

## 1 HOUSE BILL NO. 493

2 INTRODUCED BY R. LYNCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND  
5 HUMAN SERVICES TO ENTER INTO A LOAN AGREEMENT WITH THE MONTANA FACILITY FINANCE  
6 AUTHORITY FOR THE PURPOSE OF FINANCING THE ACQUIRING, CONSTRUCTION, AND EQUIPPING  
7 OF THE VETERANS' HOME IN SOUTHWESTERN MONTANA PENDING RECEIPT OF FEDERAL FUNDS;  
8 AUTHORIZING THE ESTABLISHMENT OF RESERVES AND THE PAYMENT OF COSTS OF THE FINANCING;  
9 AUTHORIZING THE CREATION OF STATE DEBT; AUTHORIZING THE CREATION OF A SPECIAL LIMITED  
10 OBLIGATION TO THE DEPARTMENT; APPROPRIATING THE LOAN PROCEEDS TO THE DEPARTMENT  
11 OF ADMINISTRATION FOR THE CONSTRUCTION OF THE VETERANS' HOME IN SOUTHWESTERN  
12 MONTANA; PROVIDING A STATUTORY APPROPRIATION AUTHORIZING PAYMENT OF THE OBLIGATION  
13 FROM CIGARETTE TAX REVENUES; AMENDING SECTIONS 16-11-119 AND 17-7-502, MCA; AMENDING  
14 SECTION 5, CHAPTER 324, LAWS OF 2011; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
15 TERMINATION DATE."

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

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19 NEW SECTION. **Section 1. Authorization of bonds.** (1) The department of public health and human  
20 services may enter into a loan agreement with the Montana facility finance authority for the purpose of financing  
21 the costs of acquiring, constructing, and equipping the state veterans' home in southwestern Montana pending  
22 the receipt of federal funds. The loan agreement may include the establishment of reserves and the payments  
23 of costs of the financing. The maximum principal amount of the loan may not exceed \$10 million for construction  
24 and related costs, which includes the necessary amounts for capitalized interest, debt service reserves, and  
25 financing costs. The loan must be payable over a term not to exceed 20 years and must bear interest and contain  
26 other terms and provisions with respect to prepayment or other matters that are not inconsistent with this section  
27 as approved by the department of public health and human services and the facility finance authority.

28 (2) Any funds in the state special revenue fund to the credit of the account established in section 2,  
29 Chapter 461, Laws of 2009, as of June 30, 2015, must be used for costs of acquiring, constructing, and equipping  
30 the state veterans' home in southwestern Montana and may not be applied to the payment of the loan.

1           (3) The loan may be secured by a mortgage on the state veterans' home in southwestern Montana,  
2 including the land on which it is located. The loan constitutes a special limited obligation of the department of  
3 public health and human services, and the principal and interest payments required by that agreement are  
4 payable from the state special revenue fund to the credit of the account established in section 2, Chapter 461,  
5 Laws of 2009, or from federal grant funds dedicated to the project. All cigarette tax revenues deposited in this  
6 state special revenue fund under 16-11-119(1)(b) after June 30, 2015, must be applied to either the payment of  
7 project costs or the principal and interest payments as due under the loan agreement. Principal and interest  
8 payments constitute a statutory appropriation within the meaning of 17-7-502. Whenever cigarette tax revenues  
9 distributed under 16-11-119(1)(b) exceed the amount and terms specified and required to repay the loan and  
10 maintain the required reserves, the excess may be applied to the repayment of the loan.

11           (4) When the federal grant funds for the state veterans' home in southwestern Montana are received,  
12 the funds must first be applied to pay off the loan under the terms of the loan. Once the Montana facility finance  
13 authority has certified to the code commissioner that the grant funds are sufficient to pay off the loan and all costs  
14 related to the loan, any remaining unencumbered funds in the account established in section 2, Chapter 461,  
15 Laws of 2009, must be deposited into the state general fund.

