

Tax Increment Financing in Montana
A Manual for Local Governments
and
Economic and Community Development Agencies

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Chapter 1. Tax Increment Financing in Montana

Introduction and Overview

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1.1 What is Tax Increment Financing?

Tax increment financing (TIF) is a state authorized, locally driven funding mechanism that allows cities and counties to direct property tax dollars that accrue from new development, within a specifically designated *district*, to community and economic development activities. In Montana, TIF districts are authorized in parts 7-15-4201 and 4301, et. Seq. Montana Code Annotated (MCA), the State's Urban Renewal Law. (See Appendix A for the entire statute.) Proposed TIF districts are typically characterized by blight and/or infrastructure deficiencies that have limited or prohibited new investment. A base year is established from which "incremental" increases in property values are measured. Virtually all of the resulting new property tax dollars (with the exception of the six mill state-wide university levy) can be directed to redevelopment and economic revitalization activities within the area in which they are generated.

Tax payers located within a TIF district pay the same amount as they would if the property were located outside the district. TIF only affects the way that taxes, once collected, are distributed. Taxes that are derived from base year taxable values continue to be distributed to the various taxing jurisdictions – local and state government entities and school districts. (See Figure 1.1, below.) Taxes derived from the incremental increase in taxable value are placed in a special fund for purposes set forth in establishing the TIF program.

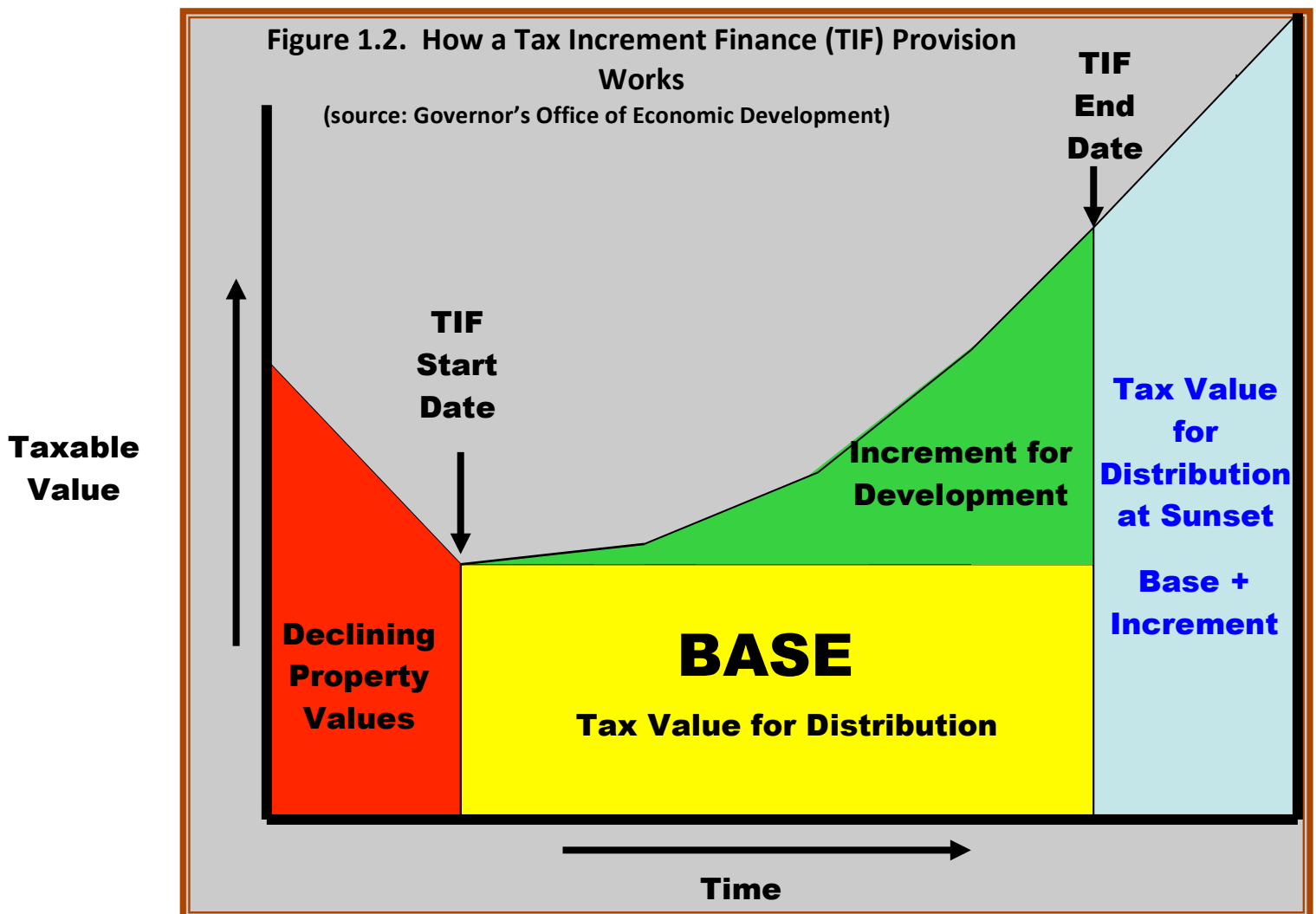
Figure 1.1 Tax Increment Calculation

- Base Year Value
 - Taxable Valuation x Mill Value = Taxes Collected
 - Directed to All taxing Bodies (Local Governments, Schools, State)

- Tax Increment Value
 - Incremental Taxable Valuation x Mill Value = Incremental Taxes Collected
 - Directed to Tax Increment Program (except University Levy)

districts are authorized for a period of 15 years but may potentially be extended for up to an additional 25 years if all or part of TIF dollars have been pledged to the repayment of a bond. TIF dollars, however, can only accrue if property values increase substantially. For example, in Montana, a property with an assessed market value of \$1 million only generates about \$14,800 in property taxes annually, using a total mill levy of 600

While TIF does direct revenue derived from new property taxes to a specific area for a period of time, ultimately the entire community benefits as Figure 1.2 shows:



TIF is authorized by Montana statute and is monitored by the Department of Revenue. The decision to create a TIF district is made at the local level, but its formation must follow a careful process that reflects thoughtful community planning and sound public policy. Community and economic development programs that can benefit from the use of TIF should be identified in comprehensive planning documents that provide an overall vision for the community. In particular, the use of TIF must be identified as an implementation strategy in the Growth Policy for the jurisdiction.

1.1.1 Growth Policy Requirement

A local government that wishes to create a TIF district must have a growth policy as defined in 76-1-601 MCA in place. The growth policy should identify, in its development goals and objectives, types of areas where the community or county proposes to encourage economic and community development, using a variety of financial and programmatic tools. Land use regulations, including zoning must also support these uses. For example, an area must be properly zoned in accordance with the growth policy before a TIF district can be created. The role that zoning plays in the creation of TIF districts is detailed in Chapter 3.

1.1.2 Community Support

The use of TIF results in the *delay* of receipt of new property tax revenue generated in the district to other taxing jurisdictions (city, county and state governments and school districts) for a period of 15 to 40 years. While there are no additional costs to the taxpayer as a result of TIF, the other taxing jurisdictions must continue to provide services, even as new development occurs and demands on these services increase. Therefore, it is important to demonstrate that the entire community will benefit over time from the segregation of these incremental tax dollars. Property owners within a proposed TIF district, members of the public and representatives of all the affected taxing jurisdictions should be brought into the process early through public meetings and educational outreach efforts.

These efforts should focus on demonstrating how TIF can, in the long run, benefit everyone through the elimination of blight and the development of necessary infrastructure to attract new investment. This new investment can, in turn, create jobs, improve the tax base, and improve the overall health of the community. The local governing body may elect to return a certain percentage of the funds to the other taxing jurisdictions in proportion to the number of mills levied by each. This can be achieved permanently through adjustments to the base year value or annually through allocations.

1.2 The History of Tax Increment Financing in Montana

TIF is authorized in a number of states. Ohio and California were among the first to adopt this financing method. In Montana, TIF districts were first authorized in Montana in 1974 for use in urban renewal programs (7-15-4282, MCA). Since that time, TIF has been used for a variety of community revitalization and redevelopment programs, financing both public and private activities. Projects have included:

- construction of transportation infrastructure including parking facilities
- improvements to sewer and water systems
- parks and urban trails development
- historic building restoration
- streetscape improvements
- improvements to public buildings
- housing development
- infill construction
- land development
- public art and theater programs

Beginning in 1989 the use of TIF was expanded to include Industrial districts and subsequently Technology districts and Aerospace Transportation and Technology districts were added. In 2013, however the Montana Urban Renewal Statutes were amended once again. The newest version of the law identifies only two types of districts that can use TIF as a financing tool – Urban Renewal Districts and Targeted Economic Development Districts or “TEDDs”. While the primary criteria for the creation of an urban renewal district has been “blight”, per 7-15-4206 MCA, TEDDs must be infrastructure deficient and have, as their primary purpose, to support the development and maintenance of “secondary value-adding industries. As of 2010, Montana has approximately 50 active TIF districts in the state.

Of special note, Urban Renewal TIF districts may only be created inside of an incorporated city or town or within a city-county consolidated jurisdiction, while TEDDs may be created in cities and towns, within a city-county consolidated jurisdiction *and in counties*.

1.3 Types of TIF districts

As noted above, two types of TIF districts are allowed under Montana state law as follows:

- Urban Renewal – 7-15-4201 et seq, MCA
- Targeted Economic Development – 7-15-42719 MCA

The following paragraphs summarize the characteristics of each of these districts. More specific information regarding the creation of TIF districts can be found in Chapter 3.

1.3.1 Urban Renewal districts - Current laws related to Montana Urban Renewal districts can be found in Title 7, Chapter 15, Parts 42 and 43 of the Montana Code Annotated (MCA). The Montana Urban Renewal Law provides for the renewal of “blighted” areas and the process for determining blight is described in 7-15-4209 as follows in Figure 1.3 (emphasis added):

Figure 1.3. Authorization for the Creation of an Urban Renewal Program

7-15-4209. Development of workable urban renewal program. (1) A municipality, for the purposes of this part and part 43, may formulate a workable program for *utilizing appropriate private and public resources*:

- (a) *to eliminate and prevent the development or spread of blighted areas;*
 - (b) *to encourage needed urban rehabilitation;*
 - (c) *to provide for the redevelopment of such areas; or*
 - (d) *to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program.*
- (2) Such workable program may include, without limitation, provision for:
- (a) *the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards;*
 - (b) *the rehabilitation of blighted areas or portions thereof by re-planning, removing congestion, providing parks, playgrounds, and other public improvements; by encouraging voluntary rehabilitation; and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and*
 - (c) *the clearance and redevelopment of blighted areas or portions thereof.*

The Montana State legislature authorized the use of TIF for urban renewal districts in 1974. Prior to embarking on an urban renewal program, the municipality must first pass a Resolution of Necessity (See Chapter 3, Figure 3.1 for more information on the Resolution of Necessity). Following the passage of the Resolution of Necessity, the community can proceed with the preparation of an Urban Renewal Plan, which is adopted by Ordinance. The use of TIF must be specifically authorized in the Urban Renewal Plan and referenced in the Ordinance.

1.3.2 Targeted Economic Development Districts (TEDDs) were authorized in 2013 to address infrastructure deficiencies that discourage the development of “secondary, value-adding” industries in Montana. In order to create TEDD, the property proposed to be included in the district must meet the requirements of 7-15-4279 MCA. TIF may be used to fund associated infrastructure improvements. (See Figure 1.4 below.) A key component of this legislation was to allow TIF funds (in any type of district) to be used to pay for to connect the district to public infrastructure located outside of the district. For example, TIF funds can finance connections to existing water and sewer service, rail spurs and utility lines located *outside* the TIF district boundary. This provision can be found in 7-15-4288 (10) MCA.

Figure 1.4. Authorization for the Creation of Targeted Economic Development Districts

7-15-4279. Targeted economic development districts. (1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned for use in accordance with the area growth policy, as defined in [76-1-103](#);

(c) may not comprise any property included within an existing tax increment financing district;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under [7-15-4280](#);

(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of non-independent tenants.

(3) The local government may use tax increment financing pursuant to the provisions of [7-15-4282](#) through [7-15-4294](#) for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive development plan required in subsection (2)(e).

(4) For the purposes of [7-15-4277](#) through [7-15-4280](#):

(a) "secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce;

(b) "secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within Montana that, through the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth.

1.4 TIF Eligible Costs

The Montana Urban Renewal Law provides a list of costs that may be paid by tax increment financing (Figure 1.5). These costs may be paid through annual TIF receipts, through the issuance of tax increment bonds or other TIF related debt instrument. TIF may also be used in conjunction with other funding sources to cover the cost of these eligible expenses.

Figure 1.5 TIF-Eligible Costs

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 off-street 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.

1.5 The Role of the Montana Department of Revenue

7-15-4284 MCA of the Montana statute requires that the Montana Department of Revenue (DOR) and all affected taxing jurisdictions be notified of the creation of a TIF district (Figure 1.7).

Figure 1.6. Notification Requirements

7-15-4284. Filing of tax increment provisions plan or district ordinance. (1) The clerk of the local government shall provide a certified copy of the ordinance creating each urban renewal plan or targeted economic development district comprehensive development plan and an amendment to either of the plans containing a tax increment provision to the department of revenue.

(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.

In addition to this statutory notification requirement, the DOR, under its administrative rules, requires that a series of supporting documents also be submitted in order for the TIF district to be certified. These documents demonstrate that the district has been formed in accordance with statutory requirements. A complete set of the Administrative Rules associated with TIF is located in Appendix B to this document. Chapter 3 provides information on how communities can comply with these rules, on a step by step basis. In general the documents required by the DOR include, but are not limited to:

- Legal Description Including Geocodes and Map of the district
- Finding of Necessity
- Statement of Compliance with the Growth Policy and Zoning Regulations
- Public Notices with Publication Documentation
- Resolutions, Ordinances and TIF Planning Documents
- Supporting Materials
 - Zoning Ordinances
 - Growth Policy

1.6 How to Use This Manual

This Tax Increment Financing Manual is organized to reflect the steps that a local government takes in creating a tax increment financing district including:

- ✓ Developing a Rationale and Determining Feasibility – Chapter 2
- ✓ Creating a TIF district and Program – Chapter 3
- ✓ Addressing Special Issues – Getting Technical – Chapter 4
- ✓ Working with Other Taxing Jurisdictions and the Montana Department of Revenue – Chapter 5
- ✓ Making use of Technical Assistance and TIF Specialists – Chapter 6
- ✓ Examining Trends – The Future of TIF in Montana – Chapter 7

This Manual is not intended to be the final word in interpreting and implementing Montana's TIF related statutes or the Department of Revenue's Administrative Rules. Communities who are considering using TIF as a development tool should proceed carefully, consulting city and

county attorneys, bond specialists, the Governor's Office of Economic Development and the Montana Departments of Commerce and Revenue.

Finally, Montana's TIF statutes undergo changes during nearly every Legislative Session. The electronic format of the Manual allows it to be easily updated. Following each session, we encourage you to contact the Governor's Office of Economic Development and the Department of Revenue to obtain information about any changes to TIF. A successful program relies on knowledge of current law and administrative rules regarding the use of TIF in Montana.

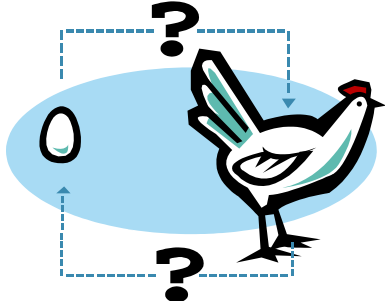
Chapter 2. Tax Increment Financing in Montana Developing a Rationale and Determining Feasibility



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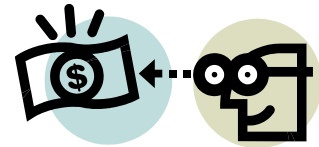
- 2.1 The Chicken and the Egg – Developing a Rationale
- 2.2 Documenting Blight/Infrastructure Deficiencies – Making the Case for TIF
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2.1 The Chicken and the Egg – Developing a Rationale



As noted in Chapter 1, Tax Increment Financing (TIF) provides a tool that can encourage investment in areas where growth has been stymied by the lack of sufficient infrastructure and/or the presence of blight. If development is going to occur, regardless of these obstacles, the argument for TIF becomes less compelling. Why would local and state taxing jurisdictions be willing to delay receipt of new tax revenue that they would have received anyway, without a TIF program in place? Sound public policy

dictates that local governments carefully consider whether TIF is appropriate in addressing identified needs. It is important that cities and counties do not try to use TIF dollars to create a new source of revenue for ongoing governmental operations or facilities to provide additional incentives to companies that have already committed to expand or locate in the community.



The rationale for using TIF should be directly tied to documented need. What are the blighted conditions in the proposed district? What are the deficiencies in infrastructure? Have property values declined or remained stagnant over time? Has there been little or no investment in the area in recent years? What is the potential for new development if these blighted conditions and/or infrastructure deficiencies are addressed?

In addition to evaluating existing conditions in a proposed TIF district, the local government must also examine whether the development or revitalization of an area is supported in its overall land use policies and regulations. Does the growth policy specifically discuss economic or community development activities in the proposed area? Is the area appropriately zoned?

Location must also be considered. An Urban Renewal TIF program can only occur within the incorporated limits of a city or town. Targeted Economic Development TIF districts can occur either inside or outside incorporated limits, but should not cross jurisdictional boundaries. Finally a new district cannot be created within an existing TIF area.

2.2 Documenting Blight/Infrastructure Deficiencies – Making the Case for TIF

The first step in evaluating the appropriateness of using TIF, is to document the conditions that have discouraged new development. A Resolution of Necessity must be adopted by the governing body prior to proceeding with the creation of a district. The Resolution makes a series of findings based on an assessment of the area and has, as an attachment, a finding of blight (urban renewal) or of infrastructure deficiency (TEDD). This attachment will also be used in drafting the documents that will create the district, so the information should be carefully assembled.

