000 at the time of application.

(2) A quality educator is eligible for state-funded loan repayment assistance for no more than 3 years

and an additional 1 year of loan repayment assistance voluntarily funded by the impacted school or the district under which the impacted school is operated, with the maximum annual loan repayment assistance not to exceed:

(a) \$3,000 of state-funded loan repayment assistance after the first complete year of teaching in an impacted school;

(b) \$4,000 of state-funded loan repayment assistance after the second complete year of teaching in the same impacted school or another impacted school within the same school district;

(c) \$5,000 of state-funded loan repayment assistance after the third complete year of teaching in the same impacted school or another impacted school within the same school district; and

(d) up to \$5,000 of loan repayment assistance funded by the impacted school or the district under which the impacted school is operated after the fourth complete year of teaching in the same impacted school or another impacted school within the same school district.

(3) If the funding for state-funded loan repayment assistance in any year is less than the total amount for which Montana quality educators qualify, the superintendent of public instruction shall prorate repayment assistance amounts accordingly."

**Section 7.** Section 20-4-505, MCA, is amended to read:

**"20-4-505. Loan repayment assistance documentation.** (1) A quality educator shall submit an application for loan repayment assistance to the ~~board of regents~~ superintendent of public instruction in accordance with policies and procedures adopted by the ~~board of regents~~ superintendent of public instruction. The application must include official verification or proof of the applicant's total unpaid accumulated educational loan debt and other documentation required by the ~~board of regents~~ superintendent of public instruction that is necessary for verification of the applicant's eligibility.

(2) The ~~board of regents~~ superintendent of public instruction may require a quality educator who is eligible for loan repayment assistance to provide documentation that the quality educator has exhausted repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive programs.

~~(3) A quality educator is eligible for loan repayment assistance for no more than 3 years, with the maximum annual loan repayment assistance not to exceed:~~

- ~~\_\_\_\_\_ (a) \$3,000 after the first complete year of teaching in an impacted school;~~
- ~~\_\_\_\_\_ (b) \$4,000 after the second complete year of teaching in the same impacted school or another impacted school within the same school district; and~~
- ~~\_\_\_\_\_ (c) \$5,000 after the third complete year of teaching in the same impacted school or another impacted school within the same school district.~~

~~(4)(3) The board of regents superintendent of public instruction may remit payment of the loan on behalf of the quality educator in accordance with the requirements of this part and policies and procedures adopted by the board of regents superintendent of public instruction.~~

~~(4) An impacted school or a school district under which an impacted school is operated may remit payment of the loan on behalf of a quality educator eligible for loan repayment assistance under this section in accordance with 20-4-504.~~"

**Section 8. Repealer.** The following section of the Montana Code Annotated is repealed:  
20-4-506. Funding -- priorities.

**Section 9. Appropriation.** (1) There is appropriated \$500,000 from the general fund to the office of public instruction in each fiscal year of the biennium beginning July 1, 2019, for the purpose of state-funded loan repayment assistance pursuant to 20-4-504.

(2) The legislature intends that the appropriation in subsection (1) be considered as part of the ongoing base for the next legislative session.

**Section 10. Effective date.** [This act] is effective July 1, 2019.

**Section 11. Applicability.** [This act] applies to tax years beginning after December 31, 2019.

- END -

I hereby certify that the within bill,  
HB 0211, originated in the House.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

HOUSE BILL NO. 211

INTRODUCED BY L. JONES, D. BEDEY, K. BOGNER, B. GRUBBS, B. HAMLETT, D. SALOMON,  
S. WEBBER

AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO RECRUITMENT AND RETENTION; REVISING ELIGIBILITY FOR THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM TO BETTER TARGET ASSISTANCE; ALLOWING A QUALITY EDUCATOR RECEIVING LOAN REPAYMENT ASSISTANCE TO EXCLUDE THE REPAYMENT FROM ADJUSTED GROSS INCOME FOR STATE INCOME TAX PURPOSES; ALLOWING IMPACTED SCHOOLS TO PROVIDE LOAN REPAYMENT ASSISTANCE TO ELIGIBLE TEACHERS AFTER COMPLETING A FOURTH YEAR; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-30-2110, 20-4-134, 20-4-501, 20-4-502, 20-4-503, 20-4-504, AND 20-4-505, MCA; REPEALING SECTION 20-4-506, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2021 Biennium

