

## 1 SENATE BILL NO. 80

2 INTRODUCED BY A. BLEWETT

3 BY REQUEST OF THE GOVERNOR

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STUDENT LOAN AND SCHOLARSHIP  
6 LAWS; REPLACING VARIOUS POSTSECONDARY STUDENT ASSISTANCE ADVISORY COUNCILS AND  
7 COMMITTEES WITH ONE ACCESS TO COLLEGE EDUCATION ADVISORY COUNCIL; ESTABLISHING THE  
8 COUNCIL'S DUTIES TO ASSIST THE BOARD OF REGENTS IN ADMINISTERING ALL STUDENT  
9 ASSISTANCE PROGRAMS; ELIMINATING THE MONTANA HIGHER EDUCATION STUDENT ASSISTANCE  
10 CORPORATION AND REDISTRIBUTING THE SET-ASIDE PERCENTAGES OF THE STATE VOLUME CAP  
11 AMONG THE REMAINING STATE ISSUERS UNDER THE MONTANA UNIFIED VOLUME CAP BOND  
12 ALLOCATION PLAN ACT; AMENDING SECTIONS 15-62-103, 15-62-203, 17-5-1302, 17-5-1312, 20-4-505,  
13 20-25-902, 20-26-103, 20-26-104, 20-26-201, 20-26-603, 20-26-1101, 20-26-1102, 20-26-1103, AND  
14 20-26-1107; REPEALING SECTIONS 2-15-1520, 2-15-1524, 20-25-901, AND 20-26-1104, MCA; AND  
15 PROVIDING AN EFFECTIVE DATE."

16

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

18

19 **NEW SECTION. Section 1. Access to college education advisory council -- terms -- duties.** (1)

20 There is an access to college education advisory council.

21 (2) (a) The council consists of seven members appointed by the governor. The governor shall designate  
22 three of the initial members to serve 2-year terms and four of the initial members to serve 4-year terms. The  
23 members must include:

24 (i) one member with knowledge, skill, and experience in financial aid at a postsecondary institution;

25 (ii) one member with experience in secondary education;

26 (iii) two members of the general public, each of whom possesses knowledge, skill, and experience in  
27 accounting, law, risk management, or investment management or as an actuary;

28 (iv) one member who is a faculty member at a 2-year Montana postsecondary institution, as defined in  
29 20-26-603;

30 (v) one member who is a faculty member at a 4-year Montana postsecondary institution, as defined in

1 20-26-603;

2 (vi) one member who is currently enrolled in or recently graduated from a Montana postsecondary  
3 institution, as defined in 20-26-603.

4 (b) The state treasurer and the director of the department of revenue, or their designees, shall serve as  
5 nonvoting, ex officio members of the council.

6 (3) The council shall select a presiding officer and a vice presiding officer from among its membership.  
7 A majority of the membership constitutes a quorum for the transaction of business.

8 (4) The council shall:

9 (a) advise the board of regents of higher education on issues related to the quality educator loan  
10 assistance program and all student financial assistance programs, including but not limited to the family education  
11 savings program, the Montana resident student financial assistance program, the governor's postsecondary  
12 scholarship program, and the guaranteed student loan program;

13 (b) advise the board of regents on policies, rules, and procedures necessary for implementing and  
14 administering those programs;

15 (c) consider approaches that will enhance student retention and success;

16 (d) monitor the programs to ensure that the students, schools, and, where applicable, lenders are  
17 adequately served;

18 (e) recommend financial institutions for approval by the board of regents to act as the managers of family  
19 education savings accounts pursuant to 15-62-201; and

20 (f) report to the governor annually or at any time at the request of the governor.

21 (5) The council is attached to the commissioner of higher education for administrative purposes only,  
22 as provided in 2-15-121, and members are entitled to compensation as provided in 2-15-122(5).

23

24 **Section 2.** Section 15-62-103, MCA, is amended to read:

25 **"15-62-103. Definitions.** As used in this chapter, the following definitions apply:

26 (1) "Account" means an individual participating trust account established under this chapter.

27 (2) "Account owner" means the person who enters into a participating trust agreement and who is  
28 designated at the time that an account is opened as having the right to withdraw money from the account before  
29 the account is disbursed to or for the benefit of the designated beneficiary.