2.2.1 Urban Renewal Districts

For Urban Renewal districts, the proposed area must be found to be blighted. The definition of blight is provided in 7-15-4206 MCA (Figure 2.1).

Figure 2.1. Definition of Blight

7-15-4206 (2). Blighted area" means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs, that retards the provision of housing accommodations, or that constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- (a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential;
- (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
- (c) inappropriate or mixed uses of land or buildings;
- (d) high density of population and overcrowding;
- (e) defective or inadequate street layout;
- (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (g) excessive land coverage;
- (h) unsanitary or unsafe conditions;
- (i) deterioration of site;
- (j) diversity of ownership;
- (k) tax or special assessment delinquency exceeding the fair value of the land;
- (l) defective or unusual conditions of title;
- (m) improper subdivision or obsolete platting;
- (n) the existence of conditions that endanger life or property by fire or other causes; or
- (o) any combination of the factors listed in this subsection (2).

A proposed district does not have to meet all of these criteria in order to be eligible. *However, House Bill 561, adopted by the 2011 Legislature requires that at least three of the factors listed in 7-15-4206 (2) MCA, be identified in the Resolution of Necessity.* The type of information that can be used to document blight can vary from community to community. The following example (Figure 2.2), which addresses 7-15-4206 (2)c MCA above, is taken from the Butte Silver Bow Urban Renewal Area Statement of Blight:

**Figure 2.2. Example Excerpt of a Statement of Blight
Butte-Silver Bow Uptown Urban Renewal Area**

Blighted Conditions in the Proposed Butte-Silver Bow Urban Renewal District

The proposed Butte-Silver Bow Urban Renewal District exhibits a number of blighted conditions including:

1. Physical deterioration of buildings and properties
2. Inappropriate or mixed uses of land or buildings
3. Defective street layout
4. Unsanitary and unsafe conditions and the existence of conditions that endanger life or property by fire or other causes

Physical Deterioration of Buildings and Properties

Physically, the Uptown Butte CBD and adjacent neighborhoods are suffering from deferred maintenance and lagging attention to both buildings and public spaces. The proposed District includes a number of properties that are vacant and deteriorating.

Inappropriate or mixed uses of land or buildings

The proposed Urban Renewal District includes a variety of land uses including commercial, residential, public and industrial. While these uses all contribute to the area's character, the various uses are not always well delineated. For example, this construction staging site, located just south of the CBD is incompatible with both the commercial area to the north and the surrounding Emma Park residential area.

Defective Street Layout

While several streets in Uptown Butte and the surrounding neighborhoods have been improved during the past three decades, many of the streets within the proposed Urban Renewal District are characterized by deteriorating pavement, or no pavement at all. The lack of long term parking facilities in the CBD has made the development of vacant upper story residential space difficult and discouraged new commercial development. Throughout the district, pedestrians are faced with missing and broken sidewalks as seen in this photograph.

Unsanitary and unsafe conditions and the existence of conditions that endanger life or property by fire or other causes

Many of the blighted conditions noted above can be characterized as unsafe. Vacant buildings and the general deterioration of the overall infrastructure increase the risk of system failures and structure fires. Occupied buildings adjacent to vacant properties are in jeopardy and overall investment in Uptown Butte will continue to be stymied in the absence of a renewed revitalization effort.

Conclusion

Based on these findings, the proposed Butte-Silver Bow Urban Renewal District can be described as blighted per Montana Statute, with respect to the deteriorating condition of property in the area; incompatibility of land uses; defective street layout, and unsafe conditions associated both public and privately held property.

2.2.2 Targeted Economic Development Districts

Montana statutes do not provide a definition for infrastructure deficiency in determining whether a proposed TEDD district TIF. The law simply states that these types of districts must be found to be deficient in infrastructure improvements for development. Some insight is provided in 7-15-4288 MCA, which details the types of costs that can be paid with TIF (Figure 1.5, Chapter 1). Identifying infrastructure needs with respect to the allowable activities listed in part (4) of this section, provides the necessary rationale for using TIF. The following example

of a statement of infrastructure deficiency is taken from the Stevensville Airport TEDD Statement of Infrastructure Deficiency (Figure 2.4).

**Figure 2.4. Example Excerpt of a Statement of Infrastructure Deficiency
Stevensville Airport TEDD**

As stated above, prior to establishing a TEDD, the Town Council must adopt a Resolution of Necessity designating the proposed district as infrastructure deficient. This action establishes the need for TEDD program and the rationale for investing public funds in economic development activities. In meeting this requirement, the following infrastructure deficient conditions in the proposed Stevensville TEDD have been identified.

Water System – The Stevensville Airport lacks a potable public water supply that is safe for human consumption and does not have a sufficient supply of water for fire suppression. As a result, buildings erected on the airport are required to have extra physical separation for fire safety, thereby using more land than would normally be required for development. A comprehensive water service plan is needed at the airport to meet this need and those of future industrial users.

Sewer System – The Stevensville Airport currently has a series of septic systems on its 174+ acres serving some individual hangers and has not public restroom facilities. It will, over time, need to create a larger, central collection and disposal system if it is going to meet the needs of more and larger industrial users.

Roadways – The Stevensville Airport is in need of new roadways and taxi lanes to provide access for the construction of additional, airport-related industrial users and aircraft hangar facilities.

Utilities – Although telephone, natural gas and electrical utilities are available at the Stevensville Airport, these services will need to be expanded in the future to include fiber optics and may include upgrades to existing utilities to accommodate new industrial users.

General Improvements – Additional infrastructure and public service deficiencies will be identified over time. For example, improvements to security fencing, wildlife management/control and roadways for emergency/service vehicles, as well as upgrades to existing infrastructure, will need to be addressed.

Conclusion

Based on these findings, the proposed Stevensville TEDD can be described as infrastructure deficient per Montana Statute and that this deficiency impedes the ability of the Town to engage in the development of secondary-value added industries.

2.2.3 Information Sources for Establishing Blight and/or Infrastructure Deficiencies

There are a variety of sources that can be consulted in preparing a statement of blight or infrastructure deficiency for a proposed TIF district. In addition, by using information from other local government documents in particular, you can help assure that the creation of a TIF district will be consistent with other community development policies.

2.2.3.1 Growth Policies

City and county growth policies often contain information on a number of topics that can help document problem areas in a community. For example, growth policies include information about trends in land uses and descriptions of housing, economic and infrastructure conditions.

2.2.3.2 Capital Improvement Plans

Capital Improvement Plans (CIPs) contain precise information about the sewer, water, transportation, utilities and other infrastructure that are important to development. CIPs contain data about the condition of critical infrastructure and costs associated with the repair, replacement and expansion of services.

2.2.3.2 Property Ownership and Valuation Data

A review of property values within a proposed TIF district can often demonstrate the effects of blight or infrastructure deficiencies on the area's economic condition. Steady or declining valuations can be an important indicator of blight and/or the overall lack of development potential. A review of property ownership records can sometimes reveal current and historical information about use and disuse. For example, a parcel might be owned by someone who does not reside in the area and is unaware of its condition.

2.2.3.4 Environmental Assessments and Related Studies

Information related to blight, particularly as noted in 7-15-4206 2 (h)MCA (unsafe or unsanitary conditions) might be included in an environmental assessment required in association with a state or federal project that may have occurred in the district. Some areas may have been the focus of study under the state and federal Superfund programs and associated information might be available through the Montana Department of Environmental Quality.

2.2.3.5 Inventories and Surveys

In the absence of existing data, or to augment information found in other documents, inventories and surveys of the proposed district can be used to reveal blight. Descriptive information about the area's condition, including photographs of deteriorating structures, poor transportation infrastructure, vacant land or standing water due to poor drainage can show strong evidence of blight.

2.2.3.6 Key Person Interviews

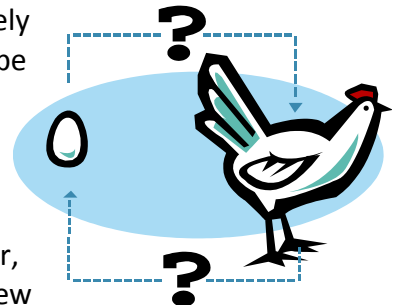
Interviews with public works departments, road crews, sewer and water specialists, structural and civil engineers, public safety/emergency departments, potential developers and utility companies can be very insightful in evaluating blight and infrastructure deficiencies in a proposed TIF district.

The information gathered in establishing blight and infrastructure deficiencies can also be used in preparing applications for other sources of development funding. For example, proposals to state and federal agencies often require similar assessments of need.

2.3 Development Potential

As communities work to develop their economies, TIF programs can be beneficial in attracting business, industry and residential development. TIF dollars can be used to match other local, state and federal economic development funding sources such as state Renewable Resources Grants, resource extraction taxes, Community Development Block Grants, Economic Development Administration Funds, Historic Preservation Funds and Rural Development Grants and Loans.

Communities contemplating the creation of a TIF district should be actively working to identify property owners and other developers who may be interested in undertaking projects in the area that will generate new tax dollars. Unfortunately, at this stage the community is again confronted with the “chicken and the egg” scenario. The anticipated development will generate new tax dollars that will in turn help address the infrastructure deficiencies and blighted conditions in the area. However, those new tax dollars may not be realized for some time after the new investment occurs.



Within urban renewal TIF districts, this is not necessarily a problem. Typically, at least some infrastructure is already in place in an urban renewal area and can be improved over time. In a TEDD there may be no existing infrastructure to support development. Therefore, communities may have to find a another financing source to pay for infrastructure up front and use TIF dollars to reimburse costs later. It may be possible to undertake initial improvements using state or federal grants. In some cases, communities can incur debt prior to the receipt of any increment, based on agreements with property owners with respect to property tax payments. The provision for such agreements can be found in 7-15-4294 MCA.

Accordingly, a community should have a good strategy in place for attracting new investment in a timely way before proceeding with the creation of a TIF district. Local governments should work with their local businesses, local and state economic development specialists, Chambers of Commerce and industry representatives in identifying a reasonable strategy. TIF is fundamentally a public-private partnership that is intended to foster sound community and economic development. It relies on both partners to be successful.

2.4 Establishing a Reasonable Boundary

Montana’s statutes governing the use of TIF do not establish a minimum or maximum size for a district. There is no discussion about the location or size of an urban renewal TIF district. Only two statements are made about the physical nature of TEDDs; first, they must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants; and second, they may not comprise any property included within an existing tax increment financing district. Without any clear definition regarding size, local governments should focus on establishing boundaries that are reasonable and defensible. A suggested list of criteria that might be used in establishing a boundary includes the following:

- Ability to generate revenue (increment) – Will enough development occur in the area to generate an adequate increment, remembering that \$1,000,000 of assessed value will only generate about \$12,500 of new property tax revenue?
- Feasibility of improving, installing or replacing infrastructure – can affordable infrastructure improvements be made within the boundary?
- Proximity to services – is the area close enough to emergency, utility and other services and/or is the area close enough to reasonably connect to existing infrastructure?
- Fairness – is the proposed district taking advantage of new investment that will not benefit from the TIF district?
- Reasonable Benefit – is the area large enough to accommodate more than one business enterprise/tenant/property owner? (required specifically by 7-15-4279 MCA).
- Effects on Taxing Jurisdictions – does the size of the district put a strain on the other taxing jurisdictions in providing services?
- Opportunities for Success – is the district sized so that the local government can meet its revitalization and/or development goals?

Certainly logic also plays a role. In establishing an urban renewal district, it makes sense to pick boundaries that encompass a neighborhood or business district. TEDDs should be designed so as not to promote sprawl or to compete with other existing industrial or business parks or districts.

2.5. Are You Ready to Create a Tax Increment Financing district – When and How?

Timeliness plays an important role in establishing the TIF district. It should be remembered that the life of a district is 15 years. If a district is created substantially ahead of potential development, the amount of increment that can actually be captured will be minimized. Further, if there are any losses in value, It will be necessary to make up the “difference” before any increment above the original base is realized.

Tax Increment Financing districts are created and managed by local governments and should be established in a manner that is consistent with overall local government policies. Local governments – city councils and county commissions must approve ordinances creating TIF districts, making sure that they have been created according to Montana statute. The urban renewal plan or comprehensive development plan (for TEDDs) should contain a clear statement on how the TIF program will be administered to assure that tax increment dollars are spent in the public interest.

2.5.1. Land-Use Regulatory Requirements

The creation of a TIF district must be undertaken with respect to local land use policies and regulations. In 7-15-4211 MCA, the statute states that, “(1)Prior to its approval of an urban renewal project, the local governing body shall submit the urban renewal project plan to the planning commission of the municipality for review and recommendations as to its conformity with the growth policy or parts of the growth policy for the development of the municipality as a whole if a growth policy has been adopted pursuant to Title 76, chapter 1 (*the Growth Policy statute*). (2) The planning commission shall submit its written recommendations with respect

to the proposed urban renewal plan to the local governing body within 60 days after receipt of the plan.” In 87-15-4279 MCA it states that a Targeted Economic Development District must be zoned in accordance with the area Growth Policy. *Given these statutory provisions, it is recommended that the Planning Board be asked to review the plan for any TIF district with respect to its conformance with the area growth policy and whether the district is zoned in accordance with the area growth policy.*

2.5.2 Jurisdictional Requirements

As noted earlier, Urban Renewal TIF districts can only be created within the municipal boundaries of a city or town, or a consolidated city-county incorporated area. A TEDD can be created within an incorporated community or in a county, but should not cross jurisdictional boundaries.

2.5.3 Administrative Requirements

Montana statute provides for the administration of Urban Renewal Programs in 7-15-4232 MCA, as follows: “When a municipality ... has elected to have urban renewal project powers... (1) such urban renewal project powers may be assigned to a department or other officers of the municipality or to any existing public body corporate; or (2) the legislative body of a city may create an urban renewal agency in such municipality, to be known as a public body corporate, to which such powers may be assigned.” The statutes covering TEDDs *do not* provide for the assignment of project powers to a separate agency.

Missoula and Butte, for example, have established Urban Renewal Agencies, each managing several urban renewal districts. These agencies not only manage TIF projects, but other redevelopment activities as well, using a variety of tools and funding sources. In some cases, local governments assign TIF duties to an existing office or department, but the governing body retains overall “project powers”. TEDDs are managed through Planning and Community Development Departments, County Commissioners, or under contract to an outside entity. Some communities create special TIF Advisory Boards for both urban renewal districts and TEDDs. However, a local government can only create an separate agency for an urban renewal district.

Whatever administrative format the local government chooses, it is necessary to assign responsibilities for program management to a local government staff person or other designated entity. TIF funds may be used for program administration including staff.

It is important to keep in mind, however, that Tax Increment dollars are public funds and need to be appropriated annually by the local government through the budgeting process, unless specifically pledged for bond payments. All projects must comply local government bidding procedures.

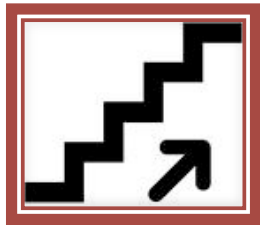
2.6 Communication with Affected Taxing Jurisdictions

As local governments consider the creation of a TIF program, it is important to include all of the affected taxing jurisdictions in the conversation. Cities and towns, counties, school districts and other taxing bodies that will be affected by the creation of the TIF district should be provided with information about the program and how their constituents will benefit over the long term. They should also be given the opportunity to offer comments and suggestions and ask questions about TIF and associated development plans.

It is important to remind the affected jurisdictions that they will continue to receive property tax revenue from the TIF district, generated from the base value. They will also benefit immediately from any increases in value *outside* the district. When the TIF district sunsets, they will recognize the full value of the taxes generated from both the base and incremental taxable valuations. It can also be argued that, without the TIF district, this new source of revenue, would likely never have been realized.

Chapter 3. Tax Increment Financing in Montana

Establishing a Tax Increment Financing district



Chapter Contents

- 3.1 The Importance of Planning Ahead
- 3.2 Establishing a TIF District – Step by Step
 - 3.2.12 Establishing a TIF – Flow Chart
 - 3.2.13 TIF Check List

3.1 The Importance of Planning Ahead

The creation of Tax Increment Financing districts requires careful planning and analysis. When setting a timetable, it is important to anticipate all of the required steps. At a minimum, a local government should allocate three to six months to complete the process. The time it takes to complete each step is in part determined by state and local statutes and regulations. For example, addressing the Growth Policy and Zoning requirements discussed here and in Chapter 2 can add several months to the process. In addition to specific statutory and administrative steps, however, time should also be allotted for the meaningful participation of area property owners, members of the public and representatives of the various taxing jurisdictions that will be affected by the creation of the district. The following sections discuss items that should be considered in establishing a time line for the creation of a TIF district. It is important to remember that the ordinance that adopts the plan for the district must be effective no later than December 31st of the base year. Ordinances are effective 30 days after adoption. Therefore the governing body should adopt the ordinance, on final reading, no later than November 30th of the base year.

3.1.1 Introducing Elected and Appointed Officials to TIF – The impetus for creating a TIF district often comes from economic and community development specialists both inside and outside the local government structure. Given that the creation of a TIF district is a local government function, it is essential that local government officials be brought into the process early. These include city council members or county commissioners, planning board members, community development and planning staff and the City or County Attorney. Ultimately, it is the local governing body and its staff who must take the lead in creating and managing a TIF district. The early involvement of elected and appointed officials will help assure success.

3.1.2 Public Involvement – The local governing body or its representatives should meet with property owners within the proposed TIF district as well as representatives of the various affected taxing jurisdictions as early as possible. These meetings should be held well in advance of the public hearing required under 7-15-4214 and 4215 MCA. Doing so enables all of those who will be affected by the creation of the district to participate in formulating goals and strategies for development.

