

**\*\*ATTENTION\*\***

Due to the COVID-19 health concerns, the format of the City Council meeting will be held in a virtual videoconferencing environment. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City of Billings and City Council are making every effort to meet the requirements of the open meeting laws:

- The Agenda Packet is available for viewing on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- Councilmembers will attend the meeting via a remote location, using a virtual meeting method. City Hall and the Council Chambers will be closed during the meeting.
- The Public may view the meeting on the Community 7 TV - Channel 7 or Channel 507 – Spectrum Cable. On evenings when there is a conflict with School District No. 2 Board meetings, the City Council meeting will be broadcast on Channel 8 - Spectrum Cable. The Public may also view online at [www.comm7tv.com](http://www.comm7tv.com) and click on the “Watch Live” icon. Community 7 also has links to their Facebook page and YouTube channel in which to view the meeting.
- Public comment will be taken only during the Public Comment periods as indicated on the agenda. Comments may be sent to Council via email before 3:00 PM, on Monday, August 17th, at: <https://ci.billings.mt.us/1538/City-Council-E-mail-Messages>
- Emails received after 3:00 PM and prior to 5:00 PM, may be read during the meeting.
- The Public may call in during specific Public Comment periods at **406.237.6196**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary.

Future delivery methods may be explored as best practice is learned.

Please contact City Clerk, Denise Bohlman, at [bohlmand@billingsmt.gov](mailto:bohlmand@billingsmt.gov), or 657-8210 with any questions.

# CITY OF BILLINGS

## CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE PROSPER AND BUSINESS SUCCEEDS.”**

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### WORK SESSION AGENDA

Council Chambers are CLOSED.  
The meeting will be held remotely  
via virtual meeting room. Please see  
coversheet for details and  
instructions for viewing and  
participation.

**August 17, 2020**

**5:30 P.M.**

**CALL TO ORDER:** Mayor Cole

- 1. Energy and Conservation Commission Annual Update**  
*(Presented by Jennifer Duray, Public Works Deputy Director)*  
- Public Comment
- 2. Founders Park Area Urban Renewal Analysis**  
*(Presented by Wyeth Friday, Planning Director)*  
- Public Comment
- 3. 2021 City of Billings Legislative Agenda**  
*(Presented by Chris Kukulski, City Administrator)*  
- Public Comment

**COUNCIL DISCUSSION:**

**PUBLIC COMMENT on “NON-AGENDA ITEMS”.** **Speaker Sign-in required.** *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please call 237-6196 during the public comment period.)*

**ADJOURN:**

Note:

- This meeting is an “informal” meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session at the end of a Work Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4)(a), MCA, “to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position” of the City of Billings.
- Council meetings may be viewed at any time by accessing Community 7 Television online at [www.comm7tv.com](http://www.comm7tv.com) and clicking on archived programs.

**Council Work Session**

**1.**

**Meeting Date:** 08/17/2020

**TITLE:** Energy & Conservation Commission Annual Update

**PRESENTED BY:** Jennifer Duray

**Department:** Public Works

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**RECOMMENDATION**

There is no action needed on this item. This is an informational presentation which will occur annually.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

The Energy and Conservation Commission (ECC) was formed one (1) year ago. The ECC is made up of seven (7) commission members (Billings residents) and two (2) staff liaisons.

The purpose of the ECC is to consider ways to conserve energy and water, and reduce waste and pollution. This includes making recommendations where the City can reduce the amount of money it spends on resources and ways to limit the City's impact on the environment.

The ECC is giving its annual presentation to the City Council. Topics for the presentation will include a vision statement, purpose, goals, resource use inventory, and early opportunities for a more resource efficient City of Billings.

**ALTERNATIVES**

No action is required on this item as it is informational only.

**FISCAL EFFECTS**

There are no fiscal effects.

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**Council Work Session**

**2.**

**Meeting Date:** 08/17/2020

**TITLE:** Founders Park Area Urban Renewal Analysis - Review and Council Direction

**PRESENTED BY:** Wyeth Friday

**Department:** Planning & Community Services

**Division:** Planning

**RECOMMENDATION**

**RECOMMENDATION**

No formal action is expected at this Work Session, but staff is seeking direction from City Council on whether to proceed with the Founders Park Area Urban Renewal District efforts through: Expansion of the Downtown District; Creation of a new District; No further action on this item.

If Council chooses to proceed with this effort, staff recommends pursuing expansion of the Downtown District for the following reasons:

- Founders Park Area is small – 128 properties and 77 owners - so inclusion in the existing Downtown District does not significantly add to the District or create an unmanageable total area (there are about 560 properties in the Downtown District).
- The Founders Park area is part of Downtown Billings and has many of the same redevelopment needs and opportunities.
- Total current valuation of the Founders Park Area is about \$1.2 million. Per Figure 24 on Page 25 of the report, it would take about a \$10 million increase in appraised market value in the area to generate about \$131,000 in added property tax, or increment. This means it could take many years for the area if it were its own District to secure enough increment to fund a project or program, or bond for a larger project.
- Public Infrastructure is not in bad condition in the area now. It is predominantly private property and structures that are not up to date and private facilities that are not improved.
- If the Founders Park area was added to the Downtown District, it would share the same sunset date as the Downtown District in 25 years - 2044 - tying any bonding or long term development agreements to a 24-year maximum life span.
- The cost to the City to expand the Downtown District could be funded in whole or in part from Downtown Urban Renewal funds. Creation of a new District would require another funding source for the process.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

The City of Billings, in response to a property owner petition for consideration of a new or expanded urban renewal district (URD) on the east side of Downtown Billings, and to better inform the City Council before making any decision, hired Community Development Services of Montana (CDS) to evaluate the appropriateness of creating a new URD or expanding the existing URD. The study was funded in cooperation with the Downtown Billings Partnership, Founders’ District petitioners (Russ Fagg and Jeff Kanning) and the City of Billings.

Whether expanding the existing Downtown URD or forming a new URD, the designation would enable the use of the Tax Increment Financing (TIF) provision to finance projects in the public interest. The Founders Park area is directly west of the downtown URD and generally extends

north from Montana Avenue to 6<sup>th</sup> Avenue North, and west from North 31<sup>st</sup> Street to Division Street. It includes 128 properties held by 77 property owners.

## **Founders Park Area Urban Renewal Analysis**

The CDS analysis concluded:

- o The study area meets the state requirements to justify downtown district expansion or a new district.
- o The conditions of blight in the study area mainly revolve around functionally obsolete buildings, underutilized land (surface parking and vacant lots), and some infrastructure improvement potential, including two-way street conversions.
- o Expansion of the Downtown District could be controversial for existing property owners in the District that would see resources spread thinner across a larger area.

Questions and some answers that have been brought up during the Founders Park Area Analysis process:

- o *With major land owners with major resources in this area now, why has development and redevelopment not already occurred?* The answer to this question has continued to elude staff for the most part, but discussion with commercial Real Estate professionals that work in the area indicates a variety of issues, including:
  - Some property tax values do not reflect what they are currently worth and so sellers and buyers are not starting close to each other. Their recommendation was to have DOR complete a tax review of the area to better match property value with tax values.
  - As the Founders Park Analysis found, properties are in need of upgrades and in some cases demolition and redevelopment. Some prices for property in the area do not make a demolition and redevelopment feasible for a developer without some other tools to close the gap.
- o *Will an urban renewal district and TIF tool be transformative for redevelopment?* Staff has not found evidence that creating a new District in this area or even expanding the Downtown District will suddenly spur development or redevelopment of the Founders Park area. While petitioners Russ Fagg and Jeff Kanning have indicated that there are development projects they would launch or be involved in, it appears that generally property owners in the area are not making investments in their properties or taking on significant redevelopment efforts.
- o *Do the 77 property owners need to be engaged somehow to measure commitment or reinvestment potential?* Staff has reached out to some property owners in the area as well as some commercial real estate experts. But, to date, the response has been limited. Council has heard from some property owners, like the petitioners, that are very excited to move forward, form a District, and redevelop property. Some owners wish to remain neutral and not take a position for or against a District, and others are opposed to any kind of urban renewal district for the area.

## Community Input

Since the study was completed in early July, Founders' District petitioners Russ Fagg and Jeff Kanning have presented and sought support for the URD concept from the Billings Chamber of Commerce, Downtown Billings Partnership Board, and the Billings School District #2 Board. The Billings School District #2 Board at its July 20 meeting voted to support creation of a new district if it had a 10-year sunset provision. Urban renewal districts are allowed by State Law to have a life of up to 15 years unless project bonding extends the life beyond that period. The Downtown Billings Partnership Board voted at its July 24 meeting to support creation of a new district. At the time this memo was prepared, the Chamber Board had not taken action on this topic at one

of its meetings. The City Council on July 29 also received a letter from eight property owners in the Founders Park study area that expressed opposition to the expansion or formation of a new URD in the area.

Founders' District petitioners Russ Fagg and Jeff Kanning are in attendance tonight and are available to present on this topic and answer questions.

The full study was provided to the Council in the City Administrator's Weekly Report on July 17. It is attached to this memo for reference.

## **ALTERNATIVES**

This is a work session, so no formal action may be taken at this time. However, staff is asking for the City Council to provide direction on whether staff should move to: Expand the Downtown District; Create a new District; Take no further action on this item.

## **FISCAL EFFECTS**

The initial Founders Park Area Urban Renewal Analysis provided with this memo had a total contract cost of \$11,000. The City General Fund paid for \$5,000 of the total, while the Downtown Urban Renewal District paid \$3,000 and Russ Fagg and Jeff Kanning paid \$3,000. To move forward with expansion of the Downtown District or creation of a new Urban Renewal District, the City expects to incur an additional cost of up to \$25,000. Expansion of the Downtown District would mean access to urban renewal funds to help with or cover the cost. Creation of a new district would mean the City General Fund would cover the total cost.

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## **Attachments**

Founders Park Area Urban Renewal Analysis Report

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**Founders Park Area Urban Renewal Analysis Report  
June 2020  
Prepared for  
The City of Billings**



**Founders Park Area – Corner of 2<sup>nd</sup> Avenue and 32<sup>nd</sup> Street**

# Acknowledgements

## Contributors to this report include:

### City of Billings

Chris Kukulski, City Administrator

Andy Zoeller, Finance Director

Debi Meling, City Engineer

Ron Frisbie, GIS Coordinator

Kevin Moore, GIS Specialist – (a special thanks to Kevin for preparation of maps used in this report)

Wynette Maddox, Administrative Assistant

Wyeth Friday, AICP

Director, Planning and Community Services Department

City of Billings and Yellowstone County

### Downtown Billings Partnership

Mehmet Casey, Development Director, Downtown Billings Partnership

Katy Easton, CEO, Downtown Billings Alliance

### Project Consultants

Janet Cornish, Principal, Community Development Services of Montana

Lanette Windemaker, AICP

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## **Section 1. Introduction**

The City of Billings, in response to property owner interest in the economic revitalization of the Founders Park area of downtown Billings, is evaluating the appropriateness of creating a new renewal district (URD) in the area, or of expanding the adjacent existing downtown URD. In either case, urban renewal designation would enable the use of the Tax Increment Financing (TIF) provision to finance projects in the public interest. (Further discussion of how a TIF provision works can be found in Section 4 of this report.) The Founders Park area is directly west of the downtown URD and constitutes the western portion of the Central Business District (CBD). The area generally extends north from Montana Avenue to 6<sup>th</sup> Avenue North, and west from North 31<sup>st</sup> Street to Division Street and includes 128 properties held by 77 property owners.

The existing downtown URD was formally designated as the “Expanded North 27th Street District Urban Renewal Area- 2008” pursuant to Ordinance 08-5483 by the City Council. Prior to that ordinance, on July 11, 2005 the City Council adopted Ordinance No. 05-5333, which created the North 27th Street District Urban Renewal Area ("North 27th Street District"), and on November 13, 2006 the City Council adopted Ordinance No. 06-5394 which expanded the boundaries and amended the N. 27th Street Plan to create the Extended N. 27th Street District.

The Montana Department of Revenue indicates that the existing downtown URD has two base years, which are comprised of the North 27<sup>th</sup> URD (est. 2005) and the 2008 Expanded North 27<sup>th</sup> URD.

The purpose of this urban renewal feasibility report is to provide information to the City Council to assist in this evaluation by:

1. Identifying conditions within the area which would meet the criteria for employing the state’s urban renewal statutes,
2. Providing examples of how addressing these conditions would be in the public interest, and
3. Comparing the benefits of creating a new district, versus expanding the existing downtown URD.

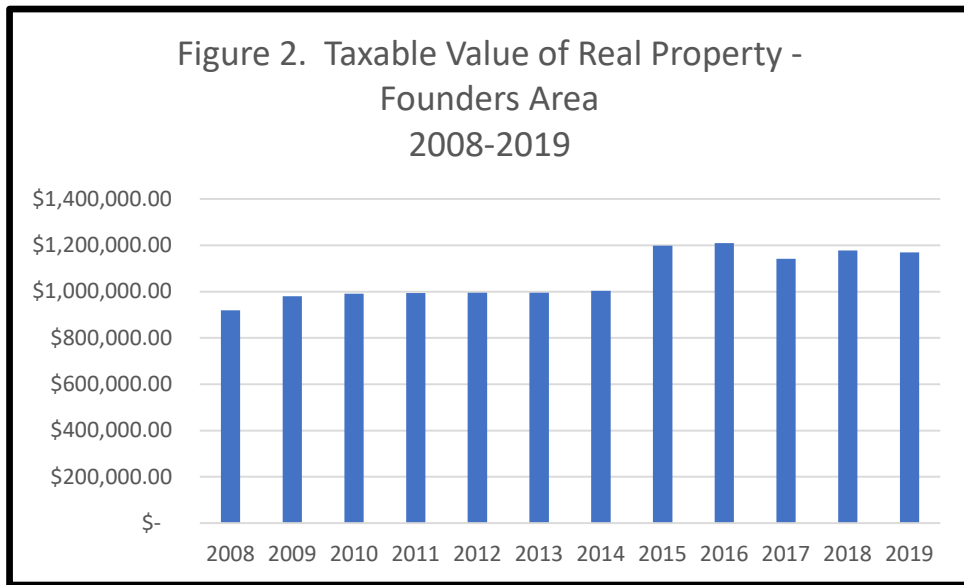
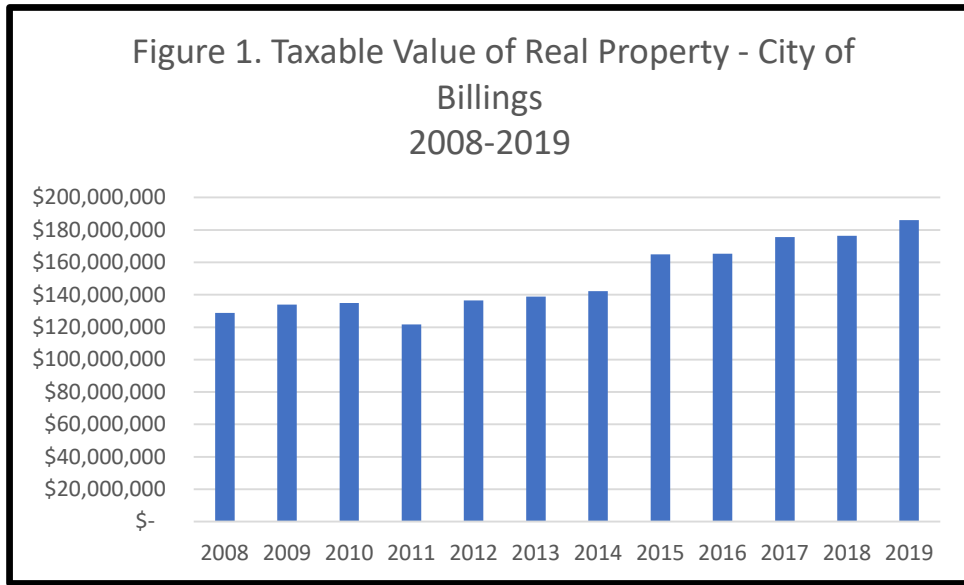
### **Impetus for Consideration**

Although directly adjacent to the downtown URD, the Founders Park area has not enjoyed the same increase in economic activity and the associated increases in taxable value. Existing data and reports show that the Founders Park area is facing issues related to investment, population decline and housing. This failure to thrive has motivated Founders Park area property owners to petition the City for support of an urban renewal district designation. These challenges, however, can also be seen as opportunities for public-private efforts directed at Founders Park area revitalization and future growth.

### **Rate of Investment**

According to information provided by the Montana Department of Revenue, growth in taxable value within the Founders Park area has lagged behind that of the City of Billings. The taxable

value of real property (market value multiplied by the commercial tax rate, which is 1.89 percent for commercial and 1.35% for residential for 2019) within the City increased by 44 percent from 2008 to 2019, while the taxable value of real property within the Founders Park area increased by 27 percent during the same period. (Billings Office Montana DOR, 2008-2019) (Montana DOR) More particularly, as depicted in Figures 1 and 2 below, while the taxable value of property within the City has increased steadily since 2014, it has remained little changed in the Founders Park area despite a slight rise in 2015.



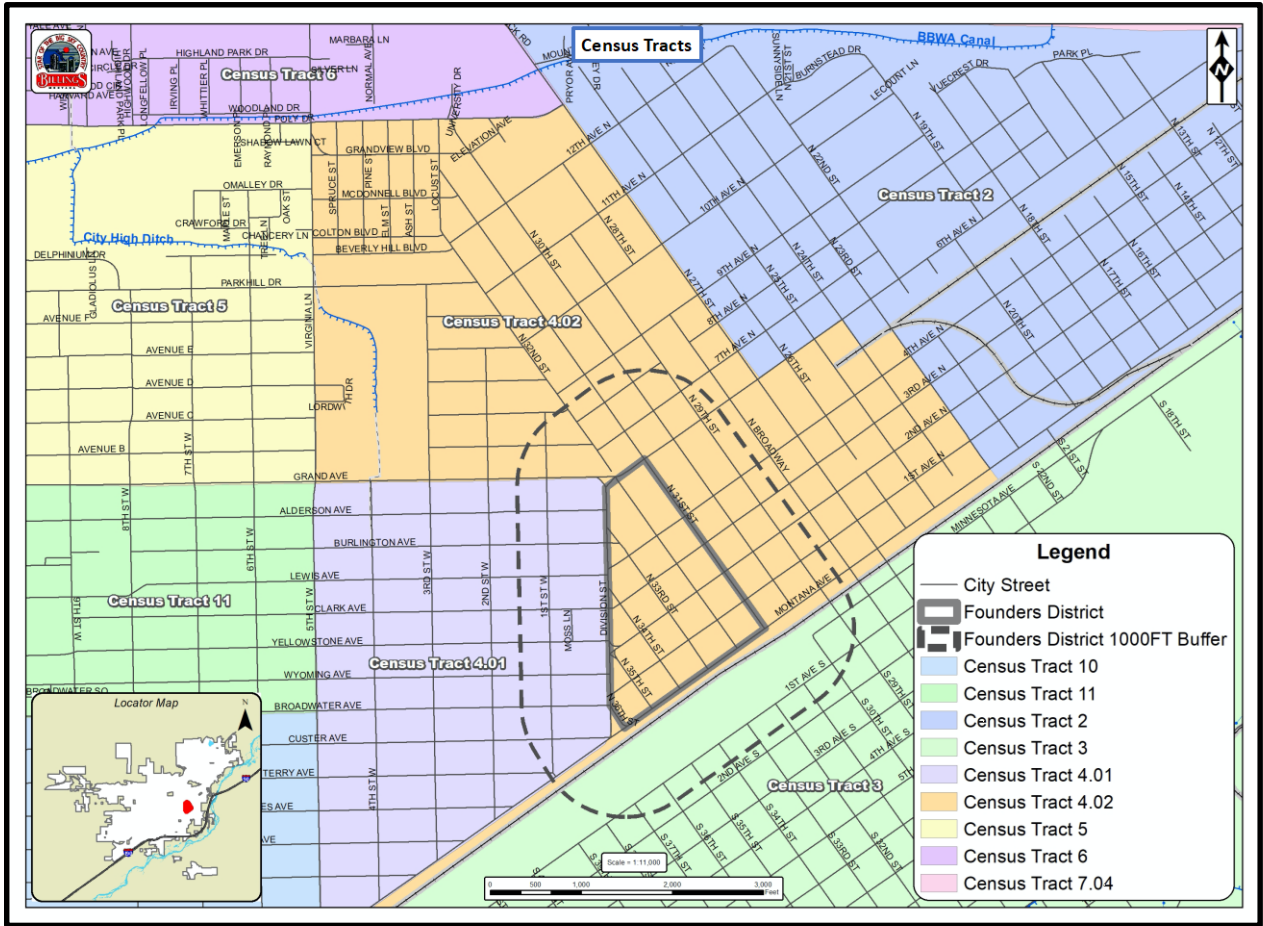
Within the Founders Park area, land values increased between 2008 and 2019, from \$11,444,799 to \$16,105,389, or 41 percent. Building values increased during the same period from \$39,126,114 to \$70,682,599 or 81 percent. The biggest change in building values occurred between 2008 and 2009, when the market value of buildings in the Founders Park area increased by \$20,516,444, largely due to reappraisal. Despite these increases, however, the overall increases in land and building within the Founders Park area lag behind those for the City of Billings as a whole. The Founders Park area represented about 6.84 percent of the 2019 total market value of real property in the City of Billings, calculated at \$86,787,988 for the neighborhood versus \$12,673,267,633 for the entire City. (Billings Office Montana DOR, 2019)

An additional contrast is evident when the Founders Park area is compared to the existing downtown urban renewal district (URD), despite their proximity. The downtown URD experienced a 35 percent increase in real property taxable values between 2010 and 2019. As noted above, between 2008 and 2019, the Founders Park area experienced only a 27 percent increase. (Note: the downtown URD has experienced additional growth when personal and centrally assessed properties are added to the taxable valuation, but changes in reporting methodologies make it difficult to make a direct comparison.) (Montana Department of Revenue, 2019)

#### Population Change over Time

The Founders Park area is a portion of and located entirely within U.S. Census Tract 4.02 (see Figure 3) in Yellowstone County, Montana. Within this tract, according to the American Community Survey, between 2010 and 2018, population declined by 15.8 percent, from 3,759 to 3,165. At the same time the City of Billings grew from 104,491 to 109,544 or 4.8 percent and Yellowstone County increased by 7.8 percent, from 148,432 to 160,137. (US Census, 2018)

