

SENATE BILL NO. 472

INTRODUCED BY THAYER, LYNCH, WILLIAMS, WEEDING, MEYER,
NOBLE, BOYLAN, MCLANE

BY REQUEST OF THE COMMITTEE
ON BUSINESS AND INDUSTRY

IN THE SENATE

APRIL 8, 1989	ON MOTION, RULES SUSPENDED TO ALLOW INTRODUCTION OF SB 472.
APRIL 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. FIRST READING.
APRIL 12, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. PRINTING REPORT.
APRIL 13, 1989	PASS CONSIDERATION.
APRIL 14, 1989	SECOND READING, DO PASS.
APRIL 15, 1989	ENGROSSING REPORT.
APRIL 17, 1989	THIRD READING, PASSED. AYES, 34; NOES, 14. TRANSMITTED TO HOUSE.

IN THE HOUSE

APRIL 18, 1989	ON MOTION, RULES SUSPENDED TO ALLOW LATE TRANSMITTAL. INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. FIRST READING.
APRIL 19, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

APRIL 20, 1989

SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.
AYES, 89; NOES, 5.

RETURNED TO SENATE.

IN THE SENATE

APRIL 21, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Sen. J. H. ...* BILL NO. **472**
2 INTRODUCED BY *Sen. J. H. ...*
3 *Sen. J. H. ...* BY REQUEST OF THE COMMITTEE *Man*
4 ON BUSINESS AND INDUSTRY

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
7 MUNICIPALITIES TO CREATE TAX INCREMENT FINANCING INDUSTRIAL
8 DISTRICTS TO ASSIST IN FINANCING NECESSARY INDUSTRIAL
9 INFRASTRUCTURE TO ENCOURAGE THE ATTRACTION, GROWTH, AND
10 RETENTION OF SECONDARY, VALUE-ADDING INDUSTRIES; AND
11 AMENDING SECTIONS 7-15-4282 THROUGH 7-15-4286, 7-15-4288,
12 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, 7-15-4302, AND
13 7-15-4304, MCA."

14
15 WHEREAS, the State of Montana wishes to encourage the
16 attraction and retention of secondary, value-adding
17 industrial manufacturing that uses Montana timber, mineral,
18 oil and gas, coal, and agricultural resources in the
19 production of products in the state; and

20 WHEREAS, secondary, value-adding industries are those
21 industries that transform raw resources into processed
22 substances from which industrial or consumer products may be
23 manufactured; and

24 WHEREAS, secondary, value-adding industries, in order
25 to be competitive in today's world economy, require

1 expensive infrastructure that is beyond the means of most
2 Montana communities; and

3 WHEREAS, Montana law currently provides certain
4 property tax benefits to new and expanding industries,
5 including secondary, value-adding industries, but has little
6 to directly encourage the development of needed industrial
7 infrastructure to attract secondary, value-adding
8 industries; and

9 WHEREAS, additional creative use of Montana's current
10 tax laws could encourage increased investment in secondary,
11 value-adding industries in the state through the use of tax
12 increment financing for infrastructure improvements in areas
13 in which the infrastructure would be available for
14 secondary, value-adding industrialization.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. **Section 1.** Short title. [Sections 1
18 through 3] may be cited as the "Tax Increment Financing
19 Industrial Development Act".

20 NEW SECTION. **Section 2.** Legislative findings. The
21 legislature finds and declares that:

22 (1) infrastructure-deficient areas exist in the
23 municipalities of the state and constitute a serious
24 impediment to the development of infrastructure-intensive,
25 secondary, value-adding economic development in Montana;

1 (2) municipalities lack sufficient capital to rectify
2 the infrastructure shortage in infrastructure-deficient
3 areas, thus impeding the ability of municipalities to
4 achieve economic growth through the development of
5 secondary, value-adding industries;

6 (3) the creation of industrial infrastructure is a
7 matter of state policy and state concern because the state
8 and its municipalities will continue to suffer economic
9 dislocation due to the lack of secondary, value-adding
10 industries; and

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

15 **NEW SECTION. Section 3. Industrial districts.** (1) A
16 local governing body, by ordinance and following a public
17 hearing, may authorize the creation of an industrial
18 district for industrial infrastructure development projects
19 if the proposed industrial district:

20 (a) consists of a continuous area with an accurately
21 described boundary;

22 (b) is zoned for light or heavy industrial use in
23 accordance with the area master planning document;

24 (c) does not include any property included within an
25 existing urban renewal area district created pursuant to

1 this part;

2 (d) is found to be deficient in infrastructure
3 improvements for industrial development; and

4 (e) has as its purpose the development of
5 infrastructure to encourage the growth and retention of
6 secondary, value-adding industries.

7 (2) An industrial district may use tax increment
8 financing pursuant to the provisions of 7-15-4282 through
9 7-15-4293.

10 **Section 4.** Section 7-15-4282, MCA, is amended to read:

11 **"7-15-4282. Authorization for tax increment financing.**
12 Any urban renewal plan, as defined in 7-15-4206, or
13 industrial district ordinance, adopted pursuant to [section
14 3], may contain a provision or be amended to contain a
15 provision for the segregation and application of tax
16 increments, as provided in 7-15-4282 through 7-15-4292."

17 **Section 5.** Section 7-15-4283, MCA, is amended to read:

18 **"7-15-4283. Definitions related to tax increment**
19 **financing.** For purposes of 7-15-4282 through 7-15-4292 and
20 [sections 1 through 3], the following definitions apply
21 unless otherwise provided or indicated by the context:

22 (1) "Actual taxable value" means the taxable value of
23 taxable property at any time, as calculated from the
24 assessment roll last equalized.

25 (2) "Base taxable value" means the actual taxable

value of all taxable property within an urban renewal area or industrial district 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 property within an urban renewal area or industrial district subject to taxation.

(4) "Industrial district" means a tax increment financing industrial district created pursuant to [section 3].

(5) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any or all of the activities authorized by 7-15-4288.

(6) "Municipality", for the purpose of an industrial district created pursuant to [sections 1 through 3] and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(7) "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 industrial district or a part thereof is located against the incremental taxable value.

(8) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

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

(10) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, which levies taxes against property within the urban renewal area or industrial district."

Section 6. Section 7-15-4284, MCA, is amended to read:

"7-15-4284. Filing of tax increment provisions of urban renewal plan or industrial district ordinance. (1) The clerk of the municipality shall file a certified copy of each urban renewal plan or industrial district ordinance or an amendment thereto containing a tax increment provision with the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or industrial district ordinance or any part thereof.

