



AN ACT CREATING THE BUILD MONTANA PROGRAM WITHIN THE COAL SEVERANCE TAX TRUST FUND; ESTABLISHING A JOINT INTERIM SUBCOMMITTEE TO REVIEW PRIORITIZED LISTS OF RECOMMENDED INFRASTRUCTURE PROJECTS FOR FUNDING BY THE BUILD MONTANA PROGRAM; REQUIRING THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PROVIDE A LIST OF RECOMMENDED PROJECTS TO THE SUBCOMMITTEE; ALLOWING OTHER ORGANIZATIONS TO PROVIDE A LIST OF RECOMMENDED PROJECTS TO THE SUBCOMMITTEE; REQUIRING THE SUBCOMMITTEE TO ISSUE ONE LIST OF RECOMMENDED INFRASTRUCTURE PROJECTS FOR FUNDING TO THE LEGISLATURE; ALLOCATING AND TRANSFERRING COAL SEVERANCE TAX FUNDS TO THE BUILD MONTANA FUND; CREATING A STATE SPECIAL REVENUE ACCOUNT; REVISING THE ALLOCATION OF COAL SEVERANCE TAXES; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Build Montana program created -- purpose.** (1) There is a build Montana program, the purpose of which is to supplement, not supplant, state funding for local government infrastructure projects by using currently existing programs and through the establishment of a build Montana fund.

(2) Interest in the build Montana fund may be used to provide financial assistance for local government infrastructure projects under [sections 1 through 6].

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

(1) "Build Montana program" means the local government infrastructure investment program established in [section 1].

(2) "Infrastructure projects" means:

(a) drinking water systems;

- (b) wastewater treatment;
- (c) sanitary sewer or storm sewer systems;
- (d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;
- (e) local government roads and streets;
- (f) facilities for schools in limited exigent circumstances as outlined in 20-9-516(1)(c), (1)(d), and (1)(f);
- (g) statewide law enforcement and emergency radio communication equipment and structures; or
- (h) bridges.

(3) "Local government" means an incorporated city or town, a county, a consolidated local government, a tribal government, a school district, a county or multicounty water, sewer, or solid waste district, or an authority as defined in 75-6-304.

(4) "Subcommittee" means the build Montana joint interim subcommittee provided for in [section 4].

**Section 3. Build Montana fund -- build Montana account -- annual transfer to school facility and technology account.** (1) There is a build Montana fund administered by the department of administration. Pursuant to 17-5-703, a percentage of coal severance taxes received by the state are deposited into this fund. Earnings not transferred to the build Montana special revenue account provided for in subsection (2) must be retained in the build Montana fund.

(2) There is a build Montana account in the state special revenue fund. The account receives earnings from the build Montana endowment fund as provided in 17-5-703. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of commerce and may be used only for infrastructure projects authorized by the legislature under [sections 1 through 6]. The state treasurer shall transfer 10% of the interest earnings received from the build Montana endowment fund to the school facility and technology account established in 20-9-516 for funding projects outlined in 20-9-516(1)(c), (1)(d), and (1)(f).

**Section 4. Projects for build Montana fund -- joint interim subcommittee -- duties.** (1) There is a build Montana joint interim subcommittee whose duty is to submit a consolidated proposal for infrastructure projects for funding from the build Montana fund to the legislature each session.

(2) The subcommittee is composed of eight members as follows:

- (a) two members from the majority party who are members of the legislative finance committee;

(b) two members from the minority party who are members of the legislative finance committee;  
(c) two members from the majority party who are members of the economic affairs interim committee;  
and

(d) two members from the minority party who are members of the economic affairs interim committee.

(3) The subcommittee shall meet by June 15 of every even-numbered year to receive and review the lists of infrastructure projects submitted pursuant to [section 5]. The subcommittee may establish ranking criteria for infrastructure projects.

(4) By September 1 of each even-numbered year, the subcommittee shall issue a comprehensive prioritized list of recommended projects and recommended financial assistance to be funded by the build Montana fund based on the lists received by the interim subcommittee pursuant to [section 5] and other relevant criteria. The list may also include recommended amounts of local funding for the projects.

(5) The subcommittee shall submit the list to the legislature for approval. Grants for local government road and street projects may not exceed 30% of the total funds available for granting from the build Montana fund in a biennium.

