



AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PRELIMINARY INFRASTRUCTURE PLANNING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; REQUIRING THE TRANSFER OF MONEY FROM THE TREASURE STATE ENDOWMENT SPECIAL REVENUE ACCOUNT AND THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT TO THE STATE GENERAL FUND; RETAINING THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND FOR AN ADDITIONAL 4 YEARS; EXTENDING TRANSFERS TO THE TREASURE STATE ENDOWMENT FUND AND THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND TO 2020; REVISING GRANT CONDITIONS AND RANKING PROCEDURES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 17-5-703, 90-6-703, AND 90-6-710, MCA; AMENDING SECTION 6, CHAPTER 495, LAWS OF 1999, AND SECTION 1, CHAPTER 70, LAWS OF 2001; REPEALING SECTION 2, CHAPTER 70, LAWS OF 2001; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Appropriations from treasure state endowment state special revenue account. (1)

There is appropriated to the department of commerce \$13,753,578 from the treasure state endowment state special revenue account to be used to finance grants authorized by this section. The department shall also use any funds appropriated to the department in [section 2].

(2) The funds appropriated in [section 2] and this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriations are subject to the conditions set forth in [sections 3 and 4]. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 4] until interest earnings deposited into the treasure state endowment state special revenue account during the 2013 biennium are expended.

(3) The following applicants and projects are authorized for grants and listed in the order of their priority:

Applicant/Project	Grant Amount
1. Hardin, City of (water)	\$500,000
2. Park County (bridge)	555,626
3. Sheridan, Town of (wastewater)	750,000
4. Yellowstone County (bridge)	157,227
5. Madison County (bridge)	699,931
6. Brady County Water & Sewer District (water)	750,000
7. Carter Chouteau County Water & Sewer District (water)	750,000
8. Sun Prairie Village County Water & Sewer District (water)	625,000
9. Sweet Grass County (bridge)	156,678
10. Beaverhead County (bridge)	426,941
11. Carbon County (bridge)	406,695
12. Jefferson County (bridge)	218,634
13. Hebgen Lake Estates County Water & Sewer District (wastewater)	720,000
14. Augusta Water & Sewer District (wastewater)	295,000
15. Gallatin Gateway County Water & Sewer District (wastewater)	750,000
16. Fergus County (bridge)	276,157
17. Melrose Water & Sewer District (wastewater)	162,000
18. Blaine County (bridge)	434,309
19. Deer Lodge, City of (wastewater)	500,000
20. Lincoln County (bridge)	287,827

21. West Yellowstone-Hebgen Basin Refuse Disposal District (solid waste)	246,563
22. Eureka, Town of (wastewater)	625,000
23. Fairfield, Town of (water)	500,000
24. Ravalli County (bridge)	142,616
25. Granite County (bridge)	276,408
26. Roundup, City of (water)	500,000
27. Roberts Carbon County Water & Sewer District (wastewater)	500,000
28. Lockwood Water & Sewer District (wastewater)	750,000
29. North Havre County Water District (water)	590,000
30. Sand Coulee Water District (water)	200,966
31. East Helena, City of (wastewater)	750,000
32. Bigfork Water & Sewer District (water)	750,000
33. Custer County (wastewater)	750,000
34. Crow Tribe for Crow Agency (water)	750,000
35. Hill County (bridge)	174,082
36. Polson, City of (water)	625,000

(4) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment state special revenue account funds during the 2013 biennium pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) If funds deposited into the treasure state endowment special revenue account during the biennium ending June 30, 2013, are insufficient to fully fund the projects numbered 1 through 30 in subsection (3) that have satisfied the conditions described in [section 4(1)] by June 30, 2013, these projects may be funded from deposits into the treasure state endowment special revenue account made during the 2015 biennium before projects authorized by the 63rd legislature receive funding from the account. However, any of the projects numbered 1 through 30 listed in subsection (3) that have not completed the conditions described in [section 4(1)] by January 1, 2013, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(6) Projects numbered 31 through 36 listed in subsection (3) that have satisfied the conditions described in [section 4(1)] may not receive grant funds unless sufficient funds have been deposited into the treasure state endowment special revenue account to fully fund the projects numbered 1 through 30 in subsection (3). However, if a subsequent legislature withdraws funding for any of the projects numbered 1 through 30 listed in subsection (3), if the department determines that any of the projects numbered 1 through 30 listed in subsection (3) will be unable to meet the startup condition described in [section 4(1)(b)], or if a project submits a written withdrawal to the department indicating it no longer requires a grant, those funds may be made available to projects numbered 31 through 36 listed in subsection (3) that have completed the conditions described in [section 4(1)].