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

Section 7. Section 7-15-4285, MCA, is amended to read:

1 **"7-15-4285. Determination and report of original,**
 2 **actual, and incremental taxable values.** The officer or
 3 officers responsible for assessing and determining the
 4 taxable value of the taxable property located within the
 5 urban renewal area or industrial district shall, immediately
 6 upon receipt of the tax increment provision and each year
 7 thereafter, calculate and report to the municipality and to
 8 any other affected taxing body the base, actual, and
 9 incremental taxable values of such property."

10 **Section 8.** Section 7-15-4286, MCA, is amended to read:

11 **"7-15-4286. Procedure to determine and disburse tax**
 12 **increment.** (1) Mill rates of taxing bodies for taxes levied
 13 after the effective date of the tax increment provision
 14 shall be calculated on the basis of the sum of the taxable
 15 value, as shown by the last equalized assessment roll, of
 16 all taxable property located outside the urban renewal area
 17 or industrial district and the base taxable value of all
 18 taxable property located within the urban renewal area or
 19 industrial district. The mill rate so determined shall be
 20 levied against the sum of the actual taxable value of all
 21 taxable property located within as well as outside the urban
 22 renewal area or industrial district.

23 (2) (a) The tax increment, if any, received in each
 24 year from the levy of the combined mill rates of all the
 25 affected taxing bodies against the incremental taxable value

1 within the urban renewal area or industrial district shall
 2 be paid into a special fund held by the treasurer of the
 3 municipality and used as provided in 7-15-4282 through
 4 7-15-4292.

5 (b) The balance of the taxes collected in each year
 6 shall be paid to each of the taxing bodies as otherwise
 7 provided by law."

8 **Section 9.** Section 7-15-4288, MCA, is amended to read:

9 **"7-15-4288. Costs which may be paid by tax increment**
 10 **financing.** The tax increments may be used by the
 11 municipality to pay the following costs of or incurred in
 12 connection with an urban renewal project or industrial
 13 infrastructure development project:

- 14 (1) land acquisition;
- 15 (2) demolition and removal of structures;
- 16 (3) relocation of occupants;
- 17 (4) the acquisition, construction, and improvement of
- 18 streets, curbs, gutters, sidewalks, pedestrian malls,
- 19 alleys, parking lots and offstreet parking facilities,
- 20 sewers, sewer lines, sewage treatment facilities,
- 21 waterlines, waterways, water treatment facilities, public
- 22 buildings, and other public improvements authorized by parts
- 23 41 through 45 of chapter 12, parts 42 and 43 of chapter 13,
- 24 and part 47 of chapter 14 and items of personal property to
- 25 be used in connection with improvements for which the

foregoing costs may be incurred; and

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

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

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district."

Section 10. Section 7-15-4290, MCA, is amended to read:

"7-15-4290. Use of property taxes and other revenues for payment of bonds. (1) The tax increment may be pledged for the payment of revenue bonds issued for urban renewal projects or industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs or

industrial infrastructure development costs described in 7-15-4288 and 7-15-4289. Any municipality issuing such bonds 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 revenues of the municipality, except property taxes prohibited by subsection (2), to the payment of such bonds if collections of the tax increment are insufficient.

(2) No property taxes, except the tax increment derived from property within the urban renewal area or industrial district and tax collections used to pay for services provided to the municipality by an urban renewal project or an industrial infrastructure development project, may be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged."

Section 11. Section 7-15-4292, MCA, is amended to read:

"7-15-4292. Termination of tax increment financing. (1) The tax increment provision shall terminate upon the later of:

(a) the 10th year following its adoption or, if the tax increment provision was adopted prior to January 1, 1980, upon the 12th year following 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 thereon.

(2) Any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision shall be distributed among the various taxing bodies in proportion to their property tax revenues from the district.

(3) After termination of the tax increment provision, all taxes shall be levied upon the actual taxable value of the taxable property in the urban renewal area or the industrial district and shall be paid into the funds of the respective taxing bodies.

(4) No bonds with tax increment provisions for the repayment thereof may be issued subsequent to the 10th anniversary of tax increment provisions adopted after January 1, 1980, and the 12th anniversary of tax increment provisions adopted prior to January 1, 1980."

Section 12. Section 7-15-4293, MCA, is amended to read:

"7-15-4293. Adjustment of base taxable value following change of law. If the base taxable value of an urban renewal area or an industrial 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 governing body of the municipality may request the department of revenue or its agents to calculate the base taxable value as it would have been on the date of the original determination had the change been in effect on that date. The governing body may adjust the base taxable value to that value reported by the department of revenue, under the provisions of 7-15-4287."

Section 13. Section 7-15-4301, MCA, is amended to read:

"7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, and refunding bonds. (1) A municipality shall have the power to:

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

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

(2) Such bonds shall not pledge the general credit of

1 the municipality and shall be made payable, as to both
 2 principal and interest, solely from the income, proceeds,
 3 revenues, and funds of the municipality derived from or held
 4 in connection with its undertaking and carrying out of urban
 5 renewal projects or industrial infrastructure development
 6 projects under this part and part 42, including the tax
 7 increment received and pledged by the municipality pursuant
 8 to 7-15-4282 through 7-15-4292, and, if such income,
 9 proceeds, revenues, and funds of the municipality are
 10 insufficient for such payment, from other revenues of the
 11 municipality pledged to such payment. Payment of such bonds,
 12 both as to principal and interest, may be further secured by
 13 a pledge of any loan, grant, or contribution from the
 14 federal government or other source in aid of any urban
 15 renewal projects or industrial infrastructure development
 16 projects of the municipality under this part and part 42 or
 17 by a mortgage on all or part of any such projects.

18 (3) Bonds issued under this section shall be
 19 authorized by resolution or ordinance of the local governing
 20 body."

21 **Section 14.** Section 7-15-4302, MCA, is amended to
 22 read:

23 "7-15-4302. Authorization to issue general obligation
 24 bonds. (1) For the purpose of 7-15-4267 or for the purpose
 25 of aiding in the planning, undertaking, or carrying out of

1 an urban renewal project or an industrial infrastructure
 2 development project of a municipality, the municipality, in
 3 addition to any authority to issue bonds pursuant to
 4 7-15-4301, may issue and sell its general obligation bonds.

5 (2) Any bonds issued pursuant to this section shall be
 6 issued in the manner and within the limitations prescribed
 7 by the laws of this state for the issuance and authorization
 8 of bonds by such municipality for public purposes generally.

9 (3) Aiding in the planning, undertaking, or carrying
 10 out of an approved urban renewal project or an industrial
 11 infrastructure development project is considered a single
 12 purpose for the issuance of general obligation bonds, and
 13 the proceeds of the bonds authorized for any such project
 14 may be used to finance the exercise of any and all powers
 15 conferred upon the municipality by this part and part 42
 16 which are necessary or proper to complete the project in
 17 accordance with the approved plan or industrial district
 18 ordinance and any modification thereof duly adopted by the
 19 local governing body."

