

SENATE BILL NO. 380
INTRODUCED BY K. BALES

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE TRUSTEES OF A HIGH SCHOOL OR K-12 PUBLIC SCHOOL DISTRICT TO ESTABLISH A STUDENT FINANCIAL INSTITUTION AT A HIGH SCHOOL; DEFINING "STUDENT FINANCIAL INSTITUTION"; AMENDING SECTIONS 20-3-324, 32-1-102, 32-1-402, AND 32-3-106, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Student financial institution defined -- obligations of minor -- applicability of laws. (1) The term "student financial institution" means a financial institution that:

- (a) is operated as a high school education program;
 - (b) is adopted by a school district board of trustees;
 - (c) is advised by but not owned by one or more state-chartered or federally chartered financial institutions, limited to a state or national bank, a state or federal savings and loan association, a trust company, an investment company, or a state or federal credit union;
 - (d) is located on property owned by a high school district, as defined in 20-6-101, or a K-12 school district, as defined in 20-6-701;
 - (e) has as its customers only those students who are enrolled in the high school in which the institution is located; and
 - (f) has a written commitment from the school district board of trustees guaranteeing reimbursement of any depositor's funds that are lost due to insolvency of the student financial institution.
- (2) The funds of a student financial institution are not school district or public funds for the purposes of any state law governing the use or investment of school district or other public funds.
- (3) To operate a student financial institution, a bank or credit union shall provide written notice to the department of administration.
- (4) With regard to the operation of a student financial institution, the obligations of a minor pertaining to borrowing money, cashing checks, and making deposits have the same force and effect as though they were the obligations of a person over the age of majority.
- (5) Except as provided in 32-1-102, 32-1-402, and 32-3-106, a student financial institution established

pursuant to this section is not subject to Title 32, chapters 1 through 3, or any other provision of state law that regulates banks, credit unions, other financial institutions, or currency exchanges.

Section 2. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) subject to 15-10-420, establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative agreement fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(19) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to the child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather on school days at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(23) provide that an American flag that measures approximately 12 inches by 18 inches be prominently displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

(24) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

(25) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(26) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution; ~~and~~

(27) consider and, if advisable for a high school or K-12 district, establish a student financial institution, as defined in [section 1]; and

~~(27)~~(28) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 3. Section 32-1-102, MCA, is amended to read:

"32-1-102. Institutions to which chapter is applicable. (1) The word "bank" as used in this chapter means any corporation, other than a foreign capital depository, as defined in 32-8-103, that has been incorporated to conduct the business of receiving money on deposit or transacting a trust or investment business, as defined in this chapter.

(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business is doing a commercial or savings bank business, except for the operations of a foreign capital depository, whether the deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt. This section does not apply to or include money or its equivalent left in escrow or left with an agent pending investment in real estate or securities for or on account of the agent's principal.

(3) It is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for that purpose.

(4) Banks are divided into the following classes:

- (a) commercial banks;
- (b) savings banks;
- (c) trust companies;
- (d) investment companies.

(5) This chapter does not apply to any investment company or corporation established prior to March 8, 1927, under authority of the law of Montana not accepting, receiving, or holding money on deposit.

(6) Except for the provisions listed in 32-8-106, this chapter does not apply to foreign capital depositories.

(7) This chapter does not apply to a student financial institution, as defined in [section 1]."

Section 4. Section 32-1-402, MCA, is amended to read:

"32-1-402. When advertising as bank prohibited -- trade names restricted. (1) Except as provided in subsection (4), a person, firm, company, partnership, or corporation, either domestic or foreign, that is not subject to the supervision of the department and not required by the provisions of this chapter to report to it and that has not received a certificate to do a banking business from the department, may not:

(a) except for a school financial institution, as defined in [section 1], advertise that the person or entity is receiving or accepting money or savings for deposit, investment, or otherwise and issuing notices or certificates of deposit; or

(b) use an office sign at the place where the business is transacted having on it an artificial or corporate name or other words indicating that:

- (i) the place or office is the place or office of a bank or trust company;
- (ii) deposits are received there or payments made on checks; or
- (iii) any other form of banking business is transacted there.

(2) The person, firm, company, partnership, or corporation, domestic or foreign, may not use or circulate letterheads, billheads, blank notes, blank receipts, certificates, circulars, or any written or printed or partly written and partly printed papers that contain an artificial or corporate name or other word or words indicating that the business is the business of a bank, savings bank, or trust or investment company.

(3) The person, firm, company, partnership, or corporation or any agent of a foreign corporation not having an established place of business in the state may not solicit or receive deposits or transact business in the way or manner of a bank, savings bank, trust, or investment company or in a manner that leads the public to believe that its business is that of a bank, savings bank, trust, or investment company.

(4) (a) A person, firm, company, partnership, school financial institution, or corporation, domestic or foreign that is not subject to the supervision of the department and not required by the provisions of this chapter to report to it and that has not received from the department a certificate to do a banking business may not transact business under a name or title that contains the word "bank", "banker", "banking", "savings bank", "saving", "trust", "trustee", "trust company", or "investment company" unless the department has granted a waiver.

This section does not prohibit the use of the word "bank" in the name or title of any bank holding company registered with the board of governors of the federal reserve system pursuant to 12 U.S.C. 1844.

(b) The department may grant a waiver to allow the use of a restricted word listed in subsection (4)(a) to a nonprofit organization if:

(i) the organization is not acting as a financial institution; and

(ii) the name used is not likely to mislead a reasonable individual into thinking that the organization is acting as a financial institution.

(5) A person, firm, company, partnership, or corporation, domestic or foreign, violating a provision of this section shall forfeit to the state \$100 a day for every day or part of a day during which the violation continues.

(6) Upon suit by the department, the court may issue an injunction restraining the person, firm, company, partnership, or corporation during pendency of the action and permanently from further using those words in violation of the provisions of this section or from further transacting business in a manner which leads the public to believe that its business is that of a bank, savings bank, trust, or investment company and may enter any other order or decree as equity and justice require."

Section 5. Section 32-3-106, MCA, is amended to read:

"32-3-106. Instruction in schools -- establishment of a student financial institution. With the consent and under the direction of the state superintendent of public instruction, the organization, management, and extension of credit unions as set forth in this chapter may be taught in the public schools of this state, and the boards of trustees of a high school district, as defined in 20-6-101, or a K-12 district, as defined in 20-6-701, may establish a school financial institution, as defined in [section 1]."

NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 32, chapter 1, part 1, and the provisions of Title 32, chapter 1, part 1, apply to [section 1].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2003, and applies to a school financial institution opened on or after July 1, 2003.

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