

HOUSE BILL NO. 591

INTRODUCED BY Z. BROWN

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA STUDENT LOAN REFINANCE PROGRAM TO BE ADMINISTERED BY THE BOARD OF INVESTMENTS; PROVIDING FOR THE INVESTMENT OF MONEY FROM THE PERMANENT COAL TAX TRUST FUND FOR REFINANCING STUDENT LOANS; ALLOWING THE BOARD OF INVESTMENTS TO CONTRACT FOR THE SERVICING OF REFINANCED LOANS; AMENDING SECTIONS 17-6-201 AND 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana Student Loan Refinancing Act".

NEW SECTION. **Section 2. Findings -- purpose.** (1) The legislature finds that:

- (a) Montanans who have pursued postsecondary credentials are often burdened with a large amount of student loan debt.
- (b) This debt burden inhibits economic growth not just for the borrower but for the entire state.
- (c) A portion of this debt burden exists in high-interest private student loans.
- (d) Investment of state public funds to refinance these high-interest private student loans at lower rates will enable Montana borrowers to contribute more to the Montana economy.

(2) The purpose of [sections 1 through 4] is to create a program that provides measurable relief for qualified Montanans through the investment of public funds for the refinancing of high-interest private student loans. The legislature intends that the board of investments establish the program in a manner and on a timeline that the board determines prudent.

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

- (1) "Board" means the board of investments created in 2-15-1808.



1 (2) "Coal tax trust fund" or "trust fund" means the trust fund created pursuant to Article IX, section 5, of
2 the Montana constitution.

3 (3) "Eligible borrower" means an individual who is a Montana resident and who:

4 (a) is able to repay as determined by the board; and

5 (b) has an existing private student loan with a 6% or greater interest rate.

6 (4) "Private student loan" means a loan issued by a private lending institution for the costs of attendance
7 at any public or private college or university in the United States.

8 (5) "Resident" means an individual who maintains a permanent place of abode within Montana and who
9 has not established a residence elsewhere even though the individual may be temporarily absent from the state.

10 (6) "Student loan refinance program" or "program" means the program created in [section 4].

11

12 **NEW SECTION. Section 4. Student loan refinance program -- use of coal tax trust fund money.**

13 (1) There is a student loan refinance program administered by the board. The board shall adopt policies for the
14 administration of the program. In adopting the policies, the board shall apply the prudent expert principle,
15 pursuant to 17-6-201, and consider the purpose of the program described in [section 2]. These policies may utilize
16 the components and practices customary to loan programs.

17 (2) The interest rates on student loans refinanced under the program must be established by the board
18 at rates that are favorable when compared to the education loans being refinanced with a desired goal of
19 providing at least a 20% interest rate reduction to eligible borrowers who refinance their private student loans
20 under the program.

21 (3) In determining a borrower's ability to pay and eligibility to participate in the program, and in structuring
22 the terms of the program, the board shall apply prudent underwriting criteria and program features with the intent
23 of minimizing the potential for loan loss while maximizing the number of Montanans eligible to participate in the
24 program.

25 (4) The board may establish fees to cover the necessary costs of origination, underwriting, loan loss,
26 and servicing payable by an eligible borrower participating in the program. The fees may be included in the
27 amount borrowed. The board or any contracted entity pursuant to subsection (7) shall provide information to
28 potential borrowers prior to refinancing a loan on the impact of fees on monthly payments, term of the loan, and
29 total interest paid. The legislature intends that any fees established under this subsection be minimized in keeping
30 with the purpose of the program under [section 2].

1 (5) The board may invest up to \$40 million of the permanent coal tax trust fund as revolving capital for
2 the purpose of the program.

3 (6) As a loan refinanced pursuant to [sections 1 through 4] is repaid, the principal payments on the loan
4 must be deposited in the trust fund until all of the principal of the loan is repaid. Interest received on the loan must
5 be deposited in the trust fund, except for any portion required to compensate an entity contracted by the board
6 pursuant to subsection (7) or any portion allocated by the board to a loan loss reserve account pursuant to
7 subsection (8).

8 (7) The board may contract with an entity for the originating, underwriting, and servicing of student loans
9 refinanced under the program. The board or the entity may contract for services related to the program including
10 but not limited to recovery of funds following loan default. In recovering funds from defaulted loans, the board or
11 its agents may employ standard collection methods.

12 (8) The board may establish a loan loss reserve account using a portion of the interest received from
13 refinanced loans for the purpose of replacing the principal of a loan that is not repaid and cannot be collected if
14 the board determines the establishment of a loan loss reserve account is necessary to maintain the integrity of
15 the coal tax trust fund. The board may allocate a portion of the interest to the loan loss reserve account until the
16 loan loss reserve account balance is sufficient in the board's prudent judgment. Any funds allocated to the loan
17 loss reserve account must not be considered a reduction in the overall investment performance of the program.

