

HOUSE BILL NO. 760  
INTRODUCED BY T. DOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA CITIZEN SCHOLARSHIP PROGRAM; ESTABLISHING THE SCHOLARSHIP ACCOUNT; ESTABLISHING ELIGIBILITY CRITERIA; AUTHORIZING THE BOARD OF REGENTS TO ADOPT PROCEDURES TO IMPLEMENT THE PROGRAM; IMPOSING AN EXCISE TAX ON SOFT DRINKS; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING THAT THE TAX PROCEEDS BE USED TO FUND THE MONTANA CITIZEN SCHOLARSHIP PROGRAM; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

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

NEW SECTION. **Section 1. Montana citizen scholarship program -- scholarship fund.** (1) There is created the Montana citizen scholarship program to reward an eligible Montana high school graduate who merits recognition of high academic achievement and enrolls in a postsecondary institution.

(2) There is a Montana citizen scholarship special revenue account in the state special revenue fund established in 17-2-102. The money deposited in the account must be used to establish a Montana citizen scholarship fund.

(3) The collections from the tax imposed in [section 6] must be deposited in the citizen scholarship account to pay for scholarships awarded pursuant to [sections 1 through 4].

(4) If funds available are not adequate to provide the maximum allowable scholarship to each eligible student, scholarships must be awarded based on financial need, with those students having the greatest financial need given priority consideration.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Nontraditional student" means a student who enters a postsecondary institution at least 3 years after high school graduation.

(2) "Postsecondary institution" means a unit of the Montana university system, a Montana public community college, or an accredited tribal college located in the state of Montana.

(3) "Scholarship" means money necessary to cover the educational expenses included in the postsecondary institution's cost of attendance.

(4) "Title IV" refers to Title IV of the Higher Education Act of 1965, as amended.

**NEW SECTION. Section 3. Administration of scholarship program.** (1) The board of regents shall administer the Montana citizen scholarship program and shall adopt procedures to implement the requirements of [sections 1 through 4], including but not limited to:

(a) procedures for obtaining lists from Montana high schools of those high school seniors who are academically eligible to receive a scholarship;

(b) procedures regarding the application process for eligible students to obtain a scholarship and regarding notification to students, parents, teachers, and school administrators of all criteria, procedures, and timelines;

(c) procedures for entering into cooperative agreements with eligible Montana tribal colleges; and

(d) procedures for the annual disbursement of up to 4,000 scholarships from the citizen scholarship account established in [section 1] to postsecondary institutions to pay for scholarships to academically eligible students.

(2) The board of regents shall issue annual payments from the citizen scholarship account established in [section 1] to provide scholarships for those students who meet the eligibility requirements prescribed in [section 4].

(3) Thirty days after the first day of classes each semester, the board of regents shall transmit the payment for each eligible scholarship to the financial officer of the postsecondary institution.

(4) Within 30 days after the end of registration each semester, the postsecondary institution shall certify to the board of regents the eligibility status of each student who receives a scholarship.

(5) Each postsecondary institution that receives a scholarship payment shall prepare and submit to the board of regents by August 1 of each year a report that includes an audit of the institution's administration of the scholarships and a complete accounting of scholarship funds.

(6) If a scholarship recipient transfers from one eligible postsecondary institution to another and continues to meet eligibility requirements, the scholarship must be transferred with the student.

(7) Funds from a scholarship may not be used to pay for remedial or college-preparatory coursework.

**NEW SECTION. Section 4. Eligibility requirements -- basic residency requirements -- eligibility**

**for student participation.** (1) (a) To be eligible to receive a scholarship, an entering freshman student seeking an associate or baccalaureate degree at a postsecondary institution:

(i) must be classified as a Montana resident for in-state tuition under board of regents' policy at the time of high school graduation;

(ii) shall demonstrate financial need by completing the free application for federal student aid;

(iii) must have earned a high school diploma with a minimum of a 2.5 cumulative grade point average computed on a 4.0 scale and must be admitted, enrolled, or classified as an undergraduate student in a degree program at a postsecondary institution; and

(iv) except as provided in this subsection (1)(a)(iv), must have completed a minimum of 12 hours of community service in each semester of the student's senior year in high school. The requirement in this subsection (1)(a)(iv) does not apply to a nontraditional student.

(b) A freshman student who meets the requirements of subsections (1)(a)(i), (1)(a)(ii), and (1)(a)(iv), has received a general educational development equivalency diploma after July 1, 2003, or has completed a nonpublic study program, and has been admitted, enrolled, or classified as an undergraduate student in a matriculated status is eligible to receive a retroactive scholarship to be paid at the end of the freshman year if the student earns a cumulative grade point average of at least 2.5 at the end of the school term in which the student attempted 30 semester hours.

(2) To be eligible to receive a scholarship, a sophomore student seeking an associate or baccalaureate degree at a postsecondary institution shall meet the residency requirement provided in subsection (1)(a)(i) and:

(a) must have completed a minimum of 30 semester hours at a postsecondary institution;

(b) must have earned a cumulative grade point average of 2.5 at the end of the school term in which the student completed 30 semester hours;

(c) shall demonstrate financial need;

(d) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status; and

(e) must have completed a minimum of 12 hours of community service in each semester of the student's most recently completed school term.

(3) To be eligible to receive a scholarship, a junior student seeking a baccalaureate degree at a postsecondary institution shall meet the residency requirement provided in subsection (1)(a)(i) and:

(a) must have completed a minimum of 30 semester hours at a postsecondary institution;

(b) must have earned a cumulative grade point average of 2.5 at the end of the school term in which the

student completed 30 semester hours;

(c) shall demonstrate financial need;

(d) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status; and

(e) must have completed a minimum of 12 hours of community service in each semester of the student's most recently completed school term.