30 (3) "Board" means the board of regents of higher education established by Article X, section 9,

1 subsection (2), of the Montana constitution and 2-15-1505.

2 (4) ~~"Committee"~~ "Council" means the ~~family education savings program oversight committee~~ access to  
3 college education advisory council established in ~~20-25-904~~ [section 1].

4 (5) "Designated beneficiary" means, with respect to an account, the person designated at the time that  
5 the account is opened as the person whose higher education expenses are expected to be paid from the account  
6 or if this person is replaced in accordance with 15-62-202, the individual replacing the former designated  
7 beneficiary.

8 (6) "Financial institution" means any bank, commercial bank, national bank, savings bank, savings and  
9 loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that  
10 is authorized to do business in this state.

11 (7) "Higher education institution" means an eligible educational institution as defined in section 529(e)(5)  
12 of the Internal Revenue Code, 26 U.S.C. 529(e)(5).

13 (8) "Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed  
14 or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

15 (9) "Member of the family" means, with respect to a designated beneficiary, a member of the family of  
16 the designated beneficiary as defined in section 529(e)(2) of the Internal Revenue Code, 26 U.S.C. 529(e)(2).

17 (10) "Nonqualified withdrawal" means a withdrawal from an account that is not:

18 (a) a qualified withdrawal;

19 (b) a withdrawal made as the result of the death or disability of the designated beneficiary of an account;

20 (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in  
21 section 135(d)(1)(B) or (d)(1)(C) of the Internal Revenue Code, 26 U.S.C. 135(d)(1)(B) or (d)(1)(C), and that is  
22 received by the designated beneficiary; or

23 (d) a rollover or change of designated beneficiary described in 15-62-202.

24 (11) "Participating trust agreement" means an agreement between the board, as trustee and as  
25 administrator of the program, and the account owner that creates a trust interest in the trust and provides for  
26 participation in the program.

27 (12) "Program" means the family education savings program established pursuant to 15-62-201. The  
28 program must be structured to permit the long-term accumulation of savings that can be used to finance all or  
29 a share of the costs of higher education.

30 (13) "Qualified higher education expenses" means qualified higher education expenses as defined in

1 section 529(e)(3) of the Internal Revenue Code, 26 U.S.C. 529(e)(3).

2 (14) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education  
3 expenses of the designated beneficiary of the account.

4 (15) "Trust" means the family education savings trust established by 15-62-301.

5 (16) "Trustee" means the board in its capacity as trustee of the trust.

6 (17) "Trust interest" means an account owner's interest in the trust created by a participating trust  
7 agreement and held for the benefit of a designated beneficiary."  
8

9 **Section 3.** Section 15-62-203, MCA, is amended to read:

10 **"15-62-203. Selection of financial institution as program manager -- contract -- termination.** (1)

11 The board shall implement the operation of the program through the use of one or more financial institutions to  
12 act as the program manager. Under the program, a person may submit applications for enrollment in the program  
13 and participating trust agreements to a program manager and establish accounts in the trust at the location of  
14 or through the program manager. An account owner may deposit money in an account in the trust by paying the  
15 money to a program manager who shall accept the money as an agent for the trust. Accounts may be invested  
16 in one or more investment products approved by the board.

17 (2) The ~~committee~~ council shall solicit proposals from financial institutions to act as managers of the  
18 program. Financial institutions that submit proposals shall describe the investment products that they propose  
19 to offer through the program.

20 (3) On the recommendation of the ~~committee~~ council, the board shall select as program managers the  
21 financial institution or institutions from among bidding financial institutions that demonstrate the most  
22 advantageous combination, both to potential program participants and to this state, of:

23 (a) financial stability and integrity;

24 (b) the safety of the investment products being offered, taking into account any insurance provided with  
25 respect to these products;

26 (c) the ability of the investment products to track estimated costs of higher education as calculated by  
27 the board and provided by the financial institution to the account holder;

28 (d) the ability of the financial institutions, directly or through a subcontract, to satisfy recordkeeping and  
29 reporting requirements;

30 (e) the financial institution's plan for promoting the program and the investment that it is willing to make

1 to promote the program;

2 (f) the fees, if any, proposed to be charged to persons for maintaining accounts;

3 (g) the minimum initial deposit and minimum contributions that the financial institution will require and  
4 the willingness of the financial institution or its subcontractors to accept contributions through payroll deduction  
5 plans and other deposit plans; and

6 (h) any other benefits to this state or its residents contained in the proposal, including an account  
7 opening fee payable to the board by the account owner to cover expenses of operation of the program and any  
8 additional fee offered by the financial institution for statewide program marketing by the board.

