

Amendments to Senate Bill No. 352  
Reference Copy

Requested by Senator Fred Thomas

For the Senate Free Conference Committee

Prepared by Jaret Coles  
April 23, 2019 (8:03pm)

1. Title, page 1, line 6.

**Following:** "~~FUNDS;~~"

**Insert:** "PROVIDING FOR THE FORMATION OF 406 ECONOMIC INVESTMENT DISTRICTS BY LOCAL AND TRIBAL GOVERNMENTS; PROVIDING FOR THE CREATION OF DISTRICTS IN MORE THAN ONE COUNTY; ALLOWING A PROPERTY TAX EXEMPTION FOR CERTAIN CIVIC INFRASTRUCTURE PROJECTS THAT ARE APPROVED BY A LOCAL GOVERNMENT; PROVIDING FOR DEVELOPMENT PLAN REQUIREMENTS; PROVIDING FOR A SKILLED AND TRAINED WORKFORCE; PROVIDING FOR STATE GRANTS TO COVER CIVIC INFRASTRUCTURE COSTS WHEN A DISTRICT HAS CERTAIN LEVELS OF DEVELOPMENT COSTS; REQUIRING A LOCAL FUNDING MATCH OF CIVIC INFRASTRUCTURE COSTS AS A CONDITION TO RECEIVING STATE GRANTS; PROVIDING FOR CERTIFICATION OF EXPENDITURES BY THE DEPARTMENT OF COMMERCE PRIOR TO RECEIVING GRANTS; PROVIDING FOR THE IMPOSITION OF FEES TO AN AUTHORIZING ENTITY; PROVIDING FOR A PUBLIC PURPOSE;"

**Following:** "APPROPRIATIONS;"

**Insert:** "AMENDING SECTIONS 7-14-302, 7-15-4288, AND 15-6-201, MCA;"

2. Page 1, line 13.

**Insert:** "NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "406 Economic Investment Districts Act"."

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

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

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

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

diverse tax base for the state overall;

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

(e) require a skilled and trained workforce for all civic infrastructure projects that involve construction, as certified by the Montana registered apprenticeship program of the Montana department of labor and industry;

(f) require that a public or private entity that receives civic infrastructure project funding under [sections 1 through 11] to require that a bidder, contractor, or other entity use a skilled and trained workforce as certified by the Montana registered apprenticeship program of the Montana department of labor and industry to complete a civic infrastructure contract or project;

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

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

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

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

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

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

(1) "406 economic investment district" means a defined geographic area established by a local government, cooperative government district, or tribal government pursuant to [section 4].

(2) "Authorizing entity" means a local government, cooperative government district, or tribal government that has certified formation of a 406 economic investment district to the director pursuant to [section 4].

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

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

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

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

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

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

(vi) costs of operation, ongoing maintenance, and improvements, subject to the terms and conditions established in the development agreement.

(4) "Civic infrastructure project" includes but is not limited to the following projects within a 406 economic investment district:

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

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

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

(d) parks, open or enclosed plazas, atriums, pedestrian malls, public markets, and food halls that are intended to foster local entrepreneurship;

(e) regional convention and civic centers and other regional event, recreation, or entertainment venues that are expected to draw tourism and visitation and to complement the municipality's existing civic and event facilities;

(f) educational and workforce development and training facilities;

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

(h) publicly owned buildings and any related public improvements;

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

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

(k) the compilation and analysis of pertinent information required to adequately determine the needs of the 406 economic investment district and other administrative costs associated with the management of the 406 economic investment district.

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

(6) "Cooperative agreement" means a written agreement of

intent to pursue formation of a 406 economic investment district in more than one county that is approved by the board of county commissioners of each impacted county. The agreement must describe the boundaries of the proposed district, how financial benefits and burdens are allocated, and the roles and responsibilities of each county.

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

(8) "Date of formation" means the day the director certified the formation of the 406 economic investment district pursuant to [section 4(3)].

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

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

(11) "Director" means the director of the department.

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

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

(14) "Primary civic infrastructure cost" means civic infrastructure costs for a civic infrastructure project that is owned or controlled by the authorizing entity.

(15) "Private development project" means the construction of privately owned buildings, improvements, and other investments that are undertaken within a 406 economic investment district and that do not fall under the definition of civic infrastructure project. The projects must encourage, promote, and stimulate economic development in key economic sectors, including but not limited to agriculture, energy or natural resource development, tourism, construction, information technology, aerospace, health care, bioscience, and life science.

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

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

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

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

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

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

(vi) unanticipated development and capital costs.