20 **Section 15.** Section 7-15-4304, MCA, is amended to
 21 read:

22 "7-15-4304. Presumption of regularity of bond
 23 issuance. In any suit, action, or proceeding involving the
 24 validity or enforceability of any bond issued under this
 25 part and part 42 or the security therefor, any such bond

LC 1833/01

1 reciting in substance that it has been issued by the
2 municipality in connection with an urban renewal project or
3 industrial infrastructure development project as herein
4 defined shall be conclusively deemed to have been issued for
5 such purpose and such project shall be conclusively deemed
6 to have been planned, located, and carried out in accordance
7 with the provisions of this part and part 42."

8 NEW SECTION. **Section 16.** Codification instruction.
9 [Sections 1 through 3] are intended to be codified as an
10 integral part of Title 7, chapter 15, part 42, and the
11 provisions of Title 7, chapter 15, part 42, apply to
12 [sections 1 through 3].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 472

INTRODUCED BY THAYER, LYNCH, WILLIAMS, WEEDING, MEYER,

NOBLE, BOYLAN, MCLANE

BY REQUEST OF THE COMMITTEE

ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPALITIES TO CREATE TAX INCREMENT FINANCING INDUSTRIAL DISTRICTS TO ASSIST IN FINANCING NECESSARY INDUSTRIAL INFRASTRUCTURE TO ENCOURAGE THE ATTRACTION, GROWTH, AND RETENTION OF SECONDARY, VALUE-ADDING INDUSTRIES; AND AMENDING SECTIONS 7-15-4282 THROUGH 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, 7-15-4302, AND 7-15-4304, MCA."

WHEREAS, the State of Montana wishes to encourage the attraction and retention of secondary, value-adding industrial manufacturing that uses Montana timber, mineral, oil and gas, coal, and agricultural resources in the production of products in the state; and

WHEREAS, secondary, value-adding industries are those industries that transform raw resources into processed substances from which industrial or consumer products may be manufactured; and

WHEREAS, secondary, value-adding industries, in order

to be competitive in today's world economy, require expensive infrastructure that is beyond the means of most Montana communities; and

WHEREAS, Montana law currently provides certain property tax benefits to new and expanding industries, including secondary, value-adding industries, but has little to directly encourage the development of needed industrial infrastructure to attract secondary, value-adding industries; and

WHEREAS, additional creative use of Montana's current tax laws could encourage increased investment in secondary, value-adding industries in the state through the use of tax increment financing for infrastructure improvements in areas in which the infrastructure would be available for secondary, value-adding industrialization.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 3] may be cited as the "Tax Increment Financing Industrial Development Act".

NEW SECTION. Section 2. Legislative findings. The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the municipalities of the state and constitute a serious impediment to the development of infrastructure-intensive,

secondary, value-adding economic development in Montana;

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

(3) the creation of industrial infrastructure is a matter of state policy and state concern because the state and its municipalities will continue to suffer economic dislocation due to the lack of secondary, value-adding industries; and

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

NEW SECTION. Section 3. Industrial districts. (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of an industrial district for industrial infrastructure development projects if the proposed industrial district:

(a) consists of a continuous area with an accurately described boundary;

(b) is zoned for light or heavy industrial use in accordance with the area master planning document;

(c) does not include any property included within an

existing urban renewal area district created pursuant to this part;

(d) is found to be deficient in infrastructure improvements for industrial development; and

(e) has as its purpose the development of infrastructure to encourage the growth and retention of secondary, value-adding industries.

(2) An industrial district may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4293.

Section 4. Section 7-15-4282, MCA, is amended to read:

"7-15-4282. Authorization for tax increment financing.

Any urban renewal plan, as defined in 7-15-4206, or industrial district ordinance, adopted pursuant to [section 3], 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 7-15-4292."

Section 5. Section 7-15-4283, MCA, is amended to read:

"7-15-4283. Definitions related to tax increment financing. For purposes of 7-15-4282 through 7-15-4292 and [sections 1 through 3], the following definitions apply unless otherwise provided or indicated by the context:

(1) "Actual taxable value" means the taxable value of taxable property at any time, as calculated from the assessment roll last equalized.

(2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area or industrial district 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 property within an urban renewal area or industrial district subject to taxation.

(4) "Industrial district" means a tax increment financing industrial district created pursuant to [section 3].

(5) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any or all of the activities authorized by 7-15-4288.

(6) "Municipality", for the purpose of an industrial district created pursuant to [sections 1 through 3] and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(7) "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 industrial district or a part thereof is located against the

incremental taxable value.

(8) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

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

(10) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, which levies taxes against property within the urban renewal area or industrial district."

Section 6. Section 7-15-4284, MCA, is amended to read:

7-15-4284. Filing of tax increment provisions of urban renewal plan or industrial district ordinance. (1) The clerk of the municipality shall file a certified copy of each urban renewal plan or industrial district ordinance or an amendment thereto containing a tax increment provision with the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or industrial district ordinance or any part thereof.

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

Section 7. Section 7-15-4285, MCA, is amended to read:

"7-15-4285. Determination and report of original, actual, and incremental taxable values. The officer or officers responsible for assessing and determining the taxable value of the taxable property located within the urban renewal area or industrial district shall, immediately upon receipt of the tax increment provision and each year thereafter, calculate and report to the municipality and to any other affected taxing body the base, actual, and incremental taxable values of such property."

Section 8. Section 7-15-4286, MCA, is amended to read:

"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 shall 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 industrial district and the base taxable value of all taxable property located within the urban renewal area or industrial district. The mill rate so determined shall be levied against the sum of the actual taxable value of all taxable property located within as well as outside the urban renewal area or industrial 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 urban renewal area or industrial district shall be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

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

Section 9. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs which may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of streets, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, waterlines, waterways, water treatment facilities, public buildings, and other public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 44 of chapter 13, and part 47 of chapter 14 and items of personal property to

1 be used in connection with improvements for which the
2 foregoing costs may be incurred; and

3 (5) costs incurred in connection with the
4 redevelopment activities allowed under 7-15-4233;

5 (6) acquisition of infrastructure-deficient areas or
6 portions thereof;

7 (7) administrative costs associated with the
8 management of the industrial district;

9 (8) assemblage of land for development or
10 redevelopment by private enterprise or public agencies,
11 including sale, initial leasing, or retention by the
12 municipality itself at its fair value;

13 (9) the compilation and analysis of pertinent
14 information required to adequately determine the
15 infrastructure needs of secondary, value-adding industries
16 in the industrial district;

17 (10) the connection of the industrial district to
18 existing infrastructure outside the industrial district; AND

19 (11) THE PROVISION OF DIRECT ASSISTANCE TO SECONDARY,
20 VALUE-ADDING INDUSTRIES TO ASSIST IN MEETING THEIR
21 INFRASTRUCTURE AND LAND NEEDS WITHIN THE INDUSTRIAL
22 DISTRICT."