Figure 3. U.S. Census Tracts



Within greater downtown Billings, including the Founders Park area, population decreased by about 11.8 percent between 2000 and 2015, as noted in the *Downtown Billings Housing Strategy*:

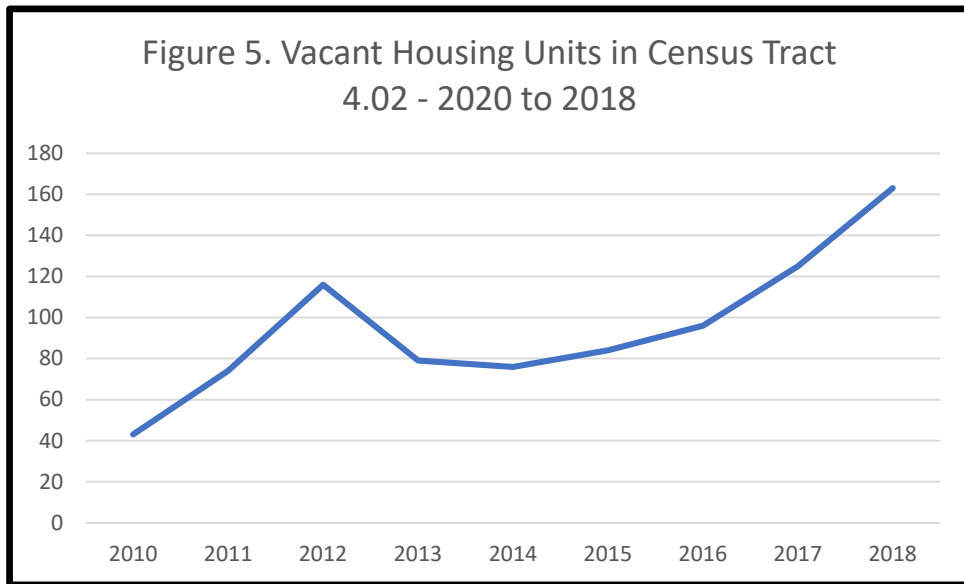
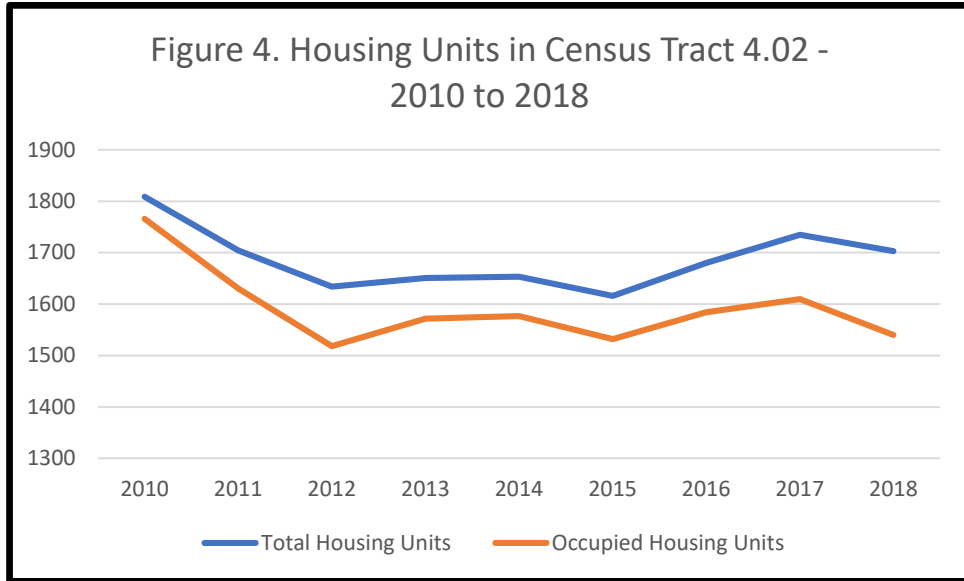
“Despite growth in the city overall, ... Downtown areas declined in population and households from 2000 to 2015. There were almost 1,700 people living in these areas in 2015, a decline of 200 residents from the nearly 1,900 residents residing there in 2000.” (EPS and Sanderson Stewart, 2017)

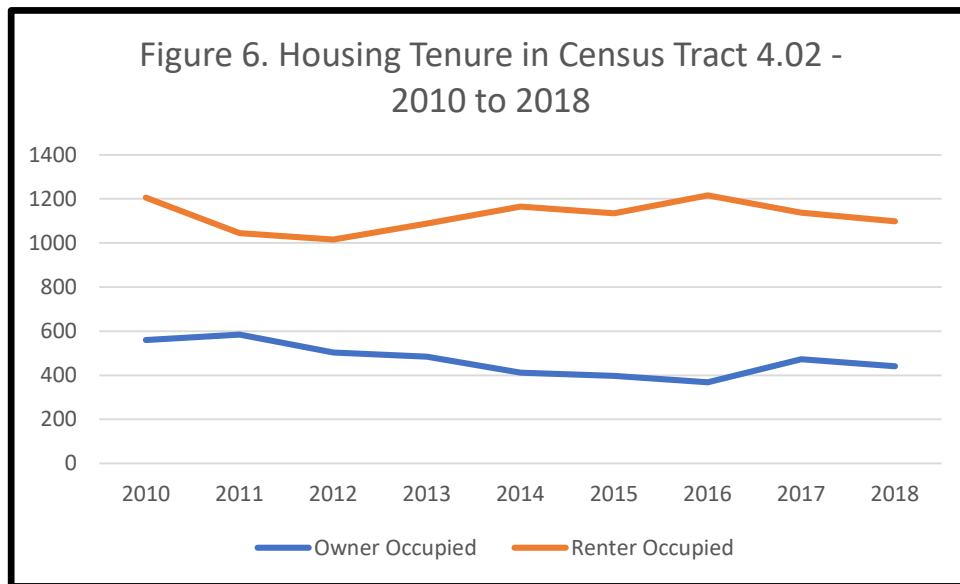
As of 2017, the *Housing Strategy* notes that downtown Billings had about 1,000 households, or two percent of the households city-wide and the largest group, or 34% of the population within the CBD, were between the ages of 18 and 34.

Housing Trends

The Founders Park area has seen a decline in the number of housing units in the last decade. According to the American Community Survey, the number of housing units within U.S. Census Tract 4.02 in Yellowstone County, Montana declined by 5.8 percent between 2010 and 2018, from 1,809 to 1,703. The number of occupied housing units declined by 12.8 percent during the same period, from 1,766 to 1,540, while the number of vacant units increased substantially, from

43 to 163. (Figures 4 and 5, below). In addition, the number of owner-occupied units decreased by 21 percent from 560 to 441 and the number of rental units decreased by 8.9 percent from 1,206 to 1,099. (Figure 6, below) (US Census, 2018) Fluctuations in housing data are often difficult to explain.





The increase in the number of vacant housing units in the Founders Park area is in contrast to the stated growing preference for housing within the Billings central business district (CBD). In 2017 the Billings Downtown URD and the East Billings Industrial Revitalization District commissioned the preparation of the *Housing Strategy*. According to the report, there were lower vacancy rates in downtown apartments than in the City of Billings overall. (Note, this figure only accounts for vacancy rates for apartments, not for all housing units.) In a survey of downtown employees, which numbered approximately 13,700 in 2017, 50 percent expressed interest in living downtown. Between 2016 and 2017, there were 3,000 home sales in Billings, but only five percent were in downtown Billings. Based on these findings, the *Housing Strategy* identified a short term need for 50 to 100 units of additional housing in downtown Billings and a longer-term goal of 200 to 400 units. (EPS and Sanderson Stewart, 2017)

#### *Study Area Population and Housing Data*

The Founders Park study area is comprised of 23 blocks within Block Group 3 of Census Tract 4.02. Within this area, there are 201 housing units, occupied by 256 people. Of these, 243 live in rental units, while 13 live in owner-occupied housing. (Montana Census and Economic Information Center, 2020) The data is derived from the American Community Survey, which uses a fairly small sample averaged over a five-year period. The smaller the area of analysis, the less accurate the data.

Investments in housing hinge on addressing several concerns that were raised in the course of the preparation of the report. These include improving public safety in downtown Billings, improving retail options including grocery stores and more pedestrian friendly urban design. In addition, new units should reflect household incomes in downtown Billings. In 2017, 71 percent of households in the CBD earned less than \$30,000 annually. Only three percent earned greater than \$100,000. (EPS and Sanderson Stewart, 2017)

The results of the *Housing Strategy* echo the findings of the *Downtown Billings Framework Plan*, completed in 1997 and the 2018 *Downtown Strategic Plan*. (Downtown Billings Alliance Strategic Plan, 2018) These reports assert that housing development is the “logical first step” in the rehabilitation of the CBD in order to stimulate growth and investment in downtown Billings. Within the “west downtown district”, which encompasses the Founders Park area, the Plan called for the construction of low and mid-rise housing to serve the needs of young professionals, Montana State University-Billings students and “empty nesters”. (Montana Tradeport Authority and the City of Billings, 1997) *The Downtown Strategic Plan* seeks to “increase downtown residential population through targeted downtown housing initiatives”. The strategies to increase residential population include:

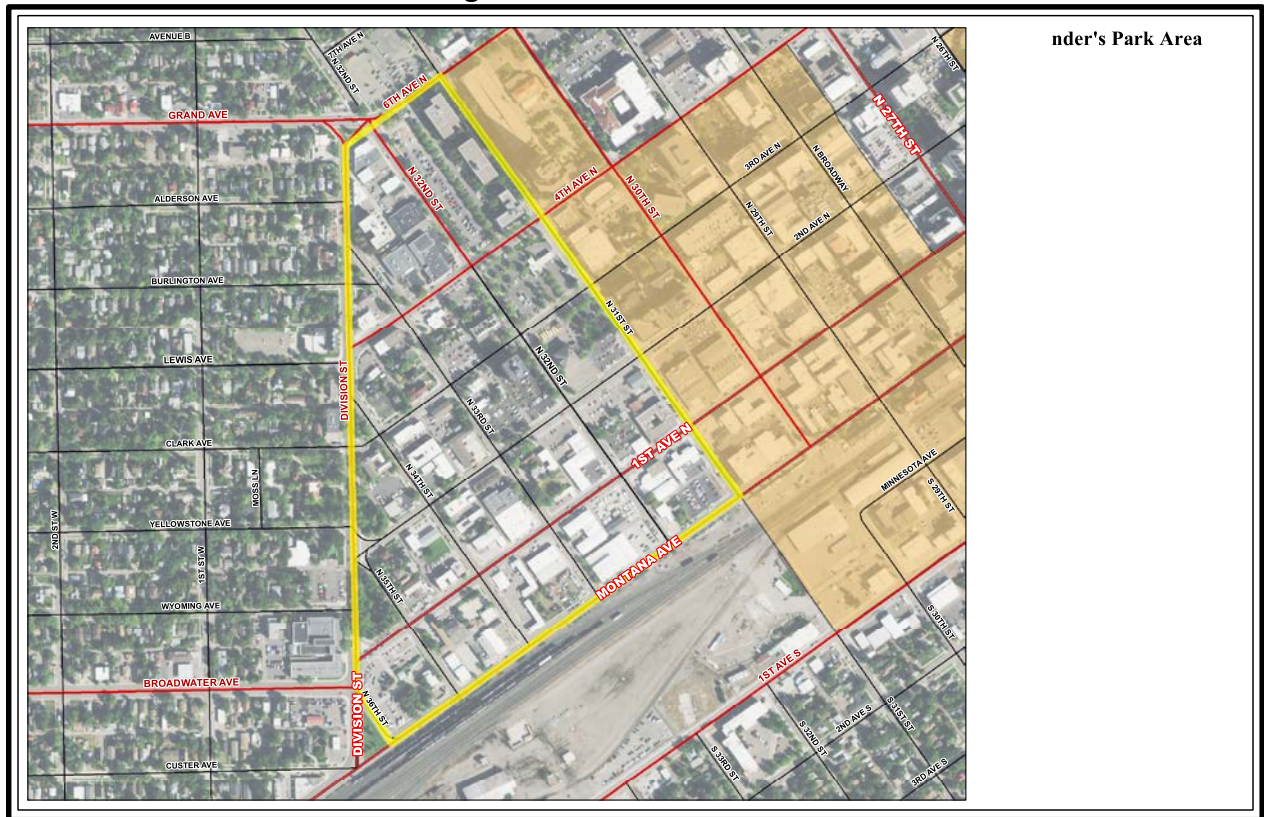
- Prioritize rental housing development projects in allocation of DBP resources including TIF and revolving loan funds
- Support small developers and existing property owners in the transition of their upper floors to residential units
- Promote downtown Billings as an attractive place to live

## Section 2. Founders Park Area Description

This urban renewal feasibility report provides an analysis of the western end of the Billings Original Townsite and to the north of the Burlington Northern Railroad right-of-way. This area is part of or perimeter to the central business district.

In particular, the Founders Park area encompasses the land which generally extends north from Montana Avenue to 6<sup>th</sup> Avenue North, and west from North 31<sup>st</sup> Street to Division Street (Figure 7). This detailed area includes 128 properties held by 77 property owners and encompasses approximately 67.4 acres.

Figure 7. Founders Park Area



The Founders Park area includes an assortment of low-density mixed uses which vary from the Granite Towers high-rise and the Transwestern mid-rise complex to a myriad of one- and two-story buildings and numerous surface parking lots.

The west side of the area is characterized by the triangular-shaped remainders comprised of city parks (Founders Park and Community Park – Figures 8 and 9) and traffic islands where the historic Billings original townsite grid pattern which paralleled the railroad right-of-way, intersects with the north-south grid pattern at Division Street.

**Figure 8.** Founders Park



**Figure 9.** Community Park

The Founders Park area is directly adjacent to and on the west side across North 31<sup>st</sup> Street from the existing downtown urban renewal district (URD) [comprised of the Expanded North 27<sup>th</sup> URD (established 2005) and the North 27<sup>th</sup> URD (established 2008) areas].

### **Section 3. A Review of Conditions Identified in the Founders Park Area that Contribute to Blight**

Montana law sets forth the specific conditions that constitute blight. In particular, state statute defines a blighted area as one that “substantially impairs or arrests the sound development of communities, constitutes an economic or social liability, and/or constitutes a menace to the public health and safety in its present condition.”

Per §7-15-4206, MCA, a “blighted area” may be identified as such by reason of:

- “(a) the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence 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.”

The Montana Legislature passed the state’s urban renewal statutes in 1947, using terminology that reflected the national concern at the time over the decline of America’s larger cities. The words were drawn from urban renewal laws written for densely populated communities. Therefore, in evaluating these conditions in the Founders Park area in Billings, it is necessary to focus on those that are appropriate to smaller cities and towns in rural areas.

This analysis presents information concerning conditions that contribute to blight in the Founders Park area with respect to public infrastructure, the use of land, buildings and public safety. Examples of potential urban renewal projects that are in the public interest follow each of the three sections describing conditions contributing to blight in the Founders Park area.

### Conditions Relating to the Use of Land

Central business districts can be highly efficient generators of tax revenue. As described previously, although the Founders Park area is directly west of the downtown URD, this neighborhood has not enjoyed the same increase in economic activity and the associated increases in taxable value. Land use and development decisions can have an effect on a local government’s revenue potential.

Earlier studies have shown that downtowns and other mixed-use centers efficiently produce tremendous value in tax revenue in large and small cities alike. In terms of dollars per-acre, mixed-use, downtown parcels bring in, on average, five times the property tax revenue as conventional single-use commercial establishments on the outskirts of town. (Sonoran Institute with Urban3, LLC, Joseph Minicozzi, 2012)

Historically we have placed little value on the land beneath a building as compared to the building itself. On any given parcel, the cheaper the building, the lower the tax bill. This creates an incentive to develop land as cheaply as possible — with low-value buildings and large parking lots — instead of generating the most value from each acre of land. (Sonoran Institute with Urban3, LLC, Joseph Minicozzi, 2012)

Uses of the land within the Founders Park area have a significant impact on the taxable value of the neighborhood. The underutilized properties in the area that could be considered inappropriate for a downtown / central business district include unattached parking lots and the less compact one- to two-story buildings.

#### Less Compact Development

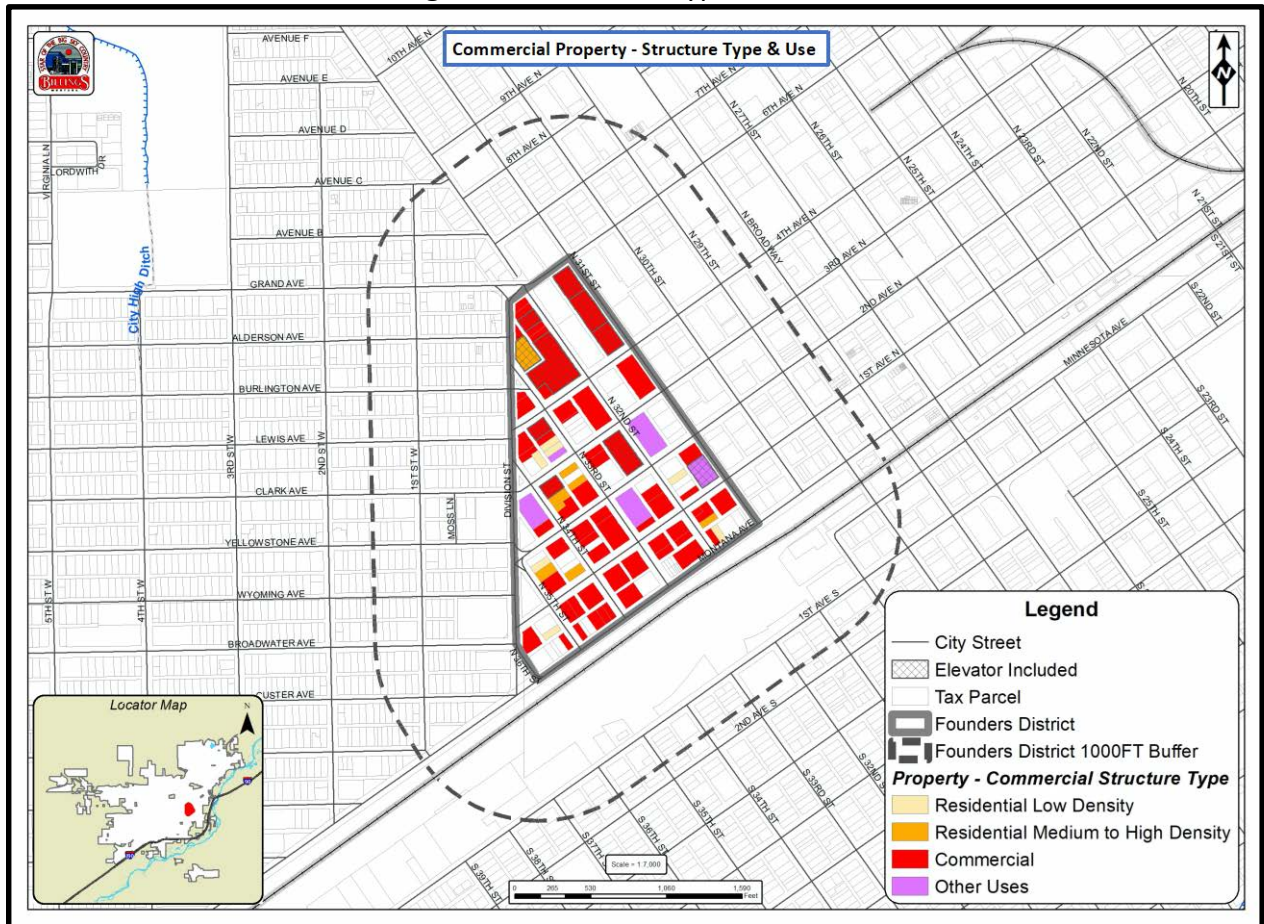
The majority of the land within the Founders Park area is characterized by the presence of single- or two-story commercial and mixed-use buildings. A sampling of different commercial buildings demonstrates that less compact development results in less taxes per acre (Figure 10).

<b>Figure 10. Taxes Generated by Building Type</b>	
<b>Commercial Building Type</b>	<b>Average Taxes Paid Per Acre</b>
One-Story	\$21,550
Low Rise (< 4 stories) without elevator	\$27,047
Low Rise (< 4 stories) with elevator	\$72,538
High Rise	\$145,097

(Yellowstone County, 2020)

Figure 11 shows the existing structure types on the Founders Park area by type.

