

1 HOUSE BILL NO. 617

2 INTRODUCED BY S. LAVIN, J. ECK, R. EHLI, F. GARNER, B. KEENAN, A. KNUDSEN, R. LYNCH,
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4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA STEM SCHOLARSHIP PROGRAM;
6 PROVIDING ELIGIBILITY REQUIREMENTS; CREATING THE MONTANA STEM SCHOLARSHIP PROGRAM
7 STATE SPECIAL REVENUE ACCOUNT; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502,
8 20-26-601, 20-26-602, 20-26-603, 20-26-605, 20-26-606, 23-7-102, 23-7-202, AND 23-7-402, MCA; AND
9 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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11 WHEREAS, the Montana Lottery was originally created by the voters of Montana in 1986 to have its
12 proceeds be used for educational purposes; and

13 WHEREAS, this legislation is an effort to restore the will of the Montana electorate; and

14 WHEREAS, initiating merit-based higher education opportunities for the youth of Montana in areas of
15 science, technology, engineering, and mathematics will steer those students toward living-wage jobs in the
16 Montana marketplace that tend to be readily available; and

17 WHEREAS, the Montana Lottery is encouraged to develop and implement program and marketing
18 strategies to grow the STEM scholarship fund to at least \$5 million per year.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 NEW SECTION. **Section 1. Montana STEM scholarship program.** (1) There is a Montana STEM
23 scholarship program. The program is administered by the board through the office of the commissioner of higher
24 education.

25 (2) The purpose of the Montana STEM scholarship program is to provide an incentive for Montana high
26 school students to prepare for, enter into, and complete degrees in postsecondary fields related to science,
27 technology, engineering, mathematics, and health care, with the goal of increasing the number of STEM degree
28 recipients participating in Montana's workforce.

29 (3) The board shall adopt policies and procedures for the administration of the Montana STEM
30 scholarship program consistent with [sections 1 through 4].

1

2 **NEW SECTION. Section 2. Eligibility requirements -- ineligibility.** (1) To be eligible for the Montana
3 STEM scholarship, a student must:

4 (a) be a Montana resident who graduated from a Montana high school with a cumulative grade point
5 average of at least 3.25;

6 (b) be eligible for in-state tuition pursuant to the board's policies;

7 (c) have completed a rigorous college preparation program, including 4 years of mathematics and 3
8 years of science;

9 (d) be enrolled full time in at least 15 credit hours at a postsecondary institution in the fall semester
10 immediately following the student's graduation from high school;

11 (e) be seeking the student's first certificate or 2-year or 4-year degree at a postsecondary institution; and

12 (f) have declared a STEM or health care major as the student's intended course of study.

13 (2) A student is ineligible for the Montana STEM scholarship if the student:

14 (a) has failed to meet the federal Title IV selective service registration requirements;

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

17 (c) is incarcerated. A student may receive a Montana STEM scholarship upon release if the student
18 meets all other eligibility requirements.

19

20 **NEW SECTION. Section 3. STEM scholarship amounts -- renewal requirements.** (1) A student who
21 meets the requirements of [section 2] will receive a \$1,000 scholarship for the first academic year the student is
22 enrolled at a postsecondary institution.

23 (2) A student who meets the requirements of this subsection will receive a \$2,000 scholarship for the
24 student's second academic year. To be eligible for the STEM scholarship in the student's second academic year,
25 the student must:

26 (a) have completed at least 30 credit hours in the first academic year;

27 (b) have maintained a grade point average of at least 3.0;

28 (c) be enrolled full time at the postsecondary institution in the current academic year; and

29 (d) continue to pursue a STEM or health care major.

30 **(3) THE BOARD SHALL ADOPT A POLICY REGARDING THE AWARD OF SCHOLARSHIPS WHEN THE FUNDS IN THE**

1 ACCOUNT ESTABLISHED IN [SECTION 4] ARE INSUFFICIENT TO FULLY FUND THE STEM SCHOLARSHIP PROGRAM. THE
 2 POLICY MUST PRIORITIZE SCHOLARSHIPS IN THE FOLLOWING ORDER:

3 (A) RENEWALS FOR QUALIFIED APPLICANTS OF SCHOLARSHIPS THAT WERE PREVIOUSLY AWARDED HAVE THE
 4 HIGHEST PRIORITY.