23 **Section 10.** Section 7-15-4290, MCA, is amended to
24 read:

25 "7-15-4290. Use of property taxes and other revenues

1 for payment of bonds. (1) The tax increment DERIVED FROM AN
2 URBAN RENEWAL AREA may be pledged for the payment of revenue
3 bonds issued for urban renewal projects or--industrial
4 infrastructure-development-projects or of general obligation
5 bonds, revenue bonds, or special assessment bonds issued to
6 pay urban renewal costs or--industrial--infrastructure
7 development-costs described in 7-15-4288 and 7-15-4289. THE
8 TAX INCREMENT DERIVED FROM AN INDUSTRIAL DISTRICT MAY BE
9 PLEGGED FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR
10 INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECTS OR OF GENERAL
11 OBLIGATION BONDS, REVENUE BONDS, OR SPECIAL ASSESSMENT BONDS
12 ISSUED TO PAY INDUSTRIAL DISTRICT COSTS DESCRIBED IN
13 7-15-4288 AND 7-15-4289. Any municipality issuing such bonds
14 may, by resolution of its governing body, enter into a
15 covenant for the security of the bondholders, detailing the
16 calculation and adjustment of the tax increment and the
17 taxable value on which it is based and, after a public
18 hearing, pledging or appropriating other revenues of the
19 municipality, except property taxes prohibited by subsection
20 (2), to the payment of such bonds if collections of the tax
21 increment are insufficient.

22 (2) No property taxes, except the tax increment
23 derived from property within the urban renewal area or
24 industrial district and tax collections used to pay for
25 services provided to the municipality by an urban renewal

1 project or an industrial infrastructure development project,
 2 may be applied to the payment of bonds issued pursuant to
 3 7-15-4301 for which a tax increment has been pledged."

4 **Section 11.** Section 7-15-4292, MCA, is amended to
 5 read:

6 "7-15-4292. Termination of tax increment financing.
 7 (1) The tax increment provision shall terminate upon the
 8 later of:

9 (a) the 10th year following its adoption or, if the
 10 tax increment provision was adopted prior to January 1,
 11 1980, upon the 12th year following adoption; or

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

15 (2) Any amounts remaining in the special fund or any
 16 reserve fund after termination of the tax increment
 17 provision shall be distributed among the various taxing
 18 bodies in proportion to their property tax revenues from the
 19 district.

20 (3) After termination of the tax increment provision,
 21 all taxes shall be levied upon the actual taxable value of
 22 the taxable property in the urban renewal area or the
 23 industrial district and shall be paid into the funds of the
 24 respective taxing bodies.

25 (4) No bonds with tax increment provisions for the

1 repayment thereof may be issued subsequent to the 10th
 2 anniversary of tax increment provisions adopted after
 3 January 1, 1980, and the 12th anniversary of tax increment
 4 provisions adopted prior to January 1, 1980."

5 **Section 12.** Section 7-15-4293, MCA, is amended to
 6 read:

7 "7-15-4293. Adjustment of base taxable value following
 8 change of law. If the base taxable value of an urban renewal
 9 area or an industrial district is affected after its
 10 original determination by a statutory, administrative, or
 11 judicial change in the method of appraising property, the
 12 tax rate applied to it, the tax exemption status of
 13 property, or the taxable valuation of property if the change
 14 in taxable valuation is based on conditions existing at the
 15 time the base year was established, the governing body of
 16 the municipality may request the department of revenue or
 17 its agents to calculate the base taxable value as it would
 18 have been on the date of the original determination had the
 19 change been in effect on that date. The governing body may
 20 adjust the base taxable value to that value reported by the
 21 department of revenue, under the provisions of 7-15-4287."

22 **Section 13.** Section 7-15-4301, MCA, is amended to
 23 read:

24 "7-15-4301. Authorization to issue urban renewal
 25 bonds, industrial infrastructure development bonds, and

1 refunding bonds. (1) A municipality shall have the power to:

2 (a) issue bonds from time to time in its discretion,
3 to finance the undertaking of any urban renewal project or
4 industrial infrastructure development project under this
5 part and part 42, including, without limiting the generality
6 thereof, the payment of principal and interest upon any
7 advances for surveys and plans for urban renewal projects
8 and industrial infrastructure development projects; and

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

11 (2) Such bonds shall not pledge the general credit of
12 the municipality and shall be made payable, as to both
13 principal and interest, solely from the income, proceeds,
14 revenues, and funds of the municipality derived from or held
15 in connection with its undertaking and carrying out of urban
16 renewal projects or industrial infrastructure development
17 projects under this part and part 42, including the tax
18 increment received and pledged by the municipality pursuant
19 to 7-15-4282 through 7-15-4292, and, if such income,
20 proceeds, revenues, and funds of the municipality are
21 insufficient for such payment, from other revenues of the
22 municipality pledged to such payment. Payment of such bonds,
23 both as to principal and interest, may be further secured by
24 a pledge of any loan, grant, or contribution from the
25 federal government or other source in aid of any urban

1 renewal projects or industrial infrastructure development
2 projects of the municipality under this part and part 42 or
3 by a mortgage on all or part of any such projects.

4 (3) Bonds issued under this section shall be
5 authorized by resolution or ordinance of the local governing
6 body."

7 **Section 14.** Section 7-15-4302, MCA, is amended to
8 read:

9 "7-15-4302. Authorization to issue general obligation
10 bonds. (1) For the purpose of 7-15-4267 or for the purpose
11 of aiding in the planning, undertaking, or carrying out of
12 an urban renewal project or an industrial infrastructure
13 development project of a municipality, the municipality, in
14 addition to any authority to issue bonds pursuant to
15 7-15-4301, may issue and sell its general obligation bonds.

16 (2) Any bonds issued pursuant to this section shall be
17 issued in the manner and within the limitations prescribed
18 by the laws of this state for the issuance and authorization
19 of bonds by such municipality for public purposes generally.

20 (3) Aiding in the planning, undertaking, or carrying
21 out of an approved urban renewal project or an industrial
22 infrastructure development project is considered a single
23 purpose for the issuance of general obligation bonds, and
24 the proceeds of the bonds authorized for any such project
25 may be used to finance the exercise of any and all powers

1 conferred upon the municipality by this part and part 42
2 which are necessary or proper to complete the project in
3 accordance with the approved plan or industrial district
4 ordinance and any modification thereof duly adopted by the
5 local governing body."