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

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

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

(19) "Skilled and trained workforce" means a workforce:

(a) in which all of the workers performing work in an apprentice-type occupation in the building and construction trades for civic infrastructure projects are either skilled journeymen or apprentices as certified by the Montana registered apprenticeship program of the Montana department of labor and industry; and

(b) that meets all of the following conditions:

(i) for work performed on or after June 1, 2019, at least 30% of the skilled journeymen employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation;

(ii) for work performed on or after January 1, 2020, at least 40% of the skilled journeymen employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation;

(iii) for work performed on or after January 1, 2021, at least 50% of the skilled journeymen employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation; and

(iv) for work performed on or after January 1, 2022, at least 60% of the skilled journeymen employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation.

(20) "Skilled journeyman" means a worker who either:

(a) graduated from an apprenticeship program under Title 39, chapter 6, and is approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal secretary of labor; or

(b) has at least as many documentable hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program under Title 39, chapter 6, for the applicable occupation that is approved by the Montana registered apprenticeship program.

(21) "State availability grants" means all tier 1 state 5:1 availability grants plus all tier 2 state 7.5:1 availability grants plus all tier 3 state 10:1 availability grants.

(22) "Tier 1 investment threshold" means total investment costs since the date of formation for all years equal to a minimum of \$150 million.

(23) "Tier 1 state 5:1 availability grant" means a grant made pursuant to [section 9] by the department to an authorizing entity for civic infrastructure costs and public financing costs that meet the tier 1 investment threshold.

(24) "Tier 2 investment threshold" means total investment costs since the date of formation for all years equal to a minimum of \$300 million.

(25) "Tier 2 state 7.5:1 availability grant" means a grant made pursuant to [section 9] by the department to an authorizing entity for civic infrastructure costs and public financing costs that meet the tier 2 investment threshold.

(26) "Tier 3 investment threshold" means total investment costs since the date of formation for all years equal to a minimum of \$750 million.

(27) "Tier 3 state 10:1 availability grant" means a grant made pursuant to [section 9] by the department to an authorizing entity for civic infrastructure costs and public financing costs that meet the tier 3 investment threshold.

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

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

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

**Insert: "NEW SECTION. Section 4. Formation.** (1) Subject to the provisions of this section, a local government, cooperative government district, or tribal government is permitted to establish, by written resolution of its governing body, a 406 economic investment district subject to the requirements of [sections 1 through 11], including the adoption of a development plan as provided in [section 5].

(2) A cooperative government district or county may not establish a 406 economic investment district within the boundaries of an incorporated city or town unless it receives permission in the form of a written resolution adopted by the governing body of the incorporated city or town. The boundaries of any 406 economic investment district may not overlap.

(3) The formation of the 406 economic investment district and the adoption of a development plan must be certified by the local government, cooperative government district, or tribal government to the director in a manner prescribed by the department.

(4) A local government, cooperative government district, or tribal government may not establish a 406 economic investment district after December 31, 2026."

**Insert: "NEW SECTION. Section 5. Development plan requirement -- professional services -- fee -- account.** (1) Subject to

subsection (2), an authorizing entity shall establish and adopt by written resolution of its governing body a development plan for a 406 economic investment district. An authorizing entity may modify the plan at any time consistent with the provisions for adoption of any original development plan. The development plan must be sufficiently complete to indicate:

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

(b) targeted parcels for civic infrastructure projects to be carried out by the authorizing entity, or by another public or private organization or entity designated by the authorizing entity, in the 406 economic investment district;

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

(d) projections of private development projects that are reasonably expected to be undertaken in conjunction with one or more civic infrastructure projects in the 406 economic investment district as catalytic projects that will meet enumerated policy goals consistent with the purposes of [sections 1 through 11];

(e) independent third-party estimates of 30-year economic impacts resulting from the combined private development projects and civic infrastructure projects in the 406 economic investment district, including new spending and construction jobs;

(f) independent third-party estimates of 30-year fiscal impacts, including new tax revenues by type and for each taxing jurisdiction of the state;

(g) a framework to identify and prioritize short-term and long-term public investment, private investment, and available public funding sources for civic infrastructure projects and to facilitate private investment and development of private development projects, with private to public investment ratios projected over the term of the 406 economic investment district for combined civic infrastructure projects and private development projects to be not less than 5:1;

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

(i) a process and procedure and a list of agreements that the authorizing entity intends to use in administering the 406 economic investment district, including requirements for project design and specifications, project budgets, terms for use of public funds, default provisions, and other project requirements.

(2) An authorizing entity shall submit an original or amended development plan to the department for approval prior to certification by the authorizing entity. The department shall review the plan and any amendments for compliance with [sections 1 through 11]. As part of the review, the department shall consider whether certification of the original or amended development plan is in the best interest of the state, which

includes a finding that the civic infrastructure will generate sufficient revenue to cover the state's obligations.

(3) The department may retain professional assistance from a third party to review an original or amended development plan and charge an authorizing entity for any costs incurred in obtaining professional assistance.

