

Amendment - 1st Reading/2nd House-blue - Requested by: John Esp - (S) Finance and Claims

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0355.002.001

1 HOUSE BILL NO. 355
2 INTRODUCED BY J. FITZPATRICK, T. WELCH, F. ANDERSON, S. KERNS, D. HAWK, C. KNUDSEN, G.
3 NIKOLAKAKOS, K. ZOLNIKOV, S. ESSMANN, M. BERTOGGIO, L. BREWSTER, J. DOOLING, G. FRAZER,
4 M. BINKLEY, E. BUTTREY, K. WALSH, D. LOGE, B. KEENAN, J. READ, R. FITZGERALD, M. HOPKINS, G.
5 PARRY, M. YAKAWICH, J. FULLER, J. SMALL, M. CUFFE, R. LYNCH, J. WELBORN, B. GILLESPIE, D.
6 SALOMON, R. TEMPEL, M. LANG, C. SPRUNGER, D. ZOLNIKOV, J. ETCHART, J. LYNCH, P. TUSS, W.
7 RUSK, D. HARVEY, J. KASSMIER, S. STEWART PEREGOY, F. MANDEVILLE, T. VERMEIRE, Z. WIRTH

8
9 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE-LOCAL INFRASTRUCTURE
10 PARTNERSHIP ACT OF 2023; PROVIDING FOR GRANTS TO ELIGIBLE ENTITIES FOR
11 INFRASTRUCTURE PROJECTS; SETTING UP A GRANT PROCESS; REQUIRING A PERCENTAGE OF
12 MATCHING FUNDS; PROVIDING FOR OVERSIGHT; ADDRESSING COST OVERRUNS AND
13 MISAPPROPRIATION OF FUNDS; SETTING GRANT LIMITS; PROVIDING AN APPROPRIATION;
14 PROVIDING FOR ALLOCATIONS TO COUNTIES CITIES AND TOWNS; AND PROVIDING AN IMMEDIATE
15 EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. Section 1. Short title. [This act] may be cited as "The State-Local Infrastructure
20 Partnership Act of 2023".

21
22 NEW SECTION. Section 2. Purpose. The purpose of this act is to use a portion of the state's
23 general fund surplus to fund the maintenance and repair of local government infrastructure facilities on a
24 partnership basis with local government supplying a cash match.

25
26 NEW SECTION. Section 3. Appropriation. For the biennium beginning July 1, 2023, there is
27 appropriated ~~\$265~~ \$267 \$20 million from the general fund to the department of commerce to distribute funds as

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1 allocated in [section ~~12 11~~] to counties for each county commission to grant project funds TO GRANT RECIPIENTS
2 AWARDED IN COMPLIANCE WITH [THIS ACT] for eligible projects AS RECOMMENDED BY EACH COUNTY COMMISSION
3 legislative body of a city or town.

4
5 NEW SECTION. Section 4. Calculation for allocation of funds. Each EXCEPT AS PROVIDED IN
6 SUBSECTION (4), EACH county will receive an allocation of funds based on the following:

7 (1) ~~the county's 2020 population;~~

8 (2) ~~the ability of the county's local population to pay for services as measured by per capita~~
9 ~~income; and~~

10 (3) ~~the county's ability to raise tax revenue locally as measured by per capita taxable valuation.~~

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

13
14 NEW SECTION. Section 4. Eligible use of funds -- eligible entities. (1) Funds EXCEPT AS PROVIDED
15 IN SUBSECTION (2), FUNDS allocated in [section 12 11] may be used only by eligible entities to maintain or repair
16 existing local government infrastructure, including potable DRINKING water systems, sewer WASTEWATER
17 TREATMENT systems, fire suppression systems if independent of the potable DRINKING water systems, streets,
18 roads, bridges, landfills, street lights, AIRPORTS, and public grounds and buildings.

