

1 SENATE BILL NO. 340

2 INTRODUCED BY R. WEBB

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATEWIDE ECONOMIC IMPACT DISTRICTS
5 ACT; PROVIDING FOR THE FORMATION OF STATEWIDE ECONOMIC IMPACT DISTRICTS BY LOCAL AND
6 TRIBAL GOVERNMENTS; PROVIDING FOR THE CREATION OF DISTRICTS IN MORE THAN ONE COUNTY;
7 ALLOWING A PROPERTY TAX EXEMPTION FOR CERTAIN CIVIC INFRASTRUCTURE PROJECTS THAT
8 ARE APPROVED BY A LOCAL GOVERNMENT; PROVIDING FOR DEVELOPMENT PLAN REQUIREMENTS;
9 PROVIDING THAT CIVIC INFRASTRUCTURE PROJECTS ARE EXEMPTED FROM STATE PROCUREMENT
10 LAWS; PROVIDING FOR RESIDENT CONTRACTOR PREFERENCE; PROVIDING FOR STATE GRANTS TO
11 COVER CIVIC INFRASTRUCTURE COSTS WHEN A DISTRICT HAS CERTAIN LEVELS OF DEVELOPMENT
12 COSTS; REQUIRING A LOCAL FUNDING MATCH OF CIVIC INFRASTRUCTURE COSTS AS A CONDITION
13 TO RECEIVING STATE GRANTS; PROVIDING FOR CERTIFICATION OF EXPENDITURES BY THE
14 DEPARTMENT OF COMMERCE PRIOR TO RECEIVING GRANTS; PROVIDING FOR A PUBLIC PURPOSE;
15 PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-15-4288,
16 15-6-201, 18-4-132, AND 18-8-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
17 APPLICABILITY DATE."

18
19 WHEREAS, the state of Montana and many of its communities are facing challenges to attract and retain
20 the workforce of the next generation in an intensely competitive regional and national job market; and

21 WHEREAS, the state of Montana and many of its communities are facing a rapidly rising imbalance
22 between growth in tax base and the fiscal demands on the state budget and its taxpayers; and

23 WHEREAS, the future of the state of Montana is dependent on driving transformative strategies that yield
24 new private investment in Montana, build state infrastructure, and create stronger growth in the statewide
25 economies, including in areas both urban and rural; and

26 WHEREAS, the strategy included in this bill creates a new economic development tool that may be used
27 statewide in "economic impact districts" established by cities and counties that can show they have a compelling
28 economic development plan that will drive new spending in the state, create maximum numbers of construction
29 jobs and full-time equivalent jobs, and generate significant fiscal impacts for all taxing jurisdictions; and

30 WHEREAS, this new economic development tool shifts risk away from the public sector by requiring the

1 private sector to invest first, in both catalytic private development projects and civic infrastructure projects, before
2 state funds are made available to pay or reimburse certain civic infrastructure costs; and

3 WHEREAS, this new economic development tool requires local communities to match or exceed any
4 state funding for civic infrastructure costs in economic impact districts; and

5 WHEREAS, the private to public investment ratio projected over the term of a statewide economic impact
6 district must not be less than 5:1, ensuring a good return on public investment and meaningful growth in the
7 state's tax base and economy, making Montana a more attractive place for residents, workers, and visitors for
8 the next generation.

9

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

11

12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Statewide
13 Economic Impact Districts Act".

14

15 NEW SECTION. **Section 2. Purpose.** (1) The purpose of [sections 1 through 11] is to:

16 (a) recognize the evolving economies and demographics of the state and its workforce needs and
17 constraints both now and in the future, including the need to replace a significant number of retiring workers;

18 (b) enable the state's centers of business and industry to better promote, stimulate, develop, and
19 advance the general welfare, commerce, economic development, and prosperity of the state and all of its citizens;

20 (c) increase and diversify the volume of commerce throughout the state and grow and strengthen the
21 state's overall economic base by strengthening its urban centers, which also benefits the state's rural areas by
22 creating a more robust and diverse tax base for the state overall;

23 (d) attract, retain, and train a strong workforce that will facilitate the attraction, retention, and growth of
24 commercial enterprises in the state's urban centers;

25 (e) cooperate and act in conjunction with public or private organizations and entities in the development
26 of commerce, services, recreation, tourism, health care, housing, and other economic activity in the state;

27 (f) leverage strategies to attract private capital investment in businesses and industries located in the
28 state, including in the state's federally designated opportunity zones, which will benefit all areas of the state;

29 (g) design, build, finance, operate, and maintain necessary civic infrastructure that will support the
30 creation, expansion, modernization, retention, and relocation from other states of businesses and industries into

1 the state; and

2 (h) otherwise stimulate, assist in, and support the growth of economic activity that is expected to improve
3 the fiscal stability and prosperity of the state overall and to improve the standard of living of its citizens both now
4 and for the next generation.