3.1.3 Creating an Educational Program – Meetings with local officials and members of the public should typically begin with a brief summary of how Tax Increment Financing works and how the community will benefit from the program. This information can help dispel any misconceptions about TIF and improve the quality of the decision-making process associated with creating the district. In addition to its use in meetings, this information can also be provided to the media, posted on the local government’s web site and shared with area community development organizations.

3.1.4 Documentation of Existing Conditions –In order to be eligible for TIF, an area must be blighted and/or infrastructure deficient. Conducting surveys and reviews of existing conditions will help facilitate the development of the necessary resolutions, ordinances and planning documents that are required in creating the TIF district. Chapter 2, Section 2.2.3 lists a variety of resources that can be consulted in assembling this documentation.

3.1.5 Program Administration –The responsibilities associated with TIF program management and implementation must be clearly delineated in the development or urban renewal plan or comprehensive development plan for the TIF district. As noted in Chapter 2, Section 2.5.3, though these responsibilities rest with the local government, they may be delegated to a separate agency in the case of an urban renewal district. TEDDs and urban renewal programs can make use of TIF advisory boards that work with the local governing body in administering the program. Program staffing and budget administration must also be considered. In developing an administrative plan for the new TIF district, the following questions should be addressed:

- Will TIF duties be assigned to existing staff or will new staff be hired?
- Will the local government contract for services to implement the TIF program?
- If the proposed TIF district is for urban renewal activities, will the local governing body administer the district or will a separate urban renewal agency be created?

3.2 Establishing a TIF district – Step by Step.

Montana statute sets forth the requirements for establishing a TIF district. In addition, the Montana Department of Revenue (DOR), the entity responsible for certifying newly established districts, has set forth a series of administrative rules, which govern the certification process for each type of TIF district. The rules are in the process of being updated to reflect changes made by the 2013 Legislature. The proposed changes can be found in Appendix B. Carefully completing the following steps will help assure that your district will be certified.

3.2.1 – Step 1 – Establish a Boundary for the district

The first step in creating a TIF district is the identification of an appropriate boundary. The information should include a precise legal description, an accurate map and a list of geocodes (digital records used by the Department of Revenue to track property tax information) for properties located within the proposed district. Centrally assessed properties and personal property such as trailers and mobile homes should be included as well. County GIS Departments, Land Use Planners and Clerk and Recorders can assist in providing this information. At this stage, the district boundary should be considered preliminary and may be amended, prior to formally establishing the district, based on inventories and further analysis. However, it is important to make sure that the boundary does not divide a parcel, resulting in a portion of the parcel remaining outside the district.

The boundary should make sense. Existing transportation corridors, types of land use and proximity to other neighborhoods can help define the area. In addition, evaluations of blight,

inventories of infrastructure, location of adjacent services and jurisdictional concerns will help in defining a final, defensible boundary.

3.2.2 – Step 2 – Assign Responsibilities

While responsibility for creating the TIF district rests with the local governing body, someone should be assigned the tasks associated with the creation of the district. Duties may be assigned to:

- A staff member of a department within local government. This is often a person from the Planning or Community Development Department, the county administrator or the city manager/chief executive office
- A local economic development entity
- A private consultant with expertise in TIF, who has been hired by the local government for this purpose.

In some cases, local governments are supported in their efforts to create TIF districts by all of these parties.

3.2.3 – Step 3 – Assemble a List of Property Owners

In consultation with the Montana Department of Revenue and the Clerk and Recorder, a list of the parcels and the associated property owners located within the proposed district should be prepared. This is helpful for a variety of reasons. The list can be used to:

- Inform property owners of any informational or scoping meetings
- Identify trends in ownership that have had an effect on the area
- Send notices of the public hearing that is required before passage of a TIF ordinance

3.2.4 – Step 4 – Hold a “Kick-off” or Scoping Meeting

Communities intending to pursue the creation of a TIF district should hold a kick-off or scoping meeting early in the process and include the following participants:

- Representatives of the Governing Body
- Members of the Planning Board
- Representatives of other affected Taxing Jurisdictions
- Property Owners who reside within the Proposed district
- Other Interested Citizens/Stakeholders

The purpose of this initial meeting is two fold; one, to provide information about TIF and the proposed program in your community and two, to address any questions or concerns addressed. The presentation should include answers to the following questions.

- What is TIF and how does it work?
 - Is the proposed district an Urban Renewal or TEDD TIF district?
 - What are the roles and responsibilities of the local governing body, the planning board, the staff and the public?
 - What are the effects on other Taxing Jurisdictions?
- How could TIF be used in this area?
- What type of activities might be undertaken?

- What is the area to be included - Do the proposed boundaries make sense?
- What is the time line for the effort?

3.2.5 – Step 5 – Prepare Findings of Need and Associated Resolutions of Necessity

The proposed TIF district should be examined with respect to the presence of blight (urban renewal districts) or infrastructure deficiencies (TEDDs). This information is required by statute and will also help in making the case for creating a TIF district with public officials, members of the community and the other taxing jurisdictions.

Before a community can proceed with the creation of a Tax Increment district, the local governing body must pass a Resolution of Necessity per 7-15-4210 MCA (Urban Renewal Districts), and 7-15-4280 (TEDDs) (See Figure 3.1)

**Figure 3.1 Resolution of Necessity
Urban Renewal**

7-15-4210. Resolution of necessity required to utilize provisions of part. No municipality shall exercise any of the powers hereafter conferred upon municipalities by this part and part 43 until after its local governing body shall have adopted a resolution finding that:

- (1) one or more blighted areas exist in such municipality; and
- (2) the rehabilitation, redevelopment, or a combination thereof of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality.

Targeted Economic Development

7-15-4280. Resolution of necessity required for targeted economic development district. A local government may not exercise the powers provided in part 43 or this part unless it has adopted a resolution of necessity finding that:

- (1) one or more infrastructure-deficient areas exist in the local government; and
- (2) the infrastructure improvement of the area is necessary for the welfare of the residents of the local government.

3.2.5.1 – Urban Renewal – The requirement of a Resolution of Necessity for an Urban Renewal program pre-dates the establishment of Montana’s TIF program, and must be completed prior to the creation of any urban renewal program, whether or not TIF will be used. The Resolution of Necessity is typically based on an inventory of current conditions in the proposed urban renewal district per the definition of blight per 7-15-4206(2) and discussed in Chapter 2, Section 2.2 of this Manual. Any combination of factors can be used to document blight, but as noted above, *at least three factors* must be identified. For example, an area that has deteriorating buildings, an inadequate sewer system, and/or a high rate of delinquent property tax payments is considered “blighted”. In Great Falls, for instance, the presence of a state Superfund Site within a proposed urban renewal area constituted blight. An example of a Resolution of

Necessity and associated documentation can be found in Appendix B. These findings of need should also be included in the urban renewal plan for the district and development activities identified should address these blighted conditions.

3.2.5.2 Targeted Economic Development – For TEDDs districts, the statute requires that the proposed TIF district be found to be deficient in infrastructure improvements required for industrial or technology related development. The 2013 amendments to the Montana Urban Renewal Law require that the local government body adopt a resolution of necessity, based on a statement of infrastructure deficiency. Deficiencies can be identified with respect to the type of secondary, value-adding industries that are proposed for the TEDD.

3.2.6 – Step 6 – Prepare a Development Plan for the TIF district

3.2.6.1 – Urban Renewal Plans – Montana statute requires that the local governing body prepare a plan for an Urban Renewal district, which describes programs and activities that will be undertaken to address blight. If the community wishes to make use of Tax Increment Financing, the Urban Renewal plan must include a TIF provision and identify a base year for the purpose of calculating the increment. House Bill 562, adopted by the 2011 Montana Legislature also notes that the Urban Renewal planning process should be undertaken with consideration for the county and the school districts that will be affected by the creation of the TIF. This can be accomplished through inclusion of these affecting taxing jurisdictions in scoping and planning meetings. However, it is critical to include these entities as early as possible in the process to gain their support.

3.2.6.2 – Comprehensive Development Plans – In 7-15-4279 MCA, the statute governing TEDDs, Section (e) states that the district “*must, prior to its creation, have in place a formally adopted **Comprehensive Development Plan** that ensures that the district can host a diversified tenant base of multiple independent tenants and may not be designed to serve the needs of a single district tenant or group of non-independent tenants*”.

3.2.6.3 – Plan Contents – At a minimum, the plan for the TIF district should include:

- A description of the proposed district including a legal description and a map
- A statement of need and associated documentation regarding
 - Blighted conditions in Urban Renewal districts
 - Infrastructure deficiencies in TEDDs

The information can be presented simply and detailed engineering or architectural reports are not necessary to establish need.

- Goals, Objectives and Strategies, including references to activities related to specific proposed or planned projects. This helps reduce the necessity of amending the plan to add an urban renewal project later.

(Note: If the local government intends to issue TIF bonds to pay for a development project, or if the local government intends to transfer land to another entity, then there should be specific reference to these activities in the plan.)

- A statement of intention to use Tax Increment Financing to fund activities within the district and an associated base year
- Other funding mechanisms that can be used to finance development in conjunction with TIF, such as special districts and state and federal grants
- Program Administration including
 - Governance
 - Staffing
 - Advisory Boards if appropriate
 - Work Plans
 - Annual Reports to the governing body
 - Interaction with other taxing jurisdictions and the Department of Revenue
- A Method for Amending the Plan

3.2.7 – Step 7 – Address Growth Policy and Zoning Issues

The creation of a TIF district must be undertaken in accordance with the jurisdiction’s Growth Policy and associated zoning regulations. Proof that land use issues have been addressed is required as part of the DOR certification of the district. Under 7-15-4213 MCA, The Planning Board for the jurisdiction must review an urban renewal plan for its conformity with the Growth Policy (Figure 3.2). While no similar statement can be found for TEDD, the requirement that they be zoned in accordance with the Growth Policy does imply that the Planning Board must review the proposed district and associated development plans in the same manner. This conclusion is supported in the DOR’s administrative rules for TIF district certification.

Please note that the Planning Board must provide its findings in writing to the local governing body.

Figure 3.2 Planning Board Review

7-15-4213. Review of urban renewal plan by planning commission. (1) Prior to its approval of an urban renewal project, the local governing body shall submit the urban renewal project plan to the planning commission of the municipality for review and recommendations as to its conformity with the growth policy or parts of the growth policy for the development of the municipality as a whole if a growth policy has been adopted pursuant to Title 76, chapter 1.

(2) The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within 60 days after receipt of the plan.

3.2.7.1 Growth Policy Conformance – Montana statute requires that the creation of the TIF district be undertaken in conformance with the jurisdiction’s Growth Policy. More particularly:

- TIF district plans must be found to be in conformance with the Growth Policy
- TIF districts must be zoned in accordance with the Growth Policy

The Growth Policy, formerly known as the Master Plan is the overall land-use plan for the area and its required contents are described in 76-1-601 MCA. The Growth Policy may have to be amended to provide the appropriate enabling language for the creation of a TIF district and/or to provide the basis for zoning in the area. The Planning Board must first hold a public hearing on the proposed amendments and make a recommendation to the governing body. The governing body must also hold a public hearing on the proposed amendments, pass a *resolution of intent* to amend the growth policy and then formally adopt the resolution. Additional discussion of this requirement can be found in Chapter 2, Section 2.5.1.

3.2.7.2 Zoning – Prior to the creation of a TIF district, the city or county zoning regulations and associated maps may have to be amended in order to assure that the proposed district is zoned appropriately. If no zoning is currently in place, the jurisdiction must adopt zoning regulations for the area that includes the proposed district. Montana statute includes specific timetables for advertising a public hearing to consider the adoption or amendment of zoning ordinances.

In cities and towns, zoning must be adopted by ordinance in accordance with 76-2-303 MCA and standard municipal ordinance requirements. More particularly, in section (2) of this statute, it states that, “A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.” The hearing is followed by first and second readings of the ordinance and a minimum of 30 days for the ordinance to become effective.

County zoning regulations and amendments must be adopted in accordance with 76-2-205 MCA, with notice of hearings posted no less than 45 days in advance. The county commission must first pass a resolution of intent after holding a public hearing, followed by a 30-day protest period. At the conclusion of the protest period, the commission has another 30 days to adopt a resolution finalizing the zoning regulations or amendments. This adoption process for zoning before the governing body can add as much as 90 days to the process of creating a TIF district.

Special Note: Before the governing body can adopt either growth policy amendments or zoning regulations or amendments, the Planning Board and/or the Zoning Commission must hold a public hearing and make a recommendation to the governing body. Therefore, complying with the growth policy and zoning requirements of the Tax Increment Financing statutes can potentially add three to four months to the process.

3.2.8 – Step 8 – Prepare the Ordinance to Establish the Tax Increment Financing district

TIF districts must be established by ordinance, whether they are in a city or town or in a county. The ordinance can be adopted after two readings and includes, as attachments, the map and legal description of the district, the public hearing notice (see Step 9) and the urban renewal or comprehensive development plan.

3.2.9 – Step 9 – Hold a Public Hearing

The Montana Urban Renewal Law requires that a public hearing be held prior to the adoption of an ordinance establishing a TIF district. As noted below in Figure 3.3, notice of the hearing must be mailed to all property owners in the district at least 10 days before the public hearing.

Figure 3.3 Public Hearing Notice Timetable - Excerpts

7-15-4215. Notice of hearing on urban renewal plan. (1) The notice required must be published and mailed not less than 10 days prior to the date of the hearing, to the persons whose names appear on the county treasurer's tax records as the owners. The notice must:

- (a) describe the time, date, place, and purpose of the hearing;
- (b) specify the proposed boundary of the urban renewal area affected;
- (c) outline the general scope of the urban renewal plan under consideration;
- (d) specify the goals the municipality has in the rehabilitation and renewal of the area; and
- (e) indicate the method of financing the urban renewal area and whether the municipality intends to use tax increment financing and bonds to be paid from tax increment financing.

3.2.10 – Step 10 – Create the TIF district

Following the public hearing, the local governing body, typically on second reading, can adopt the ordinance establishing the TIF district. The criteria that the governing body considers in adopting the ordinance varies slightly, depending on the type of TIF district.

3.2.10.1 Urban Renewal districts

Montana law provides for the adoption of urban renewal plans (and associated TIF provisions) in 7-15-4217 MCA. The plan must meet criteria set forth in the statute (See Figure 3.4.)

Figure 3.4 Urban Renewal Plan Approval

7-15-4217. Criteria for approval of urban renewal project [or plan]. Following the hearing required by 7-15-4214 MCA, the local governing body may, by ordinance, approve an urban renewal project if it finds that:

- (1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project;
- (2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole;
- (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and
- (4) a sound and adequate financial program exists for the financing of said project.

3.2.10.2 *TEDD Districts* - The statute states that the local governing body can authorize the creation of such districts by ordinance, after a public hearing. The hearing procedures follow those set forth for an urban renewal district. The governing body must also find that the TEDD:

- ✓ consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants
- ✓ is zoned for use in accordance with the area growth policy, as defined in [76-1-103](#);
- ✓ may not comprise any property included within an existing tax increment financing district
- ✓ must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under [7-15-4280](#);
- ✓ must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base multiple independent tenants; and
- ✓ may not be designed to serve the needs of a single district tenant or group of non-independent tenants.

3.2.11 – Step 11 – Provide the Montana Department of Revenue and all other Taxing Jurisdictions with Documentation regarding creation of the TIF district

Following the adoption of the ordinance establishing the TIF district, the local governing body is required to provide the DOR and the affected taxing jurisdictions with information about the district per 7-15-4284, MCA (Figure 3-5).

Figure 3.5 Filing Requirements

7-15-4284. Filing of tax increment provisions plan or district ordinance. (1) The clerk of the local government shall provide a certified copy of the ordinance creating each urban renewal plan or targeted economic development district comprehensive development plan and an amendment to either of the plans containing a tax increment provision to the department of revenue.

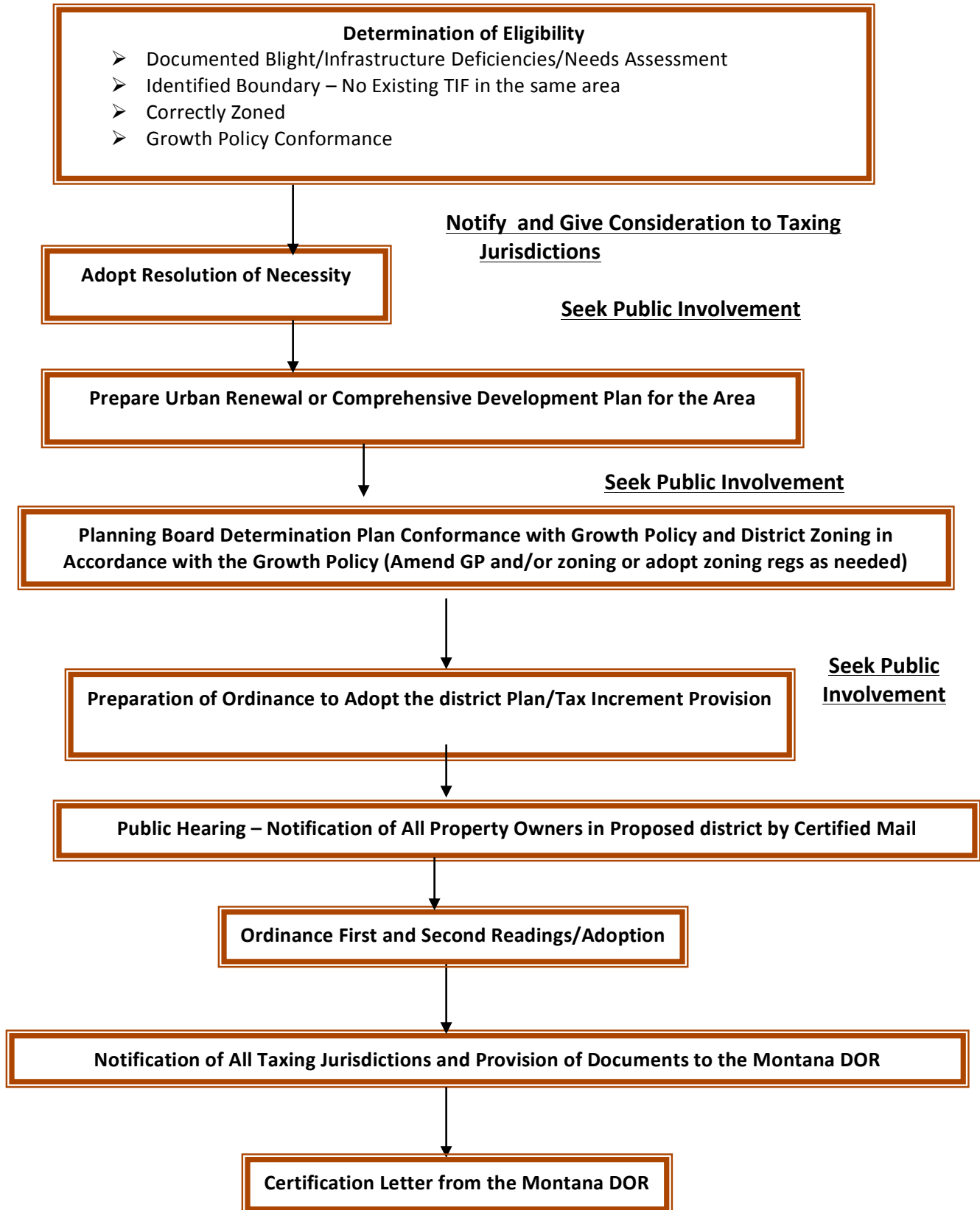
(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.

