

HOUSE BILL NO. 301

INTRODUCED BY R. PEPPERS

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE NATIVE AMERICAN GAP FINANCING REVOLVING LOAN PROGRAM; CREATING THE NATIVE AMERICAN GAP FINANCING REVOLVING LOAN PROGRAM STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING MONEY TO THE ACCOUNT; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Native American Gap Financing Revolving Loan Program".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Account" or "program account" means the Native American gap financing revolving loan program account established in [section 4].

(2) "Beneficiary" means a business or other entity that benefits from a collateral support deposit.

(3) "Collateral support deposit" means a deposit made directly with a lender by the department to provide needed collateral security for a beneficiary's commercial loan.

(4) "Department" means the department of commerce provided for in 2-15-1801.

(5) "Lender" means a bank, native community development financial institution, tribal revolving loan institution, certified regional development corporation, microbusiness finance development corporation, trust company, credit union, local development corporation, consumer loan business, or industrial development corporation.

(6) "Program" means the Native American gap financing revolving loan program established in [section 3].

NEW SECTION. **Section 3. Native American gap financing revolving loan program -- powers and**



1 **duties of department -- rulemaking.** There is a Native American gap financing revolving loan program
 2 administered by the department. The department may adopt rules to implement the provisions of [sections 1
 3 through 6].

4
 5 **NEW SECTION. Section 4. Account -- beneficiaries -- expenditures.** (1) There is a Native American
 6 gap financing revolving loan program account in the state special revenue fund into which must be deposited:

- 7 (a) funds allocated for the purposes set forth in [sections 1 through 6];
 8 (b) money returned from collateral support deposits;
 9 (c) interest earned on the account and on collateral support deposits; and
 10 (d) grants, donations, and private or public income.

11 (2) Money in the account may be used only to:

- 12 (a) make collateral support deposits pursuant to the provisions of [sections 1 through 6]; and
 13 (b) pay the reasonable operating costs of the program.

14 (3) The department may make a collateral support deposit only for the benefit of an association,
 15 business, corporation, or other entity at least 51% of which is owned by one or more enrolled members of one
 16 of the seven federally recognized tribal governments of Montana or of the Little Shell band of Chippewa Indians.

17 (4) A collateral support deposit must be made pursuant to a collateral support agreement, may bear
 18 interest, and may contain other terms and conditions as specified by the department by rule.

19
 20 **NEW SECTION. Section 5. Authority to accept funds -- funding authorization.** (1) The department
 21 may accept grants, donations, and other private and public income. The department shall deposit all money
 22 received under this section in the program account.

23 (2) The money in the account may be obligated for the purposes of this part.

24
 25 **NEW SECTION. Section 6. Use of funds -- statutory appropriation.** Money in the program account
 26 is statutorily appropriated, as provided in 17-7-502, for the purpose of administering [sections 1 through 6].

27
 28 **NEW SECTION. Section 7. Transfer of funds.** By July 1, 2015, the state treasurer shall transfer
 29 \$500,000 from the economic development state special revenue account provided for in 90-1-205 to the Native
 30 American gap financing revolving loan program account established in [section 4].

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2 **Section 8.** Section 17-7-502, MCA, is amended to read:
3 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
4 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
5 need for a biennial legislative appropriation or budget amendment.

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

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

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

11 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;
12 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;
13 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;
14 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;
15 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;
16 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105;
17 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; 39-71-503;
18 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; 53-24-108;
19 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; 76-13-416;
20 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; 85-20-1504;
21 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; section 6; 90-3-1003; 90-6-331; and 90-9-306.

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
25 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
26 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
27 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
28 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
29 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
30 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.

1 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
2 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
3 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
4 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
5 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
6 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
7 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
8 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
9 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,
10 2015.)"

11
12 **NEW SECTION. Section 9. Notification to tribal governments.** The secretary of state shall send a
13 copy of this act to each tribal government located on the seven Montana reservations and to the Little Shell
14 Chippewa tribe.

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16 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 6] are intended to be
17 codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 1
18 through 6].

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20 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
22 the part remains in effect in all valid applications that are severable from the invalid applications.

23
24 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

25 - END -