5 (2) The department is performing a governmental function in carrying out the provisions of [sections 1
6 through 11].

7
8 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 11], the following definitions
9 apply:

10 (1) "Authorizing entity" means a local government, cooperative government district, or tribal government
11 that has certified formation of a statewide economic impact district to the director pursuant to [section 4].

12 (2) (a) "Civic infrastructure cost" means the cost of a civic infrastructure project since the date of
13 formation, including:

14 (i) development, planning, and design costs, including architectural, engineering, and pre-opening costs
15 and the costs of other professional services related to the development and construction of the project;

16 (ii) legal, regulatory, and other compliance costs of the project;

17 (iii) land acquisition, demolition of existing improvements, and other site preparation and improvement
18 costs;

19 (iv) construction costs, including costs of all labor, materials, and supplies for the project; and

20 (v) costs of equipment, fixtures, and furnishings for the real property.

21 (b) The term does not include operation and maintenance costs.

22 (3) "Civic infrastructure project" includes but is not limited to the following projects within a statewide
23 economic impact district:

24 (a) streets, roads, curbs, gutters, and sidewalks;

25 (b) parking lots, parking structures, and other offstreet parking facilities;

26 (c) sewers, sewer lines, storm sewers, waterlines, waterways, natural gas lines, electrical lines,
27 telecommunications lines, and fiber optic cable;

28 (d) parks, open or enclosed plazas, atriums, pedestrian malls, public markets, and food halls;

29 (e) regional convention and civic centers and other regional event, recreation, or entertainment venues
30 that are expected to draw tourism and visitation from outside the state and to complement the municipality's

1 existing civic and event facilities;

2 (f) projects that encourage, promote, and stimulate economic development in key economic sectors,
3 including but not limited to agriculture, energy or natural resource development, tourism, construction, information
4 technology, aerospace, health care, bioscience, and life science;

5 (g) educational and workforce development and training facilities;

6 (h) community health and wellness facilities with a regional impact, excluding facilities licensed as a
7 hospital pursuant to Title 50, chapter 5, and facilities owned by private health care providers, whether for profit
8 or not for profit;

9 (i) publicly owned buildings and any related public improvements;

10 (j) related building infrastructure, mechanical systems, vertical circulation, and central plant and security
11 systems and functions;

12 (k) items of personal property to be used in connection with improvements for projects;

13 (l) assemblage and improvement of land for development or redevelopment by private enterprise, the
14 authorizing entity, or other public agencies, including sale, initial leasing, and retention; and

15 (m) the compilation and analysis of pertinent information required to adequately determine the needs
16 of the statewide economic impact district and other administrative costs associated with the management of the
17 statewide economic impact district.

18 (4) "Closing cost" means the actual cost of issuance or closing cost of a loan, note, or public-private
19 agreement, not to exceed 3% of the amount of the loan, note, or public-private agreement.

20 (5) "Cooperative agreement" means a written agreement of intent to pursue formation of a statewide
21 economic impact district in more than one county that is approved by the board of county commissioners of each
22 impacted county. The agreement must describe the boundaries of the proposed district, how financial benefits
23 and burdens are allocated, and the roles and responsibilities of each county.

24 (6) "Cooperative government district" means two or more counties that have executed a cooperative
25 agreement.

26 (7) "Date of formation" means the day the director certified the formation of the statewide economic
27 impact district pursuant to [section 4(3)].

28 (8) "Department" means the department of commerce provided for in 2-15-1801.

29 (9) "Design-build" means a contract in which the designer-builder assumes the responsibility and the risk
30 for architectural or engineering design and construction delivery under a single contract with the authorizing entity.

1 (10) "Director" means the director of the department.

2 (11) "Extended state grants" means grants made by the state for civic infrastructure costs and public
3 financing costs pursuant to [section 9].