In addition to this statutory requirement, the DOR, under the Administrative Rules of Montana, requires further documentation that the local government has complied with Montana laws in creating the TIF district. A list of required documents for each district provided in Chapter 5.

3.2.12 TIF Flow Chart

The steps required to create a TIF district are presented in the flow chart on the following page (Figure 3.6).

Figure 3. 6 Creating a Tax Increment Financing district



3.2.13 TIF Check List

The following check list will assist you in making sure that each step in creating the TIF district has been completed. Note: Development staff can include local government staff and/or consultants. In some cases, local governments work cooperatively with a local development entity through a Memorandum of Understanding (MOU) to complete these tasks.

Figure 6.7. Tax Increment Financing District Creation - Check-List		
Action	Responsible Party	Date Completed
Identify district Boundary	Development Staff	
Prepare Map and Legal Description	Clerk and Recorder/GIS Department	
Prepare a list of geocodes, information regarding centrally assessed property and personal property assessor codes	Clerk and Recorder/GIS Department	
Prepare Finding of Blight or Infrastructure Deficiency and Resolution of Necessity	Development Staff	
Adopt Resolution of Necessity	City Council or County Commission	
Prepare Urban Renewal Plan or Comprehensive Development Plan with Consideration of other Taxing Jurisdictions	Development Staff	
Make Sure TIF Plan is in accordance with the Growth Policy and TIF is zoned in accordance with the Growth Policy	Planning Staff/Planning Board	
Secure recommendation from the Planning Board Regarding Growth Policy Conformance and Zoning Accordance	Planning Staff/Planning Board	
Prepare and publish Public Hearing Notice and mail certified copies of the notice to the property owners in the district	City or County Clerk	
Introduce Ordinance Creating Adopting the TIF Program/Plan	City Council or County Commission	
Hold Public Hearing	City Council or County Commission	
Adopt the Ordinance	City Council or County Commission	
Provide Necessary Documents for Certification and Notify the other Taxing Jurisdictions	Development Staff	

Chapter 4. Tax Increment Financing in Montana Special Issues

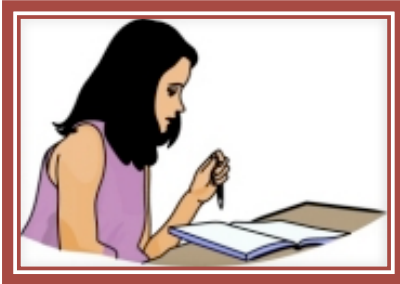
Chapter Contents

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- 4.2 Debt Financing
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- 4.4 Plan Amendments
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- 4.6 Returning a Portion of the Increment to the Other Taxing Jurisdictions
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4.1 Calculating/Predicting the Annual Increment

Adequate planning for TIF projects relies on good estimates of expected tax increment amounts each year, usually in advance of when the numbers might be available from the Department of Revenue. Local governments typically embark on drafting their budgets for the next year in March or April, well in advance of the July 1st start of the fiscal year. The Department of Revenue, on the other hand, does not complete its work until August. Therefore, managers of



TIF funds typically estimate the increment for budgeting purposes, prior to receiving this information from the Department. In determining a reasonable estimate of the increment, however, it is helpful to understand the property assessment process and how taxable value is determined. The Montana Department of Revenue is responsible for determining the market value. The taxable value is determined by applying a statutorily established percentage

rate set by the legislature to the market value. The rate depends on the “class” of property being taxed. The number of mills levied by each taxing jurisdiction is applied to the taxable value to determine the actual tax.

4.1.1 Classes of Property

For taxation purposes the state of Montana has fourteen classes of property. Eleven of the classes are appraised on an annual basis and the other three classes of property are appraised on a six year cycle. (*The Biennial Report of the Montana Department of Revenue – 2010-2012*). In 2009, the Montana legislature set the rates for determining taxable value for each of the fourteen classes as follows (15-6-101, et seq. MCA). Please note that property classes 6 and 11 have been eliminated.

4.1.1.1 Class 1 property is based on the value of net proceeds of mines and mining claims except for coal and metal mines. The taxable value is calculated by multiplying the net proceeds by 100%, and then local mills are applied to determine the tax liability.

The net proceeds are reported each year.

4.1.1.2 Class 2 property includes the annual gross proceeds of metal mines, which are taxed at 3%. Annual gross proceeds are defined in 15-23-801.

4.1.1.3 Agricultural land is classified as *Class 3 Property*, and is currently reappraised on a six year cycle. The market value of agricultural land is based on the productivity of the land. There are five categories of agricultural land within this class:

- Grazing Land
- Tillable Irrigated Land
- Continuously Cropped Non-Irrigated Hay Land
- Continuously Cropped Non-Irrigated Farmland
- Non-Irrigated Summer Fallow Farmland.



Class 3 properties are taxed at the same rate as Class 4 properties (see Table 4.1 below).

Note: Class 3 land also includes non-productive mining claims and non-qualified agricultural land. Parcels of land between 20 and 160 acres that are not used primarily for agricultural purposes are non-qualified agricultural land. These parcels are taxed at a higher tax rate, 21.07%.

4.1.1.4 *Class 4 property* is the largest class of property in the state of Montana, as measured in both market value and the number of parcels. Residential, commercial, and industrial land and improvements are included in Class 4 and make up the majority of property in most TIF districts. The assessed value of property within this Class may be reduced by certain exemptions. For example, the Homestead Exemption reduces the assessed valuation of residential property by more than a third currently. For 2014 residential properties will be taxed at only 58% of actual market value. The Comstead Exemption reduces the value of Class 4 commercial property by approximately 15%.



In addition, other types of tax abatement may reduce the actual market value of property within the TIF district. All residential and commercial Class 4 property is reassessed every six years. The market value is based on appraisals performed by the Department of Revenue. The preferred method for residential property is to set the value based upon comparable sales, but the cost approach is also used. Commercial and industrial property is usually valued based upon the income approach, but the cost approach is used when the income approach is not practical and there are not enough comparable properties to determine a value based on sales information. The rate use in calculating the taxable value of Class 4 property will decrease annually until 2014. The rates are shown in Table 4.1.

Year	Rate (%)
2010	2.82
2011	2.72
2012	2.63
2013	2.54
2014 and Beyond	2.47

4.1.1.5 *Class 5 property* is made up of pollution control equipment, independent and rural electric and telephone cooperatives, real and personal property of new and expanding industry, machinery and equipment used in electrolytic reduction facilities, real and personal property of research and development firms and real, and personal property used in the production of gasohol. The tax rate on class 5 property is 3.0% and the centrally assessed division of the department values the property each year.

(Note: The Class 6 property designation has been eliminated.)

4.1.1.6 Non-Centrally assessed utilities are classified as *Class 7 property*. Market value is determined on a yearly basis by the department's industrial appraisers. The tax rate on Class 7 property is 8.0%.

4.1.1.7 *Class 8 property* is personal property used in business. Examples of personal property are construction vehicles and machinery, cash registers, and tools. Businesses with equipment valued at less than \$20,000 do not pay property taxes on their Class 8 equipment. Class 8 is appraised on a yearly basis and the tax rate is 3.0%.

4.1.1.8 The pipelines and the non-electric generating property of electric utilities are classified as *Class 9*. Because one section of pipe or one span of power line has no value without the sections attached to it, Class 9 property is usually centrally assessed if it crosses county boundaries. The market value of property in local jurisdictions is determined by the portion of property that is located in the local jurisdictions. The tax rate for Class 9 property is 12% of the market value.

4.1.1.9 *Class 10* is forest land. The market value of forest land is determined by the productivity of each parcel of land. There are four grades of forest property that are determined by the cubic feet of lumber produced on each acre per year. Standing timber on the property is not taxed. The productivity of each acre is determined by the University of Montana, College of Forestry and Conservation with input from the timber industry. Forestland is reappraised every six years and the tax rate is multiplied by the productive value of the land. The tax rate will decline until 2014 as shown in Table 4.2.

Table 4.2 Taxable Valuation Rates for Class 10 Properties in Montana	
Year	Rate (%)
2010	0.33
2011	0.32
2012	0.31
2013	0.30
2014 and Beyond	0.29

(Note: The Class 11 property designation has been eliminated.)

4.1.1.10 *Class 12 property* is all property owned by airlines and railroads. It is valued annually and the tax rate varies depending on the effective tax rate of all industrial property in the state. The taxable rate on Class 12 property is based on the equation, $R = T \div M$, where R equals the rate, T equals the taxable value of all property in the state, and M equals the market value of all property in the state except Class 12. The rate applied is either R or 12%, whichever is lower.



4.1.1.11 All property of telecommunication utilities and the electric generating property of electric utilities is classified as *Class 13*. The tax rate is 6% and the centrally assessed division of the department values the property each year.

4.1.1.12 *Class 14* encompasses renewable energy production and transmission property. It includes property used for commercial wind generation, biodiesel production, biomass gasification, coal gasification, ethanol production and geothermal energy. Class 14 properties are taxed at a rate of 3%.

4.1.1.13 Qualifying carbon dioxide and liquid pipeline property is classified as *Class 15* property. This property includes pipelines used to transport carbon dioxide for sequestration or having 90% of capacity dedicated to transporting fuels produced by coal gasification, biodiesel, biogas, or ethanol facilities, carbon sequestration equipment, closed-loop enhanced oil recovery equipment, and pipelines connecting a Class 14 fuel production facility to an existing pipeline. The tax rate on class 15 property is 3%.

4.1.1.14 *Class 16* property is taxed at 2.25% and includes high voltage DC converter station property located so that the power can be directed to two different regional grids.

The Department of Revenue performs comprehensive property appraisals annually on ten of the fourteen classes of property. Class 9, 12, and 13 - Property owned by companies that is single and continuous and is in more than one county (such as railroads, telecommunications, electric utilities, and pipelines) is centrally assessed by the Department of Revenue. The valuation is apportioned to counties and other jurisdictions on a mileage basis or other basis judged to be "reasonable and proper" (15-23-105, MCA).

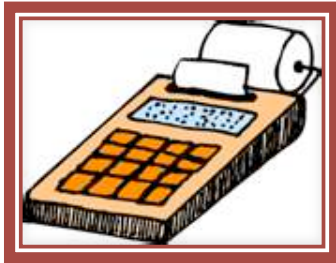
The Property Assessment Division is responsible for the valuation and assessment of real and personal property throughout the state for property tax purposes. The division is comprised of a central office located in Helena and six regional areas. There is a local DOR office located in each county seat within the regional areas. This division includes more than half of the department's employees.

4.1.2 Estimating Incremental Value

Projecting the tax increment in any given year requires knowledge of the new taxable improvements that will be made within the TIF after the base year has been established *and* knowledge of how those improvements will be assessed by the Department of Revenue. As noted above, a variety of factors can affect how property is valued. In addition to the Homestead and Comstead exemptions, new market value may be, in some cases, phased in over a period of years.

As an example, we can consider a \$10,000,000 building, which is slated for construction within an urban renewal TIF district. Based on the taxable rate for Class 4 property (2.47% in 2014), the taxable valuation for this building would be \$247,000. If the local government levies 600 mills, it would appear that the new building would create an annual increment of \$148,200.

However, while the structure may cost \$10,000,000 to construct, its actual assessed value could be less after exemptions or other tax abatement measures, resulting in a smaller tax payment. If, for instance, the building's assessed value was reduced by 15% under the Comstead exemption, its assessed value would only be \$8,500,000, producing an increment of \$125,970 (only after it was completed).



There are a variety of ways to estimate an “unofficial” assessed market value for new taxable property within an increment district. Once this estimated value is obtained, it can be multiplied by the appropriate tax rate based on class and then by the number of mills (less seven mills for the state university system). This will provide the *estimated* tax increment associated with that

property. Suggestions for estimating the assessed value include the following:

4.1.2.1 Researching Comparable Values. Estimated assessed value can be derived from looking at similar properties in the same tax classification within the community or in other areas of the state.

4.1.2.1 Discussions with Property Owners. Typically, if a property owner is making improvements within a TIF district, that owner will share information concerning the cost of those improvements. As noted above, the DOR does use cost as a factor in its appraisal process, particularly in those cases where using comparable sales or income information is not practical. Also, property owners and developers usually prepare income and expense projections that include projected property tax payments over time. Given that the TIF district is providing support for new development, property owners are often willing to share this information.

4.1.2.2 Discussions with Real Estate Professionals and Bankers. Area real estate agents, brokers and appraisers, as well as local bankers, can provide great insights into trends in property values. Without revealing any proprietary information, these specialists can discuss property valuations in the community for residential, industrial and commercial properties.

It's best not to rely on only one approach. The more solid your estimates of value are, the better your ability to predict the increment and budget appropriately. Close attention should be given to the affect that the Comstead and Homestead exemptions will have on valuation, particularly in the next few years.

4.2 Debt Financing

Tax increment financing enables communities to make infrastructure improvements in specific targeted areas, not readily affordable through the use of general funding mechanisms. In most cases, however, the TIF district does not produce enough revenue in any one year to pay for these costly improvements. Local governments can borrow funds to construct infrastructure and repay the debt with increment revenue. There are a variety of debt instruments that can

be used. The most notable is a TIF Bond. Under 7-15-4289 MCA, *the tax increment may be pledged to the payment of the principal of premiums, if any, and interest on bonds which the municipality may issue for the purpose of providing funds to pay such costs.* However, some communities use conventional financing as well. Loans for certain types of programs are also available through the Renewable Resources Program of the Montana Department of Natural Resources and Conservation, the state's InterCap Loan Program, the Federal Rural Development Program and other state and federal programs.

The term of the loan can, in some cases, extend the life of the TIF district. In 7-15-4292 MCA, *the tax increment provision terminates upon the later of:*

(a) the 15th year following its adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

However, TIF bonds may not be issued for a period longer than 25 years (7-15-4324 MCA). Sunset provisions are discussed further in section 4.7. If your community is contemplating incurring debt, which will be retired with tax increment funds, it is best to consult legal and financial professionals first. Prior to contacting these professionals, the following should be readily available:

- All documentation related to the creation of the TIF district. This includes all of the items in the packet of information required by the DOR (see Chapter 5).
- Current and projected figures for the annual tax increment that will be used to pay principle and interest payments



A project that will use debt financing should be specifically listed in the development plan for the TIF district in which it is located. The plan may have to be amended prior to proceeding with the sale of a bond.

In some cases, specific assessment agreements from property owners within the TIF district may be required, prior to proceeding. This agreement would guarantee property tax payments for the term of the loan or bond. Additional information on assessment agreements can be found in 7-15-4294 MCA.

4.3 Public vs. Private development/ownership

Tax increment dollars are intended to help a community address conditions that have discouraged or stymied development within a particular area over time: infrastructure deficiencies, blight and/or a decline in property values. By making improvements in these targeted or urban renewal areas, the entire community benefits over time. For the most part, TIF dollars are used to construct or improve publicly owned infrastructure. However, there are exceptions. TIF funds, for example, can be used to assemble land that will ultimately be

developed by private entities. In other cases, communities have used TIF funds to construct buildings and other infrastructure that will be used or occupied by private companies in their course of business. However, if tax increment dollars will be used in this manner, then the local government should provide an open process that enables any interested entity to submit a project or development proposal. Such processes should include criteria by which such proposals are evaluated. Specific reference to projects that will involve the transfer of ownership must be included in the urban renewal or comprehensive development plan for the TIF district. Further discussions of the transfer and lease of property can be found in Montana statutes, 7-15-4262 MCA and 7-8-101, et seq. MCA

According to 7-15-4288 MCA, TIF funds can also be used for the construction of utilities and other connecting infrastructure, such as rail spurs or gas lines, which in most cases will be privately owned. The expenditure of funds for these purposes ultimately provides a greater public benefit and is therefore permitted. In some communities TIF dollars have been used to stabilize and restore privately owned properties that are on or eligible for listing on the National Register of Historic Places. Such expenditures have been justified because these historic resources, though privately owned, are important community cultural resources and a public benefit is derived from their preservation and re-use. In other cases, funds have been used to address the specific conditions of blight to protect the safety and health of the district's tenants; e.g. to address building code violations. The manner in which these funds are spent, however, must be carefully monitored and the public's overall interest must be protected.