Bill # HB0211

Title: Address recruitment and retention of K-12 quality educators

Primary Sponsor: Jones, Lew

Status: As Amended in Senate Committee

- Significant Local Gov Impact     
  Needs to be included in HB 2     
  Technical Concerns  
 Included in the Executive Budget     
  Significant Long-Term Impacts     
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
<b>Expenditures:</b>				
General Fund	\$511,250	\$518,750	\$528,750	\$538,750
<b>Revenue:</b>				
General Fund	\$0	(\$41,400)	(\$41,400)	(\$41,400)
<b>Net Impact-General Fund Balance:</b>	<u>(\$511,250)</u>	<u>(\$560,150)</u>	<u>(\$570,150)</u>	<u>(\$580,150)</u>

**Description of fiscal impact:** HB 211 moves administration of the Quality Educator Loan Assistance Program from the Office of the Commissioner of Higher Education (OCHE) to the Office of Public Instruction (OPI) and revises the program. HB 211, as amended, would cost the state general fund \$511,250 in FY 2020 and \$553,250 in FY 2021.

### FISCAL ANALYSIS

#### Assumptions:

#### **Office of Public Instruction (OPI)**

1. HB 211 as amended, changes laws related to the Quality Educator Loan Assistance Program.
2. The OPI would become the administrator of the program effective July 1, 2019. The Office of the Commissioner of Higher Education (OCHE) has been the administrating agency for this program.
3. According to the OCHE, FY 2012 – FY 2017 averaged annual awards of \$512,251 per year to an average of 178 persons. No awards were given in FY 2018 or FY 2019 because the legislature provided no appropriation.
4. The bill, as amended, adds to eligibility requirements for the program to only allow educators newly hired at impacted schools in a critical quality educator shortage area to qualify for an award though the previous language did give priority to these educators.
5. Because of the tightening of eligibility requirements, the OPI estimates 125 educators per year would qualify for the loan assistance program.

6. The bill, as amended, requires the Board of Public Education (BPE) to establish a new process for approving the designation of a critical educator shortage for cases where a recruitment in the current year meets the qualifying definition but the school district does not have a history showing the shortage. The BPE will have to create a form for such an application and establish a process for approving the application within five days of receipt of the application. Since the BPE meets only six times per year, this fiscal note assumes that the Office of Public Instruction (OPI) will administer the new process and report approvals at regular BPE meetings.
7. The bill changes the definition of an impacted school from public schools “more than 45 minutes away from a city with a population greater than 10,000 or more than 30 minutes away from a city with a population greater than 4,300” to simply a public school “more than 20 minutes away from a Montana city with a population greater than 15,000”. The OPI estimates this will increase the number of impacted schools from 420 schools to approximately 670 schools. This would mean more quality educators would be eligible for the loan assistance program.
8. The OPI estimates the effect of the changes in HB 211, as amended, would allow 200 quality educators to be eligible for the loan assistance program. In any given year, the average stipend will be the midpoint of the tiered awards or \$4,000. The total cost of the program, if all eligible quality educators applied, would be \$800,000. However, the bill limits the amount paid to the appropriation approved for the program, prorating distribution.
9. HB 211, as amended, includes an appropriation of \$500,000 per year. Applicants would receive an average award of \$4,000. This fiscal note assumes the number of eligible quality educators would remain constant in the foreseeable future.
10. The bill states the intent of the legislature is for the \$500,000 appropriation to be considered ongoing base for this purpose in the next legislative session.
11. The change to the definition of impacted schools in the amended bill would also affect the program for state stipends for teachers receiving National Board Certification. Under 20-4-134, MCA, teachers at an impacted school or at a school in a high poverty area are eligible for a \$2,000 stipend while other teachers are eligible for a \$1,000 stipend. Currently, about 50% of the 45 teachers in the program are eligible for the higher stipend. By expanding the number of impacted schools, the OPI estimates that 75% of qualifying teachers will be eligible for the \$2,000 stipends, raising the average stipend by \$250 per year. The estimate of added cost is:

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
# of teachers	45	75	115	155
Additional Stipend	<u>\$250</u>	<u>\$250</u>	<u>\$250</u>	<u>\$250</u>
Total	\$11,250	\$18,750	\$28,750	\$38,750

12. Current language in 20-4-506, MCA, requires the Office of Public Instruction (OPI) to limit loan assistance payments to the amount appropriated and in the event of a shortfall to give priority to teachers working in licensure or endorsement areas most impacted by quality educator shortages. However, HB 211 repeals 20-4-506, MCA.
13. The amended bill provides that the local school district could fund a fourth year of loan forgiveness in the amount of \$5,000 to be funded by the local school district “from any state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund.” No statute or rule prevents schools from offering the loan forgiveness option now, but this bill makes the loan forgiveness payment exempt from Montana income tax for the recipient.
14. There are nine budgeted funds available to a local school district: general fund, transportation fund, bus depreciation fund, tuition fund, adult education fund, technology fund, flexibility fund, building reserve fund, and the nonoperating fund (rarely used). Other than the general fund and flexibility fund, teacher loan forgiveness is not a valid purpose for the fund. For those funds that receive voted or permissive levies, this section would allow use of funds for a purpose other than was noticed at the time the levy was adopted.

15. The OPI would also require approximately 120-150 hours of staff time to administer the program, costing the OPI \$6,320 in staff hours. However, the OPI can absorb the additional workload with existing FTE.

**Department of Revenue (DOR)**

- 16. HB 211 allows individuals who receive loan repayment assistance during the tax year from the quality educator loan assistance program to subtract the assistance amount from their adjusted gross income when estimating their personal income tax liability. The exclusion amount is limited to \$5,000 each tax year and applies to all tax years beginning after December 31, 2019.
- 17. As Montana's top marginal tax rate of 6.9% applies to a relatively low level of taxable income, it is assumed the entire \$500,000 appropriation would be exempted income taxed at the top rate of 6.9%. This would equal reduced income tax liabilities by \$34,500 each year.
- 18. HB 211, as amended, would allow school districts to provide a fourth year, \$5,000 award to eligible teachers. For purposes of this fiscal note it is assumed for the foreseeable future, there would be 20 additional stipends under this provision.
- 19. It is assumed this addition \$100,000 would be exempted from taxable income at 6.9% reducing income tax liabilities by \$6,900 each year.
- 20. It is assumed that taxpayers who receive the loan assistance award will not reduce their withholdings or exemption amounts because of HB 211.
- 21. The exemption created by HB 211 applies starting in tax year 2020.
- 22. With no changes in withholdings or exemptions, the changes for tax year 2020 will reduce income tax revenue in FY 2021.
- 23. The income subtraction created in HB 211, as amended, will reduce general fund revenue each fiscal year by \$41,400 starting in FY 2021.
- 24. The Department of Revenue does not expect to incur significant additional costs as a result of this bill.

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Grants (QE Loan Repayment)	\$500,000	\$500,000	\$500,000	\$500,000
Local Assist (Nat'l Bd Cert Stipends)	\$11,250	\$18,750	\$28,750	\$38,750
<b>TOTAL Expenditures</b>	<u>\$511,250</u>	<u>\$518,750</u>	<u>\$528,750</u>	<u>\$538,750</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$511,250	\$518,750	\$528,750	\$538,750
<b>TOTAL Funding of Exp.</b>	<u>\$511,250</u>	<u>\$518,750</u>	<u>\$528,750</u>	<u>\$538,750</u>
<b><u>Revenues:</u></b>				
General Fund (01) DOR	\$0	(\$41,500)	(\$41,500)	(\$41,500)
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>(\$41,500)</u>	<u>(\$41,500)</u>	<u>(\$41,500)</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$511,250)	(\$560,250)	(\$570,250)	(\$580,250)

  
Sponsor's Initials

3/29/19  
Date

TL  
Budget Director's Initials

3/29/19  
Date