4 (12) "Interest cost" means the amount of interest charged on the actual cost of capital, not to exceed 10%
5 a year.

6 (13) "Local government" means any incorporated city or town, a county, or a city-county consolidated
7 local government.

8 (14) "Private development project" means the construction of privately owned buildings and other
9 improvements that is undertaken within a statewide economic impact district and that does not fall under the
10 definition of civic infrastructure project.

11 (15) (a) "Private expenditures" means expenditures made by an individual or a private entity since the
12 date of formation to pay for the development and capital costs of a private development project, including but not
13 limited to:

14 (i) development, planning, and design and costs, including architectural, engineering, and pre-opening
15 costs and the costs of other professional services related to the development and construction of the project;

16 (ii) legal, regulatory, and other compliance costs of the project;

17 (iii) land acquisition, demolition of existing improvements, and other site preparation and improvement
18 costs;

19 (iv) construction costs, including the cost of all labor, materials, and supplies of the project; and

20 (v) costs of equipment, fixtures, and furnishings for the real property.

21 (b) The term does not include supplies and other items with a useful life of less than 1 year that are not
22 used or consumed in constructing improvements to real property or are not otherwise chargeable to capital costs.

23 (16) "Public financing cost" means closing costs and interest costs for a civic infrastructure project.

24 (17) "Responsible resident" means a bona fide Montana resident as provided for in 18-2-401, including
25 an association, partnership, corporation, limited liability partnership, or limited liability company organized in the
26 state.

27 (18) "State availability grants" means all tier 1 availability grants plus all tier 2 availability grants plus all
28 tier 3 availability grants.

29 (19) "Statewide economic impact district" means a defined geographic area established by a local
30 government, cooperative government district, or tribal government pursuant to [section 4].

1 (20) "Tier 1 availability grant" means a grant made pursuant to [section 9] by the department to an
2 authorizing entity for civic infrastructure costs and public financing costs that meet the tier 1 investment threshold.

3 (21) "Tier 1 investment threshold" means total investment costs since the date of formation for all years
4 equal to a minimum of \$300 million.

5 (22) "Tier 2 availability grant" means a grant made pursuant to [section 9] by the department to an
6 authorizing entity for civic infrastructure costs and public financing costs that meet the tier 2 investment threshold.

7 (23) "Tier 2 investment threshold" means total investment costs since the date of formation for all years
8 equal to a minimum of \$450 million.

9 (24) "Tier 3 availability grant" means a grant made pursuant to [section 9] by the department to an
10 authorizing entity for civic infrastructure costs and public financing costs that meet the tier 3 investment threshold.

11 (25) "Tier 3 investment threshold" means total investment costs since the date of formation for all years
12 equal to a minimum of \$650 million.

13 (26) (a) "Total investment cost" means the total civic infrastructure costs incurred by a private individual
14 or entity plus the total private expenditures.

15 (b) The term does not include public financing costs.

16 (27) "Tribal government" means any one of the seven federally recognized tribal governments of the state
17 or the government of the Little Shell band of Chippewa Indians.

18
19 **NEW SECTION. Section 4. Formation.** (1) Subject to the provisions of this section, a local government,
20 cooperative government district, or tribal government is permitted to establish, by written resolution of its
21 governing body, a statewide economic impact district subject to the requirements of [sections 1 through 11],
22 including the adoption of a development plan as provided in [section 5].

23 (2) A cooperative government district or county may not establish a statewide economic impact district
24 within the boundaries of an incorporated city or town unless it receives permission in the form of a written
25 resolution adopted by the governing body of the incorporated city or town. The boundaries of any statewide
26 economic impact district may not overlap.

27 (3) The formation of the statewide economic impact district and the adoption of a development plan must
28 be certified by the local government, cooperative government district, or tribal government to the director in a
29 manner prescribed by the department.

30 (4) A local government, cooperative government district, or tribal government may not establish a

1 statewide economic impact district after December 31, 2026.