19 (2) FUNDS ALLOCATED IN [SECTION 12 11] MAY BE USED TO EXPAND EXISTING WATER AND WASTEWATER
20 TREATMENT PLANTS THAT ARE BEING OPERATED AT 90% OF DESIGN CAPACITY OR GREATER.

21 (2)(3) ~~Entities eligible for grants under [this act] include incorporated cities and towns, counties,~~
22 ~~school districts, and special districts, INCLUDING WATER AND SEWER DISTRICTS.~~

23
24 NEW SECTION. Section 5. Grant process -- commission and department of commerce review --
25 priority. (1) The county commission legislative body of a city or town shall solicit and accept applications from
26 for eligible entities-projects within the county-city or town on or before July 4 DECEMBER 31, 2023.

27 (2) Once all the applications have been received, the ~~county commission~~ legislative body of the

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1 city or town shall hold a public hearing and, based on the information contained within the application and the
2 information received at the public hearing, prepare a recommendation for funding in priority order and transmit
3 the recommendation to the department of commerce.

4 (3) The department of commerce shall review the recommendations of the ~~county commission~~
5 legislative body of the city or town and the content of the recommended application and determine whether the
6 application complies with [this act]. If the application does not comply, the department shall issue notice to the
7 applicable ~~county commission~~ legislative body of the city or town.

8 (4) The department OF COMMERCE may not substitute its judgment for that of the ~~county~~
9 commission-legislative body of the city or town and cannot revise the recommended priority list.

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

13 (6) A GRANT RECIPIENT'S ENTITLEMENT TO RECEIVE FUNDS IS DEPENDENT ON THE GRANT RECIPIENT'S
14 COMPLIANCE WITH THE CONDITIONS DESCRIBED IN [SECTION 43 12].

15 (7) THE DEPARTMENT OF COMMERCE SHALL ADMINISTER THE GRANT PROGRAM AND DISBURSE FUNDS
16 DIRECTLY TO THE APPLICANTS PURSUANT TO THE PROVISIONS OF [SECTION 43 12].

17 (8) THE DEPARTMENT OF COMMERCE IS AUTHORIZED 2 FTE ON A TEMPORARY BASIS THROUGH JUNE 30,
18 2025. IF THE DEPARTMENT'S WORKLOAD FOR THE ADMINISTRATION OF [THIS ACT] REQUIRES ADDITIONAL STAFF, THE
19 OFFICE OF BUDGET AND PROGRAM PLANNING MAY AUTHORIZE AN ADDITIONAL 2 FTE TO TERMINATE JUNE 30, 2025. IF
20 PROGRAM ADMINISTRATION CONTINUES INTO THE 2027 BIENNIUM, THE DEPARTMENT SHALL SUBMIT A BUDGET
21 MODIFICATION REQUEST WITH ITS 2027 BIENNIUM BUDGET REQUEST TO CONTINUE THE FTE ON A TEMPORARY BASIS.

22
23 NEW SECTION. Section 6. Grant application -- contents -- matching funds requirement. Each
24 application for grant funds must contain the following information:

25 (1) the name of the project for which the applicant is seeking a grant~~entity and its address,~~
26 ~~telephone number, e-mail address, and legal status, such as whether it is an incorporated city or what type of~~
27 ~~special district it is;~~

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

5 (3) a narrative description of the prospective project, including a description of the problems to be
6 addressed and the need to undertake the repairs. THE APPLICANT SHALL EXPLAIN WHY THE PROPOSED PROJECT IS
7 APPROPRIATE, COST-EFFECTIVE, AND IS A LONG-TERM SOLUTION TO THE PROBLEM. The applicant shall also submit a
8 list of tasks to be undertaken to address the problem. A map or google earth photo showing the project is also
9 required. Photographs documenting the nature of the problems are advisable but not required.

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

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

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

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

19

20 **NEW SECTION. Section 7. Project management, cost overruns, and supplemental**

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

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

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

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1 COMMERCE.