6 **Section 15.** Section 7-15-4304, MCA, is amended to
7 read:

8 "7-15-4304. Presumption of regularity of bond
9 issuance. In any suit, action, or proceeding involving the
10 validity or enforceability of any bond issued under this
11 part and part 42 or the security therefor, any such bond
12 reciting in substance that it has been issued by the
13 municipality in connection with an urban renewal project or
14 industrial infrastructure development project as herein
15 defined shall be conclusively deemed to have been issued for
16 such purpose and such project shall be conclusively deemed
17 to have been planned, located, and carried out in accordance
18 with the provisions of this part and part 42."

19 NEW SECTION. **Section 16.** Codification instruction.
20 [Sections 1 through 3] are intended to be codified as an
21 integral part of Title 7, chapter 15, part 42, and the
22 provisions of Title 7, chapter 15, part 42, apply to
23 [sections 1 through 3].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 472

INTRODUCED BY THAYER, LYNCH, WILLIAMS, WEEDING, MEYER,

NOBLE, BOYLAN, MCLANE

BY REQUEST OF THE COMMITTEE

ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPALITIES TO CREATE TAX INCREMENT FINANCING INDUSTRIAL DISTRICTS TO ASSIST IN FINANCING NECESSARY INDUSTRIAL INFRASTRUCTURE TO ENCOURAGE THE ATTRACTION, GROWTH, AND RETENTION OF SECONDARY, VALUE-ADDING INDUSTRIES; AND AMENDING SECTIONS 7-15-4282 THROUGH 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, 7-15-4302, AND 7-15-4304, MCA."

WHEREAS, the State of Montana wishes to encourage the attraction and retention of secondary, value-adding industrial manufacturing that uses Montana timber, mineral, oil and gas, coal, and agricultural resources in the production of products in the state; and

WHEREAS, secondary, value-adding industries are those industries that transform raw resources into processed substances from which industrial or consumer products may be manufactured; and

WHEREAS, secondary, value-adding industries, in order

to be competitive in today's world economy, require expensive infrastructure that is beyond the means of most Montana communities; and

WHEREAS, Montana law currently provides certain property tax benefits to new and expanding industries, including secondary, value-adding industries, but has little to directly encourage the development of needed industrial infrastructure to attract secondary, value-adding industries; and

WHEREAS, additional creative use of Montana's current tax laws could encourage increased investment in secondary, value-adding industries in the state through the use of tax increment financing for infrastructure improvements in areas in which the infrastructure would be available for secondary, value-adding industrialization.

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

NEW SECTION. **Section 1.** Short title. (Sections 1 through 3) may be cited as the "Tax Increment Financing Industrial Development Act".

NEW SECTION. **Section 2.** Legislative findings. The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the municipalities of the state and constitute a serious impediment to the development of infrastructure-intensive,

1 secondary, value-adding economic development in Montana;

2 (2) municipalities lack sufficient capital to rectify
3 the infrastructure shortage in infrastructure-deficient
4 areas, thus impeding the ability of municipalities to
5 achieve economic growth through the development of
6 secondary, value-adding industries;

7 (3) the creation of industrial infrastructure is a
8 matter of state policy and state concern because the state
9 and its municipalities will continue to suffer economic
10 dislocation due to the lack of secondary, value-adding
11 industries; and

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

16 **NEW SECTION. Section 3. Industrial districts.** (1) A
17 local governing body, by ordinance and following a public
18 hearing, may authorize the creation of an industrial
19 district for industrial infrastructure development projects
20 if the proposed industrial district:

21 (a) consists of a continuous area with an accurately
22 described boundary;

23 (b) is zoned for light or heavy industrial use in
24 accordance with the area master planning document;

25 (c) does not include any property included within an

1 existing urban renewal area district created pursuant to
2 this part;

3 (d) is found to be deficient in infrastructure
4 improvements for industrial development; and

5 (e) has as its purpose the development of
6 infrastructure to encourage the growth and retention of
7 secondary, value-adding industries.

8 (2) An industrial district may use tax increment
9 financing pursuant to the provisions of 7-15-4282 through
10 7-15-4293.

11 **Section 4.** Section 7-15-4282, MCA, is amended to read:
12 "7-15-4282. Authorization for tax increment financing.
13 Any urban renewal plan, as defined in 7-15-4206, or
14 industrial district ordinance, adopted pursuant to [section
15 3], may contain a provision or be amended to contain a
16 provision for the segregation and application of tax
17 increments, as provided in 7-15-4282 through 7-15-4292."

18 **Section 5.** Section 7-15-4283, MCA, is amended to read:
19 "7-15-4283. Definitions related to tax increment
20 financing. For purposes of 7-15-4282 through 7-15-4292 and
21 [sections 1 through 3], the following definitions apply
22 unless otherwise provided or indicated by the context:

23 (1) "Actual taxable value" means the taxable value of
24 taxable property at any time, as calculated from the
25 assessment roll last equalized.

(2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area or industrial district 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 property within an urban renewal area or industrial district subject to taxation.

(4) "Industrial district" means a tax increment financing industrial district created pursuant to [section 3].

(5) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any or all of the activities authorized by 7-15-4288.

(6) "Municipality", for the purpose of an industrial district created pursuant to [sections 1 through 3] and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(7) "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 industrial district or a part thereof is located against the

incremental taxable value.

(8) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

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

(10) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, which levies taxes against property within the urban renewal area or industrial district."

Section 6. Section 7-15-4284, MCA, is amended to read:

"7-15-4284. Filing of tax increment provisions of urban renewal plan or industrial district ordinance. (1) The clerk of the municipality shall file a certified copy of each urban renewal plan or industrial district ordinance or an amendment thereto containing a tax increment provision with the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or industrial district ordinance or any part thereof.

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

Section 7. Section 7-15-4285, MCA, is amended to read:

"7-15-4285. Determination and report of original, actual, and incremental taxable values. The officer or officers responsible for assessing and determining the taxable value of the taxable property located within the urban renewal area or industrial district shall, immediately upon receipt of the tax increment provision and each year thereafter, calculate and report to the municipality and to any other affected taxing body the base, actual, and incremental taxable values of such property."

Section 8. Section 7-15-4286, MCA, is amended to read:

"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 shall 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 industrial district and the base taxable value of all taxable property located within the urban renewal area or industrial district. The mill rate so determined shall be levied against the sum of the actual taxable value of all taxable property located within as well as outside the urban renewal area or industrial 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 urban renewal area or industrial district shall be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

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

Section 9. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs which may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

(1) land acquisition;

(2) demolition and removal of structures;

(3) relocation of occupants;

(4) the acquisition, construction, and improvement of streets, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, waterlines, waterways, water treatment facilities, public buildings, and other public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to

be used in connection with improvements for which the foregoing costs may be incurred; and

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

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

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district; AND

(11) THE PROVISION OF DIRECT ASSISTANCE TO SECONDARY, VALUE-ADDING INDUSTRIES TO ASSIST IN MEETING THEIR INFRASTRUCTURE AND LAND NEEDS WITHIN THE INDUSTRIAL DISTRICT."