16           (5) If the federal grant funds are received prior to the bonds being issued, the authority to issue bonds  
17 as provided for in subsection (1) is extinguished. Costs related to preparing the bonds must be reimbursed to  
18 the Montana facility finance authority from the fund described in subsection (2).

19           (6) As long as the loan remains outstanding and the department of public health and human services  
20 provides services for veterans, the department shall use the veterans' home for those purposes or for other  
21 purposes as permitted by the loan agreement and state law. The loan agreement may contain other provisions  
22 or agreements that the department of public health and human services determines are necessary and that are  
23 not inconsistent with the provisions of Title 90, chapter 7.

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25           NEW SECTION. **Section 2. Appropriation of bond proceeds.** The proceeds of the bonds authorized  
26 in [section 1] are appropriated to the department of administration to be used for the construction of the veterans'  
27 home in southwestern Montana.

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29           **Section 3.** Section 16-11-119, MCA, is amended to read:  
30           **"16-11-119. Disposition of taxes.** (1) Cigarette taxes collected under the provisions of 16-11-111 must,

1 in accordance with the provisions of 17-2-124, be deposited as follows:

2 (a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the  
3 department of public health and human services for the operation and maintenance of state veterans' nursing  
4 homes;

5 (b) ~~for fiscal years beginning July 1, 2011, and ending June 30, 2015,~~ 1.2% in the state special revenue  
6 fund to the credit of the account established in section 2, Chapter 461, Laws of 2009, for the construction of the  
7 state veterans' home in southwestern Montana or for the payment or prepayment of the Montana facility finance  
8 authority bonds issued to fund the construction;

9 (c) 2.6% in the long-range building program account provided for in 17-7-205;

10 (d) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account  
11 provided for in 53-6-1201; and

12 (e) the remainder to the state general fund.

13 (2) If money in the state special revenue fund for the operation and maintenance of state veterans'  
14 nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state  
15 general fund.

16 (3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the  
17 provisions of 17-2-124 be deposited as follows:

18 (a) one-half in the state general fund; and

19 (b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in  
20 53-6-1201."

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22 **Section 4.** Section 17-7-502, MCA, is amended to read:

23 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
24 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
25 need for a biennial legislative appropriation or budget amendment.

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

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

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

1 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;  
2 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;  
3 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;  
4 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;  
5 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;  
6 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;  
7 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;  
8 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;  
9 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;  
10 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;  
11 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; [section 1]; and 90-9-306.

12 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
13 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
14 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
15 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
16 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
17 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
18 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
19 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  
20 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
21 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
22 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the  
23 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331  
24 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,  
25 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.  
26 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),  
27 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,  
28 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant  
29 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,  
30 2015.)"

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**Section 5.** Section 5, Chapter 324, Laws of 2011, is amended to read:

**"Section 5. Capital project appropriations.** (1) There is appropriated ~~\$4,812,500~~ up to \$5,293,750 from state special revenue account established in section 2, Chapter 461, Laws of 2009, to the department of administration for the southwestern Montana veterans' home project.

(2) There is appropriated ~~\$8,937,500~~ up to \$9,831,250 from the federal special revenue fund to the department of administration for the southwestern Montana veterans' home project.

(3) The department of administration is authorized to transfer the appropriations in subsections (1) and (2) among the necessary fund types for this project."

NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 90, chapter 7, part 2, and the provisions of Title 90, chapter 7, part 2, apply to [section 1].

NEW SECTION. **Section 7. Creation of state debt.** Because [section 1] authorizes the creation of a state debt, a vote of two-thirds of the members of each house is required for enactment of [section 1].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 9. Termination.** [Sections 3 and 4] terminate upon certification from the Montana facility finance authority to the code commissioner that the funds in the account established in section 2, Chapter 461, Laws of 2009, are sufficient to pay off the loan and all costs related to the loan.

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