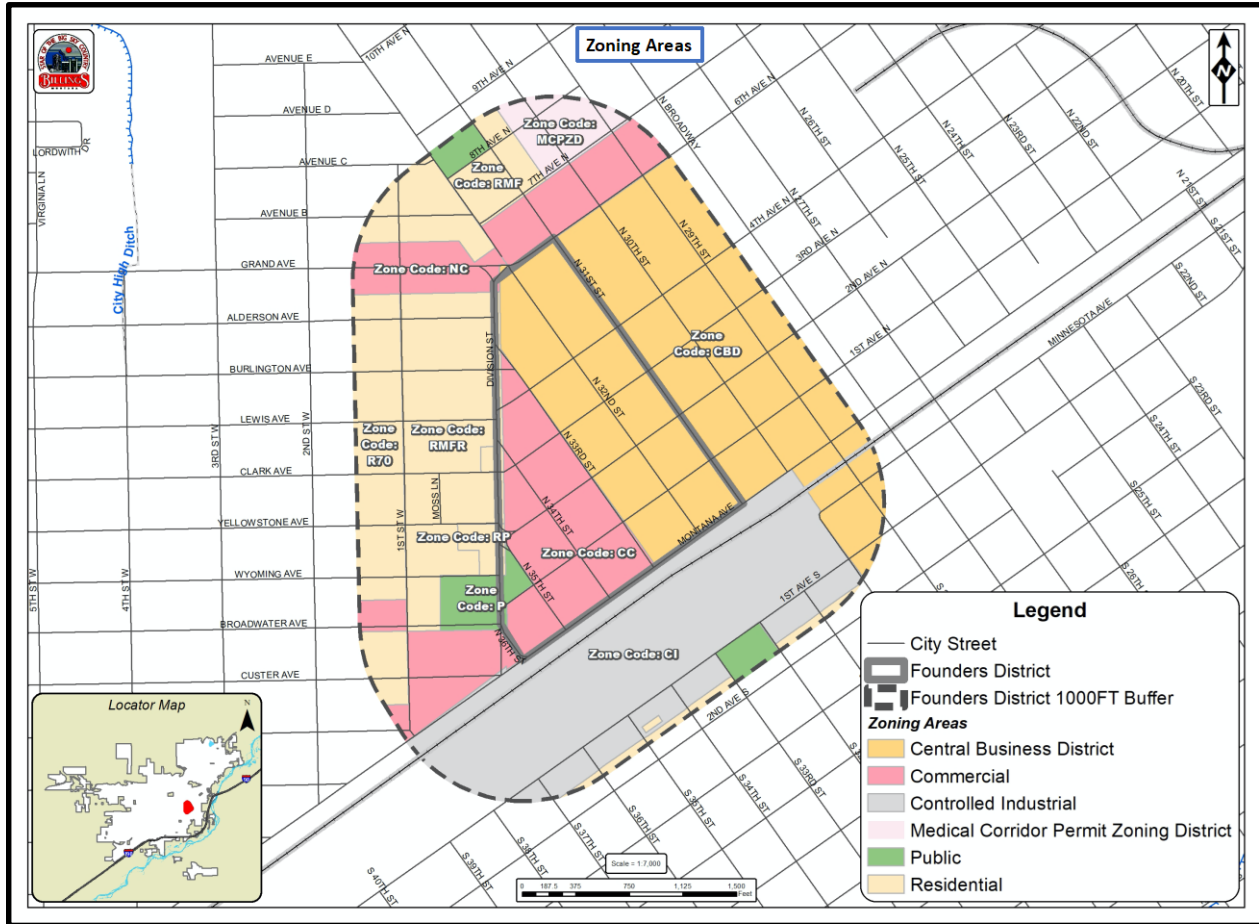
**Figure 11. Structure Types and Use**



### Usability of Lots

The Founders Park area was platted as part of the City of Billings Original Townsite. The plat was filed November 4, 1896 and created lots of 3,500 square feet – 35 feet wide by 100 feet long. While a couple of those small lots still exist, most lots have been consolidated by ownership or aggregated through the subdivision process into larger lots. This is likely a function of the amount of land needed to accommodate current building standards and meet the requirements for parking, landscaping and setbacks. As seen on Figure 12, a map displaying the zoning within the Founders Park area, a portion of the neighborhood is zoned CBD and the remainder is zoned CC. The CC zoning has required setbacks which means a small lot has even less buildable land. Current and proposed zoning classification descriptions follow in Figures 12, 13 and 14.

**Figure 12. Zoning Designations in the Founders Park Area**



**Figure 13. Zoning Classifications in the Founders Park Area and Downtown**

The central business district (CBD) classification is intended to primarily accommodate stores, hotels, governmental and cultural centers and service establishments at the central focal point of the city's arterial and transportation system, where the CBD can conveniently serve the population of the entire urban area with a varied and specialized selection of goods and services. In order to protect the public interest and welfare and facilitate an attractive, efficient and prosperous CBD, the emphasis is on larger scale building and specialty shops.

The community commercial (CC) zone is intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (up to thirty (30) acres) centrally located in the trade area rather than a strip development along arterials.

Project Recode for the City of Billings and Yellowstone County, to be completed in 2020, will update and modernize the zoning codes for the city and the county. The proposed update changes the zoning district definitions and renames CC to DX, as described below.

**Figure 14.** Proposed Zoning Classifications in the Founders Park Area and Downtown  
 The CBD district is the downtown mixed-use core intended to continue the existing character of the highly walkable downtown commercial corridors with storefronts on the ground story and upper story residential, lodging, and office uses.

The DX district is intended primarily for use surrounding the (CBD) district and would accommodate highly walkable, higher intensity office and residential uses in support of the CBD.

The evaluation of unattached parking lots which follows indicates the larger a lot the higher the taxable value per acre, possibly reflecting their usability.

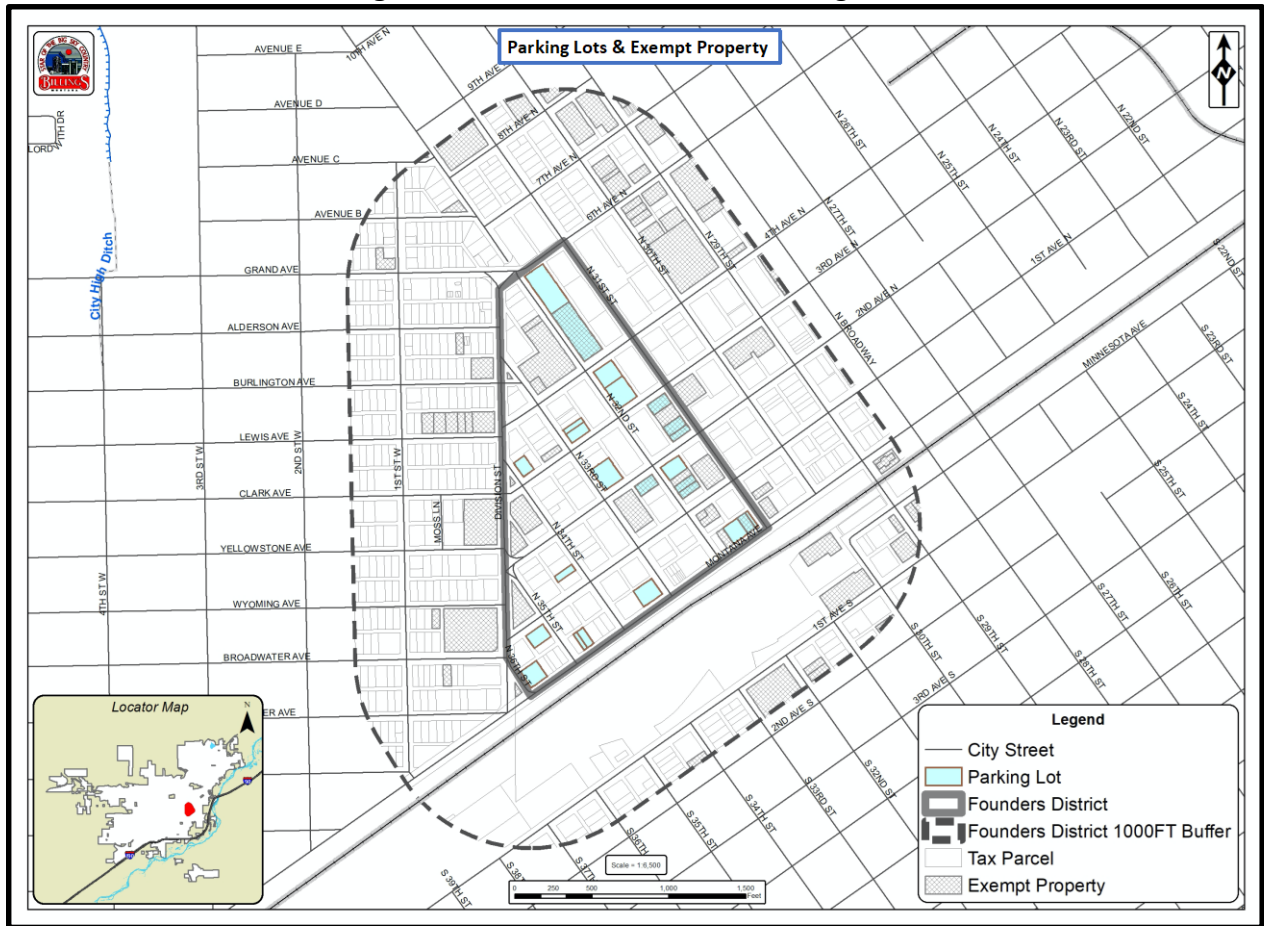
Unattached Parking Lots

There are numerous unattached parking lots and some undeveloped parcels scattered around the Founders Park area. An evaluation of several of these properties indicates that the smaller the lot size, the lower taxes per acre paid (Figure 15). Figure 16 is a map of unattached surface parking lots and exempt property.

Figure 15. Taxes Generated by Unattached Parking Lots	
Lot Size Square Foot	Taxes Paid Per Acre
7,000	\$6,063
14,000	\$11,018
42,000	\$26,643

(Yellowstone County, 2020)

Figure 16. Unattached Surface Parking Lots



Examples of public interest projects that promote redevelopment to increase the tax base, mitigate economic obsolescence and eliminate blight conditions include:

- The construction of a public parking garage in conjunction with a specific project or free-standing. (For example, the First Interstate Center was connected to a city parking garage by an underground tunnel, creating greater opportunity for the area.)
- A program to promote lot aggregation and/or zoning amendments

### Conditions Related to Building Obsolescence

Obsolescence occurs due to physical deterioration, wear and tear, technological advances, environmental contamination, changes in the economic conditions and user requirements. The impact of obsolescence on a building can be classified into curable obsolescence and incurable obsolescence. Curable obsolescence is one that can be controlled by the building owner. Incurable obsolescence is the result of changes less easily controlled by the building owner. The most that can be done is to incorporate flexibility and resiliency into the design of a building to make alterations and adaptations easier in the future. (A Study of Building Obsolescence in Standard Design, 2018)

## Physical

Physical obsolescence is commonly ascribed to aging buildings. Some structures in the Founders Park area were constructed as early as 1892 and prior to 1922. Many of the buildings were constructed prior to 1962 (Figure 17). Some were remodeled prior to 1974 and others, not at all. (Figure 18). Age does not always determine obsolescence, and physical obsolescence may be controlled by the building owner through high standards of maintenance and refurbishment, and choice of quality construction materials.

**Figure 17. Eras of Construction**

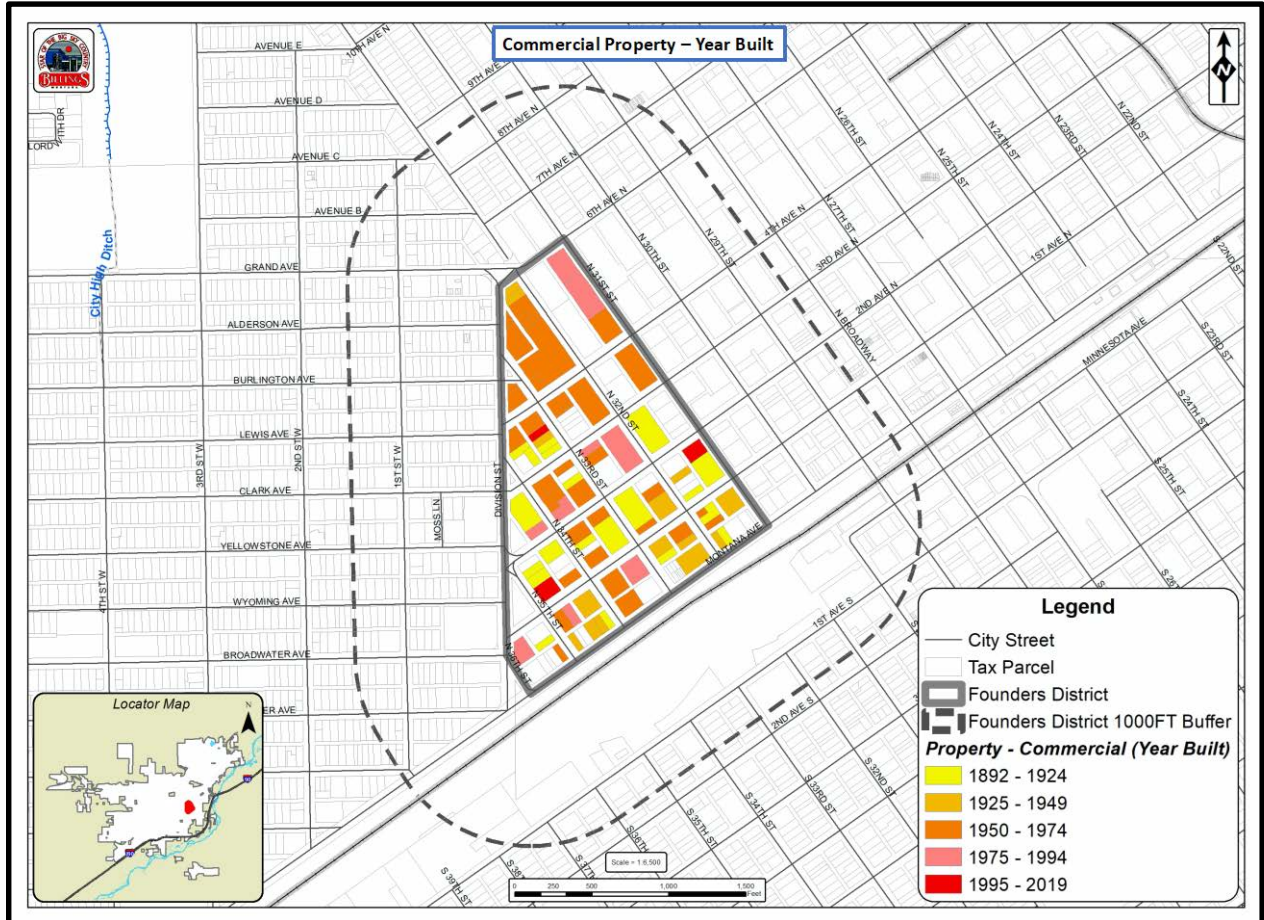
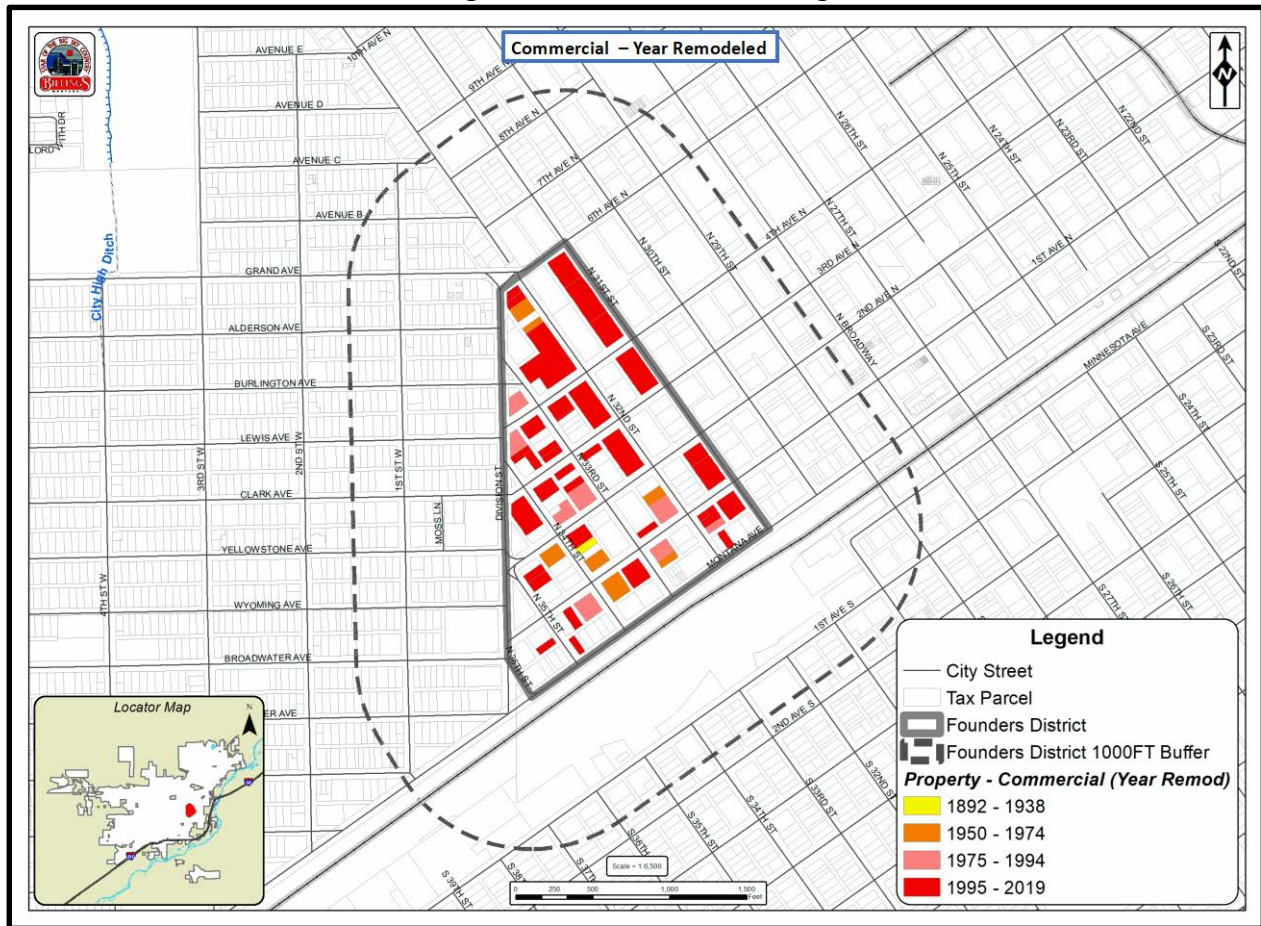


Figure 18. Eras of Remodeling



### Economic

A building may become economically obsolete, not because of the existing structure, but through enrichment of the development potential of the underlying land. Conversely the property may decrease in value due to increased crime rates or development of a nuisance.

The construction of a public parking garage in the neighborhood and the opportunity for off-site parking may increase the development potential of the underlying land enough to cause a property owner to determine that a building has become obsolete.

### Function

Functional obsolescence is a product of technological progress resulting either in change in the tenants' requirements or in the availability of new products:

- A building may be considered functionally obsolete due to its defective layout (e.g., inadequate floor to ceiling heights and close-spaced structural columns);
- A building may become functionally inefficient because its inflexibility to accommodate new information technology (e.g., no raised floor for location

of transmission cables). (A Study of Building Obsolescence in Standard Design, 2018)

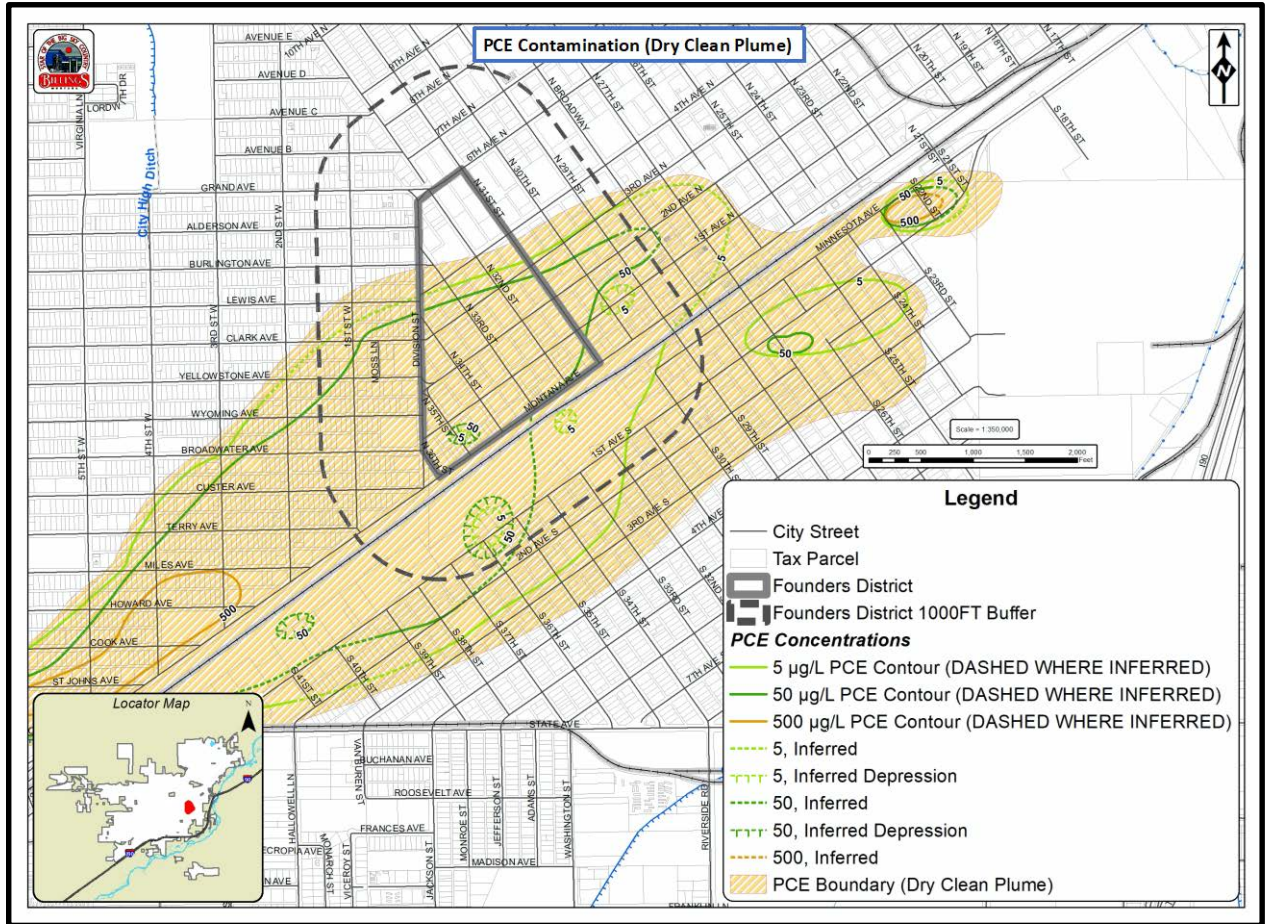
The lack of elevators could render a building functionally obsolete. There is only one high rise apartment building in the Founders Park area, and it has an elevator. None of the low-rise or garden apartments have elevators. Many of the low-rise office buildings, and none of the low-rise hotel/motels have elevators. While private buildings do not always have to provide an elevator, the lack of elevators does limit vertical accessibility for both tenants and clients, furthering building obsolescence.

In the past 20 to 30 years we have seen major advances in technology, communication, and mechanical design. With many of the buildings in the Founders Park area constructed prior to 1962 before personal computers, cell phones and the internet, property owners may determine that the costs of technological upgrades outweigh the benefits, making their buildings incurably obsolete.