9 (4) The board shall enter into a contract with a financial institution or, except as provided in subsection  
10 (5), into contracts with financial institutions to serve as program managers. The contracts must provide the terms  
11 and conditions by which financial institutions, as agents of the trust, may assist in selling interests in the trust and  
12 the manner in which funds of a participating trust that are designated for investment with or through the financial  
13 institution will be invested.

14 (5) The board may select more than one financial institution to serve as program manager. The board  
15 may select more than one kind of investment product to be offered through the program. Any decision on the use  
16 of multiple financial institutions or multiple investment products must take into account:

17 (a) the requirements for qualifying as a qualified state tuition program or qualified tuition program under  
18 section 529 of the Internal Revenue Code, 26 U.S.C. 529;

19 (b) differing needs of contributors regarding risk and potential return of investment instruments; and

20 (c) administrative costs and burdens that may be imposed as the result of the decision.

21 (6) A program manager or its subcontractor shall:

22 (a) take action required to keep the program in compliance with its contract or the requirements of this  
23 chapter to manage the program so that it is treated as a qualified state tuition program or qualified tuition program  
24 under section 529 of the Internal Revenue Code, 26 U.S.C. 529;

25 (b) keep adequate records of each account, keep each account segregated from each other account,  
26 and provide the board with the information necessary to prepare statements required by 15-62-201(11) through  
27 (13) or file these statements on behalf of the board;

28 (c) compile and total information contained in statements required to be prepared under 15-62-201(11)  
29 through (13) and provide these compilations to the board;

30 (d) if there is more than one program manager, provide the board with the information to assist the board

1 in determining compliance with rules adopted by the board pursuant to 20-25-902 and to comply with any state  
2 or federal tax reporting requirements;

3 (e) provide representatives of the board, including other contractors or other state agencies, access to  
4 the books and records of the program manager to the extent needed to determine compliance with the contract.  
5 At least once during the term of any contract, the board, its contractor, or the state agency responsible for  
6 examination oversight of the program manager shall conduct an examination to the extent needed to determine  
7 compliance with the contract.

8 (f) hold participating trusts invested by or through the financial institution in the name of and for the  
9 benefit of the trust and the account owner;

10 (g) assist the trustee with respect to any federal or tax filing requirements relating to the program and  
11 with respect to any other obligations of the trustee.

12 (7) A person may not circulate any description of the program, whether in writing or through the use of  
13 any media, unless the board or its designee first approves the description.

14 (8) A contract executed between the board and a financial institution pursuant to this section must be  
15 for a term of at least 3 years and not more than 7 years.

16 (9) If the board determines not to renew the appointment of a financial institution as program manager,  
17 the board may take action consistent with the interest of the program and the accounts and in accordance with  
18 its duties as trustee of the trust. Except as provided in subsection (10), if a contract executed between the board  
19 and a financial institution pursuant to this section is not renewed, at the end of the term of the nonrenewed  
20 contract:

21 (a) accounts previously established through the efforts of the financial institution may not be terminated  
22 by the trustee or board and additional contributions may be made to those accounts;

23 (b) the funds in new accounts established after the termination may not be invested by or through the  
24 financial institution unless a new contract is executed;

25 (c) participating trusts invested by or through the financial institution must continue to be invested in the  
26 financial products in which they were invested prior to the nonrenewal unless the account owner selects a  
27 different investment product without violating 15-62-201(10); and

28 (d) the continuing role of the financial institution must be governed by rules or policies established by  
29 the board or a special contract and all services provided by the financial institution to accounts continue to be  
30 subject to the control of the board as trustee of the trust with responsibility for all accounts in the program.

1 (10) (a) The board may terminate a contract with a financial institution or prohibit the continued  
2 investment of funds by or through a financial institution under subsection (9) at any time for good cause on the  
3 recommendation of the ~~committee~~ council. If a contract is terminated or investment is prohibited pursuant to this  
4 subsection, the trustee shall take custody of account funds or assets held at that financial institution and shall  
5 seek to promptly reinvest the funds or assets by or through another financial institution that is selected as a  
6 program manager by the board and into the same investment products or investment products selected by the  
7 board that are as similar as possible to the original investments.