(4) To be eligible to receive a scholarship, a senior student seeking a baccalaureate degree at a postsecondary institution shall meet the residency requirement provided in subsection (1)(a)(i) and:

(a) must have completed a minimum of 30 semester hours at a postsecondary institution;

(b) must have earned a cumulative grade point average of 2.5 at the end of the school term in which the student completed 30 semester hours;

(c) shall demonstrate financial need;

(d) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status; and

(e) must have completed a minimum of 12 hours of community service in each semester of the student's most recently completed school term.

(5) (a) If a student fails to maintain a cumulative grade point average of at least 2.5 at the end of the school term in which the student completed 30 semester hours, the scholarship is terminated.

(b) A student may appeal a termination based on extenuating circumstances.

(6) A student is ineligible to receive a scholarship if the student:

(a) if a male, failed to meet the federal Title IV selective services registration requirements;

(b) is in default on a federal Title IV or state of Montana educational loan or owes a refund to a federal Title IV or state of Montana student financial aid program; or

(c) is incarcerated. Upon release, the student may begin receiving scholarship payments if the student meets all other eligibility requirements. If approved by the board of regents, credits earned during incarceration may be counted toward eligibility.

**NEW SECTION. Section 5. Definitions.** As used in [sections 5 through 10], the following definitions apply:

(1) "Distributor" means a person who receives, stores, manufactures, bottles, or sells bottled soft drinks, soft drink syrups, simple syrups, or powders or other base products for mixing, compounding, or making soft

drinks for sale to retailers for resale purposes. The term includes a manufacturer or wholesale dealer.

(2) "Powder or other base product" means a solid mixture of basic ingredients used in making, mixing, or compounding soft drinks by combining the mixture with water, ice, syrup or simple syrup, fruits, vegetables, fruit juice, vegetable juice, or any other product suitable to make a complete soft drink.

(3) "Simple syrup" means a mixture of sugar and water.

(4) (a) "Soft drink" means a nonalcoholic beverage that contains natural or artificial sweeteners.

(b) The term does not include a beverage that contains milk or milk products, soy, rice, or other similar milk substitutes or that contains greater than 10% fruit or vegetable juice by volume.

(5) "Syrup" means a liquid mixture of basic ingredients used in making soft drinks by combining the mixture with simple syrup, water, ice, fruits, vegetables, fruit or vegetable juice, or any other product suitable to make a complete soft drink.

**NEW SECTION. Section 6. Soft drink tax -- rate -- returns.** (1) (a) There is an excise tax of \$1.50 for each gallon of syrup or simple syrup sold in the state and of 25 cents for each gallon of bottled soft drink sold in the state.

(b) When a package or container of powder or other base product is sold in the state for the purpose of producing a soft drink, the excise tax on each package or container is 25 cents for each gallon of soft drink that can be produced from the package or container.

(2) The excise tax must be paid by the distributor to the department when the syrup, simple syrup, soft drink, or powder or other base product is sold.

(3) The distributor shall file a monthly return and remit the tax to the department on or before the 15th day of the month following the month in which the sale was made. The returns must be made on forms supplied by the department and signed by the distributor or the distributor's agent.

**NEW SECTION. Section 7. Distributor registration.** A person may not sell or offer for sale syrups, simple syrups, soft drinks, or powders or other base products to retailers in this state unless the person has registered with the department as a soft drink distributor. The registration must be made on forms supplied by the department at no charge. The registration must be renewed annually by a date established by the department.

**NEW SECTION. Section 8. Unlawful sales -- penalty.** (1) A person may not sell or offer for sale syrups, simple syrups, soft drinks, or powders or other base products or that were not obtained from a registered

distributor with the intent to evade the tax imposed by [section 6].

(2) Violation of this section is a misdemeanor punishable by a fine in an amount of not more than \$500 or by imprisonment for a term of not more than 6 months.

**NEW SECTION. Section 9. Audits -- records -- penalty and interest.** (1) The department may audit the books and records of any distributor to ensure that the proper amount of the tax imposed by [section 6] has been paid. An audit may be done on the premises of the distributor or at any other convenient location.

(2) The penalty and interest provisions of 15-1-216 apply to the reporting and payment of the tax imposed by [section 6].

(3) The department may conduct an investigation pursuant to 15-1-301 to ensure proper payment of the tax imposed by [section 6].

(4) A dispute between a distributor and the department is subject to the uniform dispute review procedure established in 15-1-211.

**NEW SECTION. Section 10. Disposition of tax.** The collections from the tax imposed in [section 6] must be deposited in the citizen scholarship account established in [section 1].

**NEW SECTION. Section 11. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

**NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 26, and the provisions of Title 20, chapter 26, apply to [sections 1 through 4].

(2) [Sections 5 through 10] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 5 through 10].

**NEW SECTION. Section 13. Effective date.** If approved by the electorate, this act is effective January 1, 2005.

**NEW SECTION. Section 14. Applicability.** (1) [Sections 1 through 4] apply to the 2005-06 academic

year.

(2) [Sections 5 through 10] apply to syrups, simple syrups, soft drinks, and powders or other base products sold in the state after December 31, 2004.

NEW SECTION. **Section 15. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

- FOR establishing the Montana citizen scholarship program and imposing a tax on soft drinks to fund the program.
- AGAINST establishing the Montana citizen scholarship program and imposing a tax on soft drinks to fund the program.

- END -

