

HOUSE BILL NO. 218

INTRODUCED BY ANKNEY, OLSON, ROSENDALE, SHAW

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ~~BOARD OF OIL AND GAS CONSERVATION~~
5 DEPARTMENT OF COMMERCE TO ISSUE GRANTS TO ASSIST LOCAL GOVERNMENTS WITH
6 INFRASTRUCTURE AND OTHER NEEDS AS A RESULT OF OIL AND GAS IMPACTS; PROVIDING FOR
7 ADMINISTRATION OF THE PROGRAM THROUGH THE DEPARTMENT OF COMMERCE; ESTABLISHING
8 PRIORITIES AND CRITERIA FOR AWARDING GRANTS; GRANTING RULEMAKING AUTHORITY;
9 ~~REQUIRING OUTCOME MEASURES~~; ESTABLISHING AN OIL AND GAS IMPACT ACCOUNT; PROVIDING
10 AN APPROPRIATION AND A STATUTORY APPROPRIATION; ALLOCATING FEDERAL MINERAL LEASING
11 REVENUE; ~~TRANSFERRING MONEY FROM THE GENERAL FUND TO THE OIL AND GAS IMPACT~~
12 ~~ACCOUNT~~; AMENDING SECTIONS 17-3-240 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE
13 EFFECTIVE DATE AND A TERMINATION DATE."

14

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

16

17 NEW SECTION. Section 1. Short title. [Sections 1 through 9 6] may be cited as the "Oil and Gas Local
18 Government Infrastructure Impact Assistance Act".

19

20 NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 9 6] is to assist local
21 government units that have been required to maintain and expand local government infrastructure as a
22 consequence of oil and gas development.

23

24 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9 6], the following definitions
25 apply:

26 ~~(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.~~

27 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMERCE ESTABLISHED IN 2-15-1801.

28 (2) "Local government" means an incorporated city or town, a county, a consolidated local government,
29 a tribal government, A PUBLIC SCHOOL DISTRICT, OR a county or multicounty water, sewer, or solid waste district;
30 ~~or an authority as defined in 75-6-304.~~

- 1 (3) "Oil and gas impact projects" means:
- 2 (a) drinking water systems;
- 3 (b) wastewater treatment;
- 4 (c) sanitary sewer or storm sewer systems;
- 5 (d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;
- 6 (e) roads;
- 7 (f) bridges; or
- 8 (g) facilities for government administration, fire protection, law enforcement, SCHOOLS, and emergency

9 services; ~~OR~~

10 (H) PROJECTS RELATED TO PUBLIC HEALTH; AND PUBLIC WELFARE, AND SOCIAL ISSUES RELATED TO AN INCREASE
 11 IN DEVELOPMENT OF OIL AND NATURAL GAS; INCLUDING EDUCATIONAL OR COUNSELING PROGRAMS RELATED TO SEX
 12 TRAFFICKING AND CRIMINAL SOLICITATION ISSUES, ESPECIALLY CONCERNING YOUTH; OR

13 (I) THE PROVISION OF LAW ENFORCEMENT PERSONNEL FOR THE DEPARTMENT OF JUSTICE.

14 (4) "Tribal government" means a federally recognized Indian tribe within the state of Montana.

15

16 ~~NEW SECTION. Section 4. General powers of board. The board may:~~

17 ~~(1) consider applications for grants from available funds;~~

18 ~~(2) subject to [sections 1 through 9], award grants to local governments, SCHOOL DISTRICTS, AND~~
 19 ~~NONPROFIT ORGANIZATIONS for oil and gas impact projects;~~

20 ~~(3) retain professional consultants and advisors; and~~

21 ~~(4) implement the provisions of [sections 1 through 9].~~

22

23 NEW SECTION. Section 4. Applications for grants. (4) The governing body of a local government
 24 may apply for a MATCHING grant for oil and gas impact projects:

25 ~~(2) Applicants shall describe overall impacts to the local government resulting from increased oil and gas~~
 26 ~~development and the specific oil and gas impact project needed as a direct consequence of oil and gas~~
 27 ~~development. FOR:~~

28 (1) MAJOR REPAIRS TO OR DEFERRED MAINTENANCE ON AN OIL AND GAS IMPACT PROJECT;

29 (2) MAJOR IMPROVEMENT, ENHANCEMENTS, OR EXPANSIONS TO AN OIL AND GAS IMPACT PROJECT;

30 (3) CONSTRUCTION OF A NEW OIL AND GAS IMPACT PROJECT; OR

1 (4) PRELIMINARY PLANNING OR DESIGN OF AN OIL AND GAS IMPACT PROJECT.