#### Environment and Safety

Environmental challenges such as pollution, road congestion and urban decay can contribute to blight. Pollution may require physical clean-up, call for the implementation of institutional controls, create a defect that must be mentioned in the title or simply result in a perception of an adverse impact. For example, the Billings Perchloroethylene (PCE) Groundwater State Superfund Site, Figure 19., is an environmental condition that may render a building obsolete. Contaminants of concern at this site “include the chlorinated solvents tetrachloroethylene (also known as PCE) and trichloroethylene (TCE) and other compounds. PCE was historically used at a former dry-cleaning business on Central Avenue but has also been less commonly used for metal cleaning and degreasing and as an ingredient in common automotive products such as brake cleaners. The PCE at the site eventually came into contact with groundwater. Dissolved PCE is now present in the groundwater underlying portions of the Billings PCE Groundwater Site at concentrations greater than Montana groundwater standards. Remedial investigation showed multiple sources of contamination, identifying four source areas based on soil, groundwater and vapor data. The remedial investigation also showed that groundwater contamination coming from these sources is larger than previously understood and is causing vapor intrusion into overlying structures.” (Montana Department of Environmental Quality, 2019)

Figure 19. PCE Plume and Contaminant Concentrations



Incidences of crime and vandalism (including graffiti as shown in Figures 20) and the use of barbed wire fencing as shown below in Figure 21, contribute to blight because people feel unsafe living and working in an area. Figure 22 is a map of graffiti documented in the Founders Park area.

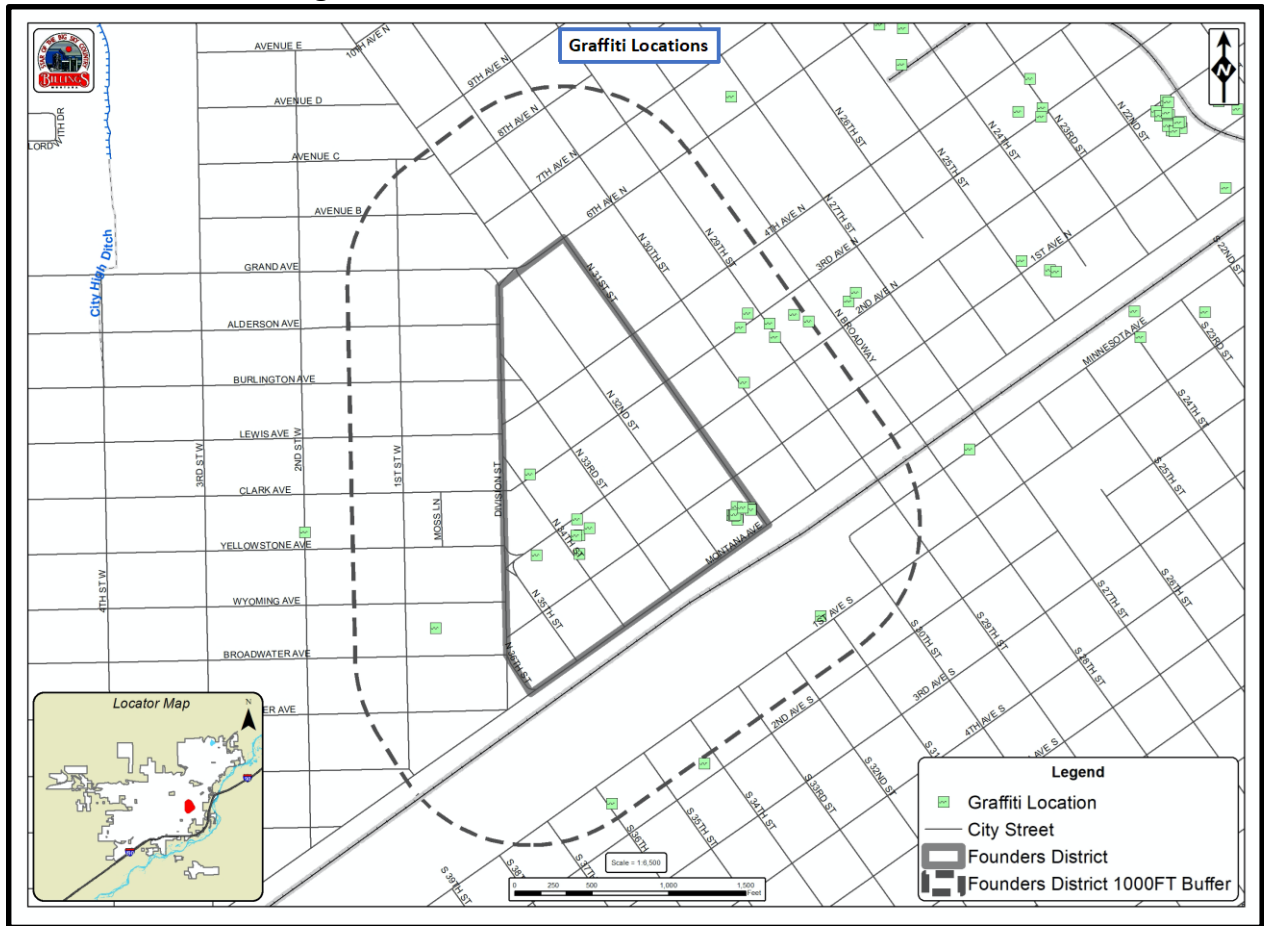
Figure 20. Graffiti on the NE Corner of 32<sup>nd</sup> St. and 4<sup>th</sup>



Figure 21. Barbed Wire Fencing Along Montana Ave.



Figure 22. MAP of Graffiti in the Founders Park Area



Examples of public interest projects that support obsolete building restoration and rehabilitation to eliminate blight and address environmental and safety issues include:

- Historic façade restoration
- Public utility service upgrades
- Elevator installation/upgrade in publicly owned buildings
- Entrance modifications for ADA compliance
- Pollution clean-up programs
- Graffiti proofing utility boxes, dumpsters and street furniture

**Conditions Related to Public Infrastructure**

The condition and adequacy of public infrastructure are the most identifiable factors that impact a neighborhood. As found in the City-of-Billings-Capital Improvement Plan for FY20-FY24, there are ongoing projects addressing public infrastructure. (City of Billings, 2020)

## Streets and Circulation

While the Founders Park area is a keystone of the western portion of the downtown central business district, the area is largely underutilized. Underutilized land in the urban core results in lower land values and less efficient use of public infrastructure and services.

As expected in the urban core, the Founders Park area is crossed by numerous arterials. According to the Functional Classification Map, 2018 Billings Urban Area Long Range Transportation Plan (LRTP) (Kittelsohn and Associates and Dowl, 2019) these include:

- Principal east- west arterials – Montana Avenue, 1<sup>st</sup> Avenue North, 4<sup>th</sup> Avenue North, and 6<sup>th</sup> Avenue North
- Principal north-south arterials – Division Street with North 32<sup>nd</sup> Street classified as a Collector.

Arterials represent the highest class of highways and roads. These roadways are intended to serve higher volumes of traffic, particularly through-traffic, at higher speeds. They also serve truck movements and should facilitate traffic flow over access to adjacent property. Arterial roadways are further designated as Principal Arterials and Minor Arterials. Arterials in a downtown area can discourage redevelopment if property access is limited and through traffic is prioritized.

Collectors represent the intermediate class. As the name suggests, these roadways collect traffic from the local street system and link travel to the arterial roadway system. These roadways provide a balance between through-traffic movement and property access and provide extended continuity to facilitate traffic circulation within an urban community or rural area. (Kittelsohn and Associates and Dowl, 2019)

Numerous downtown streets were converted to one-way couplets about 50 years ago, in a move to improve traffic flow and as a result, nearly all of the streets in the Founders Park area are one-way. More recently, cities across the United States are reinstating two-way streets because of the many problems that one-ways create. One-way streets usually move traffic at higher speeds thereby making it easier to bypass the area and fronting properties. As a result, pedestrian safety and access to local businesses and dwellings suffer. In addition, “there are simply more (typically 30 – 40%) vehicle/pedestrian conflicts within a one-way street network than in a comparable two-way system.” (Glattig Jackson Kercher Anglin Lopez Rinehart, Inc.)

In 2011, Louisville, KY converted two one-way streets to calm traffic and support economic development. A 2015 study of two parallel streets that remained one-way and the two converted streets showed that the converted streets experienced fewer collisions, less crime, and higher property valuations. An examination of property sales before and after the conversion, showed that houses on the converted streets appreciated, with an average increase of 11.6 and 2.8 percent. Those on the remaining one-ways, depreciated roughly 0.4 percent over the same period, in keeping with a similar decline in the larger Louisville real estate market, during this time. (Gilderbloom W. R., 2015) (Jaffe, 2015)

### Utility Distribution and Collections Systems

Most of the water distribution system was replaced between 1997 and 2019. The older portions of this system could be replaced as needed or when opportunities arise.

The majority of the sanitary sewer system was installed between 1901 and 1927. As this system ages or use increases, replacement may be required. Installation and maintenance of utility services from a main or trunk line to the building is a property owner's responsibility. Replacement of lead service lines has been ongoing for many years as part of the city's rehabilitation projects. There are lead water services in the Founders Park area where the mains have not been replaced or where the main was replaced before lead services were routinely replaced in association with rehabilitation projects.

It is unknown when the storm sewer system was installed in the Founders Park area. The storm sewer system in the neighborhood is undersized, aging and inefficient, and does not accommodate some rain events. There are intersections in the Founders Park area that experience localized flooding issues during some storm events.

Examples of public interest projects that support public infrastructure work include:

- Urban renewal bonding to support the conversion of one-way to two-way streets
- Neighborhood sidewalk trip hazard removal projects
- SID reimbursements using urban renewal or other funding
- Street design to increase resiliency and support business enterprises with such improvements as flex lanes or areas to allow after-hour associated amenities such as public gathering spaces, outside seating areas, kiosks and carts, active pick-up and drop-off spaces, etc.

### **Conclusion**

According to statute, a municipality must find that at least three factors contributing to blight have been identified in order to establish a URD. Based on the information presented in this review of conditions that contribute to blight, a finding can be made that the Founders Park area exhibits more than the minimum three factors and therefore is eligible for designation as a URD.

#### **Section 4. The Benefits of Addressing Blight in the Founders Park Area**

The Montana Urban Renewal Law, in §7-15-4202, MCA, states “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 [and] that the existence of such areas ... substantially impairs or arrests the sound growth of municipalities...”

Within the Founders Park area, conditions that contribute to blight have indeed impaired sound growth. Notably, private investment in the area has significantly lagged behind investments in the remainder of the City of Billings, resulting in what may be called a “failure to thrive”. As noted in Section 1 of this report, taxable values for land and buildings within the Founders Park area have grown by a factor of 27 percent between 2008 and 2019, in contrast to a city-wide increase of 44 percent for the same period.

Reported taxable values for all property within the existing downtown urban renewal district (URD), which is directly adjacent to the Founders area, have increased from a base taxable value of \$4,112,238 (a portion of which was certified in 2005 and a portion in 2008) to \$8,029,109 in 2019. This is an increase of \$3,916,871, representing a substantial private investment over a 12-year period (based on 2019 Department of Revenue tax rates). This increase coincides with public investments in urban renewal programs including improvements to public infrastructure to address conditions of blight in the Downtown URD, employing funding strategies including tax increment financing (TIF).

Section 7-15-4282 of the Montana Urban Renewal codes enables the use of TIF within a URD. It is a locally driven funding mechanism that allows cities to direct property tax dollars that accrue from new development, in a specifically designated *urban renewal district*, to revitalization activities within that district. A base year is established from which "incremental" increases in property taxable values are measured. Virtually all the resulting new property tax dollars (except for the six-mill state-wide university levy and certain voted levies) can be directed to support redevelopment and economic revitalization activities within the district in which they are generated.

Taxpayers located within a district where TIF is in effect 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, including local and state government entities and school districts. Taxes derived from the incremental increase in taxable value are placed in a special fund for purposes set forth in an urban renewal plan. (See Figure 23. Tax Increment Finance Schematic below.)

A TIF provision is authorized for 15 years but may be extended for up to an additional 25 years if TIF bonds are sold any time during the first 15 years. Funds may be used for a variety of purposes as provided for in §7-15-4288, MCA and include improvements to vehicular and pedestrian transportation infrastructure; land acquisition; streetscapes, parks and landscaping, water and sewer lines and for connecting to infrastructure outside the district. While funds are typically

used for public infrastructure investments, there are instances where local governments have used TIF funds to partner with private property owners to make improvements to historic building facades, to address life-safety issues and to enhance public landscaping. The statutes also provide for the establishment of a TIF revolving loan program that can support private investment in the district. Loan funds can continue to “revolve” in perpetuity; however, eligible projects must be undertaken in accordance with and in the area encompassed by an urban renewal (URD) plan for the district. The existing downtown URD has a revolving loan fund in place.

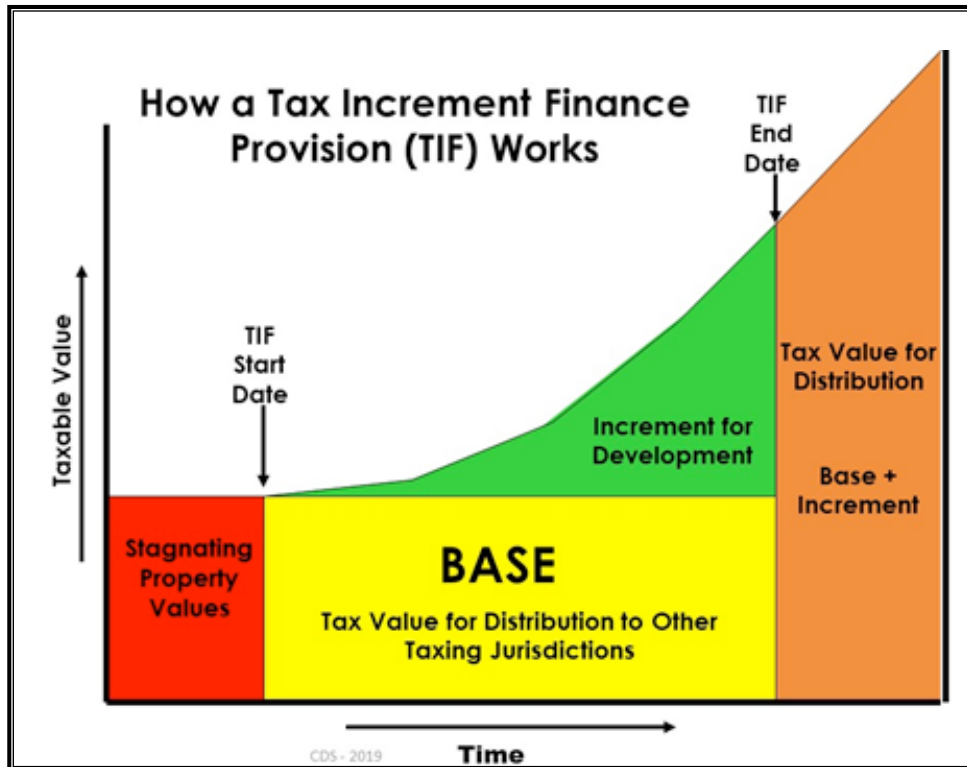


Figure 23. Tax Increment Financing Schematic

### Urban Renewal Designation Benefits

Blight mitigation in the Founders Park area, using the statutory authority granted in Montana’s Urban Renewal Law, including the use of TIF, has the potential to benefit the City of Billings in a number of ways. While improvements to public infrastructure will require private sector investment in the area, the City’s willingness to forge a public-private partnership would be an encouraging sign to those interested in development. The following list provides a sampling of the type of benefits that could accrue as a result of initiating an urban renewal program in the Founders Park area.

#### Increased Tax Base to Support Essential Investments

In Montana, property taxes are based on “taxable value”, which is calculated by applying the appropriate tax rate, based on property type and any relevant exemptions to the market value. Therefore, taxable value is typically a fraction of the property’s market value. For example, the

current commercial property tax rate is 1.89 percent. If a commercial property’s market value is \$100,000, then its taxable value is \$1,890. (Montana Department of Revenue, 2018) Taxes are then levied in units called mills. A mill is equal to one one/thousandth of the taxable value within an entire local jurisdiction for the current year. Each year, the jurisdiction determines how much property tax revenue is needed to operate and then sets the number of mills to be levied accordingly. The number of mills is then multiplied by the taxable value of each individual property to derive the actual property tax owed.

In the Founders Park area, a total of 700.89 mills were levied by all taxing jurisdictions (city, school district, county, state, etc.) in 2019. If the area is designated an urban renewal district, an investment in the amount of \$10,000,000, for example, would generate an addition \$131,334 annually in property taxes. A single investment of this amount, would, in turn, spur additional development over the life of the district. The following chart (Figure 24) shows this property tax calculation using the 2019 mill value.

<b>Figure 24. Property Tax Calculation Example – City of Billings Founders Park Area</b>	
<b>Incremental Increase in Appraised Market Value</b>	\$10,000,000
<b>Taxable Value (TV) (Market value x 1.89 %)</b>	\$189,000
<b>Estimated Annual Property Tax (TV x 694.89 mills – 700.89 mills less the 6-mill university levy)</b>	\$131,334

If the Billings City Council designates the Founders Park area as an urban renewal district with a TIF provision, any new property tax revenues could be used in the short term to make public improvements within the district. Once the TIF provision sunsets, any increase in taxable value would be available for taxation to all of the affected taxing jurisdictions, benefitting the entire community. Following in Figures 25 and 26 are two examples of how TIF investments generated private investments in the existing Downtown URD:

**Figure 25. McDonald Building – Downtown Billings**

**Expanded North 27<sup>th</sup> Street URD – McDonald Bld**

This project at 124 North 29<sup>th</sup> Street restored as much as possible of the building’s historic look and activated a recently vacant building. It was built in 1907 and was home of the very first YMCA in Montana. Bennett’s Drugstore was the next tenant in the 1950’s. Then, the McDonald family purchased the building in 1978 and moved their companies, Wendy’s of Montana and McDonald Land Development, into the building. Now, the building’s basement has storage units for tenants, the ground level has two business tenants (A&E Architects, and a satellite site of Meier Family Chiropractic), and the 2<sup>nd</sup>/3<sup>rd</sup> stories offer residential rental units.

- \$700K public TIF investment
- \$4M private investment
- 12 residential units & two businesses
- Historic preservation project
- Activated a blighted vacant building
- \$27,557 2019 tax revenue

(Downtown Billings Partnership, 2020)

**Figure 26. Griffin/Sawyer Building**

**Expanded North 27<sup>th</sup> Street URD – Griffin/Sawyer bld**

The historic two-story Sawyer building was purchased by Griffin Development. Sawyer Stores Inc. opened in 1928. The facility served as a main office of a grocery chain as well as a creamery and warehouse on the first floor while a bakery and coffee roasting companies occupied the second floor. A bean mill, seed cleaner, ice plant, and produce/cold storage warehouse occupied the basement. Later on after 1963, the building has housed the Spaghetti Depot, Stella’s Kitchen, and the Antique Mall. Now, this Billings landmark houses Griffin Development, Mountain West Brokerage, Stahly’s Engineering & Associates, Diamond Construction, the Asylum Distillery, and Hilltop Public Solutions.

- \$420K public TIF investment
- \$2.1M private investment
- Recruited 6 businesses
- 3 more spaces are available
- Historic preservation project
- Activated a blighted vacant building
- \$15,222 2019 tax revenue

(Downtown Billings Partnership, 2020)

### *The Efficient Utilization of Land*

An increase in taxable value can result from increased land utilization. As noted above, the Founders Park area contains underutilized properties that could be considered inappropriate for a downtown or central business district. The majority of the land within the Founders Park area is characterized by the presence of single- or two-story commercial and mixed-use buildings and unattached parking lots. This runs counter to current research, which suggests that more compact (greater concentration and bulk) and “higher-density development is an important component of economic development initiatives and helps attract new employers ... [and that] ... introducing higher-density projects into a community will actually increase that community’s revenue without significantly increasing the infrastructure and public service burdens.” (Urban Land Institute) In addition, as discussed in the *2016 City of Billings Growth Policy*, in this area, housing should be built to a standard of residential “high & mixed-use density” of 16 dwelling units per acre or greater as would be expected in the Downtown area.

Investing urban renewal funds in projects that support more compact development, such as:

- The construction of a parking garage that replaces surface lots, thereby opening up land for redevelopment and increasing the property tax revenue per acre within the Founders Park area
- Regulatory changes like Project Recode and development incentive programs to promote greater concentration development that could potentially result in increased private investment in the area, generating TIF funds to make additional public improvements

### Strengthened Housing Opportunities

According to the *2017 Downtown Billings Housing Strategy*, there is an “increasing demand for compact communities close to services and shopping. Two major shifts have occurred recently – cities grew faster than suburbs, and household growth was fastest for the Millennial and Baby Boom generations who have distinct preferences for walkable, urban locations.” (EPS and Sanderson Stewart, 2017) Surveys conducted in the course of preparing the *Housing Strategy* indicated a significant interest on the part of downtown employees and business owners in living closer to work.

### *Support of Live-Work Opportunities*

Housing preferences are changing nationally. People are seeking more opportunities to work closer to where they live, or to work, at least in part, from home. This trend to “telework” has been accelerated due to the 2020 Coronavirus pandemic but there are signs that working from home is becoming more the norm. There are indications that there is not an adequate number of lifestyle dwelling units to accommodate this increased number of persons participating in telework. Current residences are not necessarily designed to accommodate offices or to offer private open air (balconies or decks) or provide access to the cutting-edge communication technology.

