

HOUSE BILL NO. 355

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE-LOCAL INFRASTRUCTURE PARTNERSHIP ACT OF 2023; PROVIDING FOR GRANTS TO ELIGIBLE ENTITIES FOR INFRASTRUCTURE PROJECTS; SETTING UP A GRANT PROCESS; REQUIRING A PERCENTAGE OF MATCHING FUNDS; PROVIDING FOR OVERSIGHT; ADDRESSING COST OVERRUNS AND MISAPPROPRIATION OF FUNDS; SETTING GRANT LIMITS; PROVIDING AN APPROPRIATION; PROVIDING FOR ALLOCATIONS TO COUNTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [This act] may be cited as "The State-Local Infrastructure Partnership Act of 2023".

NEW SECTION. **Section 2. Purpose.** The purpose of this act is to use a portion of the state's general fund surplus to fund the maintenance and repair of local government infrastructure facilities on a partnership basis with local government supplying a cash match.

NEW SECTION. **Section 3. Appropriation.** For the biennium beginning July 1, 2023, there is appropriated ~~\$265~~ \$267 million from the general fund to the department of commerce to distribute funds as allocated in [section 12] ~~to counties for each county commission to grant project funds~~ TO GRANT RECIPIENTS AWARDED IN COMPLIANCE WITH [THIS ACT] for eligible projects AS RECOMMENDED BY EACH COUNTY COMMISSION.

1
2 NEW SECTION. Section 4. Calculation for allocation of funds. ~~Each~~ EXCEPT AS PROVIDED IN

3 SUBSECTION (4), EACH county will receive an allocation of funds based on the following:

- 4 (1) the county's 2020 population;
- 5 (2) the ability of the county's local population to pay for services as measured by per capita
6 income; and
- 7 (3) the county's ability to raise tax revenue locally as measured by per capita taxable valuation.

8 (4) IF A COUNTY'S ALLOCATION AS CALCULATED PURSUANT TO THE CRITERIA IN SUBSECTIONS (1)
9 THROUGH (3) IS LESS THAN \$300,000, THE COUNTY SHALL RECEIVE \$300,000.

10
11 NEW SECTION. Section 5. Eligible use of funds -- eligible entities. (1) ~~Funds~~ EXCEPT AS PROVIDED
12 IN SUBSECTION (2), FUNDS allocated in [section 12] may be used only by eligible entities to maintain or repair
13 existing local government infrastructure, including ~~potable-DRINKING~~ water systems, ~~sewer-WASTEWATER~~
14 TREATMENT systems, fire suppression systems if independent of the ~~potable~~ DRINKING water systems, streets,
15 roads, bridges, landfills, street lights, AIRPORTS, and public grounds and buildings.

16 (2) FUNDS ALLOCATED IN [SECTION 12] MAY BE USED TO EXPAND EXISTING WATER AND WASTEWATER
17 TREATMENT PLANTS THAT ARE BEING OPERATED AT 90% OF DESIGN CAPACITY OR GREATER.

18 ~~(2)(3)~~ Entities eligible for grants under [this act] include incorporated cities and towns, counties,
19 school districts, and special districts, INCLUDING WATER AND SEWER DISTRICTS.

20
21 NEW SECTION. Section 6. Grant process -- commission and department of commerce review --
22 priority. (1) The county commission shall solicit and accept applications from eligible entities within the county
23 on or before ~~July 4~~ DECEMBER 31, 2023.

24 (2) Once all the applications have been received, the county commission shall hold a public
25 hearing and, based on the information contained within the application and the information received at the
26 public hearing, prepare a recommendation for funding in priority order and transmit the recommendation to the
27 department of commerce.

28 (3) The department of commerce shall review the recommendations of the county commission and

1 the content of the recommended application and determine whether the application complies with [this act]. If
2 the application does not comply, the department shall issue notice to the applicable county commission.

3 (4) The department OF COMMERCE may not substitute its judgment for that of the county
4 commission and cannot revise the recommended priority list.