(6) Projects approved by the legislature for funding under this section must comply with the provisions of 18-1-102.

(7) The personnel, data, and facilities of the legislative services division and other appropriation legislative entities must be made available to the subcommittee.

(8) The department of commerce shall administer the grants approved by the legislature.

**Section 5. Submission of agency recommendations -- other requests.** (1) By May 1 of every even-numbered year, the department of commerce shall submit to the subcommittee a list of infrastructure projects and a list of local government road and street projects recommended for funding by the build Montana fund. The lists must be submitted in an electronic format.

(2) Each list submitted must be prioritized and ranked according to:

(a) the department's current local infrastructure criteria for infrastructure projects that are not local government road or street projects; and

(b) the criteria established under [section 6] for local government road and street projects.

(3) By February 1 of each even-numbered year, governing bodies of local governments, governing

bodies of school districts, or the statewide interoperability governing board may submit applications for infrastructure projects to the department of commerce for funding by the build Montana fund.

**Section 6. Criteria for local government road and street project grants -- application requirements.**

(1) Grants for local government road and street projects are available for:

- (a) preventive maintenance;
- (b) rehabilitation, including projects designed to extend the life of existing road surfaces by pothole filling, crack sealing, chip sealing, graveling, asphaltting, and overlaying;
- (c) restoration;
- (d) construction; and
- (e) reconstruction.

(3) A local government road or street project for construction improvement of a gravel road should be designed in accordance with the Montana county gravel road standards established by the local technical assistance program at Montana state university as a minimum design standard.

(4) A local government road or street project for construction improvement of a paved street or road should be designed in accordance with the standards of the American association of state highway and transportation officials if applicable.

(5) Applications for local government road and street project grants must provide the following information:

- (a) scope;
- (b) schedule;
- (c) budget, including the amount and source of the match requirement and the strategy for administering and tracking;
- (d) roles and responsibilities of the local government; and
- (e) maintenance commitment by the local government.

(6) All grant recipients for local government road and street projects under [section 3] shall comply with the provisions of Title 7, chapter 5, part 23, and Title 7, chapter 14, part 24.

**Section 7.** 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, 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, 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--secs. 8 through 10, Ch. 390, L. 2013.)

**17-5-703. (Effective July 1, 2016) 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; and

(f) a build Montana endowment 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, 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) Starting July 1, 2016, the state treasurer shall quarterly transfer to the build Montana endowment fund provided for in [section 3(1)] 75% 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 build Montana endowment fund to the build Montana 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. Earnings not transferred to the build Montana special revenue account must be retained in the build Montana endowment fund.

~~(4)~~(5) (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)~~(6) 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 8.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the

need for a biennial legislative appropriation or budget amendment.

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

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

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

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

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded 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 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331

terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant 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, 2015.)"

**Section 9. Fund transfer.** On July 1, 2015, the amount of \$20 million is transferred from the coal severance tax permanent fund to the build Montana fund established in [section 3].

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

**Section 11. Effective date.** [This act] is effective July 1, 2015.

- END -

I hereby certify that the within bill,  
SB 0354, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

SENATE BILL NO. 354

INTRODUCED BY R. RIPLEY

AN ACT CREATING THE BUILD MONTANA PROGRAM WITHIN THE COAL SEVERANCE TAX TRUST FUND; ESTABLISHING A JOINT INTERIM SUBCOMMITTEE TO REVIEW PRIORITIZED LISTS OF RECOMMENDED INFRASTRUCTURE PROJECTS FOR FUNDING BY THE BUILD MONTANA PROGRAM; REQUIRING THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PROVIDE A LIST OF RECOMMENDED PROJECTS TO THE SUBCOMMITTEE; ALLOWING OTHER ORGANIZATIONS TO PROVIDE A LIST OF RECOMMENDED PROJECTS TO THE SUBCOMMITTEE; REQUIRING THE SUBCOMMITTEE TO ISSUE ONE LIST OF RECOMMENDED INFRASTRUCTURE PROJECTS FOR FUNDING TO THE LEGISLATURE; ALLOCATING AND TRANSFERRING COAL SEVERANCE TAX FUNDS TO THE BUILD MONTANA FUND; CREATING A STATE SPECIAL REVENUE ACCOUNT; REVISING THE ALLOCATION OF COAL SEVERANCE TAXES; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.