8 (b) Prior to taking the actions described in subsection (10)(a), the board shall give account owners notice  
9 of the termination and a reasonable period of time, not to exceed 30 days, to voluntarily terminate the account  
10 invested by or through the financial institution or, to the extent not prohibited by 15-62-201(10), to direct that the  
11 account be invested with or through another program manager.

12 (c) If the termination of a program manager causes an emergency that might lead to a loss of funds to  
13 any account owner, the board or trustee may take whatever emergency action is necessary or appropriate to  
14 prevent the loss of funds invested pursuant to this chapter. After taking emergency action, the board shall provide  
15 notice and opportunity for action to account owners as provided in subsection (10)(b)."  
16

17 **Section 4.** Section 17-5-1302, MCA, is amended to read:

18 **"17-5-1302. Definitions.** As used in this part, unless the context clearly requires otherwise, the following  
19 definitions apply:

20 (1) "Allocation" means an allocation of a part of the state's volume cap to an issuer pursuant to this part.

21 (2) "Board" means the board of examiners.

22 (3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

23 (4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which  
24 a part of the volume cap is required to be allocated pursuant to the tax act.

25 (5) "Department" means the department of administration.

26 (6) "Governmental bonds" means bonds other than private activity bonds.

27 (7) "Issuer" means a state issuer or local issuer.

28 (8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue  
29 private activity bonds or governmental bonds.

30 (9) "Local portion" means that portion of the state's volume cap reserved for local issuers.

1 (10) "Montana board of housing" (MBH) means the board created in 2-15-1814.

2 (11) "Montana board of investments" (MBI) means the board provided for in 2-15-1808.

3 (12) "Montana facility finance authority" (MFFA) means the authority provided for in 2-15-1815.

4 ~~(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit~~  
 5 ~~corporation established to provide student loan capital to the student loan program established by the board of~~  
 6 ~~regents of higher education under Title 20, chapter 26, part 11.~~

7 ~~(14)~~(13) "Private activity bonds" (PABs) has the meaning prescribed under section 141 of the Internal  
 8 Revenue Code, 26 U.S.C. 141.

9 ~~(15)~~(14) "State issuer" means the state and any agency of the state authorized to issue private activity  
 10 bonds. For this part only, the Montana higher education student assistance corporation, to the extent authorized  
 11 under federal law to issue private activity bonds, is considered a state issuer.

12 ~~(16)~~(15) "State portion" means that portion of the state's volume cap reserved for state issuers.

13 ~~(17)~~(16) "State's volume cap" means that amount of the volume cap specified by the department pursuant  
 14 to 17-5-1311(2).

15 ~~(18)~~(17) "Tax act" means the latest limitation enacted by the United States congress on the amount of  
 16 cap bonds that may be issued by a state or local issuer.

17 ~~(19)~~(18) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that  
 18 may be issued in the state in a calendar year as determined under the provisions of the tax act."

19

20 **Section 5.** Section 17-5-1312, MCA, is amended to read:

21 **"17-5-1312. Allocation to state issuers.** (1) Except as provided in subsection (5), the state portion must  
 22 be allocated to state issuers pursuant to 17-5-1316.

23 (2) As a condition of receiving an allocation, each state issuer:

24 (a) upon issuance of the bonds, shall pay 35 cents per thousand of bonds to be deposited in the state  
 25 general fund for the purpose of funding a portion of the comprehensive annual financial report audit; and

26 (b) shall provide the legislative auditor with full access to its financial records.

27 ~~————(3) As long as the Montana higher education student assistance corporation requests and receives~~  
 28 ~~authority to issue bonds under this part, the corporation shall:~~

29 ~~————(a) comply with the provisions of Title 2, chapter 3, in all meetings of the corporation's board of directors~~  
 30 ~~or other governing body unless compliance would conflict with federal or state security disclosure laws; and~~



1 ~~\_\_\_\_\_ (b) provide the legislative auditor with full access to any management or loan servicing contracts:~~

2 ~~(4)(3)~~ The following set-aside percentages of the state's volume cap must be made in each calendar year  
 3 for the following state issuers:

4 State Issuer	Percentage
5 Board	4% <u>5%</u>
6 MBH	41% <u>56%</u>
7 MBI	25% <u>34%</u>
8 <del>MHESAC</del>	<del>26%</del>
9 MFFA	4% <u>5%</u>
10 Total	100%

11 ~~(5)(4)~~ Each set-aside expires on the first Monday in September.