2

3 **NEW SECTION. Section 5. Development plan requirement.** (1) Subject to subsection (2), an
4 authorizing entity shall establish and adopt by written resolution of its governing body a development plan for a
5 statewide economic impact district. An authorizing entity may modify the plan at any time consistent with the
6 provisions for adoption of any original development plan. The development plan must be sufficiently complete
7 to indicate:

8 (a) policy goals consistent with the purposes of [sections 1 through 11];

9 (b) targeted parcels for civic infrastructure projects to be carried out by the authorizing entity, or by
10 another public or private organization or entity designated by the authorizing entity, in the statewide economic
11 impact district;

12 (c) land use planning, including zoning and planning changes, if any;

13 (d) projections of private development projects that are reasonably expected to be undertaken in
14 conjunction with one or more civic infrastructure projects in the statewide economic impact district as catalytic
15 projects that will meet enumerated policy goals consistent with the purposes of [sections 1 through 11];

16 (e) independent third-party estimates of 40-year economic impacts resulting from the combined private
17 development projects and civic infrastructure projects in the statewide economic impact district, including new
18 spending and construction jobs;

19 (f) independent third-party estimates of 40-year fiscal impacts, including new tax revenues by type and
20 for each taxing jurisdiction of the state;

21 (g) a framework to identify and prioritize short-term and long-term public investment, private investment,
22 and available public funding sources for civic infrastructure projects and to facilitate private investment and
23 development of private development projects, with private to public investment ratios projected over the term of
24 the statewide economic impact district for combined civic infrastructure projects and private development projects
25 to be not less than 5:1;

26 (h) the development plan's relationship to definite local objectives respecting appropriate land uses,
27 improved traffic, public transportation, public utilities, recreational and civic facilities, workforce goals and
28 initiatives, and other public improvements and policy goals; and

29 (i) a process and procedure and a list of agreements that the authorizing entity intends to use in
30 administering the statewide economic impact district, including requirements for project design and specifications,

1 project budgets, terms for use of public funds, default provisions, and other project requirements.

2 (2) An authorizing entity shall submit an original or amended development plan to the department for
3 approval prior to certification by the authorizing entity. The department shall review the plan and any amendments
4 for compliance with [sections 1 through 11] and either approve the plan or provide the authorizing entity with a
5 description of any deficiencies and an opportunity to revise the submission.

6 (3) If an authorizing entity adopts or amends a development plan, the action must be certified by the
7 authorizing entity to the director in a manner prescribed by the department.

8
9 **NEW SECTION. Section 6. Alternate procurement provisions permitted -- resident contractor**

10 **preference.** (1) Notwithstanding provisions of Title 18 regarding public contracts, the authorizing entity may enter
11 into an agreement with a private individual or entity relating to the design, construction, financing, marketing, and
12 use of a civic infrastructure project.

13 (2) The authorizing entity may employ or contract with private individuals or entities to perform one or
14 more of the functions of project developer, architect, engineer, construction manager, and program manager with
15 respect to all or any part of the development, design, construction, financing, and use of a civic infrastructure
16 project under an integrated design-build, finance, own, operate, and maintain method, another alternative delivery
17 and finance method, or a combination of methods.

18 (3) Subject to subsection (5), an authorizing entity may receive and engage a private individual or entity
19 based on an unsolicited or solicited civic infrastructure project proposal consistent with a development plan.

20 (4) Subject to subsection (5), an authorizing entity shall prepare a request for proposals for one or more
21 of the functions described in subsection (2), prequalify offerors by issuing a request for qualifications, and select
22 a short list of offerors for discussions and evaluations. The authorizing entity shall conduct discussions and
23 negotiations with responsible offerors in order to determine which proposal is most advantageous to the
24 authorizing entity and to negotiate the terms of an agreement.

25 (5) (a) An unsolicited civic infrastructure project proposal or request for proposal must be let to the
26 certified responsible resident making the lowest bid if the certified responsible resident's bid is not more than 5%
27 higher than that of the lowest responsible nonresident bidder.

28 (b) A person may not be denied certification because of inadvertent omission of information, as
29 determined by the authorizing entity, on an application for responsible resident certification.

30 (c) The authorizing entity shall make investigations as necessary to determine whether a person is

1 eligible to receive or to continue to hold a certificate of residency. The authorizing entity may require or permit
2 any person to file a statement in writing at any time, under oath or otherwise regarding all of the facts and
3 circumstances concerning the matter to be investigated. The burden of proof regarding the status of the residency
4 is on the person or entity whose residency is in question.

5 (d) If, after investigation, the authorizing entity determines that a certificate of residency should be denied
6 or revoked, it shall provide notice to the applicant or certificate holder of its intent to deny or revoke the certificate
7 and of the applicant or certificate holder's opportunity for a hearing if requested.