5 (5) Priority is given to projects that maintain or repair publicly owned ~~potable~~ DRINKING water
6 systems, publicly owned ~~sewer~~ WASTEWATER TREATMENT systems, and municipal fire suppression systems that
7 are independent of a water system.

8 (6) A GRANT RECIPIENT'S ENTITLEMENT TO RECEIVE FUNDS IS DEPENDENT ON THE GRANT RECIPIENT'S
9 COMPLIANCE WITH THE CONDITIONS DESCRIBED IN [SECTION 13].

10 (7) THE DEPARTMENT OF COMMERCE SHALL ADMINISTER THE GRANT PROGRAM AND DISBURSE FUNDS
11 DIRECTLY TO THE APPLICANTS PURSUANT TO THE PROVISIONS OF [SECTION 13].

12 (8) THE DEPARTMENT OF COMMERCE IS AUTHORIZED 2 FTE ON A TEMPORARY BASIS THROUGH JUNE 30,
13 2025. IF THE DEPARTMENT'S WORKLOAD FOR THE ADMINISTRATION OF [THIS ACT] REQUIRES ADDITIONAL STAFF, THE
14 OFFICE OF BUDGET AND PROGRAM PLANNING MAY AUTHORIZE AN ADDITIONAL 2 FTE TO TERMINATE JUNE 30, 2025. IF
15 PROGRAM ADMINISTRATION CONTINUES INTO THE 2027 BIENNIUM, THE DEPARTMENT SHALL SUBMIT A BUDGET
16 MODIFICATION REQUEST WITH ITS 2027 BIENNIUM BUDGET REQUEST TO CONTINUE THE FTE ON A TEMPORARY BASIS.

17
18 **NEW SECTION. Section 7. Grant application -- contents -- matching funds requirement.** Each
19 application for grant funds must contain the following information:

20 (1) the name of the applicant entity and its address, telephone number, e-mail address, and legal
21 status, such as whether it is an incorporated city or what type of special district it is;

22 (2) the name, address, telephone number, e-mail address, and title of the individual person who
23 will be directly responsible for the management of the project or projects to be funded by the application, such
24 as a public works director or a consulting engineer, and a copy of the individual's resume attesting to the
25 individual's qualifications and ability to manage the project;

26 (3) a narrative description of the prospective project, including a description of the problems to be
27 addressed and the need to undertake the repairs. THE APPLICANT SHALL EXPLAIN WHY THE PROPOSED PROJECT IS
28 APPROPRIATE, COST-EFFECTIVE, AND IS A LONG-TERM SOLUTION TO THE PROBLEM. The applicant shall also submit a

1 list of tasks to be undertaken to address the problem. A map or google earth photo showing the project is also
2 required. Photographs documenting the nature of the problems are advisable but not required.

3 (4) a project cost estimate showing the total cost of the project, prepared by a licensed
4 professional engineer or qualified contractor. The cost estimated must be itemized by the list of task elements
5 as required in subsection (3).

6 (5) a time schedule showing each step in the repair process starting with the preparation of the bid
7 documents through completion of the work. Specific calendar dates are recommended.

8 (6) a statement that the information contained in the application is true, which must be signed by
9 an authorized representative of the applicant; and

10 (7) a statement identifying a LOCAL cash match equal to no less than 25% of the total project cost,
11 which may not include in-kind contributions of goods or in-kind services.

12

13 **NEW SECTION. Section 8. Project management, cost overruns, and supplemental**

14 **appropriations.** (1) The grant applicant entity is fully responsible for managing the project and ensuring that it
15 is completed on-time and within budget. If cost overruns occur, the cost of the overrun is the full and sole
16 responsibility of the applicant. No supplemental appropriation may be authorized by the state.

17 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE GRANT APPLICANT MUST HAVE THE PROJECT UNDER
18 CONTRACT BY DECEMBER 31, 2024.