5 (B) IF FUNDS REMAIN AFTER RENEWAL SCHOLARSHIPS ARE AWARDED PURSUANT TO SUBSECTION (3)(A), THEN
 6 THE NUMBER OF NEW SCHOLARSHIPS MUST BE REDUCED BUT THE INDIVIDUAL AWARD AMOUNTS MUST MEET THE
 7 REQUIREMENTS OF SUBSECTIONS (1) AND (2).

8
 9 NEW SECTION. Section 4. Montana STEM scholarship program state special revenue account.

10 (1) There is a Montana STEM scholarship program account within the state special revenue fund established in
 11 17-2-102. The purpose of the account is to fund the Montana STEM scholarship program. The account is
 12 administered by the board through the office of the commissioner of higher education.

13 (2) There must be paid into the account the lottery net revenues calculated pursuant to 23-7-402. Every
 14 student who is eligible under the provisions of [sections 2 and 3] must be awarded a Montana STEM scholarship.

15 (3) If the amount in this account is greater than the amount required to fund the scholarships as required
 16 by subsection (2), the excess funds may be carried over and used to fund scholarships in the next fiscal year.

17 (4) The board may use up to 1% of the funds transferred into the account in each fiscal year for costs
 18 related to administering the Montana STEM scholarship program.

19 (5) This account is statutorily appropriated, as provided in 17-7-502, to the board for the Montana STEM
 20 scholarship program established in [sections 1 through 3].

21
 22 **Section 5.** Section 17-7-502, MCA, is amended to read:

23 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 24 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 25 need for a biennial legislative appropriation or budget amendment.

26 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 27 of the following provisions:

28 (a) The law containing the statutory authority must be listed in subsection (3).

29 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 30 appropriation is made as provided in this section.

1 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;
2 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;
3 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
4 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
5 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
6 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [section 4]; 20-26-1503; 22-1-327; 22-3-1004;
7 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105;
8 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113;
9 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;
10 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161;
11 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

12 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
13 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
14 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
15 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
16 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
17 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
18 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
19 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
20 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
21 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
22 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
23 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
24 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
25 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
26 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
27 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
28 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
29 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,
30 2015.)"

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Section 6. Section 20-26-601, MCA, is amended to read:

"20-26-601. Short title. ~~This part~~ Sections 20-26-601 through 20-26-605 may be cited as the "Governor's Postsecondary Scholarship Program"."

Section 7. Section 20-26-602, MCA, is amended to read:

"20-26-602. Governor's postsecondary scholarship program -- duties of council -- duties of board.

(1) There is a governor's postsecondary scholarship program administered by the board through the office of the commissioner of higher education with assistance from the council.

(2) The purpose of the governor's postsecondary scholarship program is to provide scholarships on the basis of need and merit to Montana residents toward the cost of attendance at 2-year and 4-year postsecondary institutions and to allocate some of the scholarships to specific areas of study that promote economic development or address critical workforce shortage areas in Montana.

(3) The council shall gather information and make recommendations for the board to consider in the board's adoption of policies and procedures under ~~this part~~ 20-26-601 through 20-26-605. The recommendations must attempt to promote efficient administration of the governor's postsecondary scholarship program.

(4) After consideration of the council's recommendations pursuant to subsection (3), the board shall adopt policies and procedures for administration of the governor's postsecondary scholarship program consistent with ~~this part~~ 20-26-601 through 20-26-605.

(5) Subject to available funding, scholarships must be awarded on an annual basis to qualified recipients pursuant to policies adopted by the board. The board may delegate to Montana high schools and postsecondary institutions the authority to review scholarship applications and select scholarship recipients."

Section 8. Section 20-26-603, MCA, is amended to read:

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

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

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

(3) "Council" means the governor's postsecondary scholarship advisory council created in 2-15-1524.

(4) "Montana high school" means an accredited public or nonpublic high school.

- 1 ~~(4)~~(5) "Montana private college" means a nonprofit private educational institution:
- 2 (a) with its main campus and primary operations located within the state; and
- 3 (b) that offers education on the level of a baccalaureate degree and is accredited for that purpose by a
- 4 national or regional accrediting agency recognized by the board.
- 5 ~~(5)~~(6) "Postsecondary institution" means:
- 6 (a) a unit of the Montana university system, as defined in 20-25-201;
- 7 (b) a Montana community college, defined and organized as provided in 20-15-101; or
- 8 (c) an accredited tribal community college located in the state of Montana.
- 9 ~~(6)~~(7) "Scholarship" means a payment toward the cost of attendance at a qualifying postsecondary
- 10 institution, rounded up to the nearest dollar.
- 11 (8) "STEM or health care major" means a major that is related to science, technology, engineering,
- 12 mathematics, or health care. Specific qualifying majors are identified in board policy.
- 13 ~~(7)~~(9) "Title IV" refers to Title IV of the Higher Education Act of 1965, as amended."
- 14
- 15 **Section 9.** Section 20-26-605, MCA, is amended to read:
- 16 **"20-26-605. Eligibility requirements -- renewals -- limited appeals.** (1) Scholarships must be awarded
- 17 under the governor's postsecondary scholarship program in accordance with the eligibility requirements of this
- 18 section and pursuant to policies and procedures established by the board pursuant to 20-26-602 and this section.
- 19 (2) To be eligible to receive a scholarship, a student must be a Montana resident eligible for in-state
- 20 tuition as determined by board policy.
- 21 (3) To be eligible to receive a merit-based scholarship, a student must have attained a minimum grade
- 22 point average or numerical score on a standardized college admission test as prescribed by board policy.
- 23 (4) To be eligible to receive a need-based scholarship, a student must complete the standard free
- 24 application for federal student aid form and the student's expected family contributions may not exceed the cost
- 25 of attendance at the postsecondary institution that the student expects to attend.
- 26 (5) Scholarships must be awarded to students seeking their first certificate or their 2-year or 4-year
- 27 degree at a postsecondary institution.
- 28 (6) Scholarships may be renewed in accordance with board policy. The policy must include proof of
- 29 satisfactory academic performance.
- 30 (7) Scholarships may be terminated in accordance with board policy.

1 (8) The board shall establish policies and procedures:

2 (a) to allow a student to transfer from one postsecondary institution to another without loss of the
3 scholarship; and

4 (b) to ensure compliance with 20-26-606(3) if a student transfers from a postsecondary institution to a
5 Montana private college.

6 (9) A scholarship recipient's right to receive other financial aid, awards, and scholarships may be limited
7 as required by federal or state law or board policy.

8 (10) A student is ineligible to receive a scholarship under the ~~provisions of this part~~ governor's
9 postsecondary scholarship program if the student:

10 (a) has been awarded a Montana university system honor scholarship;

11 (b) has failed to meet the federal Title IV selective service registration requirements;

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

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

17 (11) (a) Except as provided in subsection (11)(b), scholarship awards are not subject to appeal.

18 (b) A student may appeal the termination of a scholarship based on extenuating circumstances in
19 accordance with board policy."

20

21 **Section 10.** Section 20-26-606, MCA, is amended to read:

22 **"20-26-606. Public and private sources of funding -- restrictions on use -- accounting.** (1) The
23 board may accept donations from public or private sources and shall distribute those funds in accordance with
24 this part.

25 (2) Except when a donor of private funds designates that scholarship funds must be given to students
26 attending a private college, scholarship awards are determined solely by the board or an entity designated by the
27 board pursuant to board policy adopted under 20-26-602 and [section 1].

28 (3) Funds from public sources may not be used to pay for scholarships for students enrolled in Montana
29 private colleges.

30 (4) Funds from private sources must be deposited into an account in the state special revenue fund

1 established in 17-2-102 to pay for scholarships for students enrolled in postsecondary institutions or, when
2 designated by the donor, in Montana private colleges.

3 (5) Each postsecondary institution or Montana private college that receives scholarship payments shall
4 prepare and submit to the board, in accordance with procedures and policies established by the board, a report
5 of the postsecondary institution's or Montana private college's administration of the scholarships and a complete
6 accounting of scholarship funds.

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

8 (7) Except for funds donated from private sources, the obligation for funding the governor's
9 postsecondary scholarship program is an obligation of the state. This section may not be construed to require
10 the board to provide scholarships to an eligible student without an appropriation to the board for the purposes
11 of ~~this part~~ the governor's postsecondary scholarship program. Funds from private sources may not be used as
12 an offset to general fund appropriations."
13

14 **Section 11.** Section 23-7-102, MCA, is amended to read:

15 **"23-7-102. Purpose Mission -- purpose.** (1) The mission of the state lottery is to maximize the transfer
16 of net revenue to support the Montana STEM scholarship program established in [section 1] by providing products
17 that meet the expectations of consumers while adhering to the highest standards of security and integrity.

18 ~~(1)(2)~~ (2) The purpose of this chapter is to allow lottery games in which the player purchases from the state,
19 through the administrators of the state lottery, a chance to win a prize. This chapter does not allow and may not
20 be construed to allow any game in which a player competes against or plays with any other person, including a
21 person employed by an establishment in which a lottery game may be played.

22 ~~(2)(3)~~ (3) The administration and construction of this chapter must comply with Article III, section 9, of the
23 Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the
24 legislature or by the people through initiative or referendum. Therefore, this chapter must be strictly construed
25 to allow only those games that are within the scope of this section and within the definition of "lottery game".

26 ~~(3)(4)~~ (4) The state lottery may not:

27 (a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or

28 (b) carry on any form of gambling permitted by the laws of this state but which is not a lottery game within
29 the scope of this section and within the definition of "lottery game".
30

1 **Section 12.** Section 23-7-202, MCA, is amended to read:

2 **"23-7-202. Powers and duties of commission.** The commission shall:

3 (1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

4 (2) determine policies for the operation of the state lottery, supervise the director and the staff, and meet
5 with the director at least once every 3 months to make and consider recommendations, set policies, determine
6 types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

7 (3) maximize the net revenue paid to the state general fund and to the Montana STEM scholarship
8 program special revenue account under 23-7-402 and ensure that all policies and rules adopted further revenue
9 maximization;

10 (4) subject to 23-7-402(1), determine the percentage of the money paid for tickets or chances to be paid
11 out as prizes;

12 (5) determine the price of each ticket or chance and the number and size of prizes;

13 (6) provide for the conduct of drawings of winners of lottery games;

14 (7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to
15 make the state lottery more efficient, profitable, and secure from violations of the law;

16 (8) study and may enter into agreements with:

17 (a) other lottery states and countries to offer lottery games; or

18 (b) an association for the purpose of participating in multistate lottery games or games offered in other
19 states and other countries;

20 (9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but
21 not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state,
22 contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report
23 to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker
24 of the house of representatives, and each member of the appropriate committee of each house of the legislature
25 as determined by the president of the senate and the speaker of the house; and

26 (10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and
27 any other rules necessary to carry out this part."

28

29 **Section 13.** Section 23-7-402, MCA, is amended to read:

30 **"23-7-402. (Temporary) Disposition of revenue.** (1) A minimum of 45% of the money paid for tickets

1 or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in
2 17-7-502, to the lottery.

3 (2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

4 (3) Lottery contractor fees, which are fees paid to contracted lottery vendors based on sales, must be
5 paid from the state lottery enterprise fund. The money to pay lottery contractor fees is statutorily appropriated,
6 as provided in 17-7-502, to the lottery.

7 (4) That part of all gross revenue not used for the payment of prizes, commissions, and operating
8 expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise
9 fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401
10 to the state general fund. Once the amount of net revenue transferred to the general fund during a fiscal year
11 equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be
12 transferred to the Montana STEM scholarship program special revenue account established in [section 4].

13 (5) The spending authority of the lottery may be increased in accordance with this section upon review
14 and approval of a revised operation plan by the office of budget and program planning. (Terminates June 30,
15 2019--sec. 3, Ch. 2, L. 2013.)

16 **23-7-402. (Effective July 1, 2019) Disposition of revenue.** (1) A minimum of 45% of the money paid
17 for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided
18 in 17-7-502, to the lottery.

19 (2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

20 (3) That part of all gross revenue not used for the payment of prizes, commissions, and operating
21 expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise
22 fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401
23 to the state general fund. Once the amount of net revenue transferred to the general fund during a fiscal year
24 equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be
25 transferred to the Montana STEM scholarship program special revenue account established in [section 4].

26 (4) The spending authority of the lottery may be increased in accordance with this section upon review
27 and approval of a revised operation plan by the office of budget and program planning."
28

29 **NEW SECTION. Section 14. Appropriation.** There is appropriated \$800,000 from the state lottery
30 enterprise fund to the state lottery for the biennium ending June 30, 2017, for the purpose of advertising and

1 marketing the Montana STEM scholarship program established in [sections 1 through 3].

2

3 NEW SECTION. **Section 15. Codification instruction.** [Sections 1 through 4] are intended to be
4 codified as an integral part of Title 20, chapter 26, part 6, and the provisions of Title 20, chapter 26, part 6, apply
5 to [sections 1 through 4].

6

7 NEW SECTION. **Section 16. Effective date.** [This act] is effective July 1, 2015.

8

9 NEW SECTION. **Section 17. Applicability.** [This act] applies to scholarships awarded to students
10 attending postsecondary institutions for school years beginning after June 30, 2016.

11

- END -