2

3 NEW SECTION. Section 5. Basis for awarding grants. (1) ~~In awarding grants, preference~~ GRANTS
4 must be ~~given~~ AWARDED to oil and gas impact projects that are needed as a direct consequence of an increase
5 in oil and gas development activity.

6 ~~———(2) The board may prioritize the projects by giving priority to urgent and serious public health or safety~~
7 ~~problems that are a direct consequence of an increase in oil and gas development activity.~~

8 (2) NO MORE THAN 10% OF THE FUNDS USED FOR GRANT PURPOSES MAY BE AWARDED FOR FIRE PROTECTION,
9 LAW ENFORCEMENT, AND EMERGENCY SERVICES.

10 (3) IN PREPARING RECOMMENDATIONS FOR THE AWARD OF GRANTS UNDER SUBSECTION (1), PREFERENCE MUST
11 BE GIVEN TO INFRASTRUCTURE PROJECTS BASED ON THE FOLLOWING ORDER OF PRIORITY:

12 (A) PROJECTS THAT SOLVE URGENT AND SERIOUS PUBLIC HEALTH OR SAFETY PROBLEMS OR THAT ENABLE LOCAL
13 GOVERNMENTS TO MEET STATE OR FEDERAL HEALTH OR SAFETY STANDARDS;

14 (B) PROJECTS THAT SOLVE A LOCAL GOVERNMENT'S INABILITY TO PROVIDE ADEQUATE PUBLIC SERVICES TO AN
15 EXISTING POPULATION; AND

16 (C) PROJECTS THAT SOLVE A LOCAL GOVERNMENT'S INABILITY TO PROVIDE ADEQUATE PUBLIC SERVICES TO
17 ESTIMATED FUTURE POPULATIONS.

18 (4) IN AWARDING GRANTS UNDER THIS SECTION, THE DEPARTMENT SHALL ALSO CONSIDER THE FOLLOWING
19 ATTRIBUTES OF AN OIL AND GAS IMPACT PROJECT GRANT APPLICATION:

20 (A) THE LOCAL GOVERNMENT'S NEED FOR FINANCIAL ASSISTANCE, INCLUDING WHETHER THE LOCAL GOVERNMENT
21 HAS COMMITTED TO MAKING A CONTRIBUTION TO THE PROJECT IN AN AMOUNT PROPORTIONAL TO THE AMOUNT OF OIL AND
22 GAS PRODUCTION REVENUE RECEIVED DURING THE PREVIOUS 48-MONTH REPORTING PERIOD;

23 (B) WHETHER THE LOCAL GOVERNMENT HAS COMPLETED ALL PRELIMINARY ENGINEERING AND PLAN AND
24 SPECIFICATION REVIEW FOR THE PROJECT AND WILL BE ABLE TO SUCCESSFULLY MANAGE THE PROJECT IN A TIMELY
25 MANNER AND COMPLETE THE PROJECT WITHIN THE PROPOSED BUDGET AND TIMELINE;

26 (C) WHETHER THE LOCAL GOVERNMENT WILL BE ABLE TO SATISFY ANY STARTUP CONDITIONS OR OTHER
27 REQUIREMENTS CONSIDERED NECESSARY BY THE DEPARTMENT TO ACCOMPLISH THE PURPOSE OF THE PROJECT AS
28 DESCRIBED IN THE APPLICATION;

29 (D) THE EXTENT OF PREVIOUS EFFORTS BY THE LOCAL GOVERNMENT TO IMPLEMENT;

30 (I) LONG-TERM PLANNING AND MANAGEMENT OF THE PUBLIC FACILITY OR FACILITIES;

1 (II) LONG-TERM PLANNING AND MANAGEMENT OF THE JURISDICTION'S ANTICIPATED FUTURE GROWTH IN
2 POPULATION AND THE LOCAL GOVERNMENT'S ABILITY TO PROVIDE ADEQUATE PUBLIC SERVICES TO THAT POPULATION; AND

3 (III) PROPORTIONAL CONTRIBUTIONS FROM NEW DEVELOPMENT FOR THE EXPANSION, REPAIR, MAINTENANCE, OR
4 OPERATION OF THE PUBLIC FACILITY OR FACILITIES; AND

5 (E) THE IMPORTANCE OF THE PROJECT TO THE COMMUNITY, THE EXTENT OF PUBLIC NOTICE ABOUT THE PROJECT
6 TO THE COMMUNITY, AND THE AMOUNT OF COMMUNITY PARTICIPATION IN AND SUPPORT FOR THE PROJECT.