Urban renewal designation in the Founders Park area would help facilitate the use of a variety of programs and incentives to promote live-work developments that feature retail, office and residential components. Strategies might include:

- The use of federal and state income tax credits for historic preservation, affordable housing; tax deductions for energy efficiency and other incentives
- Assistance to private entities in developing organizational models for development, such as business and housing cooperatives to enable mixed-use developments
- The review of local land use policies and associated regulations as they relate to higher density urban growth

#### *Reduction in Crime and Vandalism*

In her iconic book, *The Death and Life of Great American Cities*, Jane Jacobs states that “the bedrock attribute of a successful city district is that a person must feel personally safe and secure on the street.” (Jacobs, 1961)

Increased vitality in the area, derived from more compact, mixed-use developments, active 24 hours a day, would help to promote activity on neighborhood streets. More people in the area translates into fewer opportunities for destructive behaviors. Jacobs notes that “there must be eyes upon the street, eyes belonging to those we might call the natural proprietors of the street. The buildings on a street equipped to handle strangers and to insure the safety of both residents and strangers, must be oriented to the street [and] ... the sidewalk must have users on it fairly continuously, both to add to the number of effective eyes on the street and to induce the people in buildings along the street to watch the sidewalks in sufficient numbers.” (Jacobs, 1961)

To further investment in the Founders Park area, attention must be paid to improving public safety in the area. Improved urban design combined with community safety efforts similar to those supported by existing Business Improvement District (BID) in downtown Billings will be critical. Urban revitalization strategies aimed at reducing incidences of crime, including vandalism such as graffiti might include:

- Crime Prevention Through Environmental Design (CPTED) (Casey, 2020) – Landscaping, lighting and other elements can be designed to afford maximum opportunity to observe activity on the street. Educational programs can be offered to businesses that provide information on improving their line of sight to the street, e.g., making sure that windows are not blocked by commercial signs or landscaping. The downtown URD CPTED program was approved by the City Council in 2019
- Expansion of the Cooperative Safety Program – The program is currently supported by the Downtown Billings BID and could be expanded to include the Founders Park area, or a new BID could be established to provide these services.

### Increased Unity to Support Place, Community and Neighborhood and Connectivity

Urban renewal designation can enhance the downtown location proximity of the Founders Park area. Urban design and infrastructure planning should acknowledge that the Founders Park area is part of Downtown Billings and not a “forgotten” neighborhood.

#### *Land Continuity*

A portion of the Founders Park area is currently zoned Community Commercial (CC), which is proposed to be updated to Downtown Support (DX) rather than Central Business District (CBD). This distinction continues to differentiate the area from the downtown. The setbacks required by CC (DX) continue to make the area less developable. As this area is adjacent to the railroad right-of-way on the south and is separated from the westward continuation of Billings by parks and Division Street, there may be less need for buffering or transition from the CBD is established by zoning. Uses within the Founders area should complement and enhance revitalization efforts in the Downtown URD and the associated regulations should reflect this relationship.

Unless it is accomplished in conjunction with the Project Recode currently underway, the urban renewal designation could enable the use of TIF to support zone map amendment(s) from DX to CBD in portions of the Founders Park area.

#### *Increased Connectivity to Improve Mobility and Access*

Also, efforts are underway to convert the one-way streets in the downtown area to two-ways. “Around the country, cities have been converting one-way streets into two-way streets in light of evidence that they make traffic safer by reducing collisions for drivers, cyclists, and pedestrians; reduce crime by decreasing auto theft and robberies; and bolster neighborhood commercial districts by raising property values and increasing visibility for businesses....While such conversions do not drive urban economic development on their own, they can and do lead to more walkable and livable mixed used neighborhoods that are safer for pedestrians, cyclists, and residents.” (City Lab, 2018)

In 2015, the City of Missoula, MT conducted a two-way conversion feasibility study, which indicated that a conversion, in concert with area urban renewal projects, would result in an estimated “increase in sales of about 10% to 13% for local retail, restaurants, and other food establishments ... and the likely increase in the number of pedestrians and bicyclists downtown due to the improved environment. In the long-term, the impact of the street conversion project may be more significant, especially when coupled with the planned redevelopment projects in areas adjacent to the study area.” (HDR for the Missoula Redevelopment Agency, 2015)

In Louisville, Kentucky, “traffic safety improved ... even though traffic volume *increased* [after the conversion to two-way streets by] 13 and 40 percent, respectively. Over the same period, traffic volume on 2nd and 3<sup>rd</sup> [in Louisville] dropped. In apparent real-world confirmation of theoretical traffic models, drivers seemed to accept the slower speeds in exchange for more direct access to their destination.” (Jaffe, 2015)

The Billings Downtown Traffic and Safety Study is now in Phase II now with a public education and outreach effort to prioritize street conversions and other traffic and pedestrian safety improvements in the downtown area, including the Founders Park area.

Urban renewal designation in the Founders Park area could enable the use of TIF and other resources to support two-way street conversion efforts in the Founders Park area. The North 29<sup>th</sup> and 30<sup>th</sup> Street conversion to two-way is planned for 2021.

#### *Shared or joint branding – lights standards, signage, street furniture*

Revitalization programs often include urban design strategies in addressing blighted conditions within an urban renewal area. “Branding” the area with distinctive lighting, street furniture and directional and informational signs can make the area more attractive and encourage private investment. Efforts to upgrade the Founders Park area through improved urban design elements should serve, however, to help connect it to downtown to create a “unified” sense of place.

#### *Free Broadband and WIFI Hotspots*

Communities across the country are looking at free internet access as a way to develop their economies and to better serve both residents and visitors. The basic premise of carpeting an area with wireless service in urban centers is that it is more economical to the community to provide the service as a utility rather than to have individual households and businesses pay private firms for such a service. Such networks are capable of enhancing public safety and can also be a social service to those who cannot afford private high-speed services. (Wikipedia, n.d.) Urban renewal resources could be used to facilitate the provision of free internet access in the Founders area.

#### Improved Economic Resiliency to Promote Prosperity

Changing patterns in the way we conduct business locally, regionally and nationally require that communities become more resilient. Growth in business, particularly retail business, will be key to successful revitalization in the Founders Park area. “The development of live-work must be balanced with the valid need for the kinds of small and medium-sized businesses that are needed to make a city work, and for the larger commercial and industrial companies that employ [its] citizens”. (Thomas Dolan Architecture, n.d.)

The growth of e-commerce, the increasing interest in cutting commuting time and changing demographics require that economic development strategies incorporate resiliency in to promote sustainability as well as prosperity.

#### *Development of omni-channel industries combining both physical and digital presence*

While online shopping or “e-commerce” sales are growing, brick and mortar stores still account for the majority of retail sales in the United States. According to the US Census, “e-commerce sales in the first quarter of 2020 accounted for 11.5 percent of total sales”, or \$160.3 billion out of \$1.364 trillion. (US Census, 2020) Any negative effect of e-commerce on brick and mortar businesses has been exacerbated more recently by the 2020 Coronavirus pandemic and the

associated business operational restrictions and increases in the number of people working from home.

Omni-channel refers to any industry with both a physical and digital presence. Examples can be seen in financial services, healthcare, government, retail, and telecommunications industries. It is a modern approach to commerce, which encompasses both in-person and electronic marketing strategies. This strategy facilitates drive better relationships between businesses and their audience across several points of contact – physical, virtual and cultural. “Rather than working in parallel, communication channels and their supporting resources are designed and orchestrated to cooperate. Omni-channel implies integration and orchestration of channels such that the experience of engaging across all the channels someone chooses to use is as, or even more, efficient or pleasant than using single channels in isolation.” (Wikipedia, n.d.)

Approaches to assisting business growth through in the Founders Park area might include:

- Encouraging “omni-channel” development – helping businesses design and market both in-person and on-line services
- Facilitating the creation of a BID in the Founders Park area (or expanding the existing downtown BID)
- Conducting market studies to identify gaps in area services – For example, the Downtown Billings Housing Strategy identified the need for grocery stores in the downtown Billings area. (EPS and Sanderson Stewart, 2017)

## Section 5. Next Steps

The urban renewal statutes and associated TIF provision, which is authorized in §7-15-4282 MCA, provide strategies that can encourage investment in areas where economic growth has been stymied by the lack of sufficient infrastructure and/or the presence of blight. As communities work to develop their economies, urban renewal/TIF programs can be beneficial in attracting commercial, industrial and residential development. TIF dollars can be used to match state and federal economic development funding sources such as state Community Development Block Grants, Economic Development Administration Funds, Historic Preservation Funds and Transportation Grants. Urban renewal funds can also be augmented by local funds such as those derived from special improvement districts, including Business Improvement District (BID) assessments and through public-private partnerships.

This report has documented that at least three conditions that contribute to blight per §7-15-4206 MCA exist in the Founders Park area, qualifying the area for urban renewal designation. The City of Billings has a number of options to consider in response to this analysis. These are as follows:

- Create a new urban renewal district (URD) in the Founders Park area with a tax increment provision
- Expand the existing Downtown URD
- Take no action

### Create a New URD in the Founders Park area

The City of Billings is authorized under §7-15-4201 and 4301 MCA to create an urban renewal district following the passage of a Resolution of Necessity, which identifies conditions of blight that exist in the district and provides the rationale for undertaking a program of revitalization and renewal. The steps that must be taken by the City of Billings to create the district include:

- ✓ Passing a Resolution of Necessity
- ✓ Preparing an urban renewal plan with a TIF provision
- ✓ Conducting a Planning Board review of the urban renewal plan to determine its conformance with local land use policies and zoning regulations
- ✓ Holding a public hearing after notification of all property owners within the proposed urban renewal district
- ✓ Passing an ordinance that:
  - Adopts the urban renewal plan
  - Identifies the boundary of the district
  - Sets the base year for the purposes of calculating the tax increment (if any)
- ✓ Requesting certification of the base year from the Montana Department of Revenue

Once the district is created, it may be some time before any increments are realized. As a result, the City may be confronted with a “chicken and the egg” scenario. While new development will generate new tax dollars that will help address the infrastructure deficiencies and blighted conditions in the area, those new tax dollars may not be realized in the first few years of a district’s life. It may be necessary to seek interim financing to be reimbursed later with TIF receipts. In some cases, private developers invest money in public infrastructure improvements and are reimbursed when/if TIF dollars become available. Such reimbursement agreements must be formalized by the City Council in advance of any expenditures and contracting must follow local and state procurement regulations.

Depending on the decision to proceed, the steps to create a new URD in the Founders Park area could be completed in four to six months. All steps would need to be completed by November 30<sup>th</sup> of 2020 in order to set 2020 as the base year. Should a new URD be created with a base year beginning January 1, 2020, the tax increment provision would terminate in the 15<sup>th</sup> year following adoption, which would be 2035. If a bond(s) was issued anytime during those 15 years, the bond(s) must be designed to mature not later than 25 years from their date of issue, and the tax increment provision could be extended up to but not exceed 2060.

#### Expand the Existing Downtown URD

The second option would be to amend the existing downtown URD, which includes both the Expanded North 27<sup>th</sup> URD (TIF base year 2005) and the North 27<sup>th</sup> URD (TIF base year 2008). The amendment would make the Founders Park area a portion of the downtown URD, but the new portion would have its own base year, reflecting the date of passage of the amendment. Amendments to urban renewal district boundaries require the same steps as the creation of a new district and would also take about four to six months to complete.

The advantage of becoming part of the existing URD would be that TIF dollars could *potentially* be available immediately for public urban renewal projects within the Founders Park area. However, these TIF dollars were generated by property owners and developers who made investments within the original district, and who may not support expenditures in an area that had not yet experienced any new taxable value. Existing financial obligations associated with the issuance of TIF bonds for downtown improvements would also limit the funds available for urban renewal projects in the Founders Park area.

Finally, the sunset date for the Founders Park area URD would be the same as the downtown URD and could not be extended, even through the sale of a TIF bond. A new district would, on the other hand, have its own sunset year. The initial or 15<sup>th</sup> year sunset date for the 2005 and 2008 downtown URDs is this year – 2020. The City of Billings is in the process of issuing an urban renewal bond for the downtown URDs. 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 bond will be in the year 2045. In this instance, the sunset date for an expansion of the downtown URDs to include the Founders park area will be 2045.

### Take No Action Option

The City of Billings may choose not to create a new urban renewal district or to expand the existing Downtown URD with a tax increment financing (TIF) provision in the Founders Park area. This report shows that conditions that contribute to blight exist within the Founders Park area and that over the past 12 years, the area has seen less private investment than the city as a whole. It also demonstrates that investments in public interest projects through the state's urban renewal statutes can provide the impetus for economic growth and increased vitality in the area.

Nonetheless, local governments are sometimes hesitant to take advantage of the Montana Urban Renewal Statues, particularly TIF. This hesitancy is often based on the assertion that because urban renewal funding is derived from the incremental increase in taxable value and new taxes are placed in a special fund to be used for public purposes within the district, property owners in the district are not paying for their fair share of government services.

However, it is important to understand that the base taxable value (the taxable value of all property within the district at the time of the TIF provision adoption) will continue to generate funding for all taxing jurisdictions that levy mills within the urban renewal district. Figure 27 shows how much school funding is currently generated per student within the Founders Park area, through the levying of taxes on real property (land and buildings). This example shows that the Founders Park area is already contributing a significant amount per student and would continue to do so even if a TIF provision was put into place.

<b>Figure 27. Property Taxes Per Student in Billings</b>			
	<b>Number of Students</b>	<b>Property Taxes Paid Taxable Value x Total Education Mills Levied*</b>	<b>Property Taxes Paid Per Student</b>
<b>City of Billings</b>	17,030**	\$76,043,123	\$4,465.25
<b>Founders Park Area</b>	25***	\$477,742	\$19,109.68

\*Using a total of 408.5 education mills levied by School District No.2 excluding the 6-mill university levy

\*\*School District #2 enrollment of 17,030 in October 2019 (Billings Gazette, 2019)

\*\*\*Estimate based on the number of housing units in the Founders Park area

Others have argued that urban renewal districts represent increasing percentages of a communities' total taxable value, tying up funds that may be needed elsewhere. Currently, the total incremental taxable value of all existing urban renewal districts within the City of Billings constitutes only 4.9 percent of the city's entire taxable value. This includes all real, personal and centrally assessed properties.

A decision to not take action may mean that the Founders Park area will continue to have ongoing conditions that contribute to blight and experience stagnation in redevelopment and very slow and limited reinvestment.

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**Council Work Session**

**3.**

**Meeting Date:** 08/17/2020

**TITLE:** City of Billings Legislative Agenda 2021 DRAFT

**PRESENTED BY:** Chris Kukulski, City Administrator

**Department:** City Hall Administration

**Division:** Administration

**RECOMMENDATION**

Staff recommends that the Council and Mayor consider and render feedback for the attached legislative priorities for the Montana State Legislature’s 2021 Session.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

As the Montana State Legislature will be in session next year, it is important that the City of Billings have a legislative agenda to pursue for 2021. The COVID-19 Pandemic has placed the City of Billings under unique strain that could be alleviated by cooperation with the State Legislature and the pursuit of tangible legislative goals. This agenda is comprised from the agenda that was adopted by the Council in 2019 with notable additional language regarding the COVID-19 Pandemic. With the agenda, attachments from the Montana League of Cities and Towns’ (MLCT) Legislative Report for 2019 and Montana Infrastructure Coalition’s (MIC) 2016 Overview of Critical Local Government Infrastructure Needs are included. In 2019, the Council and Mayor approved, in general, the legislative priorities of both these groups. Of which, these two reports are included to give the Council a snapshot of what these groups represent. The MLCT is an incorporated, nonpartisan, nonprofit association of 127 Montana municipalities. The League’s sole purpose is the cooperative improvement of municipal government in Montana. It acts as a clearinghouse through which the municipalities cooperate for their mutual benefit. The MIC is a volunteer group representing over 100 industry, labor, and trade associations, local governments and business entities. These groups have come together to provide reliable information to state and local decision-makers and their constituents regarding the need for infrastructure investment.

**ALTERNATIVES**

This is a DRAFT – therefore, we are looking for feedback. Alternatives to the passing of this legislative agenda are as follows:

City Council may:

- Approve to create and pass a new legislative agenda or forgo having a legislative agenda for the 2021 session of the Montana State Legislature or;
- Disapprove to create and pass a new legislative agenda or forgo having a legislative agenda for the 2021 session of the Montana State Legislature.

**FISCAL EFFECTS**

Creating our legislative agenda has little direct cost. Success or failure throughout the 2021 legislative process typically has significant fiscal impacts both short and long term. I expect the pandemic will dominate most of the discussions during the legislative session.

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## **Attachments**

MLCT 2019 Final Agenda

MIC 2016 Local Infrastructure Needs

Leg. Priorities 2021

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**MONTANA LEAGUE OF CITIES AND TOWNS**

Tim Burton, Executive Director

Kelly A. Lynch, Deputy Director/General Counsel

## **2019 Montana State Legislature Final Report**

The 2019 legislative session adjourned on Thursday, April 25, 2019. The League tracked and actively lobbied more than 150 bills that affected Montana municipalities.

In last few weeks of the legislative session, there were multiple attempts to raid entitlement share payments and shift other costs to cities and towns that would have resulted in cuts to local general fund revenues. Together with our partners and the help of many local elected officials and municipal staff, we were successful in stopping these pieces of legislation.

## REVENUE AND FINANCE

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0052	Revise funding for various economic development programs	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This is the administration's economic development funding bill. It reauthorizes several OTO and sunseting EcoDevo programs at Commerce. As amended, it defunds the Board of Research and Commercialization and repeals the program entirely, and transfers those funds directly to Dept of Agriculture's marketing program, increases funding to Ag's Growth through Agriculture program, and increases Commerce's appropriations for the small business development center, the regional CRDCs, and the MSU manufacturing extension center. As amended, the sunset on the programs is 8 years. The League joined MEDA, Governor's Office, the Department of Commerce, and MACo in support.</p>			
HB 0411	Revise laws related to AIS expenditures and funding	Willis Curdy	Chapter Number Assigned
<p><b>Staff Summary:</b> As amended, this bill requires a \$10 AIS prevention pass on nonmotorized boats and \$30 on motorized boats operating in Montana for funding the state's aquatic invasive species (AIS) prevention program. This bill also allocates 1.4% of the state's lodging facilities tax, extends and revises hydroelectric facility fees, and increases boat registration fees to fund the program. The bill reduces nonresident fishing license fees. The bill appropriates portions of the revenues to FWP and DNRC for AIS prevention programs and to FWP for specific improvements at Tiber and Canyon Ferry reservoirs for AIS prevention. The bill's provisions have varying effective dates.</p>			
HB 0636	Revise laws related to protested taxes	Llew Jones	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill allows local governments to use the taxes on 75% of assessed value of centrally assessed or industrial property taxes protested by the owner. If the final determination of the protest finds that the Department of Revenue's original assessed value was off by more than 75%, the state has to repay the local taxing jurisdictions for the difference.</p>			
HB 0656	Generally revise oil and gas tax and distribution laws	Joel Krautter	Chapter Number Assigned
<p><b>Staff Summary:</b> This is the League's bill to restore the flow of Privilege and License tax to cities and towns. Under this bill, the rate of the privilege and license tax will remain statutorily set at .03%. By rule, the Board of Oil and Gas will establish what portion of the tax revenues are necessary to fund the Board's activities; the next .08% of the tax will go to the fund for distribution for cities and towns; and any remaining revenues will remain in the Board's reserve fund for use or appropriation by the Legislature for programs related to oil and gas development.</p>			
HB 0661	Revise aviation fuel taxation	Geraldine Custer	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill increases the state aviation fuel tax from 4 cents to 5 cents per gallon. The bill also eliminates the current refund of fuel taxes to commercial airlines, redirects those revenues as grants to local governments for airport improvements, and increases airplane registration fees.</p>			
HJ 0035	Interim study of state and local tax policy	Alan Redfield	House - (H) Filed with Secretary of State
<p><b>Staff Summary:</b> This House Joint resolution calls for an interim study of Montana's state and local tax structure and policy by the Revenue Interim Committee (previously Revenue and Transportation Interim Committee). This tax study was the top ranked study for the 2019-2020 interim, and has been assigned to the Revenue Interim Committee.</p>			

### Tracking Level - Opposed Dead

Bill#	Title	Sponsor	Status
HB 0118	Create grant program to remove lead from school water supplies	Julie Dooling	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to create a grant program to reduce lead in drinking water at public schools and day-care centers. As introduced, the bill proposed to double the public water supply system annual service connection fees to fund the program. The League opposed the bill as introduced and worked with DNRC and the sponsor on an amendment to remove the fee increase to pay for the program. The bill was tabled in House Natural Resources Committee.</p>			
HB 0148	Require 2/3 of legislature to enact a new tax or fee or a tax or fee increase	Forrest Mandeville	Senate - (S) Died in Standing Committee (S) Taxation

**Tracking Level - Opposed Dead (Continued)**

Bill#	Title	Sponsor	Status
HB 0208	Establishing family medical leave insurance	Moffie Funk	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to create a compulsory state paid family medical leave program. Unlike the federal FMLA (only employers with more than 50 employees), it would apply to all public employers in Montana. It would require both employer payment into a leave fund and guaranteed leave. The League opposed the bill as introduced, but approached the sponsor about working on an amendment to create a voluntary buy-in program. The bill was tabled by House Business and Labor Committee.</p>			
HB 0232	Revise assessment of taxes during condemnation proceedings	Bill Mercer	Senate - (S) Died in Standing
<p><b>Staff Summary:</b> This bill sought to require government entities to pay the taxes due on property they are condemning as of the date of the summons through the entirety of the condemnation proceedings. The bill would have also removed the exemption for payment of property taxes by state and local government during condemnation.</p>			
HB 0269	Constitutional amendment for taxpayer protection act to limit tax types	Derek Skees	House - (H) Died in Process
<p><b>Staff Summary:</b> This is bill proposed a legislative referendum to amend the Montana constitution to prohibit any taxes in Montana except property tax, income tax, and a statewide sales tax. The bill would also limit tax types at any one time (including any tax local governments impose) to any two out of three choices - property, income, or sales.</p>			
HB 0300	Generally revise taxes and the distribution of revenue through sales tax	Kerry White	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to remove all local government authority to levy property taxes, eliminating property taxes statewide and replacing with a 2.5% statewide sales tax. A portion of the revenues from the sales tax would have been used to cover existing local infrastructure debt. Also established a local government critical facilities commission (new elected statewide body) that would review future local government infrastructure projects and award funds to local governments.</p>			
HB 0674	Increase state gas tax distribution to recreation-related programs	Kerry White	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to increase the gas tax allocation to the snowmobile account and the off-highway vehicle account.</p>			
HB 0773	Modifying entitlement share payments	Matt Regier	Senate - (S) Died in Process
<p><b>Staff Summary:</b> As introduced, this bill proposed to study the increasing costs of OPD and take entitlement share beginning in 2023 biennium to help fund the program. The League and MACo were successful in getting a slim majority of House Appropriations to remove the appropriation of entitlement share, leaving just a study of OPD costs. When the bill transmitted to the Senate, the Senate Finance and Claims committee amended the study bill to again steal entitlement share. The League and MACo lobbied the full Senate to successfully kill the bill in its entirety on 2nd reading. This issue will likely be discussed during the interim by the Law and Justice, Local Government, and/or Legislative Finance Committees and we will need to remain vigilant about protecting the Local Government Reimbursement Program.</p>			
SB 0239	Provide for moratorium on property taxes for broadband fiber and cable	Jason Ellsworth	Senate - (S) Veto Override Vote Mail
<p><b>Staff Summary:</b> This bill proposed to exempt fiber optic or coaxial cable, including all capitalized costs associated with construction and deployment of the cable, and other property that is normally operated in the installation and deployment of such cable, from taxation during installation and for a period of 5 years starting from the date of deployment. After 5 years, the exemption would have been phased out at 20% per year to full taxation after 10 years. Neither the terms "during installation" nor "date of deployment" were defined. Vetoed by Governor.</p>			
SB 0315	Revise laws on public defender assignments related to local ordinances	Scott Sales	House - (H) Died in Standing
<p><b>Staff Summary:</b> 'This bill would have required local governments to assign, screen, and pay for a public defender on a charge under a local government ordinance when incarceration is a potential penalty for the offense. The League and MACo successfully proposed an amendment to the bill to clarify that the responsibility would only inure if the defendant was not concurrently charged with any state crime for which incarceration is a potential penalty. This bill was part of the larger discussion on stealing entitlement share to pay for the increasing costs of OPD.</p>			

### Tracking Level - Support Dead

Bill#	Title	Sponsor	Status
HB 0372	Increase inflation limitation on government entities for property tax levies	Tom Welch	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to remove the 1/2% rate of inflation cap on local government mill levies.			
SB 0340	Authorize statewide economic opportunity district	Roger Webb	Senate - (S) Died in Standing
<b>Staff Summary:</b> This bill created the One Big Sky economic development tool proposed by the City of Billings.			