4.4 Plan Amendments

New development opportunities or changes in land use, economic conditions or the overall financial condition of the community may require amendments to the urban renewal or development plan for the TIF district. In 7-15-4221 MCA it is noted that the plan must be modified by ordinance (or resolution if adopted prior to May of 1979) in the manner set forth in the plan. If no such procedure is included in the plan, then the process must follow the same steps for the adoption of a new plan. Amendments may include:

- Changes to the district boundary
- The addition of new projects to enable bonding or the transfer of property
- Changes in programs and activities
- Changes in administrative structure, such as the creation or dissolution of a separate urban renewal agency

The local government should provide the Department of Revenue with information regarding any amendments to the plan, particularly with respect to boundary changes. Documentation in support of the boundary change, including the growth policy, zoning information, proof of public hearing and proof of planning board review should be provided to the Department.

4.5 Base Year Adjustments

Under certain conditions, the value of the base year may be adjusted in order to mitigate the effects of a natural disaster or changes in the law on the ability to make principle and interest payments on a TIF Bond. Base year adjustments can also be made in cases where a property has been granted tax exempt status. The specific provision can be found in 7-15-4293 MCA and below in Figure 4.1.

Figure 4.1 Base Year Adjustments

7-15-4293. Adjustment of base taxable value following change of law or local disaster. (1) If the base taxable value of an urban renewal area or targeted economic development district is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the local government may request the department of revenue to estimate the base taxable value so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as those payments become due.

(2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the governing body of a local government may request the department of revenue to adjust the base taxable value to account for a loss of taxable revenue resulting from the state granting property in the area or district tax-exempt status within the first year of creation of the tax increment financing district. The local government shall give notice of and hold a public hearing on the proposed change.

(3) (a) If an urban renewal area or targeted economic development district suffers a loss of property value directly related to a disaster for which the principal executive officer of the local jurisdiction has made a disaster declaration pursuant to [10-3-402](#), the department of revenue shall decrease the base taxable value of the area or district by the amount of the base taxable value lost because of the disaster in the tax year in which the disaster is declared. The principal executive officer shall forward a copy of the disaster declaration to the department of revenue.

(b) The taxable value removed from the base taxable value of the area or district under subsection (3)(a) must be added to the base taxable value of the area or district upon reconstruction of the property in the tax year of reconstruction. If reconstruction of the property is only partially completed as of January 1 of the tax year, the department of revenue shall determine the base taxable value of the property for that tax year by multiplying the percentage of completion, expressed as a decimal equivalent, of reconstruction of the property by the original base taxable value of the property. The addition to the base taxable value under this subsection (3)(b) is limited to the amount of the original base taxable value of each parcel before the disaster occurred.

4.6 Returning a Portion of the Increment to the other Taxing Jurisdictions

A local government can choose to return a portion of the increment to the other taxing jurisdictions, either through an adjustment to the base taxable value as noted in 7-15-4287 MCA or a specific agreement as set forth in 7-15-4291, MCA. These two provisions are included below in Figure 4.2.

Figure 4.2 Returning Increment to the Other Taxing Jurisdictions

7-15-4287. Provision for use of portion of tax increment. (1) At the time of adoption of a tax increment provision or at any time subsequent thereto, the governing body of the local government may provide that a portion of the tax increment from the incremental taxable value be released from segregation by an adjustment of the base taxable value, provided that:

(a) all principal and interest then due on bonds for which the tax increment has been pledged have been fully paid; and

(b) the tax increment resulting from the smaller incremental value is determined by the governing body to be sufficient to pay all principal and interest due later on the bonds.

(2) The adjusted base value determined under subsection (1) must be reported by the clerk to the officers and taxing bodies to which the increment provision is reported.

(3) Thereafter, the adjusted base value is used in determining the mill rates of affected taxing bodies unless the tax increment resulting from the adjustment is determined to be insufficient for this purpose. In this case, the governing body shall reduce the base value to the amount originally determined or to a higher amount necessary to provide tax increments sufficient to pay all principal and interest due on the bonds.

7-15-4291. Agreements to remit unused portion of tax increments. The local government may also enter into agreements with the other affected taxing bodies to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs listed in [7-15-4288](#) or pledged to the payment of the principal of premiums, if any, and interest on the bonds

4.7 Sunset Provisions

Under 7-15-4292 MCA, TIF programs are limited to 15 years unless the district has sold a TIF bond. In that case, the TIF provision may be extended until the bond debt is retired, but no longer than 25 years. Funds that have been committed to construction projects or repayments of loans can be retained following termination. See Figure 4.3, below.

Figure 4.3 TIF district Termination

7-15-4292. Termination of tax increment financing -- exception. (1) The tax increment provision contained in an urban renewal plan or a targeted economic development district comprehensive development plan terminates upon the later of:

(a) the 15th year following its adoption; or
(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the area or district.

(b) Upon termination of the tax increment provision, a local government may retain and use in accordance with the provisions of the urban renewal plan:

(i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project or targeted economic development district project that a local government entered into before the termination of a tax increment provision;

(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or

(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan or targeted economic development district comprehensive development plan.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or targeted economic development district and must be paid to each of the taxing bodies as provided by law.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.



Chapter 5. Tax Increment Financing in Montana Rules of the Road

Chapter Contents

- 5.1 Filing Requirements for Tax Increment Financing districts
- 5.1.1 Administrative Rules Governing Tax Increment Financing–Montana Department of Revenue
- 5.1.2 Expanding the Boundary of a TIF district- Increment Calculation
- 5.1.3 Notifying Other Taxing Jurisdictions
- 5.2 Establishing Partnerships

5.1 Filing Requirements for Tax Increment Financing districts

According to **7-15-4284, MCA. *Filing of tax increment provisions plan or district ordinance***, the clerk of the municipality must file a certified copy of each urban renewal plan or comprehensive development plan containing a tax increment provision with the Department of Revenue. In addition, a certified copy of each plan or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies. Taxing bodies include city and county governments, school districts, fire districts and other entities that have levying authority.

5.1.1 Administrative Rules Governing Tax Increment Financing – Montana Department of Revenue

The Montana Department of Revenue (the Department) has established specific administrative rules that govern its filing process. These rules, which were set forth in 2008 and are currently in the process of being updated, require local governments to document each step taken in the process to create a TIF. More specifically, the local government must comply with these rules, which are included in Appendix B of this Manual.

The Department must be provided with a cover letter and all required documents, no later than February 1st of the year following the creation or amendment of a TIF district. The Department may request clarification or additional information. Once the Department has received all of the required information and any additional items requested, it will certify the TIF district and provide the base year taxable value from which the increment can be measured each year. The base year is calculated as of January 1st of the year that the TIF district *was created*, as long as the Department receives the information on or before February 1st of the year following the creation

5.1.2 Expanding the Boundary of a TIF district- Increment Calculation

If a local governing body adds new property to an existing TIF district, the base year for the original district remains the same. However, for the new portions of the district, the base year is calculated according to the Department of Revenue rules for the creation of a new district. So, for example, if an existing district has a base year of 2008 and adds new property in 2015, then the amended district will have two base years for the purposes of calculating the increment, 2008 for the original district and 2015 for the new portion. *However, the entire district will sunset based on the creation of the original district.* Boundary changes must be certified in accordance with the rules governing a new district.

5.1.3 Notifying Other Affected Taxing Jurisdictions

All taxing bodies that will be affected by the creation of the TIF district should also receive notice, once the local governing body has passed the ordinance. As noted in Chapter 3, a copy of the ordinance creating the TIF district and any associated plans or a copy of the ordinance amending the TIF district should be provided to all taxing bodies within the jurisdiction. This information should be accompanied by a letter, which explains why the information is being

provided. Affected taxing jurisdictions, in addition to the State of Montana include any body that levies mills.

- City/Town Governments
- County Government
- Fire districts
- School districts

5.2 Establishing Partnerships

As noted in previous chapters, it is important to involve all affected taxing jurisdictions early in the process of creating a TIF district. Delaying any communication regarding the district until the required filing will leave room for misunderstandings and mistrust. Clearly cities, towns, counties, schools and other taxing bodies will ultimately benefit from the use of TIF as a community development tool. Representatives from these entities should be encouraged to take part in the formulating of the district, in recruiting new investment and in managing TIF districts over time.

Chapter 6. Tax Increment Financing in Montana Technical Support for Tax Increment Financing

Chapter Contents

- 6.1 Introduction
 - 6.1.1 Governor's Office of Economic Development
 - 6.1.2 Montana Department of Revenue
 - 6.1.3 Community Technical Assistance Program
 - 6.1.4 Tax Increment Financing Program Specialists
 - 6.1.5 Tax Increment Financing Financial/Accounting Specialists
 - 6.1.6 Bond Counsel and Underwriter Support



6.1 Introduction

As a local governments contemplate the feasibility and appropriateness of creating Tax Increment Financing districts, it is useful to contact other communities who have TIF programs to learn of their experiences. Sharing information and advice can help improve our efforts and avoid pitfalls. We can certainly learn from others' errors, as well as successes. There are also a variety of agencies and individuals who can provide general guidance and/or technical assistance to local entities that are considering a TIF program. The list presented here is not intended to be all-inclusive and changes will likely be made over time.

6.1.1 The Governor's Office of Economic Development provides assistance to local governments as they strive to improve local economies and address infrastructure deficiencies. Tax Increment Financing is one of the tools that a community can use in developing and revitalizing its economic base. In addition to publishing this manual, the Governor's Office of Economic Development can provide general assistance in TIF planning and assist communities in obtaining the necessary technical support for creating and managing TIF districts. (<http://www.business.mt.gov/>)

6.1.2. The Montana Department of Revenue (MDOR)

The MDOR is statutorily charged with certifying TIF districts and, as noted in this manual, has set forth a set of administrative rules governing the certification process. In addition, MDOR staff, on a limited basis, can assist communities in finding information related to parcel data including base taxable values, property boundaries and geocodes. Local governments should involve local MDOR staff in efforts to create TIF districts as early in the process as possible, to share information and foster good partnerships that will extend over time.

6.1.3 Community Technical Assistance Program (for Land Use Issues related to TIF)

The Community Technical Assistance Program (CTAP) is housed in the Department of Commerce and provides assistance to communities in the areas of land use planning and economic development. The following information is taken from the Program's web site (<http://comdev.mt.gov/CTAP/ctapdirectassistance.mcpix>):

"CTAP staff work on a one-on-one basis with local government staff and private individuals to help them solve development needs or problems.

- *Provide legal and administrative advice and ideas on planning issues such as subdivision regulations, zoning, and annexations*
- *Assist developers, surveyors, engineers, and planners understand statutes and case law governing land use planning in Montana*
- *Review plans and regulations to ensure compliance with statute and professional standards*
- *Conduct research to help resolve particular local or statewide land use planning issues or questions"*

6.1.4 Tax Increment Financing Program Specialists

Local governments and economic development entities can seek outside professional assistance in creating TIF programs in their communities. Assistance can be provided by consulting land use and community development planners, accountants familiar with government finance and land surveyors. While the State of Montana cannot endorse a specific private provider of services, the Department of Commerce does maintain a list of planning and community development specialists on its website.

6.1.5 Tax Increment Financial/Accounting Specialists and Software

Some local governments have chosen to hire specialists in TIF accounting to provide initial technical assistance in setting up TIF accounts and/or provide ongoing support. Butte-Silver Bow and Anaconda-Deer Lodge Counties are among those who have made use of a tax increment financing accounting specialist. There are also two local government software packages that handle TIF with respect to segregating and allocating funds, Black Mountain Software and CSA (Computer Software Associates, Inc).

6.1.6 Bond Counsel and Underwriter Support

When local governments use TIF in conjunction with debt financing (bonds), attorneys who specialize in public finance and bond underwriters are required to review and verify the process by which TIF districts were created. In addition to assisting local governments in arranging for debt financing, these specialists can also answer a variety of technical questions related to TIF and associated project financing strategies.

Chapter 7. Tax Increment Financing in Montana Trends in TIF



Chapter Contents

- 7.1 Introduction
- 7.2 Documentation Requirements
- 7.3 Legislative and Executive Scrutiny
- 7.4 Rural TIF districts

7.1 Introduction

For nearly 40 years, TIF has been used by local governments to address blight and infrastructure deficiencies. Over time its use has been subject to careful review by legislators, state agencies and local taxing jurisdictions. Further, the use of TIF, once confined to urban areas, has been expanded to address community development needs all across Montana. The ongoing and expanded uses of this important funding tool require that careful attention be given to both the creation and management of TIF districts to assure the greatest benefit to both the local community and the people of Montana.

7.2 Documentation Requirements

The Department of Revenue Administrative Rules for establishing and managing TIF districts have highlighted the need for careful documentation of steps taken to create the TIF district as required by statute. This includes the specific findings that must be made by the local government in advance of passing the ordinance which creates the district. Information maintained by the local government and submitted to the Department should include resolutions, communication and reports documenting that:

- The district is blighted and/or infrastructure deficient and has been found to be so by the governing body through the adoption of a resolution of necessity.
- An urban renewal plan or comprehensive development plan is in place and adopted by ordinance by the governing body.
- The Planning Board has confirmed that the district plan conforms with Growth Policy for the jurisdiction and that the district is zoned in accordance with the Growth Policy.
- An accurate boundary has been defined and described.
- The proposed district does not cross jurisdictional boundaries or include land that is in another TIF District.
- The property ownership information and geocodes for the properties within the district are correct.
- The public hearing held in conjunction with the passage of the TIF ordinance has been advertised and affected property owners properly noticed.

7.3 Legislative and Executive Scrutiny

As financial resources are becoming more limited, both the executive and legislative branches of state government are looking very closely at how TIF is being used in the state. As the governor and legislators struggle to balance the budget each year, they must be convinced that TIF will reap significant benefits in the long term. As noted in Chapter 2, it is important that cities and counties do not simply use TIF dollars to create a new source of revenue for ongoing operations or to provide additional incentives to companies that have already committed to expand or locate in the community. The rationale for using TIF should be directly tied to documented need, and *the long term benefit to the state must be adequately demonstrated.*

7.4 Rural TIF districts

While TIF in Montana was initially used to fund redevelopment activities in the state's aging downtown districts in our cities and towns, this tool is now being used in rural areas to foster

economic development. Rural areas, particularly those outside the municipal limits of a city or town, however, face additional challenges associated with creating TIF districts. In many instances, areas targeted for economic development are not currently zoned and the jurisdiction's growth policies may not have specifically identified these areas as suitable for industrial or commercial development. Prior to taking steps to create a TIF district, rural communities may have to amend their growth policies to allow for new land use designations and zoning regulations. Communities without growth policies that meet the requirements of 76-1-601 MCA, should review and update existing comprehensive land use plans accordingly.

Given that that changes to local land use planning policy and regulatory documents can take several months to complete and require meaningful community involvement, it is recommended that communities allow adequate time – three to six months, to address land use issues prior to embarking on an effort to create a TIF district.

Appendix A – Montana Urban Renewal Statute

Montana Code Annotated 2013

TITLE 7. LOCAL GOVERNMENT

CHAPTER 15. HOUSING AND CONSTRUCTION

Part 42 and 43 - Urban Renewal

7-15-4201. Short title. This part and part 43 shall be known and may be cited as the "Urban Renewal Law".

7-15-4202. Existence of blighted areas and resulting problems -- statement of policy. It is hereby found and declared:

(1) that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state, exist in municipalities of the state;

(2) that the existence of such areas:

(a) contributes substantially and increasingly to the spread of disease and crime and depreciation of property values;

(b) constitutes an economic and social liability;

(c) substantially impairs or arrests the sound growth of municipalities;

(d) retards the provision of housing accommodations;

(e) aggravates traffic problems; and

(f) substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and

(3) that the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

7-15-4203. Need for redevelopment and rehabilitation of blighted areas. It is further found and declared:

(1) that certain of such blighted areas or portions thereof may require acquisition, clearance, and disposition subject to use restrictions as provided in this part, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation;

(2) that other areas or portions thereof may, through the means provided in this part, be susceptible of rehabilitation in such a manner that the conditions and evils enumerated in [7-15-4202](#) may be eliminated, remedied, or prevented; and

(3) that to the extent feasible salvable blighted areas should be rehabilitated through voluntary action and the regulatory process.

7-15-4204. Interpretation. (1) The powers conferred by part 43 and this part are for public uses for which public money may be expended and the power of eminent domain may be exercised as provided in Title 70, chapter 30. The legislature finds and declares that necessity in the public interest exists for the provisions enacted in part 43 and this part concerning urban renewal.

(2) A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity.

7-15-4205. Scope. Insofar as the provisions of this part and part 43 are inconsistent with the provisions of any other law, the provisions of this part and part 43 shall be controlling. The powers conferred by this part and part 43 shall be in addition and supplemental to the powers conferred by any other law.

7-15-4206. Definitions. The following terms, wherever used or referred to in part 43 or this part, have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" means a public agency created by [7-15-4232](#).

(2) "Blighted area" means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs, that retards the provision of housing accommodations, or that constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

(a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential;

(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;

(c) inappropriate or mixed uses of land or buildings;

(d) high density of population and overcrowding;

(e) defective or inadequate street layout;

(f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(g) excessive land coverage;

(h) unsanitary or unsafe conditions;

(i) deterioration of site;

(j) diversity of ownership;

(k) tax or special assessment delinquency exceeding the fair value of the land;

(l) defective or unusual conditions of title;

(m) improper subdivision or obsolete platting;

(n) the existence of conditions that endanger life or property by fire or other causes;
or

(o) any combination of the factors listed in this subsection (2).

(3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be issued pursuant to part 43 or this part.

(4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official records of the municipality.

(5) "Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(6) "Local governing body" means the council or other legislative body charged with governing the municipality.

(7) "Mayor" means the chief executive of a city or town.

(8) "Municipality" means any incorporated city or town in the state.

(9) "Neighborhood development program" means the yearly activities or undertakings of a municipality in an urban renewal area or areas if the municipality elects to undertake activities on an annual increment basis.

(10) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to the municipality property used in connection with an urban renewal project or any assignee or assignees of the lessor's interest or any part of the interest and the federal government when it is a party to any contract with the municipality.