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

3
4 NEW SECTION. Section 8. Misappropriation or diversion of funds. In the event the grantee
5 misappropriates or diverts any portion of the state grant or local government match to another use, the
6 applicant will repay the ~~state~~ DEPARTMENT OF COMMERCE the misappropriated or diverted funds within 12 months
7 of the date of notice from the state and pay a fine equal to 20% of the amount misappropriated or diverted to
8 the state's general fund.

9
10 NEW SECTION. Section 9. Grant limits. (1) Except for ~~city-county consolidated governments and~~
11 ~~counties~~ cities and towns receiving an allocation of less than \$1 million, no single applicant can receive more
12 than one-third of the ~~county's~~ city or town's total allocation from the state.

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

14 ~~(3)(2) Counties~~ Cities and towns whose allocation is less than \$1 million are not subject to any
15 restriction regarding how much an individual applicant may receive.

16 ~~(4)(3) COUNTIES~~ Cities and towns IN WHICH THE LOCAL GOVERNMENT INFRASTRUCTURE HAS BEEN
17 SIGNIFICANTLY DAMAGED BY A NATURAL DISASTER ARE NOT SUBJECT TO ANY RESTRICTION REGARDING HOW MUCH AN
18 INDIVIDUAL APPLICANT MAY RECEIVE.

19
20 NEW SECTION. Section 10. Project reports and completion notices. (1) The applicant shall
21 provide a progress report to the department of commerce on a quarterly basis identifying the FOLLOWING:

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

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

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

25 (D) REMAINING FUNDS;

26 (E) DESCRIPTION OF ANY SIGNIFICANT PROBLEMS;

27 (F) WHETHER THE PROJECT ENCOUNTERED ANY MODIFICATION NECESSARY TO THE SCOPE OF WORK,

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1 BUDGET, OR SCHEDULE; AND

2 (G) THE PROJECTED COMPLETION DATE.

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

5

6 NEW SECTION. Section 11. **County-City and town allocations.** (1) The amount allocated to
7 incorporated cities and towns is determined as follows:

8 (a) The amount of \$15 million must be divided among the incorporated cities and towns with a
9 population of less than 10,000 as of the most recent decennial federal census in the following manner:

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

14 (ii) 50% in the ratio that the population within the corporate limits of the city or town bears to the
15 total population within corporate limits of all the cities and towns in Montana with a population of less than
16 10,000 as of the most recent decennial federal census.

17 (b) The amount of \$5 million must be divided among the incorporated cities with a population of
18 more than 10,000 as of the most recent decennial federal census in the following manner:

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

23 (ii) 50% in the ratio that the population within the corporate limits of the city bears to the total
24 population within corporate limits of all the cities in Montana with a population of more than 10,000 as of the
25 most recent decennial federal census.

26 (2) For the purposes of this section in which distribution of funds is made on a basis related to
27 population, the population must be determined for cities and towns according to the latest official decennial

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1 federal census.

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

5

6 The following amounts are allocated to counties as follows:

County	Allocation
Beaverhead	\$2,314,332
Big Horn	\$4,081,455
Blaine	\$2,135,880
Broadwater	\$1,945,896
Carbon	\$2,082,624
Carter	\$257,040 \$300,000
Cascade	\$22,310,904
Chouteau	\$1,396,176
Custer	\$3,241,152
Daniels	\$308,538
Dawson	\$2,164,644
Deer Lodge	\$2,764,935
Fallon	\$534,059
Fergus	\$2,892,632
Flathead	\$25,269,782
Gallatin	\$23,929,035
Garfield	\$280,160 \$300,000
Glacier	\$4,163,070
Golden Valley	\$147,087 \$300,000
Granite	\$792,528