(7) In the event that any remaining funds deposited into the treasure state endowment state special revenue account during the 2013 biennium are insufficient to fully fund any one of the grant recipients listed in subsection (3), the department may make the remaining funds available to the first grant recipient that has satisfied the conditions described in [section 4(1)] and that is able to firmly commit the balance of the amount necessary to fund the project in its entirety.

(8) Grant recipients shall complete all of the conditions described in [section 4(1)] by December 31, 2014, or the grant contract will be terminated.

Section 2. Contingent appropriation from treasure state endowment state special revenue account. (1) On or before July 15, 2011, the department of commerce shall determine how much of the loan of \$6,512,000 authorized by subsection (6) of section 1, Chapter 458, Laws of 2009, was borrowed from the board of investments, how many projects satisfied the conditions described in subsection (1) of section 3, Chapter 458, Laws of 2009, the amount of the loan that will not be encumbered based on the inability of projects to satisfy the conditions, and the difference between the \$6,512,000 loan and the amount of the loan that will not be encumbered. The department shall report these findings to the board of investments, the legislative fiscal division, and the office of budget and program planning on or before July 19, 2011.

(2) The board of investments shall use the difference between the \$6,512,000 loan authorization and the amount of the loan authorization that will not be encumbered to determine the maximum level of debt service that may be required by the treasure state endowment program for fiscal years 2012 and 2013. For the purpose of this analysis, the board of investments shall assume that the amount reported by the department was an obligation of the treasure state endowment program on July 1, 2011, and the cost of the loan will be an obligation

to the program. On or before August 1, 2011, the board of investments shall certify the resulting maximum level of debt service for fiscal years 2012 and 2013 to the department, the legislative fiscal division, and the office of budget and program planning.

(3) Subject to an appropriation limit, as provided in this subsection, if the maximum level of debt service for fiscal years 2012 and 2013 is less than \$840,000, then the difference between \$840,000 and the maximum level of debt service is appropriated from the treasure state endowment state special revenue account to the department of commerce to finance the grants authorized in [section 1]. The appropriation provided for in this subsection may not exceed \$840,000.

(4) If funds are appropriated in this section, they must be used to increase the appropriation in [section 1(1)] for the purpose set forth in [section 1].

Section 3. Approval of grants -- completion of biennial appropriation. (1) The legislature, pursuant to 90-6-701 and 90-6-703, authorizes grants for the projects identified in [section 1(3)], the emergency infrastructure projects in [section 6], and for infrastructure planning in [section 7].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(3)(c).

Section 4. Conditions of grants -- disbursement of funds. (1) The disbursement of grant funds under [sections 1 through 4] for the projects specified in [section 1(3)] is subject to completion of the following conditions:

- (a) The grant recipient shall execute a grant agreement with the department of commerce.
- (b) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.
- (c) The grant recipient must have a project management plan that is approved by the department.
- (d) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.
- (e) The grant recipient shall satisfactorily comply with any conditions described in the grant recipient's

application for treasure state endowment assistance and any written conditions that were imposed on the application by the department during the application ranking process.

(f) The grant recipient shall satisfy other specific requirements considered necessary by the department to accomplish the purpose of the project as evidenced by the application to the department.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the treasure state endowment program project administration manual, adopted by the department of commerce through the administrative rulemaking process.

Section 5. Other powers and duties of department. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources; or

(b) authorize the use of the remaining authorized grant amounts for the construction of additional infrastructure components directly related to the approved project that will further enhance the overall system.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

Section 6. Appropriations from treasure state endowment state special revenue account for

emergency grants. There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2011, from the treasure state endowment special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

Section 7. Appropriations from treasure state endowment state special revenue account for infrastructure planning grants. There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2011, from the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with preliminary infrastructure planning grants for infrastructure projects as defined in 90-6-701.

Section 8. Appropriation from treasure state endowment regional water system special revenue account. (1) There is appropriated \$3.92 million to the department of natural resources and conservation from the interest earnings of the treasure state endowment regional water system special revenue account and other funds to finance the state's share of regional water system projects authorized by this section and as set forth in 90-6-715.

(2) The dry prairie rural water authority and the north central Montana regional water authority are authorized to receive funds.

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 10(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the 2013 biennium under 17-7-302.

Section 9. Approval of funds -- completion of appropriation. (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 8(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(d).

Section 10. Conditions -- manner of disbursement of funds. (1) The disbursement of funds under

[sections 8 and 9] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

Section 11. Fund transfers. (1) The state treasurer shall transfer \$1.57 million from the treasure state endowment special revenue account to the state general fund.