Section 10. Section 7-15-4290, MCA, is amended to read:

"7-15-4290. Use of property taxes and other revenues

for payment of bonds. (1) The tax increment DERIVED FROM AN URBAN RENEWAL AREA may be pledged for the payment of revenue bonds issued for urban renewal projects ~~or--industrial infrastructure-development-projects~~ or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs ~~or--industrial--infrastructure development-costs~~ described in 7-15-4288 and 7-15-4289. THE TAX INCREMENT DERIVED FROM AN INDUSTRIAL DISTRICT MAY BE PLEDGED FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECTS OR OF GENERAL OBLIGATION BONDS, REVENUE BONDS, OR SPECIAL ASSESSMENT BONDS ISSUED TO PAY INDUSTRIAL DISTRICT COSTS DESCRIBED IN 7-15-4288 AND 7-15-4289. Any municipality issuing such bonds 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 revenues of the municipality, except property taxes prohibited by subsection (2), to the payment of such bonds if collections of the tax increment are insufficient.

(2) No property taxes, except the tax increment derived from property within the urban renewal area or industrial district and tax collections used to pay for services provided to the municipality by an urban renewal

1 project or an industrial infrastructure development project,
 2 may be applied to the payment of bonds issued pursuant to
 3 7-15-4301 for which a tax increment has been pledged."

4 **Section 11.** Section 7-15-4292, MCA, is amended to
 5 read:

6 "7-15-4292. Termination of tax increment financing.
 7 (1) The tax increment provision shall terminate upon the
 8 later of:

9 (a) the 10th year following its adoption or, if the
 10 tax increment provision was adopted prior to January 1,
 11 1980, upon the 12th year following adoption; or

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

15 (2) Any amounts remaining in the special fund or any
 16 reserve fund after termination of the tax increment
 17 provision shall be distributed among the various taxing
 18 bodies in proportion to their property tax revenues from the
 19 district.

20 (3) After termination of the tax increment provision,
 21 all taxes shall be levied upon the actual taxable value of
 22 the taxable property in the urban renewal area or the
 23 industrial district and shall be paid into the funds of the
 24 respective taxing bodies.

25 (4) No bonds with tax increment provisions for the

1 repayment thereof may be issued subsequent to the 10th
 2 anniversary of tax increment provisions adopted after
 3 January 1, 1980, and the 12th anniversary of tax increment
 4 provisions adopted prior to January 1, 1980."

5 **Section 12.** Section 7-15-4293, MCA, is amended to
 6 read:

7 "7-15-4293. Adjustment of base taxable value following
 8 change of law. If the base taxable value of an urban renewal
 9 area or an industrial district is affected after its
 10 original determination by a statutory, administrative, or
 11 judicial change in the method of appraising property, the
 12 tax rate applied to it, the tax exemption status of
 13 property, or the taxable valuation of property if the change
 14 in taxable valuation is based on conditions existing at the
 15 time the base year was established, the governing body of
 16 the municipality may request the department of revenue or
 17 its agents to calculate the base taxable value as it would
 18 have been on the date of the original determination had the
 19 change been in effect on that date. The governing body may
 20 adjust the base taxable value to that value reported by the
 21 department of revenue, under the provisions of 7-15-4287."

22 **Section 13.** Section 7-15-4301, MCA, is amended to
 23 read:

24 "7-15-4301. Authorization to issue urban renewal
 25 bonds, industrial infrastructure development bonds, and

1 refunding bonds. (1) A municipality shall have the power to:

2 (a) issue bonds from time to time in its discretion,
3 to finance the undertaking of any urban renewal project or
4 industrial infrastructure development project under this
5 part and part 42, including, without limiting the generality
6 thereof, the payment of principal and interest upon any
7 advances for surveys and plans for urban renewal projects
8 and industrial infrastructure development projects; and

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

11 (2) Such bonds shall not pledge the general credit of
12 the municipality and shall be made payable, as to both
13 principal and interest, solely from the income, proceeds,
14 revenues, and funds of the municipality derived from or held
15 in connection with its undertaking and carrying out of urban
16 renewal projects or industrial infrastructure development
17 projects under this part and part 42, including the tax
18 increment received and pledged by the municipality pursuant
19 to 7-15-4282 through 7-15-4292, and, if such income,
20 proceeds, revenues, and funds of the municipality are
21 insufficient for such payment, from other revenues of the
22 municipality pledged to such payment. Payment of such bonds,
23 both as to principal and interest, may be further secured by
24 a pledge of any loan, grant, or contribution from the
25 federal government or other source in aid of any urban

1 renewal projects or industrial infrastructure development
2 projects of the municipality under this part and part 42 or
3 by a mortgage on all or part of any such projects.

4 (3) Bonds issued under this section shall be
5 authorized by resolution or ordinance of the local governing
6 body."

7 **Section 14.** Section 7-15-4302, MCA, is amended to
8 read:

9 "7-15-4302. Authorization to issue general obligation
10 bonds. (1) For the purpose of 7-15-4267 or for the purpose
11 of aiding in the planning, undertaking, or carrying out of
12 an urban renewal project or an industrial infrastructure
13 development project of a municipality, the municipality, in
14 addition to any authority to issue bonds pursuant to
15 7-15-4301, may issue and sell its general obligation bonds.

16 (2) Any bonds issued pursuant to this section shall be
17 issued in the manner and within the limitations prescribed
18 by the laws of this state for the issuance and authorization
19 of bonds by such municipality for public purposes generally.

20 (3) Aiding in the planning, undertaking, or carrying
21 out of an approved urban renewal project or an industrial
22 infrastructure development project is considered a single
23 purpose for the issuance of general obligation bonds, and
24 the proceeds of the bonds authorized for any such project
25 may be used to finance the exercise of any and all powers

1 conferred upon the municipality by this part and part 42
2 which are necessary or proper to complete the project in
3 accordance with the approved plan or industrial district
4 ordinance and any modification thereof duly adopted by the
5 local governing body."

6 **Section 15.** Section 7-15-4304, MCA, is amended to
7 read:

8 "7-15-4304. Presumption of regularity of bond
9 issuance. In any suit, action, or proceeding involving the
10 validity or enforceability of any bond issued under this
11 part and part 42 or the security therefor, any such bond
12 reciting in substance that it has been issued by the
13 municipality in connection with an urban renewal project or
14 industrial infrastructure development project as herein
15 defined shall be conclusively deemed to have been issued for
16 such purpose and such project shall be conclusively deemed
17 to have been planned, located, and carried out in accordance
18 with the provisions of this part and part 42."