8 (6) All contracting pursuant to this section is exempt from the Montana Procurement Act as provided in
9 18-4-132.

10 (7) This section is not intended to expand or restrict the individual right of privacy or the public right to
11 know or to change the rights and obligations of persons, state agencies, or local governments that are otherwise
12 provided by law.

13 (8) Procurement information pertaining to contracts or agreements made by an authorizing entity are a
14 public record and must be made available to the public. An authorizing entity shall manage public records
15 according to the provisions of Title 2, chapter 6, part 12, and the rules and guidelines established by the secretary
16 of state, the local government records committee, and the Montana historical society.

17
18 **NEW SECTION. Section 7. Development agreements authorized.** (1) Following the process provided
19 in [section 6], the authorizing entity may enter into development agreements with private individuals or entities
20 for civic infrastructure projects that provide for the design and construction, development, financing, and use on
21 the terms the parties determine to be reasonable and consistent with the development plan, including appropriate
22 public financing costs based on current market conditions.

23 (2) An agreement may be adopted only after notice and a public hearing. Any civic infrastructure projects
24 that are owned in fee title by a private individual or entity must be transferred to the authorizing entity for no
25 additional consideration, or to another public body designated by the authorizing entity, at the end of the term of
26 the development agreement, which may not exceed 30 years.

27
28 **NEW SECTION. Section 8. Certification of expenditures.** (1) To be eligible to receive the initial state
29 availability grant, a new tier of state availability grant, or an extended state grant pursuant to [section 9], the
30 authorizing entity shall compile and certify to the director the amount of private expenditures made in the

1 statewide economic impact district and the amount of civic infrastructure costs, whether the civic infrastructure
2 project is financed publicly or privately, in the preceding years.

3 (2) The authorizing entity certification must be made in the form prescribed by the department. The
4 director shall recognize private expenditures that are consistent with the total project budget submitted by the
5 developer in accordance with the development agreement that was approved by the authorizing entity and
6 certified to the department.

7 (3) No later than 60 days after submission of the authorizing entity certification, the director shall certify
8 the amount of expenditures and costs for the preceding state fiscal year. The department may extend the time
9 for certification of expenditures for good cause.

10
11 **NEW SECTION. Section 9. State availability grants -- contingent on appropriation.** (1) (a) The
12 authorizing entity is eligible for an annual tier 1 availability grant when the tier 1 investment threshold is met within
13 10 years following the date of formation and certified by the director.

14 (b) The total amount of the tier 1 availability grant equals the minimum tier 1 investment threshold
15 amount multiplied by 0.25, plus public financing costs related to the grant. The total amount of the grant is
16 amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant
17 payments.

18 (2) (a) The authorizing entity is eligible for an additional annual tier 2 availability grant when the tier 2
19 investment threshold is met within 5 years of meeting the tier 1 availability grant and certified by the director.

20 (b) The total amount of the tier 2 availability grant equals the minimum tier 2 investment threshold
21 amount multiplied by 0.056, plus public financing costs related to the grant. The total amount of the grant is
22 amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant
23 payments.

24 (3) (a) The authorizing entity is eligible for an additional annual tier 3 availability grant when the tier 3
25 investment threshold is met within 5 years of meeting the tier 2 availability grant and certified by the director.

26 (b) The total amount of the tier 3 availability grant equals the minimum tier 3 investment threshold
27 amount multiplied by 0.0385, plus public financing costs related to the grant. The total amount of the grant is
28 amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant
29 payments.

30 (4) In the event that the total investment cost for all years equals at least \$1 billion within 11 years

1 following the date of formation, all state availability grants must continue for 10 additional years as extended state
2 grants at an annual amount equal to the average annual state availability grant for additional eligible civic
3 infrastructure costs, which may include capital expenditures to repair, refurbish, renovate, or otherwise improve
4 a civic infrastructure project that has previously been funded with a state availability grant or to fund new civic
5 infrastructure projects.

6 (5) Subject to subsections (6) and (7), the state shall transfer to the authorizing entity the amount of the
7 annual tier 1 availability grant plus, if applicable, the annual tier 2 availability grant, the annual tier 3 availability
8 grant, and the extended state grants for each year on a quarterly basis for reimbursement of civic infrastructure
9 costs and public finance costs. The first quarterly payment for any grant must be made by the department in the
10 first quarter following certification of expenditures by the director as provided in [section 8(3)].