7 (5) IN AWARDING PLANNING GRANTS UNDER THIS SECTION, THE DEPARTMENT SHALL DISTRIBUTE THE GRANTS
8 ON A FIRST-COME, FIRST-SERVED BASIS WITH PREFERENCE GIVEN TO THOSE LOCAL GOVERNMENTS THAT ARE ALREADY
9 EXPERIENCING IMPACTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT.

10 (6) THE DEPARTMENT:

11 (A) SHALL DISBURSE GRANT FUNDS ON A REIMBURSEMENT BASIS AS GRANT RECIPIENTS INCUR ELIGIBLE PROJECT
12 EXPENSES;

13 (B) SHALL ESTABLISH ANNUAL DEADLINES FOR THE SUBMISSION OF APPLICATIONS FOR OIL AND GAS IMPACT
14 PROJECT AND PLANNING GRANTS; AND

15 (C) MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION.

16 (7) GRANTS MADE UNDER THIS PROGRAM ARE SUBJECT TO REVIEW BY THE LEGISLATIVE FINANCE COMMITTEE.

17
18 ~~NEW SECTION. **Section 7. Rulemaking authority.** (1) The board shall adopt rules necessary for the~~
19 ~~administration of [sections 1 through 9].~~

20 ~~(2) The rules may include but are not limited to:~~

21 ~~(a) consistent with [section 6], the criteria to use when evaluating grant proposals and prioritizing and~~
22 ~~awarding grants;~~

23 ~~(b) application procedures;~~

24 ~~(c) disbursements of grants; and~~

25 ~~(d) reporting procedures for grant recipients.~~

26
27 NEW SECTION. **Section 6. Oil and gas impact account -- statutory appropriation.** (1) There is an
28 oil and gas impact account in the state special revenue fund.

29 (2) The oil and gas impact account consists of:

30 ~~(a) money transferred into the account by the state treasurer;~~

1 ~~(b)(A)~~ money deposited into the account pursuant to 17-3-240(3);

2 ~~(c)(B)~~ interest earned by the account; and

3 ~~(d)(C)~~ money received from any other source.

4 (3) ~~The money FUNDS~~ in the account ~~is allocated~~ ARE STATUTORILY APPROPRIATED, AS PROVIDED IN
5 17-7-502, to the ~~board~~ DEPARTMENT FOR EACH FISCAL YEAR BEGINNING JULY 1, 2014, and may be used only for
6 grants provided for in [sections 1 through 9 6] and costs related to the administration of [sections 1 through 9 6].
7 IN EACH YEAR, UP TO \$50,000 MAY BE USED FOR PROJECTS RELATED TO GRANTS FOR PUBLIC HEALTH; AND PUBLIC
8 WELFARE, AND SOCIAL ISSUES AS DESCRIBED IN [SECTION 3(3)(H)].

9 ~~———— (4) Money in the oil and gas impact account is statutorily appropriated, as provided in 17-7-502, for the~~
10 ~~purpose of administering [sections 1 through 9].~~

11 ~~(5)(4)~~ Any remaining balance in the account THAT REMAINS UNOBLIGATED after December 31, 2020, must
12 be transferred to the general fund of the state.

13
14 ~~———— NEW SECTION. Section 9. Outcome measures. (1) The board shall develop reasonable outcome~~
15 ~~measures by which the success of the Oil and Gas Local Government Infrastructure Impact Assistance Act~~
16 ~~provided for in [sections 1 through 9] must be measured on an annual basis. At a minimum, outcome that must~~
17 ~~be measured includes:~~

18 ~~———— (a) the uses of grant funds that provided the best overall results; and~~

19 ~~———— (b) a determination of the overall success of the grant program, including but not limited to financial~~
20 ~~status of local governments that received grants, reports on project activities, and the growth of a local economy.~~

21 ~~———— (2) The board may require information from local governments receiving grants in order to measure~~
22 ~~outcome.~~

23 ~~———— (3) In accordance with 5-11-210, before September 1 of the year preceding a legislative session, the~~
24 ~~board shall provide a status report on the use of grants provided for in [sections 1 through 9] to the environmental~~
25 ~~quality council provided for in 5-16-101.~~

26
27 **Section 7.** Section 17-3-240, MCA, is amended to read:

28 **"17-3-240. Federal mineral leasing funds.** (1) Except as provided in ~~subsection~~ subsections (2) and
29 (3), money paid to the state pursuant to 30 U.S.C. 191 must be deposited in the state general fund.