### Tracking Level - Opposed Passed

Bill#	Title	Sponsor	Status
HB 0217	Remove suspension of driver's license as punishment for certain crimes	Casey Knudsen	Chapter Number Assigned
<b>Staff Summary:</b> This bill prohibits judges from suspending driver's licenses for nonpayment of fines, fees, or restitution. The bill has an immediate effective date and applies retroactively, allowing anyone whose driver's license is currently suspended to petition the court to reinstate the license. If the license was suspended solely for failure to pay fines, fees, or restitution, the court must reinstate the license and may not impose a reinstatement fee.			

### Tracking Level - Monitor Passed

Bill#	Title	Sponsor	Status
HB 0002	General Appropriations Act	Nancy Ballance	Chapter Number Assigned
<b>Staff Summary:</b> HB 2 contains most appropriations for state agencies and their programs. The sections of the bill are handled by various joint subcommittees during the first half of the session, which then make recommendations to House Appropriations for approval. The final version of HB 2 must be approved by both houses of the Legislature. There is a line item in the final version of HB 2 for a "local government contribution" to the Office of Public Defender, but this line item had no corresponding companion bill to take the appropriation from the entitlement share.			
HB 0243	Revise laws related to the off-highway vehicle grant program	Kerry White	Chapter Number Assigned
HB 0328	Exempt conservation districts from certain fees	Alan Redfield	Chapter Number Assigned
<b>Staff Summary:</b> This bill exempts municipalities and other government entities from paying fees for certain water quality permits.			
HB 0694	Revise certain licensing fees for investment-related advisors	Jim Hamilton	Chapter Number Assigned
HB 0715	Generally revise laws related to state finance and provide for fiscal studies	Llew Jones	Chapter Number Assigned
<b>Staff Summary:</b> This bill contained updates to the 2017 session budget stabilization law. In addition, the bill proposed a study that was duplicative of HJ 35 study but to be conducted by the (fiscal focused) Legislative Fiscal Division and Legislative Finance Committee. The League and its strategic partners supported HJ 35, to be conducted by the (policy focused) Legislative Services Division and Revenue Interim Committee.			
SB 0160	Provide workers' compensation for presumptive diseases of firefighters	Nate McConnell	Chapter Number Assigned
<b>Staff Summary:</b> This bill creates a presumption that certain diseases were caused by the occupation of firefighting if they after a certain number of years of employment as a firefighter and within 10 years of the last day after which the firefighter last engaged in firefighting activities. The MMIA obtained an actuarial to estimate increased costs to its W/C members, and the Board approved those increases beginning FY 2020. The League supported an amendment to SB 126 to authorize a permissive levy to pay for increased W/C costs related to preemptive coverage, which did not pass.			
SB 0200	Provide for equal classification of homes on a foundation	Roger Webb	Chapter Number Assigned
SB 0204	Revise tax exemption laws for certain mobile homes	Margaret MacDonald	Chapter Number Assigned

**Tracking Level - Monitor Dead**

Bill#	Title	Sponsor	Status
HB 0031	Revise fire assessment fees	Willis Curdy	House - (H) Died in Process
<b>Staff Summary:</b> This bill reflects the EQC's interim proposal to assess fees to land outside of municipalities for wildland fire protection preparedness and aviation equipment replacement.			
HB 0032	Revise laws related to aquatic invasive species programs	Willis Curdy	House - (H) Died in Process
<b>Staff Summary:</b> This bill reflects the EQC's interim proposal to assess fees on boats for funding the state's aquatic invasive species (AIS) prevention program.			
HB 0053	Revise Big Sky Economic Development Trust Fund program	Patricia Peppers	House - (H) Died in Process
HB 0329	Provide funding for local emergency services	Alan Redfield	House - (H) Died in Standing Committee (H) Local Government
<b>Staff Summary:</b> This bill proposed to transfer \$14 million from the lodging facility tax account to counties for emergency services.			
HB 0458	Revise tax laws related to opportunity zones	Connie Keogh	House - (H) Died in Process
HB 0673	Constitutional amendment to prohibit or limit tax increases on appeal	Daniel Zolnikov	Senate - (S) Died in Standing
HB 0675	Provide for tax on secondary housing and property tax relief for homesteads	Thomas Winter	House - (H) Died in Process
HB 0691	Eliminate oil and gas tax holiday	Tom Woods	House - (H) Died in Process
SB 0121	Establish a fee for disposable carryout bags	Sue Malek	Senate - (S) Died in Standing Committee (S) Business, Labor, and Economic Affairs
SB 0138	Revise fair market valuation with respect to eminent domain	Steve Hinebauch	Senate - (S) Died in Standing Committee (S) Judiciary
SB 0211	Require holding period for certain property tax exemptions	Russel Tempel	Senate - (S) Died in Standing Committee (S) Taxation
SB 0272	Revise zone pay and dispatch cities for prevailing wages	Steve Hinebauch	Senate - (S) Died in Standing Committee (S) Business, Labor, and Economic Affairs

# INFRASTRUCTURE

## Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0005	Long-Range Building Appropriations	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill provides cash appropriations (general fund, state special revenues, and federal special revenues) for 2021 biennium state long-range building projects.</p>			
HB 0006	Renewable Resource Grants	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill provides cash appropriations (state special revenues) for the renewable resources grant and loan program housed at DNRC. The bill contains just over \$2 million for emergency, planning, irrigation and watershed grants during the 2021 biennium, including funding for 4 local infrastructure projects placed "on hold" after the 2017 special session. The bill contains approximately \$3.125 million in funding for 28 municipal infrastructure projects.</p>			
HB 0007	Reclamation & Development Grants	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill provides cash appropriations (state special revenues) for the reclamation and development grant program housed at DNRC. The bill contains just over \$2 million for planning grants, the AIS program, and funding for 2 local infrastructure projects placed "on hold" after the 2017 special session. The bill contains approximately \$850,000 in funding for 3 municipal infrastructure projects.</p>			
HB 0008	Renewable Resource Bonds & Loans	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This is the state's biennial regional water project bonding bill. The bill includes the state match for federal funds on the Central Montana, Dry-Redwater, Dry Prairie, North Central, and St. Mary's Diversion project through the issuance of bonds against the coal severance tax bond fund.</p>			
HB 0011	Treasure State Regional Water Program	Jim Keane	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill provides cash appropriations (state special revenues) for the treasure state endowment (TSEP) grant program housed at Commerce. The bill contains \$7.5 million for 14 local infrastructure projects placed "on hold" after the 2017 special session. The bill also provides \$1 million for emergency and planning grants during the 2021 biennium. The bill contains approximately \$7.1 million in funding for 11 municipal infrastructure projects.</p>			
HB 0259	Generally revise special district laws	David Bedey	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill addresses the transition provision for special purpose districts in effect when the consolidated statute went into effect in 2009.</p>			
HB 0292	Extend funding to Coal Board	Barry Usher	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill continues the current funding allocation of 5.8% (of the first 50%) of the coal severance tax revenues to the Coal Board for grants to local and tribal governments. The 5.8% allocation was slated to decrease to 2.9% on June 30, 2019; now it will remain at 5.8% until June 30, 2023.</p>			
HB 0652	Revise the long range building bonding program	Mike Hopkins	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill is the first state and local infrastructure bonding bill to be passed by the Legislature in several legislative sessions. The bill authorizes just under \$40 million in bonds to fund additional long-range building (state facilities), \$19 million in bonds to fund local infrastructure projects through the TSEP, RRGL, and RDGP programs, and just under \$22 million in bonds to fund a new "delivering local assistance" infrastructure grant program for cities, towns, counties, tribes, and school districts. The bill contains approximately \$11.4 million in bond funds for 31 municipal infrastructure projects and \$10.75 million in new local infrastructure grants that municipalities are eligible for.</p>			
SB 0024	Increase optional light motor vehicle registration fee for parks and recreation	Terry Gauthier	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill provides an increase in motor vehicle registration to create and fund a new grant program for trails, shared use paths, and trail-related facilities. Municipalities are eligible applicants.</p>			

### Tracking Level - Support Passed (Continued)

Bill#	Title	Sponsor	Status
SB 0191	Allow counties to establish a coal trust fund	Duane Ankney	Chapter Number Assigned
<b>Staff Summary:</b> This bill allows counties to establish a reserve fund to hold coal trust distributions over time to address needs when they arise.			
SB 0241	Allow increased resort tax for infrastructure	Jeffrey Welborn	Chapter Number Assigned
<b>Staff Summary:</b> This bill allows Red Lodge, West Yellowstone, and Virginia City to ask their voters to add a 1% tax to their existing resort tax to pay for infrastructure.			
SB 0243	Generally revise laws related to maintenance districts	Janet Ellis	Chapter Number Assigned
<b>Staff Summary:</b> This is the League's bill to allow for additional methods of assessment (same list as currently available to all special purpose districts) and private sector financing for street maintenance districts.			
SB 0318	Provide for pre-approval of property tax abatement for new or expanding industry	Roger Webb	Chapter Number Assigned
<b>Staff Summary:</b> This bill authorizes a local government to approve a tax abatement for a new or expanding industry prior to commencement of			
SB 0338	Provide for construction of the Montana Heritage Center and create museum grants	Terry Gauthier	Chapter Number Assigned
<b>Staff Summary:</b> This bill increases the lodging facility tax by 1% (from 3% to 4%) to pay for reconstruction of the Montana Historical Society museum and create a historic preservation grant program at Commerce. The first biennium the historic preservation grants are split \$400,000 each to the Moss Mansion and Daly Museum.			

### Tracking Level - Support Dead

Bill#	Title	Sponsor	Status
HB 0014	Long-Range Building Bonding Program	Ryan Lynch	House - (H) Died in Standing Committee (H) Appropriations
<b>Staff Summary:</b> This was the Governor's proposed infrastructure bonding bill. (See HB 652.)			
HB 0195	Provide for local option luxury sales tax to fund infrastructure	Dave Fern	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed the same type of local option sales tax as proposed by the Infrastructure Coalition in the 2017 Legislative Session. Tabled by House Taxation Committee.			
HB 0315	Provide funding for rehabilitation of St. Mary Water Project	Jim Keane	House - (H) Died in Standing Committee (H) Appropriations
<b>Staff Summary:</b> This bill proposed bonding authority for the state to issue and sell up to \$15 million in general obligation bonds for the St. Mary water project rehabilitation account.			
HB 0435	Provide for gateway local option tax	Laurie Bishop	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to authorize a Gateway County local option tax. The bill would have allowed municipalities in a "tourist impact zone" the option to put the question of a maximum 4% local option tax to their voters to help pay for the impacts of tourist visitation on their communities. Tabled by House Taxation Committee.			
HB 0449	Revise population limit for resort tax	Dave Fern	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to increase the resort area population ceiling to 2,500 and resort community to 5,000.			
HB 0740	Provide for local option sales tax	Christopher Pope	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed another local option sales tax.			

**Tracking Level - Support Dead (Continued)**

Bill#	Title	Sponsor	Status
SB 0015	Allow certain state funds to be used for affordable housing infrastructure	Carlie Boland	Senate - (S) Died in Standing Committee (S) Business, Labor, and Economic Affairs
<p><b>Staff Summary:</b> This bill was originally proposed by Rep. Adam Hertz to the Local Government Interim Committee without input by the League or MACo. As originally written, the bill would have added affordable housing to the types of local projects eligible for TSEP grants. The League asked Rep. Hertz to modify the proposal to provide that currently eligible infrastructure projects could obtain additional ranking points by serving affordable housing. The League then worked with Sen Boland to make these same modifications. Sen Boland chose instead to pursue an interim housing study, which the League and others supported. Unfortunately, the study came too late for consideration by the House and died in process. The League will continue to work with the Housing Coalition in the interim on solutions to the housing crisis in Montana.</p>			
SB 0307	Generally revising alternative project delivery laws	Jeffrey Welborn	House - (H) Died in Process
<p><b>Staff Summary:</b> This is the Infrastructure Coalition's alternative project financing bill.</p>			

**Tracking Level - Monitor Passed**

Bill#	Title	Sponsor	Status
HB 0299	Generally revising laws related to improvement district bonds	Jasmine Krotkov	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill removes the current \$250,000 monetary restriction on private negotiated bond sales on SIDs; allows more flexibility to have a private negotiated sale for variable rate bonds at an amount higher than \$250,000.</p>			
HB 0553	Generally revise infrastructure funding laws	Frederick Moore	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill creates a "structure" for future legislative funding of infrastructure: 1) provides a minimum level of funding for major state facility repair projects for each fiscal year; 2) provides annual minimum general fund transfers to fund new major state facility construction projects for each fiscal year; 3) authorizes future legislatures to issue GO bonds up to an amount equal to 0.6% of the fair market value of all taxable property within the state and 1.5% of general fund revenues to pay the debt and debt service; and 4) directs the Governor's Budget Director to prepare and submit to the legislative fiscal analyst on or before September 1 recommendations for state facility and local infrastructure projects to be funded in the next legislative session. There are no appropriations or projects in the bill - these must be funded in a companion bill (see HB 652).</p>			

**Tracking Level - Monitor Dead**

Bill#	Title	Sponsor	Status
HB 0194	Revise lodging and rental car taxes including local option	Mary Dunwell	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed a new 3% local option sales and use tax on accommodations and campgrounds and on the base rental charge for rental vehicles within a "tourist impact area" along an approach corridor to a national park or national monument, a state park, a major Montana tourist attraction, or a Montana airport. The voter-approved tax could be spent on affordable housing, emergency services, public health and safety, and administrative costs, and was required to provide 5% property tax relief. The bill also defined short term rentals and required them to register with DOR and pay the accommodations tax. The sponsor indicated she was going to move an amendment to remove the local option sales and use tax portion of the bill, so the League was only going to monitor the bill. The bill was then tabled by House Taxation Committee.</p>			
HB 0616	Provide renewable resource bonds and loans laws	Mike Hopkins	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill is the same as HB 8, the biennial regional water project bonding bill.</p>			

## Tax Increment Financing

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
SB 0321	Revise laws pertaining to targeted economic development districts	Brian Hoven	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill requires TEDD districts to remit any TIF revenues after sufficient funds are available for redevelopment activities and bond payments are made. The League worked with Senator Hoven on amendments to apply the bill only to new TEDD districts created after the effective date of the act that have bonded (thereby extending the timeframe of the district) and to clarify that the bill only requires remittance when no further projects have been planned for.</p>			

### Tracking Level - Opposed Dead

Bill#	Title	Sponsor	Status
HB 0367	Require advisory committee for urban renewal districts that use TIF	Rodney Garcia	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to require all local governing bodies to appoint an advisory committee for expenditure of TIF funds.</p>			
HB 0462	Revise administration of tax increment financing districts	Tom Burnett	Senate - (S) Died in Standing Committee (S) Taxation
<p><b>Staff Summary:</b> This bill proposed numerous duplicative reporting requirements for urban renewal and targeted economic development districts that have adopted a TIF provision. These requirements would have placed additional administrative burdens on districts with TIF with no additional benefit to the public.</p>			
SB 0135	Remove school levies from calculation of tax increment after 15th year	Tom Jacobson	Senate - (S) Died in Standing Committee (S) Taxation
<p><b>Staff Summary:</b> This bill proposed to exclude school district mill levies from the calculation of the tax increment after the 15th year following adoption of the tax increment provision. The sponsor pulled the bill from consideration prior to the committee hearing.</p>			

## Land Use, Planning and Housing

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0016	Establish affordable housing loan program	Dave Fern	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill authorizes up to \$15 million against the coal tax trust fund for low-income housing development loans. Amendments in the House require the projects to be multi-family housing for low- and moderate-income units for no more than 95% of total development project costs and subject the project to property taxes. The loan rate cannot be less than .5% below the regular Housing Montana fund loan rate, and servicing fees are split between the Board of Housing and the loan recipient.</p>			
HB 0124	Authorize county commissioners to lift agricultural covenants -limited situation	Forrest Mandeville	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill allows a parcel created with an ag covenant exemption to be reaggregated back together with the original parcel without subdivision review. It also allows local governments to lift the covenant without subdivision review if the use of the property switches from ag to a public use.</p>			

### Tracking Level - Opposed Dead

Bill#	Title	Sponsor	Status
HB 0354	Restrict sexually explicit materials and sexually oriented businesses	Rodney Garcia	House - (H) Died in Process
<p><b>Staff Summary:</b> Section 4 of the bill proposed placing statewide spacing requirements on sexually oriented businesses that would have conflicted with and preempted the existing local zoning for these businesses in many of our cities; it also would have required existing business licenses to be revoked by the city, putting the liability on the city.</p>			
SB 0033	Revise subdivision laws	Tom Richmond	Senate - (S) Died in Standing Committee (S) Local Government
<p><b>Staff Summary:</b> Removes language from subdivision phasing passed in last session.</p>			
SB 0263	Allow exemptions for certain divisions in a subdivision	Jason Ellsworth	Senate - (S) Died in Standing Committee (S) Local Government
<p><b>Staff Summary:</b> This bill proposed to allow family transfer exemptions within a platted subdivision. As proposed, it would have created a major loophole in subdivision law.</p>			

### Tracking Level - Support Dead

Bill#	Title	Sponsor	Status
HB 0236	Generally revise building code program laws	Dave Fern	Senate - (S) Died in Standing Committee (S) Local Government
<p><b>Staff Summary:</b> This is the League's bill to allow local governments to hold building code fee reserves necessary to cover costs for 24 months, based on previous 3 years of expenses. MBIA supported. Bill passed the House but was tabled in Senate Local Government.</p>			
SB 0018	Establish workforce housing tax credits	Margaret MacDonald	Senate - (S) Died in Process
<p><b>Staff Summary:</b> This is 2nd of Housing Coalition bills. This bill would have created a higher low income housing state tax credit.</p>			

**Tracking Level - Opposed Passed**

Bill#	Title	Sponsor	Status
SB 0300	Generally revise property laws to protect property rights	Kenneth Bogner	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill prohibits an HOA from restricting uses that were allowed or not regulated within the HOA at the time a landowner purchase the property governed by an HOA. As originally introduced, the bill contained broad language that defined property rights generally in state statute contrary to existing statutory and constitutional law. The League worked with the sponsor and his contituent on an amendment to remove this language. After the amendment was put on the bill in House Judiciary on 4/3/19, the League moved from opposing to monitoring the bill.</p>			

**Tracking Level - Monitor Passed**

Bill#	Title	Sponsor	Status
SB 0276	Revise laws related to condos and townhouses	Roger Webb	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill attempts to streamline the conversion of condominiums to townhomes. The League worked with the sponsor and his constituents on an amendment that clarified such conversion does not exempt the application of local zoning codes or state building code requirements for townhomes. After this amendment, the League monitored the bill.</p>			

**Tracking Level - Monitor Dead**

Bill#	Title	Sponsor	Status
HB 0253	Adopt a vacant property registration act	Jacob Bachmeier	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to authorizes a local government to establish a vacant property registration list and charge fees for cleanup of vacant sites.</p>			
HB 0494	Allow for tiny homes and tiny homes on wheels	Zach Brown	House - (H) Died in Process
<p><b>Staff Summary:</b> As introduced, this bill would have exempted "tiny homes" (less than 320 sf) from the state building code but clarified that local governments could regulate them. The League worked with the sponsor and his constituents on amendments that would have instead allowed local government building codes to apply the existing IBC Appendix on tiny homes to such buildings, which has not yet been adopted by the state. The bill was tabled before any amendments were moved.</p>			
SB 0198	Providing legal access to parcels exempt from subdivision review	Jason Ellsworth	House - (H) Died in Standing
<p><b>Staff Summary:</b> This was MACo's bill to authorize local governments to require legal access for a division of land exempt from subdivision review.</p>			

## Water and Wastewater

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0055	Revise Sanitation in Subdivisions Act	Forrest Mandeville	Chapter Number Assigned
<b>Staff Summary:</b> This bill is the global clean-up to the SISA law, mostly does not concern municipalities.			
SB 0048	Revise variances to water quality standards	Tom Richmond	Chapter Number Assigned
<b>Staff Summary:</b> This bill authorizes the DEQ to create variances to water quality standards through rulemaking.			
SB 0296	Private right of action for waste of water	Steve Fitzpatrick	Chapter Number Assigned
<b>Staff Summary:</b> This bill would clarify that private entities or individuals have the right to bring a lawsuit to protect against the unlawful use of water.			