19 **NEW SECTION. Section 16.** Codification instruction.
20 [Sections 1 through 3] are intended to be codified as an
21 integral part of Title 7, chapter 15, part 42, and the
22 provisions of Title 7, chapter 15, part 42, apply to
23 [sections 1 through 3].

-End-

SENATE BILL NO. 472

INTRODUCED BY THAYER, LYNCH, WILLIAMS, WEEDING, MEYER,

NOBLE, BOYLAN, MCLANE

BY REQUEST OF THE COMMITTEE

ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPALITIES TO CREATE TAX INCREMENT FINANCING INDUSTRIAL DISTRICTS TO ASSIST IN FINANCING NECESSARY INDUSTRIAL INFRASTRUCTURE TO ENCOURAGE THE ATTRACTION, GROWTH, AND RETENTION OF SECONDARY, VALUE-ADDING INDUSTRIES; AND AMENDING SECTIONS 7-15-4282 THROUGH 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, 7-15-4302, AND 7-15-4304, MCA."

WHEREAS, the State of Montana wishes to encourage the attraction and retention of secondary, value-adding industrial manufacturing that uses Montana timber, mineral, oil and gas, coal, and agricultural resources in the production of products in the state; and

WHEREAS, secondary, value-adding industries are those industries that transform raw resources into processed substances from which industrial or consumer products may be manufactured; and

WHEREAS, secondary, value-adding industries, in order

to be competitive in today's world economy, require expensive infrastructure that is beyond the means of most Montana communities; and

WHEREAS, Montana law currently provides certain property tax benefits to new and expanding industries, including secondary, value-adding industries, but has little to directly encourage the development of needed industrial infrastructure to attract secondary, value-adding industries; and

WHEREAS, additional creative use of Montana's current tax laws could encourage increased investment in secondary, value-adding industries in the state through the use of tax increment financing for infrastructure improvements in areas in which the infrastructure would be available for secondary, value-adding industrialization.

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

NEW SECTION. **Section 1.** Short title. [Sections 1 through 3] may be cited as the "Tax Increment Financing Industrial Development Act".

NEW SECTION. **Section 2.** Legislative findings. The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the municipalities of the state and constitute a serious impediment to the development of infrastructure-intensive,

1 secondary, value-adding economic development in Montana;

2 (2) municipalities lack sufficient capital to rectify
3 the infrastructure shortage in infrastructure-deficient
4 areas, thus impeding the ability of municipalities to
5 achieve economic growth through the development of
6 secondary, value-adding industries;

7 (3) the creation of industrial infrastructure is a
8 matter of state policy and state concern because the state
9 and its municipalities will continue to suffer economic
10 dislocation due to the lack of secondary, value-adding
11 industries; and

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

16 **NEW SECTION. Section 3. Industrial districts.** (1) A
17 local governing body, by ordinance and following a public
18 hearing, may authorize the creation of an industrial
19 district for industrial infrastructure development projects
20 if the proposed industrial district:

21 (a) consists of a continuous area with an accurately
22 described boundary;

23 (b) is zoned for light or heavy industrial use in
24 accordance with the area master planning document;

25 (c) does not include any property included within an

1 existing urban renewal area district created pursuant to
2 this part;

3 (d) is found to be deficient in infrastructure
4 improvements for industrial development; and

5 (e) has as its purpose the development of
6 infrastructure to encourage the growth and retention of
7 secondary, value-adding industries.

8 (2) An industrial district may use tax increment
9 financing pursuant to the provisions of 7-15-4282 through
10 7-15-4293.

11 **Section 4.** Section 7-15-4282, MCA, is amended to read:

12 "7-15-4282. Authorization for tax increment financing.
13 Any urban renewal plan, as defined in 7-15-4206, or
14 industrial district ordinance, adopted pursuant to [section
15 3], may contain a provision or be amended to contain a
16 provision for the segregation and application of tax
17 increments, as provided in 7-15-4282 through 7-15-4292."

18 **Section 5.** Section 7-15-4283, MCA, is amended to read:

19 "7-15-4283. Definitions related to tax increment
20 financing. For purposes of 7-15-4282 through 7-15-4292 and
21 [sections 1 through 3], the following definitions apply
22 unless otherwise provided or indicated by the context:

23 (1) "Actual taxable value" means the taxable value of
24 taxable property at any time, as calculated from the
25 assessment roll last equalized.

(2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area or industrial district 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 property within an urban renewal area or industrial district subject to taxation.

(4) "Industrial district" means a tax increment financing industrial district created pursuant to [section 3].

(5) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any or all of the activities authorized by 7-15-4288.

(6) "Municipality", for the purpose of an industrial district created pursuant to [sections 1 through 3] and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(7) "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 industrial district or a part thereof is located against the

incremental taxable value.

(8) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

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

(10) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, which levies taxes against property within the urban renewal area or industrial district."

Section 6. Section 7-15-4284, MCA, is amended to read:

"7-15-4284. Piling of tax increment provisions of urban renewal plan or industrial district ordinance. (1) The clerk of the municipality shall file a certified copy of each urban renewal plan or industrial district ordinance or an amendment thereto containing a tax increment provision with the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or industrial district ordinance or any part thereof.

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

Section 7. Section 7-15-4285, MCA, is amended to read:

"7-15-4285. **Determination and report of original, actual, and incremental taxable values.** The officer or officers responsible for assessing and determining the taxable value of the taxable property located within the urban renewal area or industrial district shall, immediately upon receipt of the tax increment provision and each year thereafter, calculate and report to the municipality and to any other affected taxing body the base, actual, and incremental taxable values of such property."

Section 8. Section 7-15-4286, MCA, is amended to read:

"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 shall 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 industrial district and the base taxable value of all taxable property located within the urban renewal area or industrial district. The mill rate so determined shall be levied against the sum of the actual taxable value of all taxable property located within as well as outside the urban renewal area or industrial 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 urban renewal area or industrial district shall be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

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

Section 9. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. **Costs which may be paid by tax increment financing.** The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of streets, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, waterlines, waterways, water treatment facilities, public buildings, and other public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to

be used in connection with improvements for which the foregoing costs may be incurred; and

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

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

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district; AND

(11) THE PROVISION OF DIRECT ASSISTANCE TO SECONDARY, VALUE-ADDING INDUSTRIES TO ASSIST IN MEETING THEIR INFRASTRUCTURE AND LAND NEEDS WITHIN THE INDUSTRIAL DISTRICT."