19 (3) IN CASES IN WHICH AN APPLICANT HAS USED ALL REASONABLE EFFORTS TO FIND A CONTRACTOR FOR A
20 PROJECT BUT HAS FAILED, THE APPLICANT MAY REQUEST ONE TWO-YEAR EXTENSION FROM THE DEPARTMENT OF
21 COMMERCE.

22 (4) PROJECTS FUNDED UNDER [THIS ACT] MUST BE COMPLETED BY DECEMBER 31, 2027.

23

24 **NEW SECTION. Section 9. Misappropriation or diversion of funds.** In the event the grantee
25 misappropriates or diverts any portion of the state grant or local government match to another use, the
26 applicant will repay the ~~state~~ DEPARTMENT OF COMMERCE the misappropriated or diverted funds within 12 months
27 of the date of notice from the state and pay a fine equal to 20% of the amount misappropriated or diverted to
28 the state's general fund.

1

2 **NEW SECTION. Section 10. Grant limits.** (1) Except for city-county consolidated governments and
3 counties receiving an allocation of less than \$1 million, no single applicant can receive more than one-third of
4 the county's total allocation from the state.

5 (2) City-county consolidated governments are limited to two-thirds of the total county allocation.

6 (3) Counties whose allocation is less than \$1 million are not subject to any restriction regarding
7 how much an individual applicant may receive.

8 (4) COUNTIES IN WHICH THE LOCAL GOVERNMENT INFRASTRUCTURE HAS BEEN SIGNIFICANTLY DAMAGED
9 BY A NATURAL DISASTER ARE NOT SUBJECT TO ANY RESTRICTION REGARDING HOW MUCH AN INDIVIDUAL APPLICANT MAY
10 RECEIVE.

11

12 **NEW SECTION. Section 11. Project reports and completion notices.** (1) The applicant shall
13 provide a progress report to the department of commerce on a quarterly basis identifying the FOLLOWING:

14 (A) work that has been undertaken on the project;

15 (B) the work PERCENTAGE OF WORK completed, ~~and~~;

16 (C) the amount of funds expended to date;

17 (D) REMAINING FUNDS;

18 (E) DESCRIPTION OF ANY SIGNIFICANT PROBLEMS;

19 (F) WHETHER THE PROJECT ENCOUNTERED ANY MODIFICATION NECESSARY TO THE SCOPE OF WORK,
20 BUDGET, OR SCHEDULE; AND

21 (G) THE PROJECTED COMPLETION DATE.

22 (2) At the completion of the project, the final report must include a statement attesting to the
23 completion of the project, which must be signed by the project manager.

24

25 **NEW SECTION. Section 12. County allocations.** The following amounts are allocated to counties
26 as follows:

27	County	Allocation
28	Beaverhead	\$2,314,332

1	Big Horn	\$4,081,455
2	Blaine	\$2,135,880
3	Broadwater	\$1,945,896
4	Carbon	\$2,082,624
5	Carter	\$257,040 <u>\$300,000</u>
6	Cascade	\$22,310,904
7	Chouteau	\$1,396,176
8	Custer	\$3,241,152
9	Daniels	\$308,538
10	Dawson	\$2,164,644
11	Deer Lodge	\$2,764,935
12	Fallon	\$534,059
13	Fergus	\$2,892,632
14	Flathead	\$25,269,782
15	Gallatin	\$23,929,035
16	Garfield	\$280,160 <u>\$300,000</u>
17	Glacier	\$4,163,070
18	Golden Valley	\$147,087 <u>\$300,000</u>
19	Granite	\$792,528
20	Hill	\$4,174,182
21	Jefferson	\$3,030,210
22	Judith Basin	\$348,166
23	Lake	\$9,193,471
24	Lewis and Clark	\$18,200,196
25	Liberty	\$412,552
26	Lincoln	\$6,311,438
27	Madison	\$1,480,222
28	McCone	\$407,166

