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NEW SECTION. Section 2. Purpose. The purpose of the public infrastructure program is to assist public entities in funding public infrastructure projects that will:

- (1) create jobs for Montana residents;
- (2) promote economic growth in Montana by helping to finance necessary infrastructure;
- (3) create a partnership between the state and local governments to make necessary public projects affordable;
- (4) encourage public facility improvements;
- (5) support long-term, stable economic growth in Montana;
- (6) protect future generations from undue fiscal burdens caused by financing necessary public works;
- (7) coordinate and improve infrastructure financing by federal, state, local government, and private sources; and
- (8) enhance the quality of life and protect the health, safety, and welfare of Montana citizens.

NEW SECTION. Section 3. Public infrastructure account -- rules for deposits -- purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the public infrastructure account.

(2) The purpose of the public infrastructure account is to fund public infrastructure projects with individual income tax and corporate income tax collections that exceed inflation.

(3) (a) The state treasurer shall transfer from the general fund to the public infrastructure account an amount equal to the amount by which revenue from the individual income tax collected under Title 15, chapter 30, during the fiscal year and from the corporate income tax collected under Title 15, chapter 31, collected during the fiscal year exceed the average rate of inflation for the prior 3 years. The first transfer must be calculated for the fiscal year beginning July 1, 2020.

(b) For the purposes of subsection (3)(a), the rate of inflation must be calculated as provided in 15-10-420(1)(c), except that the full rate of inflation must be used.

(c) The department of administration shall transfer funds as required by this section by August 15 of the following fiscal year. The first transfer must be made by August 15, 2021.

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NEW SECTION. Section 4. Types of financial assistance available. (1) The legislature shall provide for and make available to public entities the following types of financial assistance under this part:

- (a) matching grants for public infrastructure projects;
- (b) matching grants for infrastructure planning; and
- (c) emergency grants for public infrastructure projects.

(2) The department of commerce may provide public entities 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 public entity to substantial financial risk. The department shall report to the governor and the legislative fiscal analyst regarding emergency grants that are awarded during each biennium. The report must be provided in an electronic format.

(3) The department of commerce may provide public entities with matching grants for infrastructure planning. The department shall report to the governor and the legislature regarding infrastructure planning grants that are awarded during each biennium.

NEW SECTION. Section 5. Agreements with tribal governments. (1) Agreements with tribal governments in Montana entered into under this part must contain, in addition to other appropriate terms and conditions, the following conditions:

- (a) a requirement that in the event that a dispute or claim arises under the agreement, state law will govern as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms of the agreement will be brought in the district court of the first judicial district of the state of Montana;
- (b) an express waiver of the tribal government's immunity from suit on any issue specifically arising from the transaction of a loan or grant; and
- (c) an express waiver of any right to exhaust tribal remedies signed by the tribal government.

(2) Agreements with tribal governments must be approved by the secretary of the United States department of the interior whenever approval is necessary.

NEW SECTION. Section 6. Priorities for projects -- procedure -- rulemaking. (1) The department

1 of commerce must receive proposals for public infrastructure projects from public entities on a continual basis.
2 The department shall work with a public entity in preparing cost estimates for a project. In reviewing project
3 proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The
4 department shall prepare and submit a list containing the recommended projects and the recommended form
5 and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2) and
6 this subsection. Before making recommendations to the governor, the department may adjust the ranking of
7 projects by giving priority to urgent and serious public health or safety problems. The governor shall review the
8 projects recommended by the department and shall submit the lists of recommended projects and the
9 recommended financial assistance to the legislature. The governor shall submit the first list of recommended
10 projects and the recommended financial assistance to the regular session of the legislature that convenes in
11 2023.

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

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

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

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

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

22 (e) projects that enable public entities to obtain funds from sources other than the funds provided under
23 this part;

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

27 (g) projects that are high priorities and have strong community support.

28 (3) After the review required by subsection (1), the projects must be approved by the legislature.

1 (4) The department shall adopt rules necessary to implement the public infrastructure program.

2 (5) The department shall report to each regular session of the legislature the status of all projects that
3 have not been completed in order for the legislature to review each project's status and determine whether the
4 authorized grant should be withdrawn.

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6 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be
7 codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 1
8 through 6].

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10 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2021.

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12 - END -

