



MONTANA UNIVERSITY SYSTEM

May 15, 2008

Honorable Max Baucus
United States Senate
511 Hart Senate Office Building
Washington DC 20510

Honorable John Tester
United States Senate
204 Russell Senate Office Building
Washington DC 20510

Dear Senator Baucus and Senator Tester:

This letter is in response to your letter of April 25, 2008 requesting additional information with respect to student loan activities in Montana. This response is preliminary; the board is scheduled to review and approve the report at its meeting on May 30, 2008. The fourteen specific questions referenced in your letter are all specific to the operations of MHESAC and SAF and are addressed in the attached responses from both of those organizations. We have reviewed the responses from MHESAC and SAF and, to the best of our knowledge, believe the responses to be accurate and complete.

The Board of Regents (BOR) and the Montana University System (MUS) have been actively involved in these two organizations since their inception. The following historical perspective is helpful for a full understanding of the involvement of the Board of Regents in Montana's student loan activity.

Direct Involvement and Responsibility

The Board of Regents direct involvement with student loans is through the Montana Guaranteed Loan Program (MGSLP), which is part of the Office of the Commissioner of Higher Education. Working under the guidance of the BOR, MGSLP's primary goal is to improve access to postsecondary education in Montana. This goal is accomplished by working collaboratively with schools, colleges, lenders, and other trading partners who believe that an investment in education is an investment in Montana.

Created in 1979 by the Montana Legislature, MGSLP is the designated guarantor for the Federal Family Education Loan Program (FFELP) in Montana. For more than 25 years, MGSLP has been a full service guarantee agency providing schools and lenders

Sheila M. Stearns
Commissioner of Higher Education

with a central loan origination and disbursement service. MGSLP provides a variety of guarantee support services including streamlined application processing, single point of contact for schools, lenders, and borrowers, and in-house default prevention and collections. The success of this program is best exhibited by Montana's exceptionally low student loan default rate. The most recent preliminary cohort default rate is 2.32%, which is expected to be ranked in the top five nationally.

Indirect Involvement and Responsibility

In May of 1980, the Board of Regents approved Policy 505.4 – Non-profit Corporation to Assist and Promote the Montana Guaranteed Student Loan Program. The policy reads as follows:

The Board of Regents authorizes the formation of a non-profit corporation for the purpose of issuing bonds to provide funds for purchase of student loans held by Montana lending institutions. In creating a secondary market for student loan notes, Montana lenders will be encouraged to make loans available to students under the Montana Guaranteed Student Loan Program. The corporation may also serve as a lender if a student is unable to obtain a loan from private lending institutions.

The Montana Higher Education Student Assistance Corporation (MHESAC) was organized in 1983 to implement this Board policy and has been helping students and their families obtain financing for postsecondary education for the past 24 years.

MHESAC does this by providing capital for Federal Family Education Loan Program (FFELP) student loans made to Montanans and lowering the cost of financing postsecondary education for Montana citizens. This is accomplished through: MHESAC'S FFELP Montana student loan secondary market activity; MHESAC'S Montana student loan origination activities; and MHESAC'S Montana borrower rebate program.

MHESAC/SAF/Board of Regents Interrelationship

The Montana Board of Regents relationship with MHESAC and SAF, while not based on a legal connection, as is the case with MGSLP, has been continuous since the early 1980's. Members of the Board of Regents have and do serve as MHESAC board members. Currently three members of the Board of Regents serve as members of the MHESAC Board of Directors. In accordance with Board of Regents Policy 505.2, the Commissioner of Higher Education is authorized and directed to serve as President of the Corporation and as an ex-officio non-voting member of the Board of directors of MHESAC. The Associate Commissioner for Administrative & Fiscal Affairs serves in the capacity of MHESAC Vice-President.

Goal I of the 2006-2010 Strategic Plan of the Montana Board of Regents clearly addresses the issue of access to and affordability of postsecondary education for

Montana students. Strong recommendations regarding limiting tuition increases and increasing need-based financial aid lead the discussion of recommended improvements in the financing of the Montana Higher Education System. Student loans have unfortunately become an integral part of the postsecondary funding mix for many Montana students. Given this reality, the Board of Regents has recognized FFELP loans as a low cost student loan alternative. Board of Regents' awareness of the MHESAC business model includes understanding of the importance of providing capital to Montana lenders and utilizing the MHESAC surplus to provide borrower benefits for Montana students. SAF is also an integral part of the MHESAC business model.

