

1 SENATE BILL NO. 536

2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING TO LOCAL GOVERNMENTS FOR THE
5 MAINTENANCE OF ~~COUNTY AND CITY~~ ROADS; PROVIDING FUNDING FOR THE RECONSTRUCTION
6 AND REPAIR OF LOCAL ROADS AND BRIDGES; PROVIDING FOR THE APPROPRIATION AND
7 DISTRIBUTION OF FUNDS; PROVIDING A STATUTORY APPROPRIATION; ~~PROVIDING~~
8 ADMINISTRATION FEES; PROVIDING A FUND TRANSFER; AMENDING SECTION 17-7-502, MCA; AND
9 PROVIDING AN EFFECTIVE DATE ~~AND A TERMINATION DATE~~."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. Section 1. Local government road AND BRIDGE maintenance account --
14 APPROPRIATION. There is a local government road maintenance ~~AND BRIDGE~~ account in the state special revenue
15 fund established in 17-2-102. All funds received pursuant to [section ~~3~~4] must be deposited in the account.

16 (2) Money deposited in the account is STATUTORILY ~~subject to appropriation by the legislature~~
17 APPROPRIATED AS PROVIDED IN 17-7-502 to the department of transportation and, EXCEPT AS PROVIDED IN
18 SUBSECTION (3), may be used ~~only for~~:

19 (A) funding OR PROVIDING THE STATE MATCHING SOURCE FOR the ~~construction,~~ reconstruction,
20 ~~maintenance,~~ and repair of:

21 (i) OFF-SYSTEM BRIDGES;

22 (ii) SECONDARY HIGHWAY SYSTEM ROUTES;

23 (iii) URBAN HIGHWAY SYSTEM ROUTES; OR

24 (B) PROVIDING A STATE MATCHING SOURCE, AT THE DISCRETION OF THE DEPARTMENT, FOR
25 DISCRETIONARY GRANTS FOR ROAD AND BRIDGE REPAIR OR RECONSTRUCTION AWARDED TO LOCAL GOVERNMENTS
26 ~~county roads and city or town streets and alleys in the manner provided in [section 2]~~.

27 (3) The ~~total amount of money~~ \$20 MILLION deposited in the account must be distributed pursuant
28 to [section 2] by ~~June 30, 2024~~ SEPTEMBER 1, 2023.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NEW SECTION. Section 2. Distribution of funds for ~~local government~~ CITY road maintenance --
APPROPRIATION. (1) The amount of ~~\$400~~ \$20 million deposited in the local ~~government road maintenance~~ AND
BRIDGE account provided FOR in [section 1] is ~~subject to legislative appropriation~~ APPROPRIATED to the
department of transportation and must be distributed by the department for the fiscal year starting July 1, 2023,
NO LATER THAN SEPTEMBER 1, 2023, on a monthly basis to the counties, TO incorporated cities and towns, and
consolidated city-county governments in Montana WITH A POPULATION OF LESS THAN 10,000 for the construction,
reconstruction, maintenance, and repair of ~~rural roads and city or town streets and alleys~~ as follows:

(a) ~~The amount of \$40 million must be divided among the various counties in the following manner:~~

(i) ~~50% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system; and~~

(ii) ~~50% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns.~~

(b)(2) The amount of ~~\$40~~ \$20 million must be divided among the incorporated cities and towns with a population of less than 10,000 as of the most recent decennial federal census in the following manner:

(i)(A) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all incorporated cities and towns in Montana with a population of less than 10,000; and

(ii)(B) 50% in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana with a population of less than 10,000 as of the most recent decennial federal census.