(2) The state treasurer shall transfer \$1 million from the treasure state endowment regional water system special revenue account to the state general fund.

(3) The transfers in subsections (1) and (2) must occur prior to July 1, 2013.

(4) The state treasurer is authorized to transfer interest earnings from the treasure state endowment fund to the treasure state endowment special revenue account for the purpose of completing the fund transfer in subsection (1).

(5) The state treasurer is authorized to transfer interest earnings from the treasure state endowment regional water system fund to the treasure state endowment regional water special revenue account for the purpose of completing the fund transfer in subsection (2).

Section 12. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

- (b) a treasure state endowment fund;
- (c) a treasure state endowment regional water system fund;
- (d) a coal severance tax permanent fund;
- (e) a coal severance tax income fund; and
- (f) a big sky economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

(3) (a) Until June 30, ~~2016~~ 2020, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) Until June 30, ~~2016~~ 2020, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount

that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, ~~2016~~ 2020 ~~sec. 1, Ch. 70, L. 2004.~~)

17-5-703. (Effective July 1, ~~2016~~ 2020) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

- (b) a treasure state endowment fund;
- (c) a coal severance tax permanent fund;
- (d) a coal severance tax income fund; and
- (e) a big sky economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

(3) (a) Until June 30, ~~2016~~ 2020, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the

treasure state endowment fund.

(4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

Section 13. Section 90-6-703, MCA, is amended to read:

"90-6-703. Types of financial assistance available. (1) The legislature shall provide for and make available to local governments the following types of financial assistance under this part:

- (a) matching grants for local infrastructure projects;
- (b) matching grants for ~~preliminary engineering studies~~ infrastructure planning; and
- (c) emergency grants for local infrastructure projects.

(2) The department of commerce may provide local governments with emergency grants for infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative approval could be obtained, will endanger the public health or safety and expose the applicant to substantial financial risk. The department shall report to the governor and the legislative finance committee regarding emergency grants that are awarded during each biennium.

(3) The department of commerce may provide local governments with matching grants for ~~preliminary engineering studies~~ for infrastructure ~~projects~~ planning. The department shall report to the governor and the legislature regarding ~~preliminary engineering~~ infrastructure planning grants that are awarded during each biennium."

Section 14. Section 90-6-710, MCA, is amended to read:

"90-6-710. Priorities for projects -- procedure -- rulemaking. (1) The department of commerce must receive proposals for infrastructure projects from local governments on a continual basis. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. For the projects under 90-6-703(1)(a), the department shall prepare and submit ~~a list~~ two lists containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended bridge projects, and the other list must contain the remaining ranked and recommended infrastructure projects referred to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department may recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent and serious public health or safety problems. The governor shall review the projects recommended by the department and shall submit ~~a list~~ the lists of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

- (g) projects that are high local priorities and have strong community support.
- (3) After the review required by subsection (1), the projects must be approved by the legislature.
- (4) The department shall adopt rules necessary to implement the treasure state endowment program.
- (5) The department shall report to each regular session of the legislature the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn."

Section 15. Section 6, Chapter 495, Laws of 1999, is amended to read:

"Section 6. Termination. [This act] terminates June 30, ~~2013~~ 2020."

Section 16. Section 1, Chapter 70, Laws of 2001, is amended to read:

"Section 1. Section 6, Chapter 495, Laws of 1999, is amended to read:

"Section 6. Termination. ~~[This act]~~ [This act] ~~terminates~~ terminates June 30, ~~2013~~ 2016 2020."

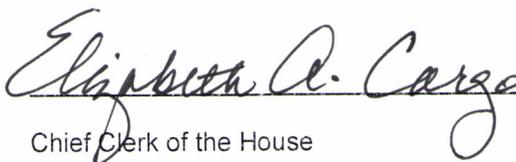
Section 17. Repealer. Section 2, Chapter 70, Laws of 2001, is repealed.

Section 18. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 19. Effective date. [This act] is effective July 1, 2011.

- END -

I hereby certify that the within bill,
HB 0351, originated in the House.

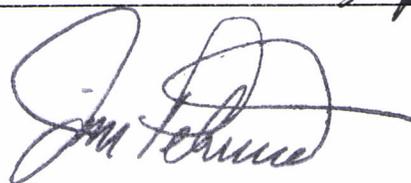


Chief Clerk of the House



Speaker of the House

Signed this _____ 21st day
of _____ April, 2011.



President of the Senate

Signed this _____ 29th day
of _____ April, 2011.