11 (6) If the director determines that an authorizing entity has not made the required local matching
12 contribution for the year, the department shall reduce the grant to the authorizing entity for that year to an amount
13 equal to the amount of the authorizing entity's actual local matching contribution, and the unpaid amount of state
14 availability grants and extended state grants must be carried over to subsequent years and paid when the
15 authorizing entity makes the required local matching contribution.

16 (7) State availability grants and extended state grants are subject to legislative appropriation, are not a
17 contractual obligation of the state, and do not constitute a debt of the state or any political subdivision. Neither
18 the faith and credit nor the taxing power of the state is pledged to pay principal or interest on any debt or
19 obligation arising from [sections 1 through 11].

20
21 **NEW SECTION. Section 10. Local matching contribution.** (1) The amount of a state availability grant
22 for civic infrastructure costs within the statewide economic district pursuant to [section 9] must be matched by
23 a local contribution from the authorizing entity for civic infrastructure costs for the same year.

24 (2) The local contribution may be in the form of:

- 25 (a) a direct appropriation from the authorizing entity;
- 26 (b) business improvement district financing subject to Title 7, chapter 12, part 11;
- 27 (c) tax increment financing as provided in 7-15-4288;
- 28 (d) a special improvement district assessment issued or received as otherwise required by state law;
- 29 (e) grants that are not provided by the state;
- 30 (f) gifts; or

1 (g) any other lawful local revenue source.

2 (3) Local contributions made by an authorizing entity for a year in excess of the local matching
3 contribution for the year are carried forward and credited toward subsequent years' local matching contribution.

4
5 **NEW SECTION. Section 11. Rulemaking authority.** The department may adopt rules to implement
6 the provisions of [sections 1 through 10].

7
8 **Section 12.** Section 7-15-4288, MCA, is amended to read:

9 **"7-15-4288. Costs that may be paid by tax increment financing.** The tax increments may be used
10 by the local government to pay the following costs of or incurred in connection with an urban renewal area or
11 targeted economic development district as identified in the urban renewal plan or targeted economic development
12 district comprehensive development plan:

- 13 (1) land acquisition;
- 14 (2) demolition and removal of structures;
- 15 (3) relocation of occupants;
- 16 (4) the acquisition, construction, and improvement of public improvements or infrastructure, including
17 streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities,
18 sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities,
19 natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, publicly owned buildings,
20 and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42
21 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with
22 improvements for which the foregoing costs may be incurred;
- 23 (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- 24 (6) acquisition of infrastructure-deficient areas or portions of areas;
- 25 (7) administrative costs associated with the management of the urban renewal area or targeted
26 economic development district;
- 27 (8) assemblage of land for development or redevelopment by private enterprise or public agencies,
28 including sale, initial leasing, or retention by the local government itself at its fair value;
- 29 (9) the compilation and analysis of pertinent information required to adequately determine the needs of
30 the urban renewal area or targeted economic development district;

1 (10) the connection of the urban renewal area or targeted economic development district to existing
2 infrastructure outside the area or district;

3 (11) the provision of direct assistance to secondary value-adding industries to assist in meeting their
4 infrastructure and land needs within the area or district; ~~and~~

5 (12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing,
6 abating, or eliminating pollution; and

7 (13) civic infrastructure costs and public financing costs that are approved by an incorporated city or town,
8 a county, or a city-county consolidated local government for a civic infrastructure project as provided in [sections
9 1 through 11], regardless of whether the costs were in the urban renewal area or the targeted economic
10 development district comprehensive development plan."

11

12 **Section 13.** Section 15-6-201, MCA, is amended to read:

13 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The
14 following categories of property are exempt from taxation:

15 (a) except as provided in 15-24-1203, the property of:

16 (i) the United States, except:

17 (A) if congress passes legislation that allows the state to tax property owned by the federal government
18 or an agency created by congress; or

19 (B) as provided in 15-24-1103;

20 (ii) the state, counties, cities, towns, and school districts;

21 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

22 (iv) municipal corporations;

23 (v) public libraries;

24 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

25 (vii) special districts created pursuant to Title 7, chapter 11, part 10; ~~and~~

26 (viii) a civic infrastructure project as defined in [section 3] that is approved for tax-exempt status by an
27 incorporated city or town, a county, or a city-county consolidated local government where the project is located;

28 and

29 ~~(viii)~~(ix) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
30 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is

1 used exclusively by the tribe for essential government services. Essential government services are tribal
2 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public
3 transit, and public parks and recreational facilities.