(c) ~~The amount of \$20 million must be divided among the incorporated cities with a population of more than 10,000 as of the most recent decennial federal census in the following manner:~~

(i) ~~50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all incorporated cities and towns~~

1 in Montana with a population of more than 10,000 as of the most recent decennial census; and

2 (ii) ~~50% in the ratio that the population within the corporate limits of the city or town bears to the~~
3 ~~total population within corporate limits of all the cities and towns in Montana with a population of more than~~
4 ~~10,000 as of the most recent decennial census.~~

5 (2) ~~(a) For the purpose of allocating the funds in subsections (1)(a) through (1)(c) to a consolidated~~
6 ~~city-county government, each entity must be considered to have separate city and county boundaries. The city~~
7 ~~limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on~~
8 ~~the location of the urban area have been approved by the department of transportation and must be used to~~
9 ~~determine city and county populations and road mileages in the following manner:~~

10 (i) ~~Percentage factors must be calculated to determine separate populations for the city and rural~~
11 ~~county by using the last official decennial federal census population figures that recognized an incorporated city~~
12 ~~and the rural county. The factors must be based on the ratio of the city to the rural county population,~~
13 ~~considering the total population in the county minus the population of any other incorporated city or town in the~~
14 ~~county.~~

15 (ii) ~~The city and county populations must be calculated by multiplying the total county population,~~
16 ~~as determined by the latest official decennial census or the latest interim year population estimates from the~~
17 ~~department of commerce as supplied by the United States bureau of the census, minus the population of any~~
18 ~~other incorporated city or town in that county, by the factors established in subsection (2)(a)(i).~~

19 (b) ~~The amount allocated by this method for the city and the county must be combined, and single~~
20 ~~monthly payments must be made to the consolidated city-county government.~~

21 (3) (a) ~~All funds allocated by this section to counties, cities, AND towns, and consolidated city-~~
22 ~~county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads~~
23 ~~or city or town streets and alleys.~~

24 (b) Funds allocated by this section may not be used for the purchase of capital equipment.

25 (4) ~~All funds allocated by this section to counties, cities, AND towns, and consolidated city-county~~
26 ~~governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures~~
27 ~~followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of~~
28 ~~the amounts provided in 7-5-2301 and 7-5-4302.~~

1 (5) For the purposes of this section in which distribution of funds is made on a basis related to
2 population, the population must be determined for ~~counties and~~ cities according to the latest official decennial
3 federal census.

4 (6) For the purposes of this section in which determination of mileage is necessary for distribution
5 of funds, the department of transportation shall utilize the yearly certified statement indicating the total mileage
6 as provided in 15-70-101(7).

7 ~~(7) To receive a distribution of funds allowed under this section, a county, city, town, or~~
8 ~~consolidated city-county shall remit a \$5 fee to the department of transportation for costs related to the~~
9 ~~administration of [this act].~~

10

11 **SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

12 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
13 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
14 the need for a biennial legislative appropriation or budget amendment.

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

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

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

20 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
21 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
22 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;
23 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-
24 70-130; [section 1]; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-
25 215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-
26 305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-
27 26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-
28 402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;

1 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115;
2 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-
3 13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006;
4 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-
5 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

6 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
7 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
8 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
9 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
10 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
11 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
12 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
13 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
14 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
15 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
16 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
17 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
18 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
19 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
20 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
21 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
22 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
23 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
24 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
25 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
26 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
27 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
28 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004

1 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
2 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
3 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

4
5 NEW SECTION. Section 4. Transfer of funds. Within 15 days of [the effective date of this act], the
6 state treasurer shall transfer \$100 million from the general fund to the local ~~government road maintenance~~ AND
7 BRIDGE account provided FOR in [section 1].

8
9 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN
10 INTEGRAL PART OF TITLE 15, CHAPTER 70, PART 1, AND THE PROVISIONS OF TITLE 15, CHAPTER 70, PART 1, APPLY TO
11 [SECTION 1].

12
13 COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 2 AND
14 [THIS ACT] ARE PASSED AND APPROVED AND IF HOUSE BILL NO. 2 INCLUDES AN APPROPRIATION OF AT LEAST \$100
15 MILLION TO THE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF [THIS ACT], THEN THE APPROPRIATION IN
16 HOUSE BILL NO. 2 FOR THE PURPOSES OF [THIS ACT] IS VOID.

17
18 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2023.

19
20 NEW SECTION. Section 8. — Termination. [This act] terminates June 30, 2024.

21 - END -