

HOUSE BILL NO. 610

INTRODUCED BY Z. BROWN, B. BENNETT, S. LASZLOFFY, K. MCCARTHY, N. MCCONNELL,  
A. PERSON, N. SCHWADERER

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

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

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

5 (a) is able to repay as determined by the board of investments; and

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

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

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

11 (6) "Student loan refinance program" or "program" means the program created in [section 4].  
12

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

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

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

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

26 (4) The board of investments may establish fees to cover the costs of origination, underwriting, loan loss,  
27 and servicing payable by an eligible borrower participating in the program. The fees may be included in the  
28 amount borrowed.

29 (5) The board of investments may ~~utilize~~ INVEST up to \$40 million of the permanent coal tax trust fund  
30 as revolving capital for the purpose of the program.

1 (6) As a loan refinanced pursuant to [sections 1 through 4] is repaid, the principal payments on the loan  
 2 must be deposited in the trust fund until all of the principal of the loan is repaid. Interest received on the loan must  
 3 be deposited in the trust fund, except for any portion required to compensate an entity contracted by the board  
 4 pursuant to subsection (7) OR ANY PORTION ALLOCATED BY THE BOARD TO A LOAN LOSS RESERVE ACCOUNT PURSUANT  
 5 TO SUBSECTION (8).

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

10 (8) THE BOARD MAY ESTABLISH A LOAN LOSS RESERVE ACCOUNT USING A PORTION OF THE INTEREST RECEIVED  
 11 FROM REFINANCED LOANS FOR THE PURPOSE OF REPLACING THE PRINCIPAL OF A LOAN THAT IS NOT REPAYED AND CANNOT  
 12 BE COLLECTED IF THE BOARD DETERMINES THE ESTABLISHMENT OF A LOAN LOSS RESERVE ACCOUNT IS NECESSARY TO  
 13 MAINTAIN THE INTEGRITY OF THE COAL TAX TRUST FUND. THE BOARD MAY ALLOCATE A PORTION OF THE INTEREST TO THE  
 14 LOAN LOSS RESERVE ACCOUNT UNTIL THE LOAN LOSS RESERVE ACCOUNT BALANCE IS SUFFICIENT IN THE BOARD'S  
 15 PRUDENT JUDGMENT. ANY FUNDS ALLOCATED TO THE LOAN LOSS RESERVE ACCOUNT MUST NOT BE CONSIDERED A  
 16 REDUCTION IN THE OVERALL INVESTMENT PERFORMANCE OF THE PROGRAM.

17 ~~(8)~~(9) The board may delay implementing the program until it can procure all necessary contracted  
 18 services pursuant to subsection (7) on reasonable, cost-effective, and prudent terms OR UNTIL THE BOARD  
 19 DETERMINES THE PROGRAM CAN BE PRUDENTLY ESTABLISHED.

20 ~~(9)~~(10) The board shall report to the education and local government interim committee and the  
 21 legislative finance committee by no later than June 1 of each even-numbered year on the status of the program.  
 22 The report must include:

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

28  
 29 **Section 5.** Section 17-6-201, MCA, is amended to read:

30 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program

1 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be  
2 administered by the board of investments in accordance with the prudent expert principle, which requires an  
3 investment manager to:

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) The board shall:

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

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

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

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

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

9 (6) The board may:

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

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

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

17 (7) The cost of administering and accounting for each investment fund must be deducted from the  
18 income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of  
19 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  
20 the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108."

21

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

23 **"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through ~~(5)~~ (6) and  
24 subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized  
25 by rules adopted by the board.

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

1 pledge of the revenue to the bonds and notes.

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

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

20 (5) The board shall allow the board of housing to administer \$30 million of the permanent coal tax trust  
21 fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6,  
22 part 6.

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

25 ~~(6)~~(7) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The  
26 rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit  
27 corporations.

28 ~~(7)~~(8) All repayments of proceeds pursuant to subsection (3) of investments made from the coal  
29 severance tax trust fund must be deposited in the coal severance tax permanent fund."  
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1            **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 4] are intended to be codified  
2 as an integral part of Title 20, chapter 26, and the provisions of Title 20, chapter 26, apply to [sections 1 through  
3 4].

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5            **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2015.

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