Section 10. Section 7-15-4290, MCA, is amended to read:

"7-15-4290. Use of property taxes and other revenues

for payment of bonds. (1) The tax increment DERIVED FROM AN URBAN RENEWAL AREA may be pledged for the payment of revenue bonds issued for urban renewal projects ~~or--industrial infrastructure-development-projects~~ or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs ~~or--industrial--infrastructure development-costs~~ described in 7-15-4288 and 7-15-4289. THE TAX INCREMENT DERIVED FROM AN INDUSTRIAL DISTRICT MAY BE PLEDGED FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECTS OR OF GENERAL OBLIGATION BONDS, REVENUE BONDS, OR SPECIAL ASSESSMENT BONDS ISSUED TO PAY INDUSTRIAL DISTRICT COSTS DESCRIBED IN 7-15-4288 AND 7-15-4289. Any municipality issuing such bonds 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 revenues of the municipality, except property taxes prohibited by subsection (2), to the payment of such bonds if collections of the tax increment are insufficient.

(2) No property taxes, except the tax increment derived from property within the urban renewal area or industrial district and tax collections used to pay for services provided to the municipality by an urban renewal

1 project or an industrial infrastructure development project,
 2 may be applied to the payment of bonds issued pursuant to
 3 7-15-4301 for which a tax increment has been pledged."

4 **Section 11.** Section 7-15-4292, MCA, is amended to
 5 read:

6 "7-15-4292. Termination of tax increment financing.
 7 (1) The tax increment provision shall terminate upon the
 8 later of:

9 (a) the 10th year following its adoption or, if the
 10 tax increment provision was adopted prior to January 1,
 11 1980, upon the 12th year following adoption; or

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

15 (2) Any amounts remaining in the special fund or any
 16 reserve fund after termination of the tax increment
 17 provision shall be distributed among the various taxing
 18 bodies in proportion to their property tax revenues from the
 19 district.

20 (3) After termination of the tax increment provision,
 21 all taxes shall be levied upon the actual taxable value of
 22 the taxable property in the urban renewal area or the
 23 industrial district and shall be paid into the funds of the
 24 respective taxing bodies.

25 (4) No bonds with tax increment provisions for the

1 repayment thereof may be issued subsequent to the 10th
 2 anniversary of tax increment provisions adopted after
 3 January 1, 1980, and the 12th anniversary of tax increment
 4 provisions adopted prior to January 1, 1980."

5 **Section 12.** Section 7-15-4293, MCA, is amended to
 6 read:

7 "7-15-4293. Adjustment of base taxable value following
 8 change of law. If the base taxable value of an urban renewal
 9 area or an industrial district is affected after its
 10 original determination by a statutory, administrative, or
 11 judicial change in the method of appraising property, the
 12 tax rate applied to it, the tax exemption status of
 13 property, or the taxable valuation of property if the change
 14 in taxable valuation is based on conditions existing at the
 15 time the base year was established, the governing body of
 16 the municipality may request the department of revenue or
 17 its agents to calculate the base taxable value as it would
 18 have been on the date of the original determination had the
 19 change been in effect on that date. The governing body may
 20 adjust the base taxable value to that value reported by the
 21 department of revenue, under the provisions of 7-15-4287."

22 **Section 13.** Section 7-15-4301, MCA, is amended to
 23 read:

24 "7-15-4301. Authorization to issue urban renewal
 25 bonds, industrial infrastructure development bonds, and

1 refunding bonds. (1) A municipality shall have the power to:

2 (a) issue bonds from time to time in its discretion,
3 to finance the undertaking of any urban renewal project or
4 industrial infrastructure development project under this
5 part and part 42, including, without limiting the generality
6 thereof, the payment of principal and interest upon any
7 advances for surveys and plans for urban renewal projects
8 and industrial infrastructure development projects; and

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

11 (2) Such bonds shall not pledge the general credit of
12 the municipality and shall be made payable, as to both
13 principal and interest, solely from the income, proceeds,
14 revenues, and funds of the municipality derived from or held
15 in connection with its undertaking and carrying out of urban
16 renewal projects or industrial infrastructure development
17 projects under this part and part 42, including the tax
18 increment received and pledged by the municipality pursuant
19 to 7-15-4282 through 7-15-4292, and, if such income,
20 proceeds, revenues, and funds of the municipality are
21 insufficient for such payment, from other revenues of the
22 municipality pledged to such payment. Payment of such bonds,
23 both as to principal and interest, may be further secured by
24 a pledge of any loan, grant, or contribution from the
25 federal government or other source in aid of any urban

1 renewal projects or industrial infrastructure development
2 projects of the municipality under this part and part 42 or
3 by a mortgage on all or part of any such projects.

4 (3) Bonds issued under this section shall be
5 authorized by resolution or ordinance of the local governing
6 body."

7 Section 14. Section 7-15-4302, MCA, is amended to
8 read:

9 "7-15-4302. Authorization to issue general obligation
10 bonds. (1) For the purpose of 7-15-4267 or for the purpose
11 of aiding in the planning, undertaking, or carrying out of
12 an urban renewal project or an industrial infrastructure
13 development project of a municipality, the municipality, in
14 addition to any authority to issue bonds pursuant to
15 7-15-4301, may issue and sell its general obligation bonds.

16 (2) Any bonds issued pursuant to this section shall be
17 issued in the manner and within the limitations prescribed
18 by the laws of this state for the issuance and authorization
19 of bonds by such municipality for public purposes generally.

20 (3) Aiding in the planning, undertaking, or carrying
21 out of an approved urban renewal project or an industrial
22 infrastructure development project is considered a single
23 purpose for the issuance of general obligation bonds, and
24 the proceeds of the bonds authorized for any such project
25 may be used to finance the exercise of any and all powers

1 conferred upon the municipality by this part and part 42
2 which are necessary or proper to complete the project in
3 accordance with the approved plan or industrial district
4 ordinance and any modification thereof duly adopted by the
5 local governing body."

6 **Section 15.** Section 7-15-4304, MCA, is amended to
7 read:

8 "7-15-4304. Presumption of regularity of bond
9 issuance. In any suit, action, or proceeding involving the
10 validity or enforceability of any bond issued under this
11 part and part 42 or the security therefor, any such bond
12 reciting in substance that it has been issued by the
13 municipality in connection with an urban renewal project or
14 industrial infrastructure development project as herein
15 defined shall be conclusively deemed to have been issued for
16 such purpose and such project shall be conclusively deemed
17 to have been planned, located, and carried out in accordance
18 with the provisions of this part and part 42."

19 **NEW SECTION. Section 16.** Codification instruction.
20 [Sections 1 through 3] are intended to be codified as an
21 integral part of Title 7, chapter 15, part 42, and the
22 provisions of Title 7, chapter 15, part 42, apply to
23 [sections 1 through 3].

-End-