### Tracking Level - Monitor Passed

Bill#	Title	Sponsor	Status
HJ 0014	Study of future of the Water Court	Bradley Hamlett	House - (H) Filed with Secretary of State
<b>Staff Summary:</b> This Joint Resolution directs a study of the Water Court to review the court's future role in the administration of water rights in Montana. The study will be conducted by the Water Policy Interim committee during the 2019-2020 interim.			
SB 0151	Clarify notice procedures for exempt right claims	Steve Fitzpatrick	Chapter Number Assigned
SJ 0003	Interim study on optional septic drain fields	Fred Thomas	Senate - (S) Filed with Secretary of State
<b>Staff Summary:</b> This Joint Resolution directs a review of septic system regulations in Montana and other states that includes an examination of alternative septic systems would benefit public health, the environment, and residents in rural communities. The whereas appear to provide a foregone conclusion that septic systems protect public health and safety and provide for a cost effective and equally effective way of treating wastewater as municipal and public systems. The study will be conducted by the Local Government Interim Committee.			

### Tracking Level - Monitor Dead

Bill#	Title	Sponsor	Status
HB 0180	Limiting transfers by water rights certificate holders	Bradley Hamlett	House - (H) Died in Process
HB 0556	Provide for innovative sewage disposal technology	Joel Krautter	House - (H) Died in Process
HB 0600	Prohibit sale or marketing of exempt groundwater	Bradley Hamlett	House - (H) Died in Process
HB 0625	Eliminate numeric nutrient standards for water quality laws	Bill Mercer	Senate - (S) Died in Standing Committee (S) Natural Resources
<b>Staff Summary:</b> This bill would put DEQ back to the narrative nutrient standards.			
HB 0708	Revise volume for groundwater exemption	Bradley Hamlett	House - (H) Died in Process

## Colstrip-Related Legislation

### Tracking Level - Monitor Passed

Bill#	Title	Sponsor	Status
HB 0467	Authorize securitization for energy infrastructure	Denise Hayman	Chapter Number Assigned
<p><b>Staff Summary:</b> This bill authorizes electric utilities to apply to the public service commission for the issuance of bonds to lower costs (refinance debt) when retiring or replacing electric infrastructure or facilities. In summary, NWE's customers are on the hook to pay off the costs of the Colstrip facilities, irrespective of when they close, which may be sooner than planned or financed for. NWE ratepayers are currently paying more than 8% interest as they pay down the \$407 million plant until 2042; HB 467 provides NWE with the ability to obtain refinancing at rates as low as 2-3%.</p>			

### Tracking Level - Monitor Dead

Bill#	Title	Sponsor	Status
SB 0331	Establish the Montana energy security act	Tom Richmond	House - (H) Died in Process

## Local Control and Other

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0105	Revise process for out-of-state licensure for professional licensing boards	Katie Sullivan	Chapter Number Assigned
<b>Staff Summary:</b> This bill creates mandatory system of reciprocity for licensing professionals that are licensed by other states.			
HB 0331	Allow cities to collect waste fees	Ross Fitzgerald	Chapter Number Assigned
<b>Staff Summary:</b> This is the League's bill to create statutory authority for municipalities to establish, charge, and collect rates, rentals, and charges for solid waste services, similar to current statutory authority for establishing, charging, and collecting rates for water and sewer services. Current law allows local municipalities only to levy for solid waste services.			
SB 0002	Allow government accounting standards to include DOA framework	Margaret MacDonald	Chapter Number Assigned
<b>Staff Summary:</b> This bill was proposed during the interim by the Local Government Services division of DOA. The bill provides DOA authority to adopt rules that would allow smaller local governments to use an alternative financial reporting framework from GAAP. The League will remain involved as this proposal undergoes the rulemaking process during the interim.			
SB 0020	Allow certain municipalities to annex onto a rural fire district	Roger Webb	Chapter Number Assigned
<b>Staff Summary:</b> This bill allows 2nd class cities to remain contracted with an existing rural fire district or other fire protection agency rather than require the creation of a municipal fire department.			
SB 0163	Generally revise lighting improvement district laws	Steve Fitzpatrick	Chapter Number Assigned
<b>Staff Summary:</b> This is the League's street lighting district bill with NWE. The bill cleans up outdated statutory language and provides that if lighting district installation or maintenance is provided by agreement with a public utility, the provision of services are bound by the terms of the utility's approved tariff schedules.			
SB 0195	Generally revise energy performance contracting laws	Jill Cohenour	Chapter Number Assigned
<b>Staff Summary:</b> This is the League's bill to fix the energy performance contracting statutes to maximize local autonomy and authority in negotiating and entering into contracts with private sector energy performance contractors (ESCO). The bill clarified DEQ's role as providing resources and technical assistance when local governments wish to work with an ESCo to upgrade existing facilities with energy efficient improvements without an initial capital outlay.			
SB 0254	Revise laws regarding chief municipal judges	Diane Sands	Chapter Number Assigned
<b>Staff Summary:</b> This bill provides a statutory process for assigning and rotating chief municipal judges.			
SB 0302	Generally revise laws related to local government budgeting and accounting	John Esp	Chapter Number Assigned
<b>Staff Summary:</b> The bill creates an administrative review and exhaustion procedure for a local government entity's failure to meet budgeting, reporting, and auditing requirements, and creates a limited cause of action for violation after those administrative remedies are exhausted. The League worked with MACo on this version of the bill and it was introduced as a Senate Judiciary committee bill.			

### Tracking Level - Support with Amendment Passed

Bill#	Title	Sponsor	Status
HB 0155	Generally revise Montana weapons laws	Casey Knudsen	Chapter Number Assigned
<b>Staff Summary:</b> This bill removes remaining restrictions on the carrying of switchblades and other knives. The League worked with MACo and the sponsor to retain the authority of local governments to regulate the carrying of knives on public property and within public buildings. After the amendment was put on the bill, the League monitored.			

**Tracking Level - Opposed Dead**

Bill#	Title	Sponsor	Status
HB 0125	Limit use of emergency ordinances by local government	Forrest Mandeville	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to restrict a local government's use of emergency ordinances, requiring findings of imminent peril to public health safety and welfare, and allowing judicial review by anyone aggrieved by an emergency ordinance.			
HB 0146	Establish laws regarding sanctuary cities in Montana	Kenneth Holmlund	House - (H) Vetoed by Governor
<b>Staff Summary:</b> This bill was essentially the same as the one proposed in the 2017 session. It would have prohibited a local government from enacting, adopting, implementing, enforcing, or referring to the electorate any policy that prohibits or restricts providing immigration information to the federal government. The bill would have also required local governments to detain individuals at the request of federal immigration authorities. The League requested the Governor veto the bill.			
HB 0147	Referendum to establish sanctuary city laws in Montana	Kenneth Holmlund	House - (H) Died in Process
<b>Staff Summary:</b> This bill was the same as HB 146, but as a referendum. If both bills passed the legislature, and the Governor vetoed HB 146, this bill would have placed the question on the general election ballot in 2020. This bill died on the House floor on a tied 50-50 vote.			
HB 0325	Generally revise firearm laws	Matt Regier	House - (H) Vetoed by Governor
<b>Staff Summary:</b> This bill as amended would prohibit local governments from regulating the carrying of permitted concealed weapons, and would limit local government regulation of open carry to only a "publicly owned and occupied building." State law would still prohibit the carrying of permitted concealed weapons in "portions of a building used for local government offices." The bill would also prohibit local governments from regulating in the area of firearms, generally, removing the language in the statute that the City of Missoula relied on to pass a universal background check ordinance. The League, MACo, the Montana School Boards Association, the School Administrators of Montana, and the Montana Federation of Public Employees requested the Governor issue an amendatory veto retaining the ability of local governments and schools to regulate the carrying of concealed and open weapons to public assemblies, public parks, and public schools. The Governor issued a full veto of the bill, which automatically puts its referendum companion bill on the ballot in the fall of 2020.			
HB 0379	Establish working animal protection act	Theresa Manzella	Senate - (S) Died in Standing Committee (S) Local Government
<b>Staff Summary:</b> As introduced, the bill proposed to remove all local authority to ban or create an undue financial hardship through the regulation of "working animals," defined as an animal used to perform a specific duty or function in commerce or service, including but not limited to an animal in entertainment, transportation, education, exhibition, ranching, or service. The bill would have removed municipal authority to regulate chickens, swine, horses, and other commonly regulated animals in urban areas. The bill was amended to read as a policy statement only, but was tabled in Senate Local Government.			
HB 0396	Prohibit public employees from using position to support/oppose campaign	Matt Regier	House - (H) Died in Process
<b>Staff Summary:</b> This bill would have prohibited public employees from using their title in speaking in support or opposition to a political committee, a candidate for office, or a ballot issue.			
SB 0019	Revise laws related to local government budgeting and accounting	Roger Webb	Senate - (S) Died in Standing Committee (S) Judiciary
<b>Staff Summary:</b> See SB 302			
SB 0103	Revise laws on PSC regulation of municipalities	Roger Webb	Senate - (S) Died in Standing Committee (S) Energy & Telecom
<b>Staff Summary:</b> This bill proposed to put municipal utilities with more than 50,000 customers back under the oversight of the PSC.			
SB 0179	Prohibit expansion of prohibitions under Clean Air Act w/o approval by local gov	Douglas Kary	House - (H) Died in Standing Committee (H) Local Government
<b>Staff Summary:</b> This bill would have prohibited local boards of health from adopting and enforcing ordinances or policies restricting smoking on public campuses (i.e., prohibiting smoking outside on the campus). As amended, it would have also repealed all existing policies adopted unless they are approved by ordinance of the local city or county governing body.			

### Tracking Level - Support Dead

Bill#	Title	Sponsor	Status
HB 0470	Revise disability parking laws	Willis Curdy	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to update the state's disability parking law requirements to reflect ADA standards. The bill would have also provided authority to local governments to increase the fee for violation of disability parking requirements, and provided that 75% of the fee could be kept by the local government to use for ADA improvements.</p>			
HB 0618	Establish a fee for statewide safety communications systems	Bill Mercer	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to establish a fee of 95 cents per month per access line on each mobile phone subscriber in the state for the operation, maintenance, sustainability, and expansion of the statewide public safety communications system. The fees would have been statutorily appropriated to the statewide public safety communications system state special revenue account for use by DOJ in accordance with the existing Statewide Public Safety Communications System Act.</p>			
HB 0635	Establish a DUI reduction grant program	Wendy McKamey	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill proposed to create a DUI reduction grant program funded by tax increases on beer, wine, and hard cider. The bill would have created a board to oversee the award and administration of grants to municipal, county, and tribal governments, state agencies, DUI and treatment courts, public school districts, private schools, and organizations approved by the department of public health and human services to provide DUI prevention, education, and addiction treatment. The bill provided a seat on the board for a municipal mayor or chief executive officer as well as a seat for a county sheriff or city police chief. The revenues from the tax increases would have been statutorily appropriated to MDT for use by the new program.</p>			
SB 0017	Authorize creation of regional fire protection service authorities	Margaret MacDonald	Senate - (S) Died in Process
<p><b>Staff Summary:</b> This is 1 of the 2 fire authority bills the League worked on during the interim. This bill would have provided a statutory process for creating a new regional fire authority. The bill was unexpectedly opposed by the wood products industry, who expressed concerns that the proposal would allow local governments to increase local fire fees. The bill failed to obtain the 2/3 vote needed in the Senate to transmit to the House.</p>			
SB 0053	Revise meal reimbursement for public employees	Jon Sesso	House - (H) Died in Process
<p><b>Staff Summary:</b> This bill would have tied public employee lodging rates to the federal rate, and increase public employee meal reimbursement to 60% of the federal rate.</p>			
SB 0161	Allow concurrent service as water/sewer director and rural fire district trustee	Tom Jacobson	House - (H) Died in Standing Committee (H) State Administration
<p><b>Staff Summary:</b> This bill proposed to allow an individual to serve concurrently as both an elected Director of a County Water and Sewer District and an elected trustee of a rural fire district. The bill did not pass, but the same specific proposal was covered by the broader language of HB 326.</p>			

### Tracking Level - Opposed Passed

Bill#	Title	Sponsor	Status
HB 0357	Revise concealed carry laws	Matt Regier	House - (H) Filed with Secretary of State
<p>This bill creates a referendum to decide whether to prohibit local governments from regulating the carrying of permitted concealed weapons, and would limit local government regulation of open carry to only a publicly owned and occupied building. If this referendum passes, local governments can no longer regulate permitted concealed carry in any other place or for any reason, and can no longer regulate open carry at public assemblies or in parks. State law will still prohibit the carrying of permitted concealed weapons in portions of a building used for local government offices. Because the Governor vetoed the companion bill, HB 325, this referendum will go to the ballot in the fall of 2020.</p>			

**Tracking Level - Monitor Passed**

Bill#	Title	Sponsor	Status
HB 0129	Generally revising local government laws regarding elections	Ross Fitzgerald	Chapter Number Assigned
HB 0190	Revise local government authority to set school zone speed limits	Bruce Grubbs	Chapter Number Assigned
<b>Staff Summary:</b> This bill allows counties to set lower speed limits on county roads in school zones or near senior centers without an engineering or traffic study. It also removes a limiting factor on the ability to reduce speeds in those same areas when a traffic study is conducted, allowing it to be set by any local government to a minimum of 15 mph.			
HB 0267	Establish metering requirements for utilities	Daniel Zolnikov	Chapter Number Assigned
HB 0324	Generally revise laws related to county water and/or sewer districts	Walt Sales	Chapter Number Assigned
HB 0326	Allow person to serve on more than one special district board in rural area	Alan Redfield	Chapter Number Assigned
<b>Staff Summary:</b> This bill provides that in a community with less than 500 electors, persons can be elected to more than one special purpose district board within that community. This exception applies only if the person is appointed or running unopposed for the office.			
SB 0046	Revise laws related to distribution lists	Jill Cohenour	Chapter Number Assigned
SB 0076	Regulate encroachments in highway right of way	Brian Hoven	Chapter Number Assigned
SB 0253	Revise the tax lien and tax deed process for residential property	Cary Smith	Chapter Number Assigned

**Tracking Level - Monitor Dead**

Bill#	Title	Sponsor	Status
HB 0169	Exempting certain cooperative purchasing agreements from competitive bidding	Marilyn Ryan	House - (H) Died in Process
<b>Staff Summary:</b> This was a Missoula County bill to provide similar procurement exemptions in state law for counties for cooperative purchasing that currently exist (pursuant to an Attorney General opinion) for municipalities. The municipal statute could stand some updating but we decided it's better to stay out of this discussion than open up our law for tweaking.			
HB 0197	Require public agency IT contractors use software to verify hours worked	Daniel Zolnikov	House - (H) Died in Process
HB 0223	Deter the fraudulent use or theft of taxpayer funded resources	Wendy McKamey	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to add redundant language to public employee standards of conduct prohibiting use of public equipment for personal gain. The League worked with the sponsor to explain the issue she was trying to address was already prohibited by law and the statute provides a process for lodging a complaint.			
HB 0321	Allow local governments to limit use of compression brakes	Fred Anderson	House - (H) Died in Process
<b>Staff Summary:</b> This bill would have specifically authorize local governments to limit use of compression brakes.			
HB 0405	Create catch and keep program for rural economic development	Joel Krautter	Senate - (S) Died in Standing Committee (S) Finance & Claims
HB 0448	Provide that employers allow employees reasonable time off for voting	Moffie Funk	Senate - (S) Died in Process
HB 0532	Generally revising privacy of settlements and public right to know laws	Bill Mercer	House - (H) Vetoed by Governor
SB 0029	Require workers' comp for all volunteer firefighters	Fred Thomas	House - (H) Died in Standing Committee (H) Judiciary

**Tracking Level - Monitor Dead (Continued)**

Bill#	Title	Sponsor	Status
SB 0209	Require provision of DPHHS services in certain counties	John Esp	Senate - (S) Died in Standing Committee (S) Finance & Claims
SB 0245	Establish commercial property assessed clean energy program	Mary McNally	House - (H) Died in Standing Committee (H) Taxation
<p><b>Staff Summary:</b> This bill proposed the creation of a Commercial Property-Assessed Clean Energy Program (PACE). Same as last session (we supported, Sen Vincent was sponsor), with two changes. This time it would only be applicable to commercial and industrial facilities (including multifamily housing with 4 or more units). Like last time, it would have given local governments the authority to set up a PACE program and assess commercial and industrial real property owners for the costs associated with financing the energy efficiency improvements, but the financing was proposed to be through the MT Facility Finance Authority and the governing body would just pay the assessments to MFFA.</p>			
SB 0277	Allow appointment and additional qualifications of county auditors	Roger Webb	Senate - (S) Died in Standing Committee (S) State Admin
SB 0314	Allow local authorities to decrease speed limits in residence districts	Nate McConnell	Senate - (S) Died in Standing Committee (S) Local Government
SB 0323	Allow the creation and assessment of a public safety district	Roger Webb	Senate - (S) Died in Standing Committee (S) Local Government
<p><b>Staff Summary:</b> This bill would have created a specific statutory authority for creation of a public safety district, and required a method of assessment that inequitably places a larger assessment burden on non-profit organizations. The existing special district statutes already authorize the creation of this type of district and for the method of assessment treating property owner types differently based on considerations of use and equity.</p>			

## Law Enforcement and Criminal Justice

### Tracking Level - Support Passed

Bill#	Title	Sponsor	Status
HB 0150	Generally revise 9-1-1 laws	Frank Garner	Chapter Number Assigned
<b>Staff Summary:</b> This bill modifies the existing 9-1-1 statute to clarify that tribal governments are eligible for distributions of funds and to participate on the 9-1-1- council; provide rulemaking authority to DOA for the program; and direct DOA to establish the allowable uses of the funds by eligible entities.			

### Tracking Level - Support Dead

Bill#	Title	Sponsor	Status
HB 0049	Create a vehicle occupant safety pilot program	Frank Garner	House - (H) Died in Process
<b>Staff Summary:</b> This bill proposed to make seat belt violations a primary offense. The program would have been established as a 4-year pilot to gather data on the safety effects of the change in the law.			
SB 0022	Increasing the victim and witness program surcharge	Roger Webb	Senate - (S) Died in Standing Committee (S) Judiciary

### Tracking Level - Monitor Passed

Bill#	Title	Sponsor	Status
HB 0110	Generally revise pretrial diversion laws	Ryan Lynch	Chapter Number Assigned
HB 0192	Revise laws related to privacy in communications	Marilyn Ryan	Chapter Number Assigned
HB 0439	Revise laws related to misrepresented service animals	Denley Loge	Chapter Number Assigned
<b>Staff Summary:</b> This bill does several things: Defines service animal the same as in the ADA (dogs and miniature horses); this brings the Montana Human Rights Act and in line with the ADA, fixing a potential loophole in Montana law with respect to service animals. If a business suspects a person is fraudulently misrepresenting a service animal, the business may call local law enforcement ... to investigate. If local law enforcement is called to investigate, it must provide written results of the investigation to the business where the complaint was made. The bill makes misrepresentation of a service animal a misdemeanor codified in the Human Rights Act, but requires that the person charged must have previously been given a written warning that it is illegal to intentionally misrepresent a service animal. This may be difficult for local law enforcement to track in order to issue a misdemeanor citation.			
HB 0543	Revise laws related to misdemeanor expungement	Zach Brown	Chapter Number Assigned
SB 0213	Generally revise evidence laws	Edith McClafferty	Chapter Number Assigned
SB 0220	Generally revise probation laws	Keith Regier	Chapter Number Assigned

### Tracking Level - Monitor Dead

Bill#	Title	Sponsor	Status
HB 0353	Generally revise laws related to alcohol and drug addiction	Katherin Kelker	House - (H) Died in Process
HB 0442	Generally revise evidence laws	Joe Read	House - (H) Died in Process
HB 0446	Create misdemeanor offense for intentional misrepresentation of a service animal	Mary Dunwell	House - (H) Died in Process
HB 0567	Establish Montana school marshal program	Derek Skees	House - (H) Vetoed by Governor
HB 0641	Revise laws related to false arrest and imprisonment	Joe Read	House - (H) Died in Process

**Tracking Level - Monitor Dead (Continued)**

Bill#	Title	Sponsor	Status
HJ 0009	Interim study on maintaining public safety while offering addiction treatment	Katherin Kelker	House - (H) Died in Standing Committee (H) Human Services
SB 0065	Generally revise drug and alcohol laws	Keith Regier	House - (H) Died in Standing Committee (H) Judiciary



Overview of Critical Local Government Infrastructure Needs

Prepared by  
Terry Johnson  
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Consultants

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### Introduction

The Montana Infrastructure Coalition (Coalition) reviewed the quality of three critical local government infrastructure needs: drinking water systems, wastewater treatment, and transportation. The Coalition also examined the types of funding available to construct and maintain local infrastructure, and other types of funding mechanisms to support local infrastructure. Overall, Montana engineers have given local water and transportation infrastructure systems mediocre to nearly failing grades. Funding for local infrastructure has fallen almost entirely on local residents with state and federal grants and funding covering only a small or static portion of infrastructure needs.

### Critical Infrastructure Needs

The Montana Infrastructure Coalition (Coalition) identified three critical local government infrastructure needs: drinking water systems, wastewater treatment, and transportation, including local, state, and interstate highways and bridges. While these three elements are only a few of the local infrastructure programs fundamental to support economically vibrant and healthy Montana communities, the Coalition chose to highlight these critical needs because they have not routinely received individual, focused consideration.