12 ~~(6)(5)~~ Prior to the set-aside expiration date, allocations may be made by the department to each state  
 13 issuer only from its respective set-aside pursuant to 17-5-1316 and a state issuer is not entitled to an allocation  
 14 except from its set-aside unless otherwise provided by the governor.

15 ~~(7)(6)~~ After the expiration date, the amount of the set-aside remaining unallocated is available for  
 16 allocation by the department to issuers pursuant to 17-5-1316 without preference or priority."

17  
 18 **Section 6.** Section 20-4-505, MCA, is amended to read:

19 **"20-4-505. Loan repayment assistance documentation.** (1) A quality educator shall submit an  
 20 application for loan repayment assistance to the board of regents in accordance with policies and procedures  
 21 adopted by the board of regents. The application must include official verification or proof of the applicant's total  
 22 unpaid accumulated educational loan debt and other documentation required by the board of regents that is  
 23 necessary for verification of the applicant's eligibility.

24 (2) A quality educator is eligible for loan repayment assistance for up to a maximum of 4 years. The total  
 25 annual loan repayment assistance for an eligible quality educator may not exceed \$3,000. The board of regents  
 26 may require an eligible quality educator to provide documentation that the quality educator has exhausted  
 27 repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive  
 28 programs.

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

1           (4) The board of regents shall develop policies and procedures under this section in consultation with  
2 the access to college education advisory council established in [section 1]."

3

4           **Section 7.** Section 20-25-902, MCA, is amended to read:

5           **"20-25-902. Board of regents -- powers and duties.** (1) The board shall:

6           (a) retain professional services, if necessary, including services of accountants, auditors, consultants,  
7 and other experts;

8           (b) seek rulings and other guidance relating to the program from the United States department of the  
9 treasury and the internal revenue service;

10           (c) make changes to the program as required for the participants in the program to obtain the federal  
11 income tax benefits or treatment provided by section 529 of the Internal Revenue Code, 26 U.S.C. 529, as  
12 amended;

13           (d) charge, impose, and collect administrative fees and service charges pursuant to any agreement,  
14 contract, or transaction relating to the program;

15           (e) select the financial institution or institutions to act as the program manager pursuant to 15-62-203;

16           (f) on the recommendation of the ~~committee~~ access to college education advisory council established  
17 in [section 1], adopt rules to prevent contributions on behalf of a designated beneficiary in excess of those  
18 necessary to pay the qualified higher education expenses of the designated beneficiaries. The rules must address  
19 the following:

20           (i) procedures for aggregating the total balances of multiple accounts established for a designated  
21 beneficiary;

22           (ii) the establishment of a maximum total balance that may be held in accounts for a designated  
23 beneficiary;

24           (iii) requirements that persons who contribute to an account certify that to the best of their knowledge,  
25 the balance in all qualified state tuition programs, as defined in section 529 of the Internal Revenue Code, 26  
26 U.S.C. 529, for the designated beneficiary does not exceed the lesser of:

27           (A) a maximum college savings amount established by the board; or

28           (B) the cost in current dollars of qualified higher education expenses that the contributor reasonably  
29 anticipates the designated beneficiary will incur;

30           (iv) requirements that any excess balances with respect to a designated beneficiary be promptly

- 1 withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section;
- 2 (g) adopt procedures as necessary to implement Title 15, chapter 62;
- 3 (h) serve as trustee of the family education savings trust established in 15-62-301;
- 4 (i) enter into participating trust agreements with account owners; and
- 5 (j) maintain the program on behalf of the state as required by section 529 of the Internal Revenue Code,
- 6 26 U.S.C. 529.
- 7 (2) The definitions in 15-62-103 apply to this section."

8

9 **Section 8.** Section 20-26-103, MCA, is amended to read:

10 **"20-26-103. Definitions.** As used in parts 1 and 2, the following definitions apply:

11 (1) "Council" means the access to college education advisory council created by [section 11].