1	Meagher	\$459,576
2	Mineral	\$1,380,240
3	Missoula	\$28,926,986
4	Musselshell	\$1,243,584
5	Park	\$3,669,330
6	Petroleum	\$141,683 <u>\$300,000</u>
7	Phillips	\$1,043,808
8	Pondera	\$1,330,668
9	Powell	\$1,882,731
10	Powder River	\$396,566
11	Prairie	\$195,289 <u>\$300,000</u>
12	Ravalli	\$12,408,930
13	Richland	\$1,963,242
14	Roosevelt	\$2,975,775
15	Rosebud	\$1,669,482
16	Sanders	\$3,524,848
17	Sheridan	\$673,657
18	Silver Bow	\$9,313,093
19	Stillwater	\$1,600,788
20	Sweetgrass	\$688,755
21	Teton	\$1,429,332
22	Toole	\$942,068
23	Treasure	\$125,952 <u>\$300,000</u>
24	Valley	\$1,582,770
25	Wheatland	\$481,806
26	Wibaux	\$193,338 <u>\$300,000</u>
27	Yellowstone	\$38,610,726
28		

1 NEW SECTION. SECTION 13. CONDITIONS OF GRANTS -- DISBURSEMENT OF FUNDS. (1) THE
2 DISBURSEMENT OF GRANT FUNDS BY THE DEPARTMENT OF COMMERCE FOR THE PROJECTS AWARDED PURSUANT TO
3 [THIS ACT] BY COUNTY COMMISSIONS IS SUBJECT TO COMPLETION OF THE FOLLOWING CONDITIONS:
4 (A) THE GRANT RECIPIENT HAS COMPLETED A BUDGET AND IMPLEMENTATION SCHEDULE FOR THE
5 PROJECT;
6 (B) THE GRANT RECIPIENT HAS A PROJECT MANAGEMENT PLAN THAT IS APPROVED BY THE DEPARTMENT OF
7 COMMERCE;
8 (C) THE GRANT RECIPIENT IS IN COMPLIANCE WITH THE AUDITING AND REPORTING REQUIREMENTS
9 PROVIDED IN 2-7-503 AND HAS ESTABLISHED A FINANCIAL ACCOUNTING SYSTEM THAT THE DEPARTMENT OF COMMERCE
10 CAN REASONABLY ENSURE CONFORMS TO GENERALLY ACCEPTABLE ACCOUNTING PRINCIPLES; AND
11 (D) THE GRANT RECIPIENT HAS ENTERED INTO A CONTRACT WITH THE DEPARTMENT OF COMMERCE, A
12 PROVISION OF WHICH MUST DOCUMENT THAT THE LOCAL MATCHING FUNDS ARE AVAILABLE AND COMMITTED TO THE
13 PROJECT.
14 (2) PRIOR TO THE DEPARTMENT OF COMMERCE DISBURSING FUND FOR CONSTRUCTION EXPENSES, THE
15 GRANT RECIPIENT SHALL IDENTIFY AND CERTIFY THAT THE RECIPIENT HAS OBTAINED LOCAL, STATE, AND FEDERAL
16 PERMITS AND APPROVALS.
17 (3) THE DEPARTMENT OF COMMERCE SHALL DISBURSE GRANTS ON A REIMBURSEMENT BASIS AS GRANT
18 RECIPIENTS INCUR ELIGIBLE PROJECT EXPENSES IN ACCORDANCE WITH THE TERMS OF THE CONTRACT. IF ACTUAL
19 PROJECT EXPENSES ARE LOWER THAN THE PROJECTED EXPENSE OF THE PROJECT, THE DEPARTMENT MAY, AT ITS
20 DISCRETION, REDUCE THE AMOUNT OF GRANT FUNDS TO BE PROVIDED TO GRANT RECIPIENTS IN PROPORTION TO ALL OF
21 THE PROJECT FUNDING SOURCES.

22
23 NEW SECTION. Section 14. Effective date. [This act] is effective on passage and approval.

24 - END -