4 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious
5 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with
6 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,
7 which must be identified in the application, and all land and improvements used for educational or youth
8 recreational activities if the facilities are generally available for use by the general public but may not exceed 15
9 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,
10 or subdivision requirements;

11 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized
12 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used
13 exclusively for religious purposes;

14 (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain
15 or profit;

16 (e) property, not to exceed 80 acres, which must be legally described in the application for the
17 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the
18 use of students in attendance and other structures necessary for the operation and maintenance of an
19 educational institution that:

20 (i) is not operated for gain or profit;

21 (ii) has an attendance policy; and

22 (iii) has a definable curriculum with systematic instruction;

23 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing
24 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

25 (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the
26 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care
27 facility that is not licensed by the department of public health and human services and organized under Title 35,
28 chapter 2 or 3, is not exempt.

29 (h) property that is:

30 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

1 or

2 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; ~~and~~

3 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care

4 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

5 (iii) not maintained and not operated for gain or profit;

6 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or

7 local governmental entity by institutions of purely public charity if the property is directly used for purely public

8 charitable purposes;

9 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of
10 Montana;

11 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

12 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
13 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
14 irrigation of agricultural land;

15 (m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive
16 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,
17 prospect, or dig for oil, gas, coal, or minerals;

18 (n) (i) property that is owned and used by a corporation or association organized and operated
19 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
20 physical or mental impairments that constitute or result in substantial impediments to employment and that is not
21 operated for gain or profit; and

22 (ii) subject to subsection (2)(e), property that is owned and used by an organization owning and operating
23 facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

24 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training
25 and practice for or competition in international sports and athletic events and that is not held or used for private
26 or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization
27 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted
28 under the Montana Nonprofit Corporation Act.

29 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used
30 for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p),

1 "property" includes land but does not include buildings. The exemption must be applied for by the municipality
 2 or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

3 (2) (a) (i) For the purposes of tribal property under subsection ~~(1)(a)(viii)~~ (1)(a)(ix), the property subject
 4 to exemption may not be:

5 (A) operated for gain or profit;

6 (B) held under contract to operate, lease, or sell by a taxable individual;

7 (C) used or possessed exclusively by a taxable individual or entity; or

8 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

9 (ii) For the purposes of parks and recreational facilities under subsection ~~(1)(a)(viii)~~ (1)(a)(ix), the property
 10 must be:

11 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated
 12 as a recreational facility; and

13 (B) open to the general public.

14 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal
 15 Internal Revenue Code:

16 (i) an ordained minister, priest, or rabbi;

17 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the
 18 person has the authority to perform substantially all the religious duties of the church or denomination;

19 (iii) a member of a religious order who has taken a vow of poverty; or

20 (iv) a Christian Science practitioner.

21 (c) For the purposes of subsection (1)(i):

22 (i) the term "institutions of purely public charity" includes any organization that meets the following
 23 requirements:

24 (A) ~~The~~ the organization offers its charitable goods or services to persons without regard to race, religion,
 25 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
 26 Revenue Code, as amended; and

27 (B) ~~The~~ the organization accomplishes its activities through absolute gratuity or grants. However, the
 28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
 29 performances or entertainment or by other similar types of fundraising activities.

30 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used

1 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
2 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
3 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
4 the charity during the tax year, together with a statement indicating whether the exempt property was used to
5 generate any unrelated business taxable income.

6 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even
7 if the property must be improved before it can directly be used for its intended charitable purpose. If the property
8 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the
9 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property
10 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property
11 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was
12 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed
13 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.
14 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county
15 in which the property is located. The notice must indicate that an exemption pursuant to this section has been
16 granted. The notice must describe the penalty for default under this section and must specify that a default under
17 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the
18 department.

19 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally
20 applied for after December 31, 2004. An application for exemption under this section must contain a legal
21 description of the property for which the exemption is requested.

22 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and
23 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
24 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
25 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
26 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
27 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
28 owned by other persons is exempt if it is:

- 29 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
30 (ii) held for future display; or

1 (iii) used to house or store a public display.