12 ~~(1)(2)~~ "Postsecondary institution" includes the units of the university system and any private  
13 postsecondary institution.

14 ~~(2) "Program advisory council" means the student loan advisory council created by 2-15-1520.~~

15 (3) "Resident student" means a person who was a resident of Montana prior to enrolling and who is  
16 attending a qualified postsecondary institution within Montana."

17

18 **Section 9.** Section 20-26-104, MCA, is amended to read:

19 **"20-26-104. Resident student financial assistance program created.** There is a resident student  
20 financial assistance program administered by the commissioner of higher education in consultation with the  
21 ~~program advisory council.~~"

22

23 **Section 10.** Section 20-26-201, MCA, is amended to read:

24 **"20-26-201. Duties of commissioner of higher education relative to program.** In consultation with  
25 the ~~program advisory~~ council, the commissioner of higher education shall:

26 (1) adopt rules to administer the resident student financial assistance program, including the  
27 establishment of criteria for student eligibility which shall consider financial need;

28 (2) determine the amount of individual grants;

29 (3) establish procedures for fiscal control, fund accounting, and necessary reports; and

30 (4) apply for, receive, and administer federal and private ~~moneys~~ money."

1

2           **Section 11.** Section 20-26-603, MCA, is amended to read:

3           **"20-26-603. Definitions.** As used in this part, the following definitions apply:

4           (1) "Accredited" means a school that is accredited by the board of public education pursuant to 20-7-102.

5           (2) "Board" means the board of regents of higher education created by Article X, section 9(2), of the  
6 Montana constitution.

7           (3) "Council" means the ~~governor's postsecondary scholarship access to college education~~ advisory  
8 council created in ~~2-15-1524~~ [section 1].

9           (4) "Montana private college" means a nonprofit private educational institution as defined in  
10 15-30-2326(3)(b).

11           (5) "Postsecondary institution" means:

12           (a) a unit of the Montana university system, as defined in 20-25-201;

13           (b) a Montana community college, defined and organized as provided in 20-15-101; or

14           (c) an accredited tribal community college located in the state of Montana.

15           (6) "Scholarship" means a payment toward the cost of attendance at a qualifying postsecondary  
16 institution, rounded up to the nearest dollar.

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

18

19           **Section 12.** Section 20-26-1101, MCA, is amended to read:

20           **"20-26-1101. Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
21 following definitions apply:

22           (1) "Agency" means the entity designated by the board to administer student loans that were issued prior  
23 to [the effective date of this act].

24           (2) "Board" means the board of regents of higher education.

25           (3) "Council" means the ~~student loan~~ access to college education advisory council established in  
26 ~~2-15-1520~~ [section 1].

27           (4) "Delinquency" means the failure of a debtor to abide by the terms of payment on a promissory note  
28 or other obligation created in return for an educational student loan, which failure has existed for at least 6 months  
29 and has resulted in an arrearage equal to or greater than six monthly payments called for by the note or  
30 obligation.

1 (5) "Eligible educational institution" means any institution approved by the United States secretary of  
 2 education as eligible to participate in the student loan program pursuant to Title IV of the Higher Education Act  
 3 of 1965, as amended.

4 (6) "Eligible lender" means any lender as defined under Title IV of the Higher Education Act of 1965, as  
 5 amended.

6 (7) "License" means a license, certificate, registration, or authorization issued by an agency of the state  
 7 of Montana granting a person a right or privilege to engage in a business, occupation, or profession or any other  
 8 privilege that is subject to suspension, revocation, forfeiture, or termination by the licensing authority prior to its  
 9 date of expiration.

10 (8) "Licensing authority" means any department, division, board, agency, or instrumentality of this state  
 11 that issues a license.

12 (9) "Order suspending a license" means an order issued by the agency to suspend a license. The order  
 13 must contain the name of the debtor, the type of license, and the social security number of the debtor.

14 (10) "Payment plan" includes but is not limited to a plan approved by the agency that provides sufficient  
 15 security to ensure compliance with Title IV of the Higher Education Act of 1965, as amended, and that  
 16 incorporates voluntary or involuntary income withholding or a similar plan for periodic payment of the debt  
 17 outstanding.