(11) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(12) "Public body" means the state or any municipality, township, board, commission, district, or other subdivision or public body of the state.

(13) "Public officer" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.

(14) "Public use" means:

(a) a public use enumerated in [70-30-102](#); or

(b) a project financed by the method provided for in [7-15-4288](#).

(15) "Real property" means all lands, including improvements and fixtures on the land, all property of any nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and use, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or otherwise.

(16) "Redevelopment" may include:

(a) acquisition of a blighted area or portion of the area;

(b) demolition and removal of buildings and improvements;

(c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with the urban renewal plan; and

(d) making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan. If

the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a public use.

(17) (a) "Rehabilitation" may include the restoration and renewal of a blighted area or portion of the area in accordance with an urban renewal plan by:

(i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(ii) acquisition of real property and demolition or removal of buildings and improvements on the property when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;

(iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part; and

(iv) subject to [7-15-4259\(4\)](#), the disposition of any property acquired in the urban renewal area, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan.

(b) Rehabilitation may not include the development of the condemned area in a way that is not for a public use if the property is condemned pursuant to Title 70, chapter 30.

(18) "Urban renewal area" means a blighted area that the local governing body designates as appropriate for an urban renewal project or projects.

(19) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban renewal project. The plan:

(a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

(b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

(i) any land acquisition, demolition, and removal of structures; redevelopment; improvements; and rehabilitation that is proposed to be carried out in the urban renewal area;

(ii) zoning and planning changes, if any, including changes to the growth policy if one has been adopted pursuant to Title 76, chapter 1;

(iii) land uses, maximum densities, building requirements; and

(iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(20) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight and may involve redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

(b) An urban renewal project may not include using property that was condemned pursuant to Title 70, chapter 30, for anything other than a public use.

7-15-4207. Prohibition against discrimination. For all of the purposes of this part and part 43, a person may not be subjected to discrimination because of sex, race, creed, religion, age, physical or mental disability, color, or national origin.

7-15-4208. Encouragement of private enterprise. A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part and part 43, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall give consideration to this objective in exercising its powers under this part and part 43, including the formulation of a workable program; the approval of urban renewal plans (consistent with the comprehensive plan or parts thereof for the municipality); the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the disposition of any property acquired; and the provision of necessary public improvements.

7-15-4209. Development of workable urban renewal program. (1) A municipality, for the purposes of this part and part 43, may formulate a workable program for utilizing appropriate private and public resources:

- (a) to eliminate and prevent the development or spread of blighted areas;
- (b) to encourage needed urban rehabilitation;
- (c) to provide for the redevelopment of such areas; or
- (d) to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program.

(2) Such workable program may include, without limitation, provision for:

- (a) the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards;
- (b) the rehabilitation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements; by encouraging voluntary rehabilitation; and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and
- (c) the clearance and redevelopment of blighted areas or portions thereof.

7-15-4210. Resolution of necessity required to utilize provisions of part. A municipality may not exercise any of the powers authorized by part 43 and this part until after its local governing body has adopted a resolution finding that:

- (1) one or more blighted areas exist in the municipality by finding that at least three of the factors listed in [7-15-4206](#)(2) apply to the area or a part of the area; and
- (2) the rehabilitation, redevelopment, or both of an area or areas are necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality.

7-15-4211. Preparation of comprehensive development plan for municipality. For the purpose of approving an urban renewal plan and other municipal purposes, a municipality may:

- (1) prepare, adopt, and revise from time to time a comprehensive plan or parts of a plan for the physical development of the municipality as a whole, with consideration for the county and school districts that include municipal territory;
- (2) establish and maintain a planning commission for that purpose and related municipal planning activities; and
- (3) make available and appropriate necessary funds for municipal planning activities.

7-15-4212. Preparation of urban renewal plan. The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality.

7-15-4213. Review of urban renewal plan by planning commission. (1) Prior to its approval of an urban renewal project, the local governing body shall submit the urban renewal project plan to the planning commission of the municipality for review and recommendations as to its conformity with the growth policy or parts of the growth policy for the development of the municipality as a whole if a growth policy has been adopted pursuant to Title 76, chapter 1.

(2) The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within 60 days after receipt of the plan.

7-15-4214. Hearing on urban renewal plan required. (1) The local governing body shall hold a public hearing on an urban renewal plan prior to adoption as provided in [7-1-4131](#). Notice of the hearing must be published as provided in [7-1-4127](#), and mail notice as provided in [7-1-4129](#) must be given to property owners of the district.

(2) Upon receipt of the recommendations of the planning commission or if no recommendations are received within 60 days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan.

7-15-4215. Notice of hearing on urban renewal plan. (1) The notice required by [7-15-4214](#)(1) must be given by publication as provided in [7-1-4127](#) and by mailing a notice of the hearing, not less than 10 days prior to the date of the hearing, to the persons whose names appear on the county treasurer's tax records as the owners, reputed owners, or purchasers under contracts for deed of the property, at the address shown on the tax record.

(2) The notice must:

- (a) describe the time, date, place, and purpose of the hearing;
- (b) specify the proposed boundary of the urban renewal area affected;
- (c) outline the general scope of the urban renewal plan under consideration;
- (d) specify the goals the municipality has in the rehabilitation and renewal of the

area; and

(e) indicate the method of financing the urban renewal area and whether the municipality intends to use tax increment financing and bonds to be paid from tax increment financing.

7-15-4216. Requirements for approval of urban renewal plans and projects. (1) The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared.

(2) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has by resolution determined such area to be a blighted area and designated such area as appropriate for an urban renewal project.

(3) An urban renewal plan adopted after July 1, 1979, must be approved by ordinance.

(4) All urban renewal plans approved by resolution prior to May 8, 1979, are hereby validated.

7-15-4217. Criteria for approval of urban renewal project. Following the hearing required by [7-15-4214](#), the local governing body may, by ordinance, approve an urban renewal project if it finds that:

(1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project;

(2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole;

(3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and

(4) a sound and adequate financial program exists for the financing of said project.

7-15-4218. Voter approval of urban renewal plan required when general obligation bonds to be used. If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in [7-15-4302\(1\)](#) or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of part 44 of chapter 7 or of part 43 of chapter 13, the question of approving the plan and issuing such bonds shall be submitted to a vote of the qualified electors of such municipality, in accordance with the provisions governing municipal general obligation bonds under chapter 7, part 42, at the same election and shall be approved by a majority of those qualified electors voting on such question.

7-15-4219. Effect of approval of urban renewal project. Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

7-15-4220. Use of neighborhood development program to implement urban renewal activities. (1) The municipality may elect to undertake and carry out urban renewal activities on a yearly basis. In such event, the activities shall be included in the yearly budget of the municipality. The undertaking of urban renewal activities on a yearly basis shall be designated as a "neighborhood development program" and the financing of such activities shall be approved in accordance with [7-15-4218](#).

(2) In the event of such election, the municipality shall present its proposed annual increment activities or undertakings for public approval in keeping with [7-15-4211](#) through [7-15-4221](#). Such activity year shall relate to the budget year of the municipality.

(3) Such activities need not be limited to contiguous areas. However, such activities shall be confined to the areas as outlined in the urban renewal plan as approved by the municipality in accordance with this part. The yearly activities shall constitute a part of the urban renewal plan, and the municipality may elect to undertake certain yearly activities and total urban renewal projects simultaneously.

(4) Every municipality shall have all the power necessary or convenient to plan and undertake neighborhood development projects consisting of urban renewal project undertakings and activities in one or more urban renewal areas which are planned and carried out on the basis of annual increments in accordance with the provisions of this part and part 43 for carrying out and planning urban renewal projects.

7-15-4221. Modification of urban renewal project plan. (1) An urban renewal project plan may be modified at any time by the local governing body. If modified after the lease or sale by the municipality of real property in the urban renewal project area, the modification is subject to any rights at law or in equity that a lessee or purchaser or the lessee's or purchaser's successor or successors in interest may be entitled to assert.

(2) An urban renewal plan may be modified by ordinance.

(3) Any urban renewal plan proposed for modification to provide tax increment financing for the district must be proposed with consideration for the county and school districts that include municipal territory.

(4) All urban renewal plans approved or modified by resolution prior to May 8, 1979, are validated.

(5) A plan may be modified by:

(a) the procedure set forth in [7-15-4212](#) through [7-15-4219](#) with respect to adoption of an urban renewal plan;

(b) the procedure set forth in the plan.

7-15-4222 through 7-15-4230 reserved.

7-15-4231. Exercise of powers related to urban renewal. A municipality may itself exercise its urban renewal project powers as herein defined or may, if the local governing body by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency created by [7-15-4232](#) or a

department or other officers of the municipality as they are authorized to exercise under this part and part 43.

7-15-4232. Authorization to assign urban renewal powers to municipal departments or to create urban renewal agency. When a municipality has made the finding prescribed in [7-15-4210](#) and has elected to have the urban renewal project powers exercised as specified in [7-15-4233](#):

(1) such urban renewal project powers may be assigned to a department or other officers of the municipality or to any existing public body corporate; or

(2) the legislative body of a city may create an urban renewal agency in such municipality, to be known as a public body corporate, to which such powers may be assigned.

7-15-4233. Powers which may be exercised by urban renewal agency or authorized department. (1) In the event the local governing body makes such determination, such body may authorize the urban renewal agency or department or other officers of the municipality to exercise any of the following urban renewal project powers:

- (a) to formulate and coordinate a workable program as specified in [7-15-4209](#);
- (b) to prepare urban renewal plans;
- (c) to prepare recommended modifications to an urban renewal project plan;
- (d) to undertake and carry out urban renewal projects as required by the local governing body;
- (e) to make and execute contracts as specified in [7-15-4251](#), [7-15-4254](#), [7-15-4255](#), and [7-15-4281](#), with the exception of contracts for the purchase or sale of real or personal property;
- (f) to disseminate blight clearance and urban renewal information;
- (g) to exercise the powers prescribed by [7-15-4255](#), except the power to agree to conditions for federal financial assistance and imposed pursuant to federal law relating to salaries and wages shall be reserved to the local governing body;
- (h) to enter any building or property in any urban renewal area in order to make surveys and appraisals in the manner specified in [7-15-4257](#);
- (i) to improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area;
- (j) to insure real or personal property as provided in [7-15-4258](#);
- (k) to effectuate the plans provided for in [7-15-4254](#);
- (l) to prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such relocation;
- (m) to prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
- (n) to conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects;
- (o) to negotiate for the acquisition of land;
- (p) to study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or other places and to make recommendations with respect thereto;

(q) to organize, coordinate, and direct the administration of the provisions of this part and part 43;

(r) to perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of the powers and performance of the duties and responsibilities entrusted to the local governing body.

(2) Any powers granted in this part or part 43 that are not included in subsection (1) as powers of the urban renewal agency or a department or other officers of a municipality in lieu thereof may only be exercised by the local governing body or other officers, boards, and commissions as provided under existing law.

7-15-4234. Urban renewal agency to be administered by appointed board of

commissioners. (1) If the urban renewal agency is authorized to transact business and exercise powers under this part, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency consisting of five commissioners.

(2) The initial membership shall consist of one commissioner appointed for 1 year, one for 2 years, one for 3 years, and two for 4 years. Each subsequent appointment must be for 4 years. A certificate of the appointment or reappointment of a commissioner must be filed with the clerk of the municipality, and the certificate is conclusive evidence of the proper appointment of the commissioner.

(3) Each commissioner shall hold office until a successor has been appointed and has qualified.

(4) A commissioner may not receive compensation for services but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties.

(5) Any persons may be appointed as commissioners if they reside within the municipality.

(6) A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office.

7-15-4235. Restrictions on agency commissioners holding other public office. A

majority of the commissioners of an urban renewal agency exercising powers pursuant to this part or part 43 shall not hold any other public office under the municipality other than their commissionership or office with respect to such urban renewal agency, department, or office.

7-15-4236. Conduct of business. The powers and responsibilities of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers and responsibilities of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present unless in any case the bylaws shall require a larger number.

7-15-4237. Annual report. (1) An agency authorized to transact business and exercise powers under part 43 and this part shall file with the local governing body, on or before

September 30 of each year, a report of its activities for the preceding fiscal year. A copy of the annual report must be made available upon request to the county and school districts that include municipal territory.

(2) The report must include a complete financial statement setting forth its assets, liabilities, income, and operating expenses and the amount of the tax increment as of the end of the fiscal year.

(3) At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that the report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.

7-15-4238. Employment of necessary staff. The urban renewal agency or department or officers exercising urban renewal project powers shall be supplied with the necessary technical experts and such other agents and employees, permanent and temporary, as are required.

7-15-4239. Control of conflict of interest. (1) (a) A public official, employee of a municipality or urban renewal agency, or department or officers that have been vested by a municipality with urban renewal project powers and responsibilities under [7-15-4231](#) may not voluntarily acquire any interest, direct or indirect, in any urban renewal project, in any property included or planned to be included in any urban renewal project of the municipality, or in any contract or proposed contract in connection with an urban renewal project.

(b) When an acquisition is not voluntary, the interest acquired must be immediately disclosed in writing to the local governing body, and the disclosure must be entered upon the minutes of the governing body.

(2) If an official or department or division head owns or controls or owned or controlled within 2 years prior to the date of hearing on the urban renewal project any interest, direct or indirect, in any property that the person knows is included in an urban renewal project, the person shall immediately disclose this fact in writing to the local governing body, and the disclosure must be entered upon the minutes of the governing body. An official or a department or division head may not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers that have been vested with urban renewal project powers by the municipality pursuant to the provisions of [7-15-4231](#).

7-15-4240. Misconduct in office. Any violation of the provisions of [7-15-4235](#) or [7-15-4239](#) shall constitute misconduct in office.

7-15-4241 through 7-15-4250 reserved.

7-15-4251. General powers of municipalities in connection with urban renewal. Every municipality shall have all the power necessary or convenient:

(1) to carry out and effectuate the purposes and provisions of this part and part 43;

(2) to undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part and part 43, and to disseminate blight clearance and urban renewal information;

(3) to organize, coordinate, and direct, within the municipality, the administration of the provisions of this part and part 43 as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively;

(4) to exercise all or any part or combination of powers granted in this part or part 43.

7-15-4252. Prevention and elimination of urban blight. The municipality is authorized to develop, test, and report methods and techniques and carry out demonstrations and other activities for the prevention and the elimination of urban blight and to apply for, accept, and utilize grants of funds from the federal government for such purposes.

7-15-4253. Relocation of displaced families. Every municipality shall have power to prepare plans for the relocation of families displaced from an urban renewal area and to make relocation payments and to coordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties.

7-15-4254. Municipal power in the preparation of various plans. (1) Every municipality shall have power, within the municipality:

(a) to make or have made all plans necessary to the carrying out of the purposes of this part and to contract with any person, public or private, in making and carrying out such plans; and

(b) to adopt or approve, modify, and amend such plans.

(2) Such plans may include, without limitation:

(a) a comprehensive plan or parts thereof for the locality as a whole;

(b) urban renewal plans;

(c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

(d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and

(e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects.

7-15-4255. Authority to provide or contract for services related to urban renewal. (1)

Every municipality shall have power to:

(a) provide or arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, or roads in connection with an urban renewal project;

(b) install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements.

(2) Every municipality shall have power to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards in the undertaking or carrying out of an urban renewal project and to include in any contract let in connection with such a project provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

7-15-4256. Restriction on operation of certain utility services by municipality. Nothing in this part or part 43 shall be construed to authorize any municipality to construct or operate, as a part of any urban renewal project, any electric generation plant, electric transmission or distribution lines, or other public utility facilities, excepting waterlines and sewerlines then operated by municipalities.

7-15-4257. Authority to enter private property. (1) Every municipality shall have power, within the municipality, to enter upon any building or property in any urban renewal area in order to make surveys and appraisals and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

(2) Such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

7-15-4258. Acquisition and administration of real and personal property. (1) A municipality may:

(a) acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain pursuant to Title 70, chapter 30, or otherwise any real property and personal property that may be necessary for the administration of the provisions contained in part 43 and this part, together with any improvements on the real property;

(b) hold, improve, clear, or prepare for redevelopment property acquired pursuant to subsection (1)(a);

(c) dispose of real or personal property;

(d) insure or provide for the insurance of real or personal property or the operations of the municipality against any risks or hazards, including the power to pay premiums on any insurance; and

(e) enter into a development agreement with the owner of real property within an urban renewal area and undertake activities, including the acquisition, removal, or demolition of structures, improvements, or personal property located on the real property, to prepare the property for redevelopment.

(2) A development agreement entered into in accordance with subsection (1)(e) must

contain provisions obligating the owner to redevelop the real property for a specified use consistent with the urban renewal plan and offering recourse to the municipality if the redevelopment is not completed as determined by the local governing body. The development agreement may not constitute the acquisition of an interest in real property by the municipality within the meaning of [7-15-4262](#) or [7-15-4263](#).

(3) Except as provided in [7-15-4204\(2\)](#), [7-15-4206](#), and [7-15-4259](#), statutory provisions with respect to the acquisition, clearance, or disposition of property by public bodies may not restrict a municipality in the exercise of functions with respect to an urban renewal project.

(4) A municipality may not acquire real property for an urban renewal project or enter into a development agreement, as provided in subsection (1)(e), unless the local governing body has approved the urban renewal project plan in accordance with [7-15-4216\(2\)](#) and [7-15-4217](#).

7-15-4259. Exercise of power of eminent domain. (1) After the adoption by the local governing body of a resolution declaring that the acquisition of the real property described in the resolution is necessary for an urban renewal project under this part, a municipality may acquire by condemnation, as provided in Title 70, chapter 30, any interest in real property that it considers necessary for urban renewal.