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1	Hill	\$4,174,182
2	Jefferson	\$3,030,210
3	Judith Basin	\$348,166
4	Lake	\$9,193,471
5	Lewis and Clark	\$18,200,196
6	Liberty	\$412,552
7	Lincoln	\$6,311,438
8	Madison	\$1,480,222
9	McCone	\$407,166
10	Meagher	\$459,576
11	Mineral	\$1,380,240
12	Missoula	\$28,926,986
13	Musselshell	\$1,243,584
14	Park	\$3,669,330
15	Petroleum	\$141,683 \$300,000
16	Phillips	\$1,043,808
17	Pondera	\$1,330,668
18	Powell	\$1,882,731
19	Powder River	\$396,566
20	Prairie	\$195,289 \$300,000
21	Ravalli	\$12,408,930
22	Richland	\$1,963,242
23	Roosevelt	\$2,975,775
24	Rosebud	\$1,669,482
25	Sanders	\$3,524,848
26	Sheridan	\$673,657
27	Silver Bow	\$9,313,093

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1	Stillwater	\$1,600,788
2	Sweetgrass	\$688,755
3	Teton	\$1,429,332
4	Toole	\$942,068
5	Treasure	\$125,952 \$300,000
6	Valley	\$1,582,770
7	Wheatland	\$481,806
8	Wibaux	\$193,338 \$300,000
9	Yellowstone	\$38,610,726

NEW SECTION. Section 12. CONDITIONS OF GRANTS -- DISBURSEMENT OF FUNDS. (1) THE

DISBURSEMENT OF GRANT FUNDS BY THE DEPARTMENT OF COMMERCE FOR THE PROJECTS AWARDED PURSUANT TO

[THIS ACT] BY ~~COUNTY COMMISSIONS~~ the legislative bodies of cities and towns IS SUBJECT TO COMPLETION OF THE

FOLLOWING CONDITIONS:

(A) THE GRANT RECIPIENT HAS COMPLETED A BUDGET AND IMPLEMENTATION SCHEDULE FOR THE PROJECT;

(B) THE GRANT RECIPIENT HAS A PROJECT MANAGEMENT PLAN THAT IS APPROVED BY THE DEPARTMENT OF COMMERCE;

(C) THE GRANT RECIPIENT IS IN COMPLIANCE WITH THE AUDITING AND REPORTING REQUIREMENTS PROVIDED IN 2-7-503 AND HAS ESTABLISHED A FINANCIAL ACCOUNTING SYSTEM THAT THE DEPARTMENT OF COMMERCE CAN REASONABLY ENSURE CONFORMS TO GENERALLY ACCEPTABLE ACCOUNTING PRINCIPLES; AND

(D) THE GRANT RECIPIENT HAS ENTERED INTO A CONTRACT WITH THE DEPARTMENT OF COMMERCE, A PROVISION OF WHICH MUST DOCUMENT THAT THE LOCAL MATCHING FUNDS ARE AVAILABLE AND COMMITTED TO THE PROJECT.

(2) PRIOR TO THE DEPARTMENT OF COMMERCE DISBURSING FUND FOR CONSTRUCTION EXPENSES, THE GRANT RECIPIENT SHALL IDENTIFY AND CERTIFY THAT THE RECIPIENT HAS OBTAINED LOCAL, STATE, AND FEDERAL PERMITS AND APPROVALS.

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1 (3) THE DEPARTMENT OF COMMERCE SHALL DISBURSE GRANTS ON A REIMBURSEMENT BASIS AS GRANT
2 RECIPIENTS INCUR ELIGIBLE PROJECT EXPENSES IN ACCORDANCE WITH THE TERMS OF THE CONTRACT. IF ACTUAL
3 PROJECT EXPENSES ARE LOWER THAN THE PROJECTED EXPENSE OF THE PROJECT, THE DEPARTMENT MAY, AT ITS
4 DISCRETION, REDUCE THE AMOUNT OF GRANT FUNDS TO BE PROVIDED TO GRANT RECIPIENTS IN PROPORTION TO ALL OF
5 THE PROJECT FUNDING SOURCES.

6

7 NEW SECTION. Section 13. Effective date. [This act] is effective on passage and approval.

8

- END -

AMENDED