The Student Assistance Foundation (SAF) is a Montana not-for-profit corporation incorporated in July 1999 to provide education finance services to Montana students and support services for student financial aid industry participants. SAF was formed as part of a major restructuring plan adopted by the MHESAC Board of Directors in response to changes in the student loan industry and in an effort to expand financial aid benefits available to Montana students. As part of this plan, the employees and operating assets of MHESAC were transferred to SAF. MHESAC contracted with SAF for student loan servicing and management functions. SAF also provides student loan servicing to other lenders and national clients. SAF provides financial support as well as a variety of counseling and information services to Montana students involved in post-secondary education.

In June 2003, SAF created a wholly owned limited liability company named Montana Student Loan Funding, LLC (MSLF). This corporation acquires and originates student loans. The nature of the loans held by MSLF are for the specific purpose of sale to MHESAC.

Currently three members of the Board of Regents serve on the nine member SAF Board of Directors. The Commissioner and Associate Commissioner serve as officers of SAF.

Recent BOR activity

Questions and concerns regarding the relationship between MHESAC and the Board of Regents prompted the creation of a Board of Regents - Montana Student Loan Taskforce to re-evaluate the Board of Regents relationship to the Montana student loan industry. The Chair of the Board of Regents presented the following charge to the Taskforce.

Taskforce Charge:

- 1) At the November 2007 Board of Regents meeting, make recommendations to the Board of Regents regarding the Board's governance and accountability issues relative to Montana volume cap and its importance to Montana student borrowers.

- 2) Develop and recommend a process for monitoring and making policy adjustments relative to recommendations in the Montana Attorney General's report, as well as changes in student loan programs and financing issues at the federal level to include, but be not limited to, lenders' relationships with the campuses.
- 3) Review and recommend changes as needed to improve communications between the Board of Regents, the Executive and Legislative branches, and the Student Assistance Foundation and Montana Higher Education Student Assistance Corporation boards of directors.

The BOR unanimously accepted the Student Loan Taskforce Report on March 6, 2008. We have attached a copy of the report along with the transmittal letter from the Commissioner of Higher Education to the Chair of MHESAC.

The BOR met again, via conference call, on April 29, 2008 and adopted a resolution supporting, among other items, the concept of a Standby Purchase Agreement in relation to the legislation being discussed at the Federal level. A copy of the resolution is attached.

During the April 29th conference call, the BOR also adopted a motion to request a performance audit of MHESAC and SAF be performed by the Montana Office of Legislative Audit. The response to the audit request, from the Legislative Auditor, was issued on May 8, 2008. The Legislative Auditor respectfully declined to conduct the performance audit on the basis of not having jurisdiction over MHESAC and SAF. A copy of the letter is attached.

Conclusion

While the Office of the Commissioner did not provide specific answers to the 14 questions, the office does have direct access to the information requested, and it is available to the public. Annual audited financial statements, quarterly financial statements, Form 990 Tax Returns, and program audits are all made available to the respective boards and officers for review and discussion. Actions regarding accessing capital, the acquisition of student loans, major operational decisions, and other business policy decisions are all brought to the respective boards.

The Commissioner and Associate Commissioner, as officers of MHESAC, are normally present during each board meeting of the respective corporations and converse with corporate staff on a regular basis regarding ongoing activities. Some, but not all, of the members of the BOR, also serve on the boards of MHESAC or SAF or both. We are working, and will continue to work, to improve communications among the three boards and between the boards and the governor's office of the state of Montana. We are also working to ensure that our regents are better informed as to the activities of MHESAC and SAF, as well as to developments in the national student loan industry. As you will note, a prominent thread weaving through the BOR Student Loan Task Force Report is one of enhanced communications among all interested parties.

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We hope that this communication and the accompanying attachments provide you and your staff with the information needed. We are certainly available to assist in any way possible. Please do not hesitate to contact us.

Sincerely,

Sheila M. Stearns
Commissioner of Higher Education

Enclosures:

Taskforce Report and Recommendations
Resolution of the Montana Board of Regents
Letter from Legislative Auditor Scott Seacat