

SENATE BILL NO. 328

INTRODUCED BY L. JONES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENCOURAGE SAVINGS FOR HIGHER EDUCATION AND
5 REDUCE THE DEBT LOAD OF STUDENTS; ESTABLISHING THE EDUCATION IS THE BEST BET SAVINGS
6 ACCOUNT PROGRAM; PROVIDING A PROGRAM DESCRIPTION AND REQUIREMENTS FOR THE
7 COMMISSIONER OF HIGHER EDUCATION IN ADMINISTERING THE PROGRAM; REDIRECTING A PORTION
8 OF LOTTERY REVENUE TO FUND THE PROGRAM; REQUIRING A CHECK BOX ON BIRTH CERTIFICATES
9 TO FACILITATE ENROLLMENT IN THE PROGRAM; AMENDING SECTIONS 23-7-402 AND 50-15-221, MCA;
10 AND PROVIDING AN EFFECTIVE DATE."

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

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14 NEW SECTION. **Section 1. Short title.** [Sections 1 through 4 may be cited as the "Education Is the
15 Best Bet Savings Account Program Act".

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17 NEW SECTION. **Section 2. Purpose.** (1) The purposes of [sections 1 through 4] are to:

- 18 (a) cultivate a culture in which children envision their education continuing beyond high school in order
- 19 to improve the quality of life for all Montanans;
- 20 (b) utilize modest state investments in individual Montana children to encourage greater long-term
- 21 investments by parents and others for the higher education costs of Montana children; and
- 22 (c) reduce the debt load of future generations for higher education.

23 (2) The legislature intends to fulfill the purposes under subsection (1) by stimulating greater investment
24 in family education savings accounts pursuant to Title 15, chapter 62.

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26 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 4], the following definitions
27 apply:

- 28 (1) "Education is the best bet account" or "account" means an account within the private purpose trust
- 29 fund established for an eligible resident child of Montana and funded by contributions by the state of Montana.
- 30 (2) "Family education savings account" means an account established under Title 15, chapter 62.

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2 **NEW SECTION. Section 4. Education is the best bet savings account program -- administration.**

3 (1) There is an education is the best bet savings account program administered by the commissioner of higher
4 education.

5 (2) (a) A resident child of Montana is eligible to have an account established on the child's behalf on the
6 child's birth or adoption. An account must be established only:

7 (i) on a parent's request for the establishment indicated on the child's Montana birth registry form; or

8 (ii) under conditions established by the commissioner of higher education that allow for the establishment
9 of an account for residents of Montana who become adoptive parents or give birth outside the state of Montana.

10 (b) The commissioner shall ensure that residents of Montana who become parents under subsection
11 (2)(a)(ii) have the opportunity to learn about the program and request the establishment of an account.

12 (c) If an adopted child already has an established account, a second account may not be established;
13 however, in this circumstance, the commissioner shall transfer an amount equal to the amount contributed to the
14 child's family education savings account within 1 year of the child's adoption, with the total lifetime state
15 contribution to the account not to exceed \$200.

16 (3) There is a higher education generation account within the state special revenue fund created in
17 17-2-102. The higher education generation account is administered by the commissioner of higher education.

18 (4) Upon the establishment of an education is the best bet account, the commissioner shall transfer \$25
19 from the higher education generation account to the child's education is the best bet account.

20 (5) For the first 2 years of a child's life, the commissioner shall transfer an amount equal to the amount
21 contributed to the child's family education savings account from the higher education generation account to the
22 child's education is the best bet account. The total state contribution to a child's account may not exceed \$100
23 per year, including the initial \$25.

24 (6) A child's education is the best bet account must remain separate from the child's family education
25 savings account and must be invested as determined by the commissioner of higher education. The
26 commissioner of higher education shall distribute interest earnings in proportion to the balances of individual
27 accounts. Only the funds transferred under subsections (4) and (5) and interest earnings may be deposited in
28 an education is the best bet account.

29 (7) A child's education is the best bet account must be closed and any funds in the account transferred
30 to the higher education generation account under any of the following circumstances:

1 (a) if, on the child's second birthday, a family education savings account has not been established on
2 behalf of the child with a contribution of at least \$25; or

3 (b) if the child's family education savings account is closed, the designated beneficiary is changed, or
4 funds are withdrawn for expenses other than qualified higher education expenses leaving a balance of less than
5 the balance of the child's education is the best bet account.

6 (8) (a) The designated beneficiary of an education is the best bet account may not be changed.

7 (b) Funds in an education is the best bet account may be spent only on qualified higher education
8 expenses, as defined in 15-62-103.

9 (9) The commissioner shall market the education is the best bet savings account program to ensure
10 widespread awareness. The marketing effort must include program information distributed to a parent of a
11 Montana resident child following the parent's request to establish an account and 60 days prior to the child's first
12 and second birthdays. The commissioner shall inform parents of the account balance annually.

13 (10) The commissioner may spend no more than 5% of any funds transferred to the higher education
14 generation account on administering and marketing the program.

15 (11) The commissioner shall adopt policies for the administration of the education is the best bet savings
16 account program.

17

18 **Section 5.** Section 23-7-402, MCA, is amended to read:

19 **"23-7-402. (Temporary) Disposition of revenue.** (1) A minimum of 45% of the money paid for tickets
20 or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in
21 17-7-502, to the lottery.

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

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

26 (4) That part of all gross revenue not used for the payment of prizes, commissions, and operating
27 expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise
28 fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401
29 as follows:

30 (a) to the higher education generation account established in [section 2]:

- 1 (i) \$675,000; or
 2 (ii) if the total net revenue for the quarter is less than \$675,000, the total net revenue; and
 3 (b) any remaining funds to the state general fund.

4 (5) The spending authority of the lottery may be increased in accordance with this section upon review
 5 and approval of a revised operation plan by the office of budget and program planning. (Terminates June 30,
 6 2019--sec. 3, Ch. 2, L. 2013.)

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

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

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15 (a) to the higher education generation account established in [section 2]:

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 17 (ii) if the total net revenue for the quarter is less than \$675,000, the total net revenue; and
 18 (b) any remaining funds to the state general fund.

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

21

22 **Section 6.** Section 50-15-221, MCA, is amended to read:

23 **"50-15-221. Birth registration.** (1) A certificate of birth must be filed as specified in this section with the
 24 department for each live birth that occurs in this state. Unless otherwise directed by the department, the certificate
 25 must be filed within the time prescribed by the department by rule after the birth. The birth certificate must be
 26 registered if it has been completed and filed in accordance with this section and rules adopted to implement this
 27 section.

28 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by the
 29 attending physician or the physician's designee.

30 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or the

1 person's authorized designee shall obtain the personal data concerning the newborn child, prepare the certificate,
2 and certify that the child was born alive at the place, at the time, and on the date stated. Certification may be by
3 signature or by an approved electronic process. The person referenced in this subsection shall file the certificate
4 as directed in subsection (1). The physician or other person in attendance at the birth shall provide the medical
5 information required by the certificate within 72 hours after the birth.

6 (4) The department shall, by rule, determine what evidence may be required to establish the facts of birth
7 if the birth occurs at a place other than a health care facility. In accordance with rules promulgated by the
8 department, the certificate must be prepared and filed by one of the following persons in the indicated order of
9 priority in subsections (4)(a) through (4)(e):

10 (a) the physician or the physician's designee or a midwife licensed pursuant to Title 37, chapter 27, in
11 attendance at or immediately after the birth;

12 (b) a person in attendance at or immediately after the birth;

13 (c) the father or the mother;

14 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
15 where the birth occurred; or

16 (e) the local registrar, if 50-15-202 applies.

17 (5) When a birth occurs on a moving conveyance within the United States and the newborn child is first
18 removed from the conveyance in this state, the birth must be registered in this state by a person listed in
19 subsection (4) and the place where the child is first removed from the conveyance is considered the place of birth.
20 When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country
21 or its air space and the child is first removed from the conveyance in this state, the birth must be registered by
22 a person listed in subsection (4) in this state, but the certificate must indicate the actual place of birth insofar as
23 the place can be determined.

24 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to be the
25 mother, unless otherwise provided by state law or determined by a court of competent jurisdiction prior to the filing
26 of the birth certificate. Information about the father must be entered as provided in subsection (7).

27 (7) (a) If the mother was married at the time of conception or birth or between conception and birth, the
28 name of the husband must be entered on the certificate as the father of the child, unless:

29 (i) other paternity has been determined by a court of competent jurisdiction;

30 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is not the

1 father of the child. Affidavits must be notarized, and signatures of the mother and of the husband must be
2 individually notarized on any joint affidavit. If affidavits are filed, information about the father must be omitted from
3 the certificate.

4 (iii) the mother executes an affidavit attesting that the husband is not the father and names a putative
5 father, the putative father executes an affidavit attesting paternity, and the husband executes an affidavit denying
6 paternity. Affidavits may be joint or individual or a combination of joint and individual affidavits. Each signature
7 on an affidavit must be individually notarized. If all affidavits are filed, the putative father must be shown as the
8 father on the certificate.

9 (b) If the mother was not married at the time of conception or birth or between conception and birth, the
10 name of the father may not be entered on the certificate without an affidavit of paternity signed by the mother and
11 the person to be named as the father.

12 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father and
13 surname of the child must be entered on the certificate of birth in accordance with the finding and order of the
14 court.

15 (d) If the father is not named on the certificate of birth, information about the father may not be entered
16 on the certificate.

17 (e) Affidavits required under this subsection (7) must be filed with the department.

18 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data to be
19 entered on the certificate in order to permit the filing of the certificate within the time prescribed in subsection (1).

20 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the date
21 of birth must be registered by the natural parents, the adoptive parents, or the person having legal custody of the
22 child, on the standard form of live birth certificate in the manner prescribed in this section and by rule. The
23 certificate may not be designated as delayed. The department may require additional evidence in support of the
24 facts of birth.

25 (10) The department shall include on the certificate of birth a component by which a parent can indicate
26 a request to have an education is the best bet account established for the child pursuant to [sections 1 through
27 4]. When a parent indicates this request, the department shall provide the commissioner of higher education with
28 the name of the child and the name and contact information of the child's parents."

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30 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 4] are intended to be codified

1 as an integral part of Title 20, chapter 26, and the provisions of Title 20, chapter 26, apply to [sections 1 through
2 4].

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4 NEW SECTION. **Section 8. Effective date.** [Section 5] and this section are effective July 1, 2015.

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