18 (11) "Student loan program" means the program established by the board pursuant to this part."  
 19

20 **Section 13.** Section 20-26-1102, MCA, is amended to read:

21 **"20-26-1102. Authorization to establish and administer student loan program until dissolution.**

22 (1) The board may establish ~~and contract for the operation of~~ a student loan program to make available to  
 23 students improved opportunities for education by guaranteeing loans in accordance with applicable federal law  
 24 to persons attending or accepted for enrollment at an eligible educational institution.

25 (2) ~~The board is designated as the state representative for receiving federal, public, or private money~~  
 26 ~~that is now or will be made available under any act of the congress of the United States or otherwise for purposes~~  
 27 ~~of a student loan program. The board shall administer the student loan program until the program is dissolved~~  
 28 in accordance with 20-26-1107."  
 29

30 **Section 14.** Section 20-26-1103, MCA, is amended to read:

1           **"20-26-1103. Duties of board.** ~~It~~ (1) Subject to the limitations contained in subsection (2), in discharging  
 2 its duties in relation to the student loan program, the board shall:

3           ~~(1)~~(a) act as guarantor and administrator on loans of money, upon terms and conditions that the board  
 4 may prescribe, to assist persons attending or accepted for enrollment at an eligible educational institution to meet  
 5 their educational expenses;

6           ~~(2)~~(b) approve financial or credit institutions or other lenders as eligible lenders upon their meeting the  
 7 standards established by the board for making student loans;

8           ~~(3)~~(c) incur and discharge debts, including defaulted loan obligations that have been guaranteed by the  
 9 board;

10           ~~(4)~~(d) make and execute agreements, contracts, and other instruments with any public or private person  
 11 or agency, including the United States secretary of education, for the administration of the student loan program;

12           ~~(5)~~(e) provide for the operation of the student loan program to conduct loan approval processing,  
 13 essential and special loan servicing, preclaims assistance, supplemental preclaims assistance, claim processing  
 14 and collections, and other services that would promote lender and school participation and loan availability to  
 15 students;

16           ~~(6)~~(f) perform any other duties necessary for the administration of the student loan program ~~and other~~  
 17 ~~student financial aid-related activities for the benefit of students as determined by the board., except that any~~  
 18 revenue generated by the board in performing its duties under this section must be used for:

19           (i) administrative expenses incurred in the performance of the board's duties; and

20           (ii) after the payment of administrative expenses, scholarships under the governor's postsecondary  
 21 scholarship program established in Title 20, chapter 26, part 6.

22           (2) The board may not guarantee student loans issued after [the effective date of this act].

23           (3) The board shall perform all other student financial aid-related activities for the benefit of students as  
 24 determined by the board."

25

26           **Section 15.** Section 20-26-1107, MCA, is amended to read:

27           **"20-26-1107. Dissolution -- disposition of money.** (1) The board shall continue the operation of the  
 28 student loan program may not be dissolved until all contractual obligations existing prior to [the effective date of  
 29 this act] have been satisfied and all loans issued prior to [the effective date of this act] have been paid by the  
 30 borrower or, if in default, by the board or have been otherwise accounted for under Title IV of the Higher

1 Education Act of 1965, as amended. Upon occurrence of these events, the student loan program must be  
2 dissolved.

3 (2) Upon dissolution of the program or the cessation of the program's activities, all property and money  
4 of the board relating to the student loan program not refundable to the federal government as provided by law  
5 vest in the state and must be credited to the general fund."  
6

7 **NEW SECTION. Section 16. Repealer.** The following sections of the Montana Code Annotated are  
8 repealed:

9 2-15-1520. Student loan advisory council -- terms -- compensation.

10 2-15-1524. Governor's postsecondary scholarship advisory council -- terms.

11 20-25-901. Family education savings program oversight committee -- membership -- powers and duties.

12 20-26-1104. Student loan advisory council -- duties.  
13

14 **NEW SECTION. Section 17. Codification instruction.** [Section 1] is intended to be codified as an  
15 integral part of Title 2, chapter 15, part 15, and the provisions of Title 2, chapter 15, part 15, apply to [Section 1].  
16

17 **NEW SECTION. Section 18. Saving clause.** [Section 14(2)] does not affect rights and duties that  
18 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
19

20 **NEW SECTION. Section 19. Effective date.** [This act] is effective July 1, 2011.  
21

- END -