2 (e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection
3 (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income
4 limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a
5 form prescribed by the department. Applicants are subject to the false swearing penalties established in
6 45-7-202."

7

8 **Section 14.** Section 18-4-132, MCA, is amended to read:

9 **"18-4-132. Application.** (1) This chapter applies to:

10 (a) the expenditure of public funds irrespective of their source, including federal assistance money, by
11 this state acting through a governmental body under any contract, except a contract exempted from this chapter
12 by this section or by another statute;

13 (b) a procurement of supplies or services that is at no cost to the state and from which income may be
14 derived by the vendor and to a procurement of supplies or services from which income or a more advantageous
15 business position may be derived by the state; and

16 (c) the disposal of state supplies.

17 (2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or
18 political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative
19 agreement.

20 (3) This chapter does not apply to:

21 (a) either grants or contracts between the state and its political subdivisions or other governments,
22 except as provided in part 4;

23 (b) construction contracts;

24 (c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by
25 student activity fees designated for use by the student associations of the university system;

26 (d) contracts entered into by the Montana state lottery that have an aggregate value of less than
27 \$250,000;

28 (e) contracts entered into by the state compensation insurance fund to procure insurance-related
29 services;

30 (f) employment of:

- 1 (i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;
- 2 (ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;
- 3 (iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case
- 4 proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of
- 5 the governor;
- 6 (iv) consulting actuaries;
- 7 (v) a private consultant employed by the student associations of the university system with money raised
- 8 from student activity fees designated for use by those student associations;
- 9 (vi) a private consultant employed by the Montana state lottery;
- 10 (vii) a private investigator licensed by any jurisdiction;
- 11 (viii) a claims adjuster; or
- 12 (ix) a court reporter appointed as an independent contractor under 3-5-601;
- 13 (g) electrical energy purchase contracts by the university of Montana or Montana state university, as
- 14 defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the
- 15 purchase or acquisition of energy must be retained by the board of regents of higher education for university
- 16 allocation and expenditure.
- 17 (h) the purchase or commission of art for a museum or public display;
- 18 (i) contracting under 47-1-121 of the Montana Public Defender Act; ~~or~~
- 19 (j) contracting under Title 90, chapter 4, part 11; or
- 20 (k) contracting for a civic infrastructure project approved by an authorizing entity as provided in [section
- 21 6].
- 22 (4) (a) Food products produced in Montana may be procured by either standard procurement procedures
- 23 or by direct purchase. Montana-produced food products may be procured by direct purchase when:
- 24 (i) the quality of available Montana-produced food products is substantially equivalent to the quality of
- 25 similar food products produced outside the state;
- 26 (ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and
- 27 (iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest
- 28 bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the lowest bid
- 29 or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for
- 30 a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's

1 existing budget without any further supplemental or additional appropriation.

2 (b) The department shall adopt any rules necessary to administer the optional procurement exception
3 established in this subsection (4).

4 (5) As used in this section, the following definitions apply:

5 (a) "Food" means articles normally used by humans as food or drink, including articles used for
6 components of articles normally used by humans as food or drink.

7 (b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or
8 manufactured."
9

10 **Section 15.** Section 18-8-210, MCA, is amended to read:

11 **"18-8-210. Energy performance and civic infrastructure project contracts exempt.** This part does
12 not apply to:

13 (1) solicitation and award of an investment grade energy audit or energy performance contract pursuant
14 to Title 90, chapter 4, part 11, or;

15 (2) to the construction or installation of conservation measures pursuant to the energy performance
16 contract; or

17 (3) a civic infrastructure project approved by an authorizing entity as provided in [section 6]."
18

19 NEW SECTION. **Section 16. Notification to tribal governments.** The secretary of state shall send
20 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
21 Chippewa tribe.
22

23 NEW SECTION. **Section 17. Codification instruction.** [Sections 1 through 11] are intended to be
24 codified as an integral part of Title 90, and the provisions of Title 90 apply to [sections 1 through 11].
25

26 NEW SECTION. **Section 18. Severability.** If a part of [this act] is invalid, all valid parts that are
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
28 the part remains in effect in all valid applications that are severable from the invalid applications.
29

30 NEW SECTION. **Section 19. Effective date.** [This act] is effective on passage and approval.
31

1 NEW SECTION. Section 20. Applicability. [This act] applies to a statewide economic impact district
2 created after [the effective date of this act].
3 - END -