

## HOUSE BILL NO. 413

INTRODUCED BY J. ESSMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO USE OF TAX INCREMENT  
5 FINANCING; SUBJECTING TAX INCREMENT PROVIDED TO BUILDING OWNERS TO RECAPTURE IF A  
6 BUILDING IS TRANSFERRED WITHIN A CERTAIN TIME PERIOD; PROVIDING PROPERTY TAXPAYERS  
7 WITH THE RIGHT TO APPEAL DECISIONS OF A LOCAL GOVERNING BODY; AMENDING SECTIONS  
8 7-15-4288 AND 17-6-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
9 DATE."

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

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13 **Section 1.** Section 7-15-4288, MCA, is amended to read:  
14 **"7-15-4288. Costs that may be paid by tax increment financing -- recapture.** ~~(1) The~~ Subject to  
15 subsection (2), tax increments may be used by the local government to pay the following costs of or incurred in  
16 connection with an urban renewal area or targeted economic development district as identified in the urban  
17 renewal plan or targeted economic development district comprehensive development plan:  
18 ~~(1)~~(a) land acquisition;  
19 ~~(2)~~(b) demolition and removal of structures;  
20 ~~(3)~~(c) relocation of occupants;  
21 ~~(4)~~(d) the acquisition, construction, and improvement of public improvements or infrastructure, including  
22 streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities,  
23 sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities,  
24 natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, publicly owned buildings,  
25 and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42  
26 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with  
27 improvements for which the foregoing costs may be incurred;  
28 ~~(5)~~(e) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;  
29 ~~(6)~~(f) acquisition of infrastructure-deficient areas or portions of areas;  
30 ~~(7)~~(g) administrative costs associated with the management of the urban renewal area or targeted

1 economic development district;

2 ~~(8)(h)~~ assemblage of land for development or redevelopment by private enterprise or public agencies,  
3 including sale, initial leasing, or retention by the local government itself at its fair value;

4 ~~(9)(i)~~ the compilation and analysis of pertinent information required to adequately determine the needs  
5 of the urban renewal area or targeted economic development district;

6 ~~(10)(j)~~ the connection of the urban renewal area or targeted economic development district to existing  
7 infrastructure outside the area or district;

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

10 ~~(12)(l)~~ the acquisition, construction, or improvement of facilities or equipment for reducing, preventing,  
11 abating, or eliminating pollution.

12 (2) (a) Except as provided in subsection (2)(c), tax increment funds provided for improvements to a  
13 building are subject to recapture upon voluntary transfer of control or ownership of the building. Voluntary transfer  
14 for the purpose of this subsection (2)(a) means the sale, lease, or transfer of a controlling stock or other equity  
15 interest in the building. The recapture amount is equal to:

16 (i) 100% within 5 years of receipt of the tax increment funds; and

17 (ii) 80% within 6 years of receipt of tax increment funds, with the amount of recapture decreasing by 20%  
18 for each subsequent year.

19 (b) There is no recapture amount after the property has been held for at least 10 years.

20 (c) A property owner that conveys ownership of a building funded with tax increment to a governmental  
21 entity is not subject to recapture."

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23 **NEW SECTION. Section 2. Statement of purpose -- taxpayer appeal to court of record.** (1) The  
24 powers conferred by part 43 and this part are for public uses for which public money may be expended. The  
25 legislature finds and declares that:

26 (a) property taxpayers are directly impacted by urban renewal projects, targeted economic development  
27 districts, and the usage of tax increment financing; and

28 (b) decisions of the governing body of an incorporated city or town, a county, or a city-county  
29 consolidated local government are far-reaching and specifically impact property taxes of taxpayers in the taxing  
30 jurisdictions.

1 (2) For the purpose of enforcement of part 43 and this part, any property taxpayer or taxing jurisdiction  
 2 in a city or county that is aggrieved by a decision of the governing body of a local government of the same city  
 3 or county may file a petition in a court of record with respect to whether the expenditure of tax increment funds  
 4 satisfies the requirements of part 43 and this part.

5 (3) The court may reverse or affirm, wholly or partly, or may modify any local government decision  
 6 brought up for review.

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8 **Section 3.** Section 17-6-316, MCA, is amended to read:

9 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to  
 10 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288~~(4)~~(1)(d), such as water systems,  
 11 sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or  
 12 creation of a business in Montana. The loan must be made to a local government that will create the necessary  
 13 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan  
 14 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of  
 15 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made  
 16 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate  
 17 reduction passes through to the business creating the jobs.

18 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the  
 19 condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received  
 20 pursuant to subsection (3) of this section must be returned to the state.

21 (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and  
 22 subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the  
 23 portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not  
 24 exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."

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26 NEW SECTION. **Section 4. Codification instruction.** [Section 2] is intended to be codified as an  
 27 integral part of Title 7, chapter 15, part 42, and the provisions of Title 7, chapter 15, part 42, apply to [section 2].

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29 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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