(2) Condemnation for urban renewal of blighted areas, as defined in [7-15-4206\(2\)\(a\)](#), (2)(h), (2)(k), or (2)(n), is a public use, and property already devoted to any other public use or acquired by the owner or the owner's predecessor in interest by eminent domain may be condemned for the purposes of this part.

(3) The award of compensation for real property taken for an urban renewal project may not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction or proposed assembly, clearance, or reconstruction in the project area. An allowance may not be made for the improvements begun on real property after notice to the owner of the property of the institution of proceedings to condemn the property. Evidence is admissible bearing upon the unsanitary, unsafe, or substandard condition of the premises or the unlawful use of the premises.

(4) A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity.

7-15-4260. Exemption from levy and sale for certain property. All property of a municipality, including funds, owned or held by it for the purposes of this part and part 43 shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this part or part 43 by a municipality on an urban renewal project or the rents, fees, grants, or revenues derived from these projects.

7-15-4261. Exemption from taxation for certain property. (1) The property of a municipality acquired or held for the purposes of this part is declared to be public property used for essential public and governmental purposes, and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof.

(2) Such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body or other organization normally entitled to tax exemption with respect to such property.

7-15-4262. Disposal of municipal property in urban renewal areas. (1) A municipality may:

(a) sell, lease, or otherwise transfer real property in an urban renewal area or any interest in real property acquired by it for an urban renewal project for residential, recreational, commercial, industrial, or other uses or for public use and enter into contracts with respect to the real property; or

(b) retain the property or interest only for parks and recreation, education, public transportation, public safety, health, highways, streets and alleys, administrative buildings, or civic centers, in accordance with the urban renewal project plan and subject to any covenants, conditions, and restrictions, including covenants running with the land, that it considers necessary or desirable to assist in preventing the development or spread of blighted areas or otherwise to carry out the purposes of this part.

(2) The sale, lease, other transfer, or retention and any agreement relating the real property may be made only after the approval of the urban renewal plan by the local governing body.

(3) Except as provided in subsection (5), the real property or interest must be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account and give consideration to the:

(a) uses provided in the plan;

(b) restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and

(c) objectives of the plan for the prevention of the recurrence of blighted areas.

(4) Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred must be transferred as rapidly as feasible, in the public interest, consistent with the carrying out of the provisions of the urban renewal plan.

(5) A transfer under this section may include a donation of the land or a sale of the land at a reduced price to a corporation for the purpose of constructing:

(a) a multifamily housing development operated by the corporation for low-income housing;

(b) single-family houses. Upon completion of a house, the corporation shall sell the

property to a low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the property becomes subject to taxation.

(c) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements.

(6) Land that is transferred pursuant to subsection (5) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition.

7-15-4263. Procedure to dispose of property to private persons. (1) A municipality may dispose of real property in an urban renewal area to private persons only under reasonable procedures as it shall prescribe or as provided in this section.

(2) (a) A municipality shall by public notice invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area or any part of an urban renewal area.

(b) The notice must be published as provided in [7-1-4127](#) prior to the execution of any contract or deed to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance under the provisions of [7-15-4262](#) through [7-15-4266](#).

(c) The notice must identify the area or portion of the area and must state that any further information that is available may be obtained at the office designated in the notice.

(3) The municipality shall consider all redevelopment or rehabilitation proposals and the financial and legal ability of the persons making the proposals to carry them out. The municipality may accept those proposals as it considers to be in the public interest and in furtherance of the purposes of this part and part 43. Thereafter, the municipality may execute, in accordance with the provisions of [7-15-4262](#) and [7-15-4264](#), and deliver contracts, deeds, leases, and other instruments of transfer.

7-15-4264. Obligations of transferees of municipal property in urban renewal area. (1) The purchasers or lessees and their successors and assigns are obligated to devote real property transferred pursuant to [7-15-4262](#) only to the uses specified in the urban renewal plan and may be obligated to comply with other requirements that the municipality may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on real property required by the urban renewal plan.

(2) In any instrument of conveyance to a private purchaser or lessee, the municipality may provide that the purchaser or lessee may not sell, lease, or otherwise transfer the real property without the prior written consent of the municipality until the purchaser or lessee has completed the construction of any and all improvements that the

purchaser or lessee is obligated to construct.

(3) The inclusion in a contract or conveyance to a purchaser or lessee of any covenants, restrictions, or conditions, including the incorporation by reference of the provisions of an urban renewal plan or any part of a plan, may not prevent the recording of the contract or conveyance in the land records of the clerk and recorder of the county in which the city or town is located, in a manner that provides actual or constructive notice of the covenants, restrictions, or conditions.

7-15-4265. Presumption of regularity in transfer of title. Any instrument executed by a municipality and purporting to convey any right, title, or interest in any property under this part or part 43 shall be conclusively presumed to have been executed in compliance with the provisions of this part and part 43 insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

7-15-4266. Temporary use of municipal property in urban renewal area. A municipality may operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment, without regard to the provisions of [7-15-4262](#) and [7-15-4264](#), for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan. The municipality may, after a public hearing, extend the time for a period not to exceed 3 years.

7-15-4267. Cooperation by public bodies. (1) For the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body authorized by law or by this part or part 43, upon such terms, with or without consideration, as it may determine, may:

- (a) dedicate, sell, convey, or lease any of its interest in any property or grant easements, licenses, or other rights or privileges therein to a municipality;
- (b) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section;
- (c) do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan;
- (d) lend, grant, or contribute funds to a municipality;
- (e) enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality or other public body respecting action to be taken pursuant to any of the powers granted by this part or part 43, including the furnishing of funds or other assistance in connection with an urban renewal project;
- (f) cause to be furnished public buildings and public facilities, including parks; playgrounds; recreational, community, educational, water, sewer, or drainage facilities; or any other works which it is otherwise empowered to undertake;
- (g) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places;
- (h) plan or replan or zone or rezone any part of the urban renewal area; and
- (i) provide such administrative and other services as may be deemed requisite to the

efficient exercise of the powers herein granted.

(2) Any sale, conveyance, lease, or agreement provided for in this section shall be made by a public body with appraisal, public notice, advertisement, or public bidding in accordance with provisions of [7-15-4263](#).

7-15-4268 through 7-14-4276 reserved.

7-15-4277. Short title. Sections [7-15-4277](#) through [7-15-4280](#) may be cited as the "Targeted Economic Development District Act".

7-15-4278. Legislative findings -- purpose. The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the local governments of the state and constitute a serious impediment to the development of infrastructure-intensive, value-adding economic development in Montana;

(2) local governments lack sufficient capital to rectify the infrastructure shortage in infrastructure-deficient areas, thus impeding their ability to achieve economic growth through the development of value-adding industries;

(3) the creation of infrastructure in support of value-adding economic development is a matter of state policy and state concern because the state and its local governments will continue to suffer economic dislocation due to the lack of value-adding industries; and

(4) the state's tax increment financing laws should be used to encourage the creation of areas in which needed infrastructure for value-adding industries could be developed.

7-15-4279. Targeted economic development districts. (1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned for use in accordance with the area growth policy, as defined in [76-1-103](#);

(c) may not comprise any property included within an existing tax increment financing district;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under [7-15-4280](#);

(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) The local government may use tax increment financing pursuant to the provisions of [7-15-4282](#) through [7-15-4294](#) for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive development plan required in subsection (2)(e).

(4) For the purposes of [7-15-4277](#) through [7-15-4280](#):

(a) "secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce;

(b) "secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within Montana that, through the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth.

7-15-4280. Resolution of necessity required for targeted economic development district. A local government may not exercise the powers provided in part 43 or this part unless it has adopted a resolution of necessity finding that:

(1) one or more infrastructure-deficient areas exist in the local government; and

(2) the infrastructure improvement of the area is necessary for the welfare of the residents of the local government.

7-15-4281. Financial authority in connection with urban renewal. (1) A municipality shall have power to:

(a) borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance for the purposes of this part and enter into and carry out contracts in connection with the financial assistance from:

(i) the federal government;

(ii) the state, a county, or any other public body; or

(iii) any sources, public or private;

(b) (i) appropriate funds and make expenditures as may be necessary to carry out the purposes of this part; and

(ii) subject to [15-10-420](#) and in accordance with state law, levy taxes and assessments for the purposes of this part;

(c) invest any urban renewal project funds held in reserves or sinking funds or any funds that are not required for immediate disbursement in property or securities in which mutual savings banks may legally invest funds subject to their control;

(d) adopt, in accordance with state law, annual budgets for the operation of an urban renewal agency, department, or office vested with urban renewal project powers under [7-15-4231](#);

(e) enter, in accordance with state law, into agreements, which may extend over any period, with agencies or departments vested with urban renewal project powers under [7-15-4231](#) respecting action to be taken by the municipality pursuant to any of the

powers granted by part 43 or this part;

(f) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and plan or replan, zone or rezone any part of the municipality in accordance with state law.

(2) A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project the conditions imposed pursuant to federal laws that the municipality may consider reasonable and appropriate and that are not inconsistent with the purposes of part 43 and this part.

7-15-4282. Authorization for tax increment financing. (1) An urban renewal plan as defined in [7-15-4206](#) or a targeted economic development district comprehensive development plan created as provided in [7-15-4279](#) may contain a provision or be amended to contain a provision for the segregation and application of tax increments as provided in [7-15-4282](#) through [7-15-4294](#).

(2) The tax increment financing provision must take into account the effect on the county and school districts that include local government territory.

7-15-4283. Definitions related to tax increment financing. For purposes of [7-15-4277](#) through [7-15-4280](#) and [7-15-4282](#) through [7-15-4294](#), the following definitions apply unless otherwise provided or indicated by the context:

(1) "Actual taxable value" means the taxable value of all taxable property at any time, as calculated from the property tax record.

(2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area or targeted economic development district as it appears on the property tax record prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in [7-15-4287](#) or [7-15-4293](#).

(3) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all taxable property within an urban renewal area or targeted economic development district.

(4) "Local government", for the purposes of a targeted economic development district, means any incorporated city or town, a county, or a city-county consolidated local government.

(5) "Targeted economic development district" means a district created pursuant to [7-15-4277](#) through [7-15-4280](#).

(6) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area or targeted economic development district or a part of the area or district is located against the incremental taxable value.

(7) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by [7-15-4282](#) through [7-15-4294](#).

(8) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

(9) "Taxing body" means any incorporated city or town, county, city-county consolidated local government, school district, or other political subdivision or

governmental unit of the state, including the state, that levies taxes against property within the urban renewal area or targeted economic development district.

7-15-4284. Filing of tax increment provisions plan or district ordinance. (1) The clerk of the local government shall provide a certified copy of the ordinance creating each urban renewal plan or targeted economic development district comprehensive development plan and an amendment to either of the plans containing a tax increment provision to the department of revenue.

(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.

7-15-4285. Determination and report of original, actual, and incremental taxable values. The department of revenue shall, upon receipt of a qualified tax increment provision and each succeeding year, calculate and report to the local government and to any other affected taxing body in accordance with Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.

7-15-4286. Procedure to determine and disburse tax increment. (1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or targeted economic development district and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.

(2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district, except for the university system mills levied and assessed against property, must be paid into a special fund held by the treasurer of the local government and used as provided in [7-15-4282](#) through [7-15-4294](#).

(b) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law.

7-15-4287. Provision for use of portion of tax increment. (1) At the time of adoption of a tax increment provision or at any time subsequent thereto, the governing body of the local government may provide that a portion of the tax increment from the incremental taxable value be released from segregation by an adjustment of the base taxable value, provided that:

(a) all principal and interest then due on bonds for which the tax increment has been pledged have been fully paid; and

(b) the tax increment resulting from the smaller incremental value is determined by the governing body to be sufficient to pay all principal and interest due later on the bonds.

(2) The adjusted base value determined under subsection (1) must be reported by the

clerk to the officers and taxing bodies to which the increment provision is reported.

(3) Thereafter, the adjusted base value is used in determining the mill rates of affected taxing bodies unless the tax increment resulting from the adjustment is determined to be insufficient for this purpose. In this case, the governing body shall reduce the base value to the amount originally determined or to a higher amount necessary to provide tax increments sufficient to pay all principal and interest due on the bonds.

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.

7-15-4289. Use of tax increments for bond payments. The tax increment may be pledged to the payment of the principal of premiums, if any, and interest on bonds that the local government may issue for the purpose of providing funds to pay those costs.

7-15-4290. Use of property taxes and other revenue for payment of bonds. (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in [7-15-4288](#) and [7-15-4289](#).

(b) The tax increment derived from a targeted economic development district may be pledged for the payment of revenue bonds issued for targeted economic development district projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay targeted economic development district costs described in [7-15-4288](#) and [7-15-4289](#).

(2) A local government issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other revenue of the local government, except property taxes prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the local government by a project, may not be applied to the payment of bonds issued pursuant to [7-15-4301](#) for which a tax increment has been pledged.

(4) If applicable, the local government shall specify whether the bonds are tax credit bonds as provided in [17-5-117](#), recovery zone economic development bonds or recovery zone facility bonds as provided in [7-7-140](#), or qualified energy conservation bonds as provided in [7-7-141](#).

7-15-4291. Agreements to remit unused portion of tax increments. The local government may also enter into agreements with the other affected taxing bodies to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs listed in [7-15-4288](#) or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in [7-15-4289](#).

7-15-4292. Termination of tax increment financing -- exception. (1) The tax increment provision contained in an urban renewal plan or a targeted economic development district comprehensive development plan terminates upon the later of:

(a) the 15th year following its adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue

from the area or district.

(b) Upon termination of the tax increment provision, a local government may retain and use in accordance with the provisions of the urban renewal plan:

(i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project or targeted economic development district project that a local government entered into before the termination of a tax increment provision;

(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or

(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan or targeted economic development district comprehensive development plan.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or targeted economic development district and must be paid to each of the taxing bodies as provided by law.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.

7-15-4293. Adjustment of base taxable value following change of law or local disaster.

(1) If the base taxable value of an urban renewal area or targeted economic development district is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the local government may request the department of revenue to estimate the base taxable value so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as those payments become due.

(2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the governing body of a local government may request the department of revenue to adjust the base taxable value to account for a loss of taxable revenue resulting from the state granting property in the area or district tax-exempt status within the first year of creation of the tax increment financing district. The local government shall give notice of and hold a public hearing on the proposed change.

(3) (a) If an urban renewal area or targeted economic development district suffers a loss of property value directly related to a disaster for which the principal executive officer of the local jurisdiction has made a disaster declaration pursuant to [10-3-402](#), the department of revenue shall decrease the base taxable value of the area or district by the amount of the base taxable value lost because of the disaster in the tax year in

which the disaster is declared. The principal executive officer shall forward a copy of the disaster declaration to the department of revenue.

(b) The taxable value removed from the base taxable value of the area or district under subsection (3)(a) must be added to the base taxable value of the area or district upon reconstruction of the property in the tax year of reconstruction. If reconstruction of the property is only partially completed as of January 1 of the tax year, the department of revenue shall determine the base taxable value of the property for that tax year by multiplying the percentage of completion, expressed as a decimal equivalent, of reconstruction of the property by the original base taxable value of the property. The addition to the base taxable value under this subsection (3)(b) is limited to the amount of the original base taxable value of each parcel before the disaster occurred.

7-15-4294. Assessment agreements. (1) A local government may enter into a written agreement with any private person:

(a) establishing a minimum market value of land, existing improvements, or improvements or equipment to be constructed or acquired; and

(b) requiring the individual to pay an annual tax deficiency fee whenever the property that is the subject of the agreement is valued by the department of revenue for property tax purposes at a market value that is less than the value established by the agreement. The amount of the deficiency fee may not exceed the difference between the property taxes that would have been imposed on the property based on the minimum value of the property expressed in the agreement and the property taxes that are imposed on the property based on the market value established by the department of revenue.

(2) The property that is the subject of the agreement must be located or installed in an urban renewal area or targeted economic development district that is subject to a tax increment financing provision.

(3) The minimum value established by the agreement may be fixed or may increase or decrease in later years from the initial minimum value as provided in the agreement.

(4) The agreement creates a lien on the property pursuant to [71-3-1506](#) and must be filed and recorded in the office of the county clerk and recorder in each county in which the property or any part of the property is located. Recording an agreement constitutes notice of the agreement to anyone who acquires any interest in the property that is the subject of the agreement, and the agreement is binding upon the person acquiring the interest.

(5) An agreement made pursuant to subsection (1) may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an agreement must be approved by the governing body of the local government. A document modifying or terminating an agreement must be filed in the office of the county clerk and recorder in each county in which the property or any part of the property is located.

(6) An agreement entered into pursuant to subsection (1) or modified pursuant to subsection (5) terminates on the earliest of:

- (a) the date on which conditions in the agreement for termination are satisfied;
- (b) the termination date specified in the agreement; or
- (c) the date when the tax increment is no longer paid to the local government under [7-15-4292](#).

(7) This section does not limit a local government's authority to enter into contracts other than tax deficiency agreements as described in this section.

7-15-4301. Authorization to issue urban renewal bonds, targeted economic development bonds, and refunding bonds. (1) A local government or municipality may:

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project or targeted economic development district project under Title 7, chapter 15, part 42, and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) Except as provided in [7-15-4302](#), bonds may not pledge the general credit of the local government or municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the local government or municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects or targeted economic development district projects under Title 7, chapter 15, part 42, and this part, including the tax increment received and pledged by the local government or municipality pursuant to [7-15-4282](#) through [7-15-4294](#), and, if the income, proceeds, revenue, and funds of the local government or municipality are insufficient for the payment, from other revenue of the local government or municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects or targeted economic development district projects of the local government or municipality under Title 7, chapter 15, part 42, and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.

(4) If applicable, the governing body of the local government or municipality shall specify whether the bonds are tax credit bonds as provided in [17-5-117](#), recovery zone economic development bonds or recovery zone facility bonds as provided in [7-7-140](#), or qualified energy conservation bonds as provided in [7-7-141](#).