30 (2) In ~~fiscal year 2005 and each succeeding~~ fiscal year, 25% of all money received pursuant to

1 subsection (1) must be deposited in the mineral impact account established in 17-3-241 and is dedicated to local
2 governments.

3 (3) In fiscal year 2014 and in each succeeding fiscal year through June 30, 2020, 25% of all money
4 received pursuant to subsection (1) OR \$10 MILLION, WHICHEVER IS GREATER, must be deposited in the oil and gas
5 impact account established in [section 8 6] and is dedicated to local governments.

6 ~~(3)~~(4) On August 15 following the close of the fiscal year, the state treasurer shall distribute the revenue
7 dedicated in ~~subsection (2)~~ SUBSECTIONS (2) AND (3). The distribution to the eligible counties under subsection
8 (2) must be based on the proportion that the total amount of revenue generated by mineral extraction in an eligible
9 county bears to the total amount of money received by the state."

10
11 NEW SECTION. SECTION 8. APPROPRIATION FROM OIL AND GAS IMPACT ACCOUNT FOR OIL AND GAS IMPACT
12 PROJECTS IN 2015 BIENNIUM. THERE IS APPROPRIATED TO THE DEPARTMENT OF COMMERCE FOR THE FISCAL YEAR
13 BEGINNING JULY 1, 2013, ONLY, \$15 MILLION FROM THE OIL AND GAS IMPACT ACCOUNT ESTABLISHED IN [SECTION 6] FOR
14 THE PURPOSE OF PROVIDING LOCAL GOVERNMENTS WITH GRANTS AS PROVIDED FOR IN [SECTIONS 1 THROUGH 6].

15
16 **Section 9.** Section 17-7-502, MCA, is amended to read:
17 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
18 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
19 need for a biennial legislative appropriation or budget amendment.

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

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

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

25 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
26 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;
27 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
28 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;
29 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;
30 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;

1 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 2 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
 3 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
 4 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; [section 8 6]; 85-20-1504; 85-20-1505; 87-1-230;
 5 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 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 Montana
 9 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 10 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 11 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 12 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
 13 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.
 14 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
 15 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 16 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 17 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 18 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 19 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 20 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 21 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 22 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 23 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 24 June 30, 2017.)"

25
 26 ~~NEW SECTION. Section 12. Transfer. (1) By August 15, 2014, the state treasurer shall transfer from~~
 27 ~~the general fund to the oil and gas impact account established in [section 1] the difference between the amount~~
 28 ~~deposited in that account from the federal mineral leasing fund pursuant to 17-3-240(3) in the fiscal year ending~~
 29 ~~June 30, 2014, and \$10 million. In the event the federal mineral leasing funds deposited in the oil and gas impact~~
 30 ~~account exceeds \$10 million in the fiscal year ending June 30, 2014, there may not be a general fund transfer.~~

1 ~~———— (2) By August 15, 2015, the state treasurer shall transfer from the general fund to the oil and gas impact~~
 2 ~~account established in [section 1] the difference between the amount deposited in that account from the federal~~
 3 ~~mineral leasing fund pursuant to 17-3-240(3) in the fiscal year ending June 30, 2015, and \$10 million. In the event~~
 4 ~~the federal mineral leasing funds deposited in the oil and gas impact account exceeds \$10 million in the fiscal~~
 5 ~~year ending June 30, 2015, there may not be a general fund transfer.~~

6
 7 NEW SECTION. Section 10. Notification to tribal governments. The secretary of state shall send
 8 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 9 Chippewa tribe.

10
 11 NEW SECTION. Section 11. Codification instruction. (1) [Sections 1 through 9 6] are intended to be
 12 codified as an integral part of Title 82 90, and the provisions of Title 82 90 apply to [sections 1 through 9 6].

13
 14 NEW SECTION. Section 12. Effective date. [This act] is effective ~~July 1, 2013~~ ON PASSAGE AND
 15 APPROVAL.

16
 17 NEW SECTION. Section 13. Termination. [This act] terminates June 30, 2020.

18 - END -