### Condition of Critical Local Infrastructure

The American Society of Civil Engineers (ASCE) convened 30 of its Montana members with specific, in depth industry experience and knowledge to evaluate Montana infrastructure, and published its conclusions in 2014. The evaluation criteria used included: capacity, condition, funding, future need, and public safety. The information sources used to evaluate infrastructure included: state of Montana agency reports and budgets; federal reports with state specific information; economic impact reports; surveys of infrastructure owners and operators; and interviews with agency staff.<sup>1</sup>

ASCE assessed eight types of local infrastructure in Montana and rated each using a letter grading system. The grades for each of the three critical types of infrastructure discussed in this report are:

- Wastewater: D+
- Drinking water: C-
- Transportation: C

### Overview of Wastewater and Drinking Water Infrastructure

There are about 180 public wastewater treatment systems and about 700 public and private water systems in Montana.<sup>2</sup> Some of these systems depend on original piping that is 75 years to more than 100 years old.<sup>3</sup> The ASCE review found that some wastewater systems "have vitrified clay tile pipe that has cracked or failed" and most drinking water systems "experience major leaks on an annual basis".<sup>4</sup> ASCE determined that about 20.0% of public wastewater treatment facilities have "significant effluent violations and another 20.0% are under formal enforcement actions to correct system deficiencies to achieve compliance".<sup>5</sup> ASCE concluded that many of these older systems are near the end of their useful life and estimated that it would cost between \$12.0 billion to \$15.0 billion to completely replace local wastewater and drinking water systems.<sup>6</sup>

### Capacity and Condition of Wastewater Treatment Systems

Half of the communities responding to an ASCE survey indicated that their wastewater systems had no additional capacity or were under capacity, and about 40.0% of respondents indicated that wastewater

collection systems were in fair to poor condition.<sup>7</sup> ASCE found that larger communities have a plan and budget to replace a certain amount of wastewater pipeline each year. However, the vast majority of Montana communities - 80.0% - replace little or no wastewater piping on a regular, annual basis.<sup>8</sup> More than a third of communities responding to an ASCE survey rated their wastewater treatment system condition as fair to failed, with 8.0% reporting a failed condition that was not in compliance with state discharge standards.<sup>9</sup>

### Capacity and Condition of Drinking Water Systems

About one third of the communities responding to an ASCE survey indicated that their water systems had no additional capacity or were under capacity and about 9.0% of respondents rated their system condition as fair to poor.<sup>10</sup> Many treatment systems have been upgraded to comply with federal water quality standards resulting in improved conditions for many community systems. However, 90% of survey respondents reported replacing very little piping within their distribution systems. As noted earlier, some communities have piping 75 years to more than 100 years old. Although the older piping is still functioning, it may be undersized or corroded and may be "more susceptible to bacteriologic contamination".<sup>11</sup>

### Overview of Funding for Water Infrastructure

Montana counties and communities rely on a combination of local, state, and federal sources to fund wastewater treatment and water system infrastructure projects. ASCE estimated the total annual investment for repair, replacement, and upgrades to community wastewater and water infrastructure was \$165.0 million in 2014, with \$115.0 million provided by state and federal programs.<sup>12</sup> Several of these funding sources are loan programs, requiring repayment by local residents. The sources of state and federal funding most commonly supporting these infrastructure projects identified by ASCE are:

"Treasure State Endowment Program (TSEP), Renewable Resource Grant and Loan (RRGL), Community Development Block Grant (CDBG), State and Tribal Assistance Grant (STAG), USDA Rural Development (RD), and State Revolving Fund (SRF) Programs. Often times the grant and loan packages include the community share provided through reserves, special assessment, and other sources of funding. The loans are typically either RD or SRF loans and paid back through user rates."<sup>13</sup>

### Immediate Needs for Water and Wastewater System Upgrades

The immediate infrastructure funding needs were estimated by the Montana Department of Environmental Quality to be \$587.0 million in 2008 for wastewater treatment and \$885.0 million for drinking water in 2011 or a total of \$1.5 billion.<sup>14</sup> The estimate is based on known problems, including those related to enforcement actions or emergency situations that require action in the short term. These estimates do not consider the costs associated with complying with regulatory changes, system repairs, or capacity changes due to population growth.

### Annual State and Federal Funding for Water Related Infrastructure Is Limited

In the 2015 biennium (July 1, 2013 - June 30, 2015), public funding administered and dispersed by the Montana Departments of Commerce, Natural Resources and Conservation, and Environmental Quality supported about 43.0% of the cost of wastewater treatment and water system projects that were approved. However, the majority of funding for these projects - 57.0% - came from local funds and 93.0%

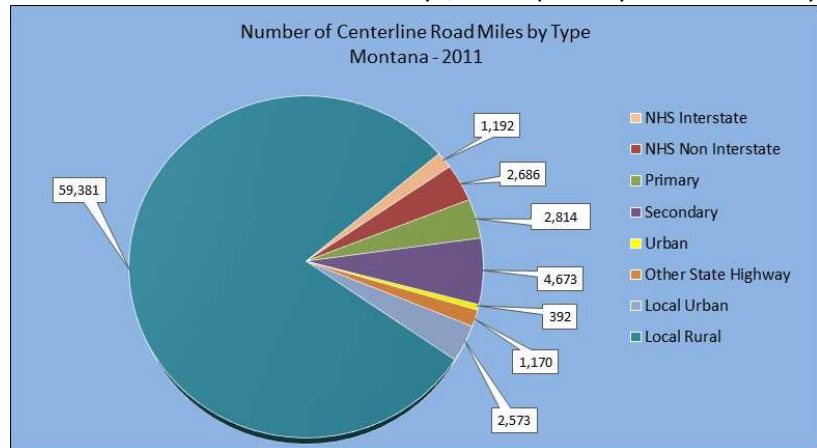
of that local funding was supplied through loans.<sup>15</sup> One of the most important sources of funding for water infrastructure projects - TSEP, which is discussed in greater detail later in the report - funded "an average of 16.7% of the total costs of wastewater system projects and 26.0% of water system projects" in the 2015 biennium.<sup>16</sup> It is common for local governments to use several sources of funding for water related infrastructure projects.

## Transportation Infrastructure

In 2011, Montana had about 75,000 miles of road, including national highway system (NHS) interstate and non-interstate roadways, state primary and secondary roads, and urban and rural roads maintained by cities and counties. Figure 1 shows the type of road and number of miles of each type of road.<sup>17</sup> Local rural roads constitute the majority of the inventory with just under 75.0% of total state roadways.

In 2011, the Montana Department of Transportation reported 11.7 million vehicle miles traveled, with about three quarters of the miles traveled on on-system roads. ASCE estimated that \$21.6 billion in goods are transported from Montana locations and another \$37.9 billion are transported to Montana sites, with 59.0% of goods shipped from Montana transported by truck.<sup>18</sup>

Figure 1



## Capacity and Condition of Transportation System

Montanans enjoy some of the least congested highways in the nation and ASCE concluded that roadway capacity was adequate well into the future. In 2012, about 90.0% of the Montana interstate system pavement was rated as good followed by the national highway system pavement where just under 80.0% of the total roadways were rated as good. About 72.0% of primary and secondary roadway pavement was rated as good, while about 25.0% of primary roadway pavement and about 28.0% of secondary roadway pavement were rated in poor to fair condition.<sup>19</sup> However, although pavement conditions for major roadways are generally good, overall about 46.0% of Montana's state and local roads are in "poor to mediocre condition and about 40.0% of gravel roads are in poor or failed condition".<sup>20</sup>

In 2008, 85.0% of Montana counties evaluated local roads using the Pavement Surface Evaluation and Rating (PASER) system and determined that 25.0% of chip seal roads and, as noted previously, 40.0% of gravel roads were in poor or failed condition.<sup>21</sup> A follow up survey of 10.0% of Montana counties in 2013 showed little change.<sup>22</sup>

Montana has 2,282 highway bridges and 1,935 non state highway bridges. ASCE reported that 92.0% of highway bridges are rated as good with 8.0% or 204 needing repair or replacement. About 82.0% of non-state bridges are rated in good condition with 18.0% or 341 needing repair or replacement.<sup>23</sup>

## Estimated Transportation Infrastructure Cost

The Montana Department of Transportation estimated that new construction and maintaining existing Montana roads and bridges would cost about \$14.8 billion through 2022. However, the department also estimated that available funding would cover only 25.0% of projected costs.<sup>24</sup> The department estimate doesn't include the cost to construct and repair local roads. ASCE noted that deferring maintenance, particularly on local roads, can lead to deterioration so severe that the road cannot be repaired, but must be reconstructed at greater cost.

## Funding for Transportation Infrastructure

New construction as well as repair, maintenance, and upgrades for Montana transportation infrastructure is provided by the federal government through the Federal Highway Administration and with state and local funds as well. However, the amount of federal highway funding that can be used for local transportation infrastructure is limited. Most is dedicated to the national highway system.

In state fiscal year (SFY) 2014, Montana received \$396.0 million in its federal highway funding grant.<sup>25</sup> Montana levies taxes on gasoline and special fuel and uses the state special revenue to match federal funding, maintain the secondary highway system, and perform routine maintenance, including snow removal during winter. Although some projects can be fully funded from federal highway grant funds, most require that the state provide matching funds. The federal match rate varies depending on the type of highway and project funded, but can be as high as 90.0%, with the majority of federal funds matched with 13.86% state funds. The source of state matching funds is the Montana highway state special revenue account is discussed in greater detail later in the report.

Montana local governments also receive a share of the highway state special revenue that can be used to fund local transportation infrastructure. However, this source of funding, which is also discussed in greater detail later in the report, has remained static over the years.

## State Funding Sources for Critical Infrastructure

### Treasure State Endowment Program – A More Detailed Review

During the 1975 legislative session, the legislature enacted the coal severance tax and defined the purpose and use of this newly created tax. Previous to this law, any coal produced in Montana was taxed based on a cents per ton basis and was not tied to the value of the commodity. The new coal tax policy was designed to automatically increase or decrease tax paid based on the tons produced and the price the producer received for the commodity. To put this change in an appropriate perspective, in 1970 coal tax receipts were about \$50,000 whereas by 1977 these tax revenues increased to almost \$37.0 million. This increase was the result of the newly implemented coal severance tax because it included the value of the coal in the computation of the tax owed.

Because of the additional revenue, the legislature developed new spending policies and also implemented a trust fund to insure that there would be monies available to benefit future generations. The legislature authorized a tax distribution mechanism that allocated some revenue to general use, dedicated some for specific purposes, and distributed 50.0% to a coal tax trust fund. Any use of the trust fund corpus requires a  $\frac{2}{3}$  vote of each house of the legislature.

Over the years, the legislature created sub-trusts within the coal tax trust fund. Under current law, there are four sub-trusts and the principal amounts are invested by the Board of Investments. All sub-trust earnings are appropriated by the legislature and are dedicated for specific purposes.

One of these sub-trusts, TSEP, was created by legislative referendum approved by the voters in June 1992. With an initial seed loan of \$10.0 million from the permanent trust, the TSEP sub-trust had grown to \$288.0 million by the end of SFY 2016. The entire coal tax trust balance was \$1,023.0 million at the end of SFY 2016 when all sub-trusts and income funds are summed together. The TSEP is administered by the Department of Commerce (DOC). Its fiduciary responsibility is to administer a grant and loan program for infrastructure projects throughout the state. Infrastructure projects include drinking water systems, wastewater treatment facilities, sanitary sewer or storm sewer systems, solid waste disposal and separation systems, and bridges. The maximum grant award is \$750,000.

As defined by state statute (90-6-702, MCA), the purpose of TSEP is to assist local governments in funding infrastructure projects that will:

- Create jobs for Montana residents
- Promote economic growth in Montana by helping to finance the necessary infrastructure
- Encourage local public facility improvements
- Create a partnership between the state and local governments to make necessary public projects affordable
- Support long-term, stable economic growth in Montana
- Protect future generations from undue burdens caused by financing necessary public works
- Coordinate and improve infrastructure financing by federal, state, local government, and private sources
- Enhance the quality of life and protect the health, safety, and welfare of Montana citizens

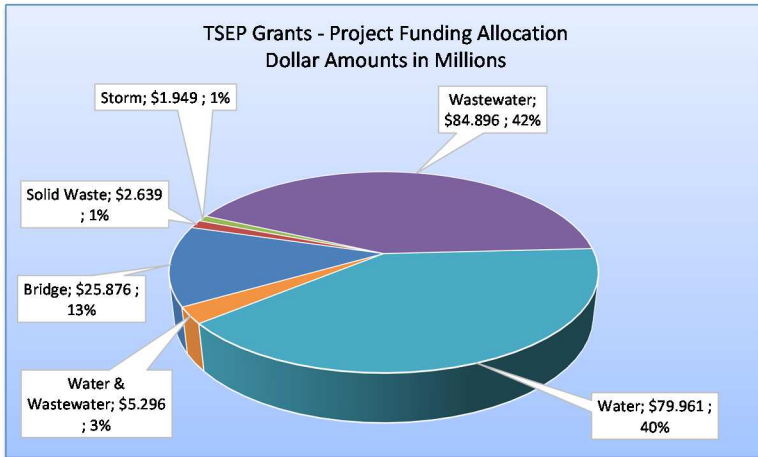
Grant funding for the program is derived from the investment earnings produced from the TSEP sub-trust. Eligible applicants include cities, towns, counties, tribal governments, consolidated local governments, county or multi-county water, sewer or solid waste districts, and other authorities as defined in section 75-6-304, MCA. TSEP applications are submitted to the DOC on a biennial basis and they are evaluated according to seven statutory priorities, which focus on projects that:

- Solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards
- Reflect greater need for financial assistance than other projects
- Incorporate appropriate, cost-effective technical design and provide thorough, long-term solutions to community public facility needs
- Reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources
- Enable local governments to obtain funds from sources other than TSEP
- Provide long-term, full-time job opportunities for Montanans, provide public facilities necessary for the expansion of a business that has a high potential for financial success, or maintain the tax base or encourage expansion of the tax base
- Are high local priorities and have strong community support

The DOC submits a recommended list of projects to the legislature for review, potential modification, and ultimate approval. Upon authorization by the legislature and the Governor, the DOC administers the approved grants.

## Overview of Critical Local Government Infrastructure Needs

Figure 2

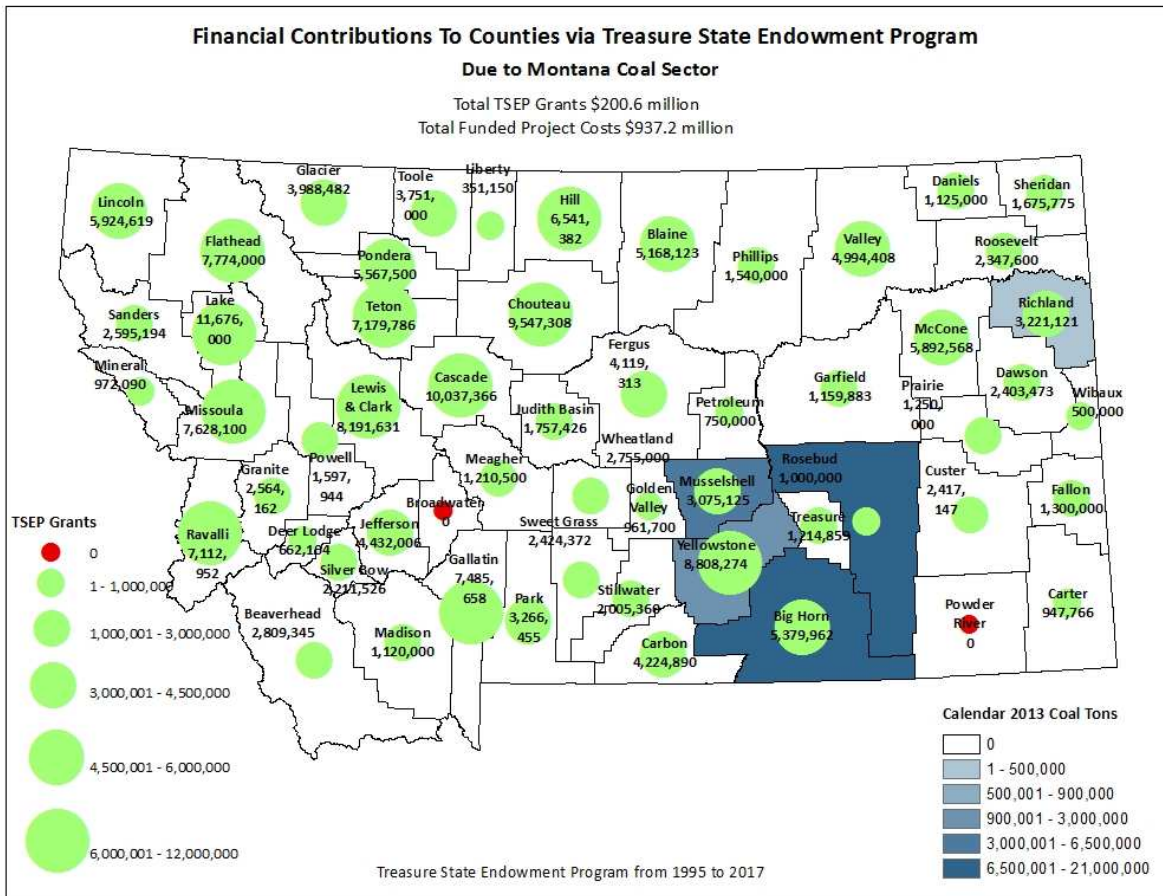


Since creation of the TSEP, there have been \$200.6 million in state funded grants allocated to communities throughout Montana. Figure 2 shows the infrastructure projects that were funded by type. TSEP grants were matched with other local and/or federal sources to fund over \$937.0 million in total infrastructure projects.

Figure 3 shows the total amount (TSEP, state, federal, and local funds) for projects in counties throughout Montana since inception of TSEP. The size of the circle measures the total project funding to counties, which includes a portion of TSEP grant funds. Only two counties (Broadwater and Powder River) have never received grants. The blue shaded counties represent those counties where coal development has taken place.

Figure 3 shows the total amount (TSEP, state, federal, and local funds) for projects in counties throughout Montana since inception of TSEP. The size of the circle measures the total project funding to counties, which includes a portion of TSEP grant funds. Only two counties (Broadwater and Powder River) have never received grants. The blue shaded counties represent those counties where coal development has taken place.

Figure 3



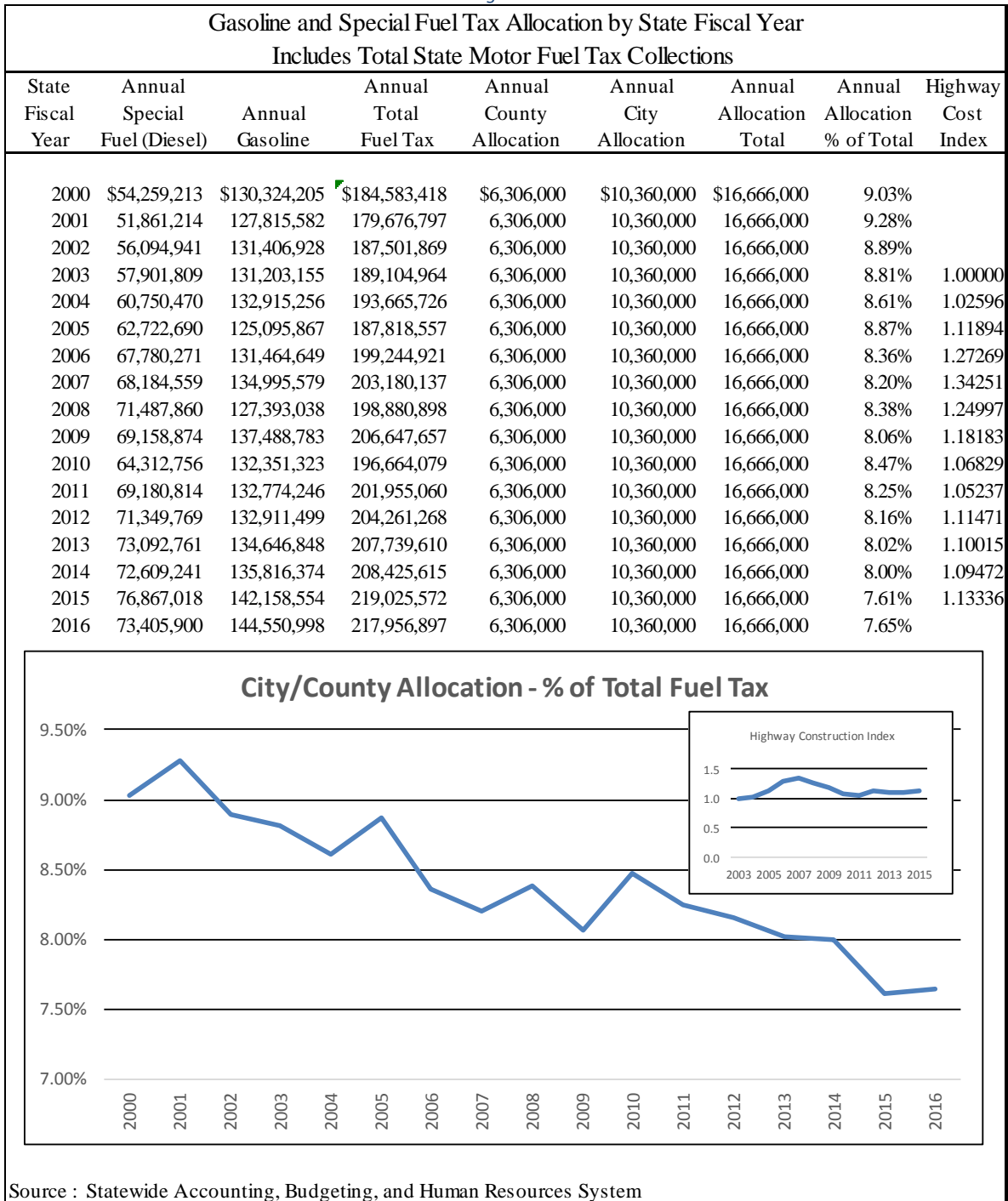
It should be noted that any further deposits to the TSEP from the coal severance tax were terminated as of June 30, 2016. Interest earnings from the TSEP sub-trust will continue to be available for appropriation by the legislature but the funds available will remain relatively constant unless the return on investments changes.

### Gasoline and Special Fuel Tax – A More Detailed Review

The gasoline and special fuel (diesel) tax was enacted in 1955. The tax rate has not been changed since 1995. The current state gasoline tax rate is \$0.27 per gallon (remitted by the distributor) and the rate on special fuel is \$0.2775 per gallon (remitted by the distributor). There is an additional tax of \$0.0075 per gallon on both fuel for the purpose of funding the underground storage tank program. Pursuant to Article 8, Section 6 of the Montana Constitution, revenue from fuel taxes (except general sales and use taxes) on gasoline and special fuel must be used for payment of obligations incurred for construction, reconstruction, repair, operation, safety, and maintenance of public highways, streets, roads, and bridges. As allowed by the Constitution, fuel taxes may be used for other purposes if authorized by a 3/5 vote of the legislature.

## Overview of Critical Local Government Infrastructure Needs

Figure 4