7-15-4302. Authorization to issue general obligation bonds. (1) For the purpose of [7-15-4267](#) or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or targeted economic development district project, the local government or municipality, in addition to any authority to issue bonds pursuant to [7-15-4301](#), may issue and sell its general obligation bonds.

(2) Any bonds issued pursuant to this section must be issued in the manner and

within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by the local government or municipality for public purposes generally.

(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or targeted economic development district project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for a project may be used to finance the exercise of the powers conferred upon the local government or municipality by Title 7, chapter 15, part 42, and this part that are necessary or proper to complete the project in accordance with the approved plan or ordinance and any modification to the ordinance that is duly adopted by the local governing body.

(4) If applicable, the local government or municipality shall specify whether the bonds are tax credit bonds as provided in [17-5-117](#), recovery zone economic development bonds or recovery zone facility bonds as provided in [7-7-140](#), or qualified energy conservation bonds as provided in [7-7-141](#).

7-15-4303. Bonds to be fully negotiable. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this part and part 42 shall be fully negotiable.

7-15-4304. Presumption of regularity of bond issuance. In a suit, action, or proceeding involving the validity or enforceability of or security for any bond issued under Title 7, chapter 15, part 42, and this part, a bond reciting in substance that it has been issued by the local government or municipality in connection with an urban renewal project or targeted economic development district project is conclusively considered to have been issued for that purpose and the project is conclusively considered to have been planned, located, and carried out in accordance with the provisions of Title 7, chapter 15, part 42, and this part.

7-15-4305. Validity and sufficiency of signatures on bonds. In case any of the public officials of the local government or municipality whose signatures appear on any bonds or coupons issued under part 42 and this part cease to be officials before the delivery of the bonds, their signatures remain valid and sufficient for all purposes the same as if the officials had remained in office until delivery of the bonds.

7-15-4306. Bonds as legal investments. (1) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by a local government or municipality pursuant to part 42 and this part, provided that the bonds

and other obligations must be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of bonds or other obligations, money in an amount that, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity on the bonds. The money under the terms of the agreement is required to be used for the purpose of paying the principal of and the interest on the bonds or other obligations at their maturity.

(2) The bonds and other obligations must be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of the bonds or other obligations.

(3) Nothing contained in this section with regard to legal investments may be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

7-15-4307. Tax exemption for bonds. Bonds issued under the provisions of this part and part 42 are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

7-15-4308 through 7-15-4320 reserved.

7-15-4321. Nature of urban renewal bonds. Bonds issued under [7-15-4301](#) shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall be subject only to the provisions of the Uniform Commercial Code and the limitations of this part and part 42.

7-15-4322. Details relating to urban renewal bonds. (1) Bonds issued under [7-15-4301](#) may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest as provided in [17-5-102](#), be in denomination or denominations, be in either coupon or registered form, carry conversion or registration privileges, have rank or priority, be executed in a manner, be payable in a medium of payment at a place or places, be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics as may be provided by the resolution, ordinance, or trust indenture or a mortgage authorized pursuant to the resolution, ordinance, or trust indenture.

(2) (a) The bonds may be sold at not less than 97% of par, at public or private sale or may be exchanged for other bonds on the basis of par.

(b) The bonds may be sold to the federal government at private sale at not less than par, and if less than all of the authorized principal amount of the bonds is sold to the federal government, the balance may be sold at public or private sale at not less than

97% of par at an interest cost to the local government or municipality of not to exceed the interest cost of the portion of the bonds sold to the federal government.

7-15-4323. Redemption of urban renewal bonds. Every municipality shall have power to redeem such bonds as have been issued pursuant to [7-15-4301](#) at the redemption price established therein or to purchase such bonds at less than redemption price. All such bonds so redeemed or purchased shall be canceled.

7-15-4324. Special bond provisions when tax increment financing is involved. (1) Bonds issued under this part for which a tax increment is pledged pursuant to [7-15-4282](#) through [7-15-4294](#) must be designed to mature not later than 25 years from their date of issue and must mature in years and amounts so that the principal and interest due on the bonds in each year may not exceed the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in a district, and other estimated revenue, including proceeds of the bonds available for payment of interest on the bonds, pledged to their payment to be received in that year.

(2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in an area or district, and other revenue, if any, for each year the bonds are to be outstanding. In calculating the costs under [7-15-4288](#) for which the bonds are issued, the local government or municipality may include an amount sufficient to pay interest on the bonds prior to receipt of tax increments pledged and sufficient for the payment of the bonds and to fund any reserve fund in respect of the bonds.

Appendix B - Draft Administrative Rules

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to property records and the amendment of ARM 42.19.1401, 42.19.1403, 42.19.1404, 42.19.1407, 42.19.1410, and 42.19.1412, and repeal of ARM 42.19.1405 and 42.19.1406 pertaining to local government tax increment financing districts)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION, AMENDMENT, AND REPEAL
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TO: All Concerned Persons

1. On February 6, 2014, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on January 27, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or lalogan@mt.gov.

3. The proposed new rule does not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rule provides as follows:

NEW RULE I OFFICIAL RECORD FOR REAL AND PERSONAL PROPERTY (1) The real property record and personal property record located in the Computer Assisted Mass Appraisal System (CAMAS) is the department's official record.

(2) The current year of the appraisal cycle and the latest version of the property record in CAMAS is the most current data.

(3) Historical or hard copies of property record cards, field notes, or residential or commercial data collection documents are not considered part of the official record unless recorded as such in the current year of the appraisal cycle and on the most recent electronic version of the property record.

AUTH: 15-1-201, 15-7-306, MCA
IMP: 15-7-304, MCA

REASONABLE NECESSITY: The department proposes to adopt New Rule I in response to a recommendation by the Legislative Audit Division following the department's conversion to its new Computer Assisted Mass Appraisal System (CAMAS) in 2008.

The previous computer system required the department to maintain hard copies of all valuation information. However, CAMAS allows the department to maintain all property valuation information electronically.

With CAMAS to capture and store all relevant data, the department no longer updates the hard copy records and instead records all updates only on the electronic record maintained for each parcel. As such, the electronic record in the department's CAMAS contains the most current valuation information for the purposes of property tax assessments, tax collection, and funding of all taxing jurisdictions, and is regarded by the department as the official record.

While the department may also retain existing property record cards, field notes, or other printed materials for informational or historical purposes, those physical records may become outdated over time and not necessarily represent the most current characteristics of the property as found in the official electronic version.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

42.19.1401 DEFINITIONS The following definitions apply to this subchapter:

(1) remains the same.

(2) "Targeted economic development district (TEDD)" means a district created pursuant to 7-15-4279, MCA, that contains a provision for tax increment financing as provided for in 7-15-4282, MCA.

~~(2)~~(3) "Tax increment financing district (TIFD)" means the area within the external boundaries of an urban renewal district (URD) ~~area, industrial district, technology district, or aerospace transportation and technology district~~ or a targeted economic development district (TEDD) that:

(a) has been legally created pursuant to the provisions of ~~Title 7, chapter 15, parts 42 and 43~~ 7-15-4282, MCA; and

(b) contains a provision for the use of tax increment financing.

(4) "Urban renewal district (URD)" means a district created pursuant to 7-15-4202 through 7-15-4218 and 7-15-4280 through 7-15-4284, MCA, that contains a provision for tax increment financing as provided for in 7-15-4282, MCA.

(3) remains the same but is renumbered (5).

AUTH: 15-1-201, MCA

IMP: 7-15-4202, 7-15-4203, 7-15-4204, 7-15-4205, 7-15-4206, 7-15-4207, 7-15-4208, 7-15-4209, 7-15-4210, 7-15-4211, 7-15-4212, 7-15-4213, 7-15-4214, 7-15-4215, 7-15-4216, 7-15-4217, 7-15-4218, 7-15-4279, 7-15-4280, 7-15-4281, 7-15-4282, 7-15-4283, 7-15-4284, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1401 to define terms used in rules within this subchapter that are being

amended to implement Senate Bill 239, L. 2013, which generally revised tax increment financing districts. The department further proposes to update the implementing statutes for the rule accordingly.

42.19.1403 NEW URBAN RENEWAL DISTRICTS (URD) TAX INCREMENT FINANCING DISTRICTS – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE

(1) The department will certify the base taxable value of a newly created ~~urban renewal TIFD~~ URD if the department determines that the following information exists and has been provided to the department:

- (a) remains the same.
- (b) a copy of the resolution of necessity required by 7-15-4210, MCA, adopting the statement of blight. The resolution must have an effective date prior to the date on which the ~~TIFD~~ URD is created;
- (c) a map representing the ~~TIFD's~~ URD's boundary including a legal description of the ~~TIFD~~ URD;
- (d) through (i) remain the same.
- (j) the name of the ~~TIFD~~ URD; and
- (k) a list of the geocodes for all real property, the assessor codes for all personal property, and a description of all centrally assessed property located within the ~~TIFD~~ URD at the time of its creation.

(2) The local government that has created the ~~TIFD~~ URD will provide the information described in (1) to the department when it notifies the department that the ~~TIFD~~ URD has been created.

(3) The department will not certify the base taxable value of a newly created URD if the district crosses any school district boundary.

AUTH: 15-1-201, MCA

IMP: 7-15-4202, 7-15-4210, 7-15-4215, 7-15-4216, 7-15-4282, 7-15-4284,
MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1403 to implement Senate Bill 239, L. 2013, which generally revised tax increment financing districts. The proposed amendments improve efficiency and accuracy in the administration of urban renewal districts and add clarity to the rule with the addition of new (3). The department further proposes to revise the title of the rule to remove the term tax increment finance district and to add in the acronym URD.

42.19.1404 INDUSTRIAL TAX INCREMENT FINANCING NEW TARGETED ECONOMIC DEVELOPMENT DISTRICTS (TEDD) – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE

(1) The department will certify the base taxable value of a newly created ~~industrial TIFD~~ TEDD if the department determines that the following information exists and has been provided to the department:

- (a) a copy of the local government's finding that the property within the ~~TIFD~~ TEDD consists of a continuous area with an accurately described boundary;

(b) ~~a copy of the ordinance zoning the area within the TIFD for light or heavy industrial use~~ local government's finding that the area within the TEDD is large enough to host a diversified base of multiple independent tenants;

(c) ~~evidence~~ a copy of the local government's finding that the zoning within the TIFD TEDD is in accordance with the local government's growth policy as defined in 76-1-103, MCA;

(d) a copy of the local government's growth policy;

~~(d)(e)~~ a copy of the local government's finding that the property within the TIFD TEDD is not included within an existing urban renewal tax increment financing district;

~~(e)(f)~~ a copy of the local government's finding, adopted prior to the creation of the TEDD, that the area within the TIFD TEDD is deficient in infrastructure necessary to encourage and retain value-adding industry improvement for industrial development, including any documentation upon which the finding of deficiency is based;

~~(f)~~ a copy of the local government's growth policy;

~~(g)~~ copies of all documentation upon which the local government's finding of deficiency was based;

~~(h)~~ a copy of the local government's comprehensive development plan that:

~~(i)~~ was adopted prior to the creation of the TEDD;

~~(ii)~~ identifies the use and purpose for which the TEDD was created;

~~(iii)~~ ensures that the area within the TEDD is large enough to host a diversified base of multiple tenants and was not designed to serve the need of a single tenant; and

~~(iv)~~ is in conformance with the local government's growth policy;

~~(g)(i)~~ a copy of the notice of public hearing required under 7-15-4299, MCA;

~~(h)(j)~~ a certified copy of the ordinance approving the industrial district TEDD and the tax increment financing provision pursuant to 7-15-4284, MCA;

~~(i)(k)~~ a map representing the TIFD's TEDD's boundary including a legal description of the TIFD TEDD;

~~(j)(l)~~ the name of the TIFD TEDD; and

~~(k)(m)~~ a list of the geocodes for all real property, the assessor codes for all personal property, and a description of all centrally assessed property located within the TIFD TEDD at the time of its creation.

(2) The local government that has created the TIFD TEDD will provide the information described in (1) to the department when it notifies the department that the TIFD TEDD has been created.

(3) The department will not certify the base taxable value of a newly created TEDD if the district crosses any school district boundary.

AUTH: 15-1-201, MCA

IMP: 7-15-4282, 7-15-4284, 7-15-4299, 76-1-103, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1404 to implement Senate Bill 239, L. 2013, which generally revised tax increment financing districts. The proposed amendments improve efficiency and accuracy in the administration of the targeted economic development districts, add

clarity to the rule with the addition of new (3), and add an implementing citation that corresponds with an amendment to (1)(c). The department further proposes to revise the title of the rule to refer to the term "targeted economic development district" and to include the acronym TEDD.

42.19.1407 DETERMINATION OF BASE YEAR TAXABLE VALUE OF A NEWLY CREATED TIFD TAX INCREMENT FINANCING DISTRICT (TIFD) (1) The base year taxable value for the ~~tax increment financing district (TIFD)~~ TIFD will be determined as follows:

(a) If the notice or supporting documentation, or both, required by ARM 42.19.1403 ~~through 42.19.1406~~ and 42.19.1404 is received by the department on or before February 1 of the calendar year following the creation of a valid TIFD, the department will determine the base year taxable value of the district as of January 1 of the calendar year in which the valid TIFD was created.

(b) If the notice or supporting documentation, or both, required by ARM 42.19.1403 ~~through 42.19.1406~~ and 42.19.1404 is received after February 1 of the calendar year following the creation of a valid TIFD, the department will calculate the base year taxable value of the district as of January 1 of the year in which the documentation was received. In these instances, the base year will be reported to the affected taxing jurisdictions by the first Monday in August of the calendar year following receipt of the notification.

(c) remains the same.

AUTH: 15-1-201, MCA

IMP: 7-15-4284, 7-15-4285, 15-10-420, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1407 to remove references to ARM 42.19.1405 and 42.19.1406, which are being repealed based on the passage of Senate Bill 239, L. 2013. The department further proposes to revise the rule title and content to include the acronym TIFD for consistency with the use of acronyms in other rules in the same chapter.

42.19.1410 INFORMATION REQUIRED BY THE DEPARTMENT TO CERTIFY BASE YEAR TAXABLE VALUES OF AN AMENDED OR CHANGED TAX INCREMENT FINANCE FINANCING DISTRICT (TIFD) (1) The department will certify the base year taxable values of an amended or changed TIFD if the department determines, as it relates to property that is added to a TIFD, that the following information exists:

(a) if the amended district is ~~an urban renewal TIFD~~ a URD, the evidence required by ARM 42.19.1403; and

(b) if the amended district is ~~an industrial TIFD~~ a TEDD, the evidence required by ARM 42.19.1404; and

(c) ~~if the amended district is a technology TIFD, the evidence required by ARM 42.19.1405; and~~

(d) ~~if the amended district is an aerospace technology and transportation TIFD, the evidence required by ARM 42.19.1406.~~

AUTH: 15-1-201, MCA

IMP: 7-15-4282, 7-15-4284, 7-15-4285, 15-10-420, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1410 to implement Senate Bill 239, L. 2013, which generally revised tax increment financing districts. The proposed amendments eliminate references to the terms aerospace technology and transportation accordingly and adds the commonly referenced acronym TIFD to the rule title.

42.19.1412 REPORTING OF ISSUANCE OF BONDS OR RETIREMENT OF BONDS (1) To allow the department to determine the value of the newly taxable property as required under 15-10-420, MCA, a local governing body that authorizes ~~urban renewal~~ URD bonds, ~~industrial infrastructure development bonds, aerospace transportation and technology infrastructure development bonds, technology infrastructure development~~ TEDD bonds, or refunding bonds shall, no later than February 1 of each year, provide the department with a copy of each resolution or ordinance required under 7-15-4301, MCA.

(2) A local governing body that retires any bonds secured by tax increment, shall, no later than February 1 of each year, notify the department of the retirement.

(3) The documentation required by this rule shall be mailed to the Department of Revenue Legal Services Office at ~~P.O.~~ PO Box 7701, Helena, MT 59604-7701, with a copy to the Property Assessment Division at ~~P.O.~~ PO Box 8018, Helena, MT 59604-8018.

AUTH: 15-1-201, MCA

IMP: 7-15-4282, 7-15-4284, 7-15-4286, 7-15-4290, 7-15-4301, 15-10-420, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1412 to implement Senate Bill 239, L. 2013, which generally revised tax increment financing districts. The proposed amendments eliminate references to the terms aerospace transportation and technology infrastructure accordingly, incorporate the use of acronyms into the rule content, and update punctuation.

5. The department proposes to repeal the following rules:

42.19.1405 NEW TECHNOLOGY TAX INCREMENT FINANCING DISTRICTS – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE which can be found on page 42-1988 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 7-15-4216, 7-15-4282, 7-15-4284, 7-15-4295, MCA

REASONABLE NECESSITY: The department proposes to repeal ARM 42.19.1405 because new technology tax increment financing districts were eliminated from statute with the passage of Senate Bill 239, L. 2013, which generally

revised tax increment financing districts.

42.19.1406 NEW AEROSPACE TRANSPORTATION AND TECHNOLOGY TAX INCREMENT FINANCING DISTRICTS – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE which can be found on page 42-1989 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 7-15-4216, 7-15-4282, 7-15-4284, 7-15-4296, MCA

REASONABLE NECESSITY: The department proposes to repeal ARM 42.19.1406 because new aerospace transportation and technology tax increment financing districts were eliminated from the statute with the passage of Senate Bill 239, L. 2013, which generally revised tax increment financing districts.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than February 13, 2014.

7. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

8. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. Select the "Resources" tab at the top of the homepage and then locate the "Proposal Notices - Hearing Information" section below. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

9. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of Senate Bill 239, L. 2013, Senator Edward

Buttrey, was notified by regular mail on June 21, 2013, and subsequently notified by regular mail on December 4, 2013.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the proposed new, amended, and repealed rules contained in this notice will not significantly and directly impact small businesses.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Alan Peura acting for
MIKE KADAS
Director of Revenue

Certified to the Secretary of State January 6, 2014