(4) After the review, the department shall either approve the plan or provide the authorizing entity with a description of any deficiencies and an opportunity to revise the submission. If the original plan or amendments are rejected, the authorizing entity has 90 days after a finding of insufficiency to revise and resubmit the plan to the department for further consideration.

(5) After approval of a plan by the department, if an authorizing entity adopts or amends a development plan, the action must be certified by the authorizing entity to the director in a manner prescribed by the department.

(6) (a) In addition to recovering direct costs incurred in subsection (3), the department is authorized to charge a fee during the rulemaking process for the purpose of administering the provisions of [sections 1 through 11]. When determining the amount of the fee charged to each authorizing entity, the department shall consider equality for similarly situated applicants, the complexity of the review process for different project sizes, and the average amount of administration costs in administering [sections 1 through 11].

(b) The revenue collected pursuant to this section must be deposited in a state special revenue account within the state special revenue fund established in 17-2-102."

**Insert: "NEW SECTION. Section 6. Local procurement provisions required -- skilled and trained workforce requirement -- rulemaking authority.** (1) Subject to subsections (2) and (3), the authorizing entity may:

(a) enter into an agreement with a private individual or entity relating to the design, construction, financing, marketing, and use of a civic infrastructure project;

(b) employ or contract with private individuals or entities to perform one or more of the functions of project developer, architect, engineer, construction manager, and program manager with respect to all or any part of the development, design, construction, financing, and use of a civic infrastructure project under an integrated design-build, finance, own, operate, and maintain method, another alternative delivery and finance method, or a combination of methods;

(c) receive and engage a private individual or entity based on an unsolicited or solicited civic infrastructure project proposal consistent with a development plan; and

(d) request for proposals for one or more of the functions described in subsection (1) (b), prequalify offerors by issuing a request for qualifications, and select a short list of offerors for discussions and evaluations. The authorizing entity shall conduct discussions and negotiations with responsible offerors in



order to determine which proposal is most advantageous to the authorizing entity and to negotiate the terms of an agreement.

(2) All contracting related to primary civic infrastructure costs pursuant to this section is subject to any procurement laws imposed on the local government or tribal government that forms the authorizing entity.

(3) (a) Subject to subsection (3)(b), projects with primary civic infrastructure costs must use a skilled and trained workforce.

(b) A contractor that does not satisfy the provisions of subsection (3)(a) must provide the department of labor and industry with an affidavit documenting that the contractor made a good faith effort but was unable to fulfill the skilled and trained workforce requirements.

(c) The department of labor and industry shall adopt rules to implement and administer this subsection (3).

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

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

**Insert: "NEW SECTION. Section 7. Development agreements**

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

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

**Insert: "NEW SECTION. Section 8. Certification of**

**expenditures.** (1) To be eligible to receive the initial state availability grant or a new tier of state availability grant pursuant to [section 9], the authorizing entity shall compile and certify to the director the amount of private expenditures made in the 406 economic investment district and the amount of civic infrastructure costs, whether the civic infrastructure project is financed publicly or privately, in the preceding years.

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

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

(4) The department shall provide an annual report regarding grant status to the legislative finance committee pursuant to 5-12-208."

**Insert: "NEW SECTION. Section 9. State availability grants.**

(1) (a) The authorizing entity is eligible for an annual tier 1 state 5:1 availability grant, including a local 5:1 match pursuant to [section 10], when the tier 1 investment threshold is met within 5 years following the date of formation and is certified by the director.

(b) The total amount of the tier 1 state 5:1 availability grant of state funds equals the lesser of \$30 million or 50% of primary civic infrastructure costs. The total amount of the grant is amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant payments.

(2) (a) The authorizing entity is eligible for an additional annual tier 2 state 7.5:1 availability grant, including a local 7.5:1 match pursuant to [section 10], when the tier 2 investment threshold is met within 10 years following the date of formation and certified by the director.

(b) The total amount of the tier 2 state 7.5:1 availability grant equals the lesser of \$10 million or 50% of primary civic infrastructure costs. The total amount of the grant is amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant payments.

(3) (a) The authorizing entity is eligible for an additional annual tier 3 state 10:1 availability grant when the tier 3 investment threshold is met within 15 years following the date of formation and certified by the director.

(b) The total amount of the tier 3 state 10:1 availability grant equals the lesser of \$35 million or 50% of primary civic infrastructure costs. The total amount of the grant is amortized over 20 years, with the annual amount disbursed to the authorizing entity through quarterly grant payments.

(4) Subject to subsections (5) and (6), the state shall transfer to the authorizing entity the amount of the annual tier 1 state 5:1 availability grant plus, if applicable, the annual tier 2 state 7.5:1 availability grant, and the annual tier 3 state 10:1 availability grant for each year on a quarterly basis for reimbursement of civic infrastructure costs. The first quarterly payment for any grant must be made by the department in

the first quarter following certification of expenditures by the director as provided in [section 8(3)].

