HOUSE BILL NO. 402

INTRODUCED BY A. KNUDSEN, A. DOANE, F. MOORE, D. MORTENSEN, M. NOLAND, L. RANDALL, M. ROSENDALE, S. STAFFANSON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF COMMERCE TO ISSUE GRANTS TO ASSIST LOCAL GOVERNMENTS WITH INFRASTRUCTURE AND OTHER NEEDS AS A RESULT OF OIL AND GAS IMPACTS; PROVIDING FOR ADMINISTRATION OF THE PROGRAM THROUGH THE DEPARTMENT OF COMMERCE; ESTABLISHING PRIORITIES AND CRITERIA FOR AWARDING GRANTS; ESTABLISHING AN OIL AND GAS IMPACT ACCOUNT; ALLOCATING FEDERAL MINERAL LEASING REVENUE TO THE OIL AND GAS IMPACT ACCOUNT; ~~INCREASING THE AMOUNT OF FEDERAL MINERAL LEASING REVENUE IN THE MINERAL IMPACT ACCOUNT AND DEDICATED TO LOCAL GOVERNMENTS;~~ ALLOCATING OIL AND NATURAL GAS PRODUCTION TAXES; TRANSFERRING MONEY FROM THE GENERAL FUND TO THE OIL AND GAS IMPACT ACCOUNT; GRANTING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION AND A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-36-331, 17-3-240, AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

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

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

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

(1) "Department" means the department of commerce established in 2-15-1801.

(2) "Local government" means an incorporated city or town, a county, a consolidated local government,

a tribal government, a public school district, AN AUTHORITY AS DEFINED IN 75-6-304, or a county or multicounty water, sewer, or solid waste district.

(3) "Oil and gas impact projects" means:

(a) drinking water systems;

(b) wastewater treatment;

(c) sanitary sewer or storm sewer systems;

(d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

(e) roads;

(f) bridges;

(g) facilities for government administration, fire protection, law enforcement, schools, and emergency services; or

(h) projects related to public health and public welfare issues arising from or related to sex trafficking and criminal solicitation issues, especially concerning youth, and including educational or counseling programs.

(4) "Public services" means essential public services provided by oil and gas impact projects.

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

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

(1) major repairs to or deferred maintenance on an oil and gas impact project;

(2) major improvement, enhancements, or expansions to an oil and gas impact project;

(3) construction of a new oil and gas impact project;

(4) preliminary planning or design of an oil and gas impact project; or

(5) continuation and completion of any project initiated on or before [the effective date of this act] that meets the definition of an oil and gas impact project provided in [section 3].

NEW SECTION. **Section 5. Basis for awarding grants.** (1) Grants must be awarded for oil and gas impact projects that are needed as a direct consequence of an increase in oil and gas development activity.

(2) No more than 10% of the funds awarded annually for grants may be for fire protection and emergency services.

(3) When awarding grants under subsection (1), the department shall:

(a) give preference to infrastructure projects that are located in whole or in part in a county or are contiguous to a county where a horizontally completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of natural resources and conservation; and

(b) after preference has been determined pursuant to subsection (3)(a), prioritize projects in the following order:

(i) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(ii) projects that solve a local government's inability to provide adequate public services to an existing population; and

(iii) projects that solve a local government's inability to provide adequate public services to estimated future populations.

(4) When awarding grants under this section, the department shall also consider the following attributes of an application for an oil and gas impact project grant:

(a) the local government's need for financial assistance, including whether the local government has committed to contributing financially to the project;

(b) whether the local government has completed all preliminary engineering and plan and specification review for the project and will be able to successfully manage the project in a timely manner and complete the project within the proposed budget and timeline;

(c) the extent of previous efforts by the local government to implement:

(i) long-term planning and management of the public facility or facilities;

(ii) long-term planning and management of the jurisdiction's anticipated future growth in population and the local government's ability to provide adequate public services to that population; and

(iii) proportional contributions from new development for the expansion, repair, maintenance, or operation of the public facility or facilities; and

(d) the importance of the project to the community, the extent of public notice provided about the project to the community, and the amount of community participation in and support for the project.

(5) When awarding planning or design grants pursuant to [section 4(4)], the department shall distribute the planning grants on a first-come, first-served basis, giving preference to local governments that are already experiencing impacts associated with oil and gas development.

(6) (a) The department:

(i) shall disburse grant funds to local governments for costs incurred for eligible oil and gas impact project expenses;

(ii) shall establish annual deadlines for submitting applications for oil and gas impact project grants; and

(iii) may adopt rules necessary to implement this section.

(b) Nothing in this subsection (6) prohibits the department from disbursing grant funds to reimburse local governments for costs incurred on or before [the effective date of this act] for eligible oil and gas impact project expenses.

(7) Grants made under this program are subject to review by the legislative finance committee.

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

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

(a) money deposited into the account pursuant to 17-3-240(3);

(b) money deposited into the account pursuant to 15-36-331(4);

(c) interest earned by the account; and

(d) money received from any other source.

(3) Funds in the oil and gas impact account are statutorily appropriated, as provided in 17-7-502, to the department beginning July 1, 2016, and may be used only for grants made pursuant to [sections 1 through 6] and costs related to the administration of [sections 1 through 6]. In each fiscal year, up to $150,000 of the account funds may be used for projects related to grants for public health and public welfare as described in [section 3(3)(h)].

(4) Any balance in the oil and gas impact account that remains unobligated after December 31, 2022, must be transferred to the state general fund.

Section 7. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution account established in 90-6-1001(1) must be deposited in the account.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%

Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%
Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

(iv) 2.99% to the orphan share account established in 75-10-743;

(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and

(vi) all remaining proceeds to the state general fund;

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; ~~and~~

(v) 1.75% to the oil and gas impact account established in [section 6]; and

~~(v)~~(vi) all remaining proceeds to the state general fund."

Section 8. Section 17-3-240, MCA, is amended to read:

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

(2) In ~~fiscal year 2005 and~~ each ~~succeeding~~ fiscal year, ~~25%~~ ~~50%~~ 25% of all money received pursuant to subsection (1) must be deposited in the mineral impact account established in 17-3-241 and is dedicated to local governments.

(3) In fiscal year 2016 and in each succeeding fiscal year through June 30, ~~2022~~ 2021, 50% of all money received pursuant to subsection (1) must be deposited in the oil and gas impact account established in [section 6].

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

NEW SECTION. **Section 9. Appropriation from oil and gas impact account for oil and gas impact projects in 2017 biennium.** There is appropriated ~~$55~~ $27.5 million from the oil and gas impact account established in [section 6] to the department of commerce for the fiscal year beginning July 1, 2015, for the purpose of providing local governments with grants pursuant to [sections 1 through 6].

Section 10. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 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; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 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; 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; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; <u>[section 6];</u> 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 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. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

NEW SECTION. **Section 11. Transfer of funds.** By June 30, 2015, the state treasurer shall transfer ~~$55~~ $27.5 million from the general fund to the oil and gas impact account established in [section 6].

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

NEW SECTION. **Section 13. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

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

NEW SECTION. **Section 15. Termination.** [This act] terminates June 30, ~~2022~~ 2021.

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