18 (9) The board may delay implementing the program until it can procure all necessary contracted services
19 pursuant to subsection (7) on reasonable, cost-effective, and prudent terms or until the board determines the
20 program can be prudently established.

21 (10) The board shall report to the education and local government interim committee and the legislative
22 finance committee by no later than June 1 of each even-numbered year on the status of the program. The report
23 must include:

- 24 (a) the number and total amount of loans refinanced under the program;
25 (b) the monthly savings available to eligible borrowers who have refinanced under the program;
26 (c) the rate of return of coal tax trust fund money invested through the program;
27 (d) the rate of default and total amount of defaults under the program; and
28 (e) any recommendations for improving the program.

29

30 **Section 5.** Section 17-6-201, MCA, is amended to read:

1 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program
2 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
3 administered by the board of investments in accordance with the prudent expert principle, which requires an
4 investment manager to:

5 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then
6 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters
7 exercises in the conduct of an enterprise of a like character with like aims;

8 (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss
9 and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

10 (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified
11 investment program.

12 (2) (a) Retirement funds may be invested in common stocks of any corporation.

13 (b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital
14 stock" means only the common stock of a corporation.

15 (3) (a) This section does not prevent investment in any business activity in Montana, including activities
16 that continue existing jobs or create new jobs in Montana.

17 (b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in
18 venture capital companies. Whenever possible, preference should be given to investments in those venture
19 capital companies that demonstrate an interest in making investments in Montana.

20 (c) In discharging its duties, the board shall consider the preservation of purchasing power of capital
21 during periods of high monetary inflation.

22 (d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion
23 of a loan originated by a financial institution is not considered a direct loan.

24 (e) This section does not prevent investment in home loan mortgages under the provisions of the
25 Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

26 (f) This section does not prevent investment in student loans under the provisions of the Montana student
27 loan refinance program provided for in [sections 1 through 4].

28 (4) The board has the primary authority to invest state funds. Another agency may not invest state funds
29 unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the
30 laws and constitution of this state. The board has the power to veto investments made under its general

1 supervision.

2 (5) The board shall:

3 (a) assist agencies with public money to determine if, when, and how much surplus cash is available for
4 investment;

5 (b) determine the amount of surplus treasury cash to be invested;

6 (c) determine the type of investment to be made;

7 (d) prepare the claim to pay for the investment; and

8 (e) keep an account of the total of each investment fund and of all the investments belonging to the fund
9 and a record of the participation of each treasury fund account in each investment fund.

10 (6) The board may:

11 (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the
12 transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a
13 qualified appraiser.

14 (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and
15 17-6-105;

16 (c) direct the sale of securities in the program at their full and true value when found necessary to raise
17 money for payments due from the treasury funds for which the securities have been purchased.

18 (7) The cost of administering and accounting for each investment fund must be deducted from the
19 income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of
20 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay
21 the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108."

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23 **Section 6.** Section 17-6-308, MCA, is amended to read:

24 "**17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through ~~(5)~~ (6) and
25 subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized
26 by rules adopted by the board.

27 (2) The board may make loans from the permanent coal tax trust fund to the capital reserve account
28 created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree
29 in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must
30 be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise

1 of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior
2 pledge of the revenue to the bonds and notes.

3 (3) The board shall manage the seed capital and research and development loan portfolios created by
4 the former Montana board of science and technology development. The board shall establish an appropriate
5 repayment schedule for all outstanding research and development loans made to the university system. The
6 board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by
7 the Montana board of science and technology development as part of the seed capital and research and
8 development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal
9 tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other
10 instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science
11 and technology development are repaid, the board shall deposit the proceeds or loans made from the coal
12 severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7%
13 interest.

14 (4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent
15 coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90,
16 chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of
17 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest
18 payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest
19 have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan
20 amounts may not exceed 10% of the amount administered under this subsection.

21 (5) The board shall allow the board of housing to administer \$40 million of the permanent coal tax trust
22 fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6,
23 part 6.

24 (6) The board may invest up to \$40 million of the permanent coal tax trust fund for the purposes of the
25 Montana student loan refinance program provided for in [sections 1 through 4].

26 ~~(6)~~(7) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The
27 rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit
28 corporations.

29 ~~(7)~~(8) All repayments of proceeds pursuant to subsection (3) of investments made from the coal
30 severance tax trust fund must be deposited in the coal severance tax permanent fund."