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

(6) State availability grants are not a contractual obligation of the state and do not constitute a debt of the state or any political subdivision. Neither the faith and credit nor the taxing power of the state is pledged to pay principal or interest on any debt or obligation arising from [sections 1 through 11].

(7) Subject to appropriation, the state availability grant payments in this section that are certified by the department as provided in [section 8] must be distributed to authorizing entities."

**Insert: "NEW SECTION. Section 10. Local matching**

**contribution.** (1) The amount of a state availability grant for civic infrastructure costs within the statewide economic district pursuant to [section 9] must be matched by a local contribution from the authorizing entity for civic infrastructure costs for the same year. The total amount of all local contribution matches may not exceed the lesser of \$75 million or 50% of primary civic infrastructure costs.

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

- (a) a direct appropriation from the authorizing entity;
- (b) business improvement district financing subject to Title 7, chapter 12, part 11;
- (c) subject to subsection (3), tax increment financing as provided in 7-15-4288;
- (d) local motor fuel excise tax revenue as provided in 7-14-302;
- (e) a special improvement district assessment issued or received as otherwise required by state law;
- (f) grants that are not provided by the state;
- (g) gifts; or
- (h) any other lawful local revenue source.

(3) A local contribution from an authorizing entity does not include the costs provided for in 7-15-4288(1) through (12) that are incurred in connection with an urban renewal plan or a targeted economic development district comprehensive development plan.

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

**Insert: "NEW SECTION. Section 11. Rulemaking authority. The**

department may adopt rules to implement the provisions of [sections 1 through 11]."

**Insert: "Section 12.** Section 7-14-302, MCA, is amended to read:

**"7-14-302. Use of local motor fuel excise tax revenue.** (1) A county or municipality receiving revenue from the tax authorized by 7-14-301 may use the revenue derived only for the construction, reconstruction, maintenance, and repair of public streets and roads.

(2) Subject to the limitations of subsection (1), revenue received by a county or municipality may be used for a civic infrastructure project as provided in [sections 1 through 11].

~~(2)~~(3) One percent of the motor fuel excise tax revenue collected in a county is to be reimbursed to the retail seller for the cost of compliance with this part."

{Internal References to 7-14-302: None.}"

**Insert: "Section 13.** Section 7-15-4288, MCA, is amended to read:

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

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

economic development district to existing infrastructure outside the area or district;

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

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

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

{Internal References to 7-15-4288:x

7-15-4206	7-15-4279 *	7-15-4282 *	7-15-4283 *
7-15-4283 *	7-15-4286 *	7-15-4290	7-15-4290
7-15-4291	7-15-4291 *	7-15-4301 *	7-15-4324 *
7-15-4324	17-6-316}		

**Insert: "Section 14.** Section 15-6-201, MCA, is amended to read:

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

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

(i) the United States, except:

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

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

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

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

(iv) municipal corporations;

(v) public libraries;

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

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

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

~~(viii)~~(ix) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police,

public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.

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

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

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

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

(i) is not operated for gain or profit;

(ii) has an attendance policy; and

(iii) has a definable curriculum with systematic instruction;

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

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

(h) property that is:

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

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

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

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

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

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

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

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

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

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

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

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

(p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

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

(A) operated for gain or profit;

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

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

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

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

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

(B) open to the general public.

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

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

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

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

(iv) a Christian Science practitioner.

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

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

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

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

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the



exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

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

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

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

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

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

{Internal References to 15-6-201:x

15-6-231 15-6-232 41-3-201 61-10-214}"

**Renumber:** subsequent section

3. Page 1, line 22.

**Insert:** "NEW SECTION. **Section 16. {standard} 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."

**Insert:** "NEW SECTION. Section 17. {standard} Codification instruction. [Sections 1 through 11] are intended to be codified as an integral part of Title 90, and the provisions of Title 90 apply to [sections 1 through 11]."

**Insert:** "COORDINATION SECTION. Section 18. Coordination instruction. If [this act] and [House Bill No. 2] are passed and approved, then [House Bill No. 2] is amended to include a new section that reads:

NEW SECTION. Section 13. Appropriations. (1) There is appropriated to the department of commerce funds necessary to make grants to authorizing entities pursuant to [section 9 of Senate Bill No. 352] from the general fund for the biennium beginning July 1, 2019, not to exceed \$10 million.

(2) There is appropriated to the department of commerce funds necessary to administer [sections 1 through 11 of Senate Bill No. 352] from the state special revenue account provided for in [section 5 of Senate Bill No. 352] for the biennium beginning July 1, 2019, not to exceed \$100,000."

**Renumber:** subsequent sections

4. Page 9, line 20.

**Insert:** "NEW SECTION. Section 47. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

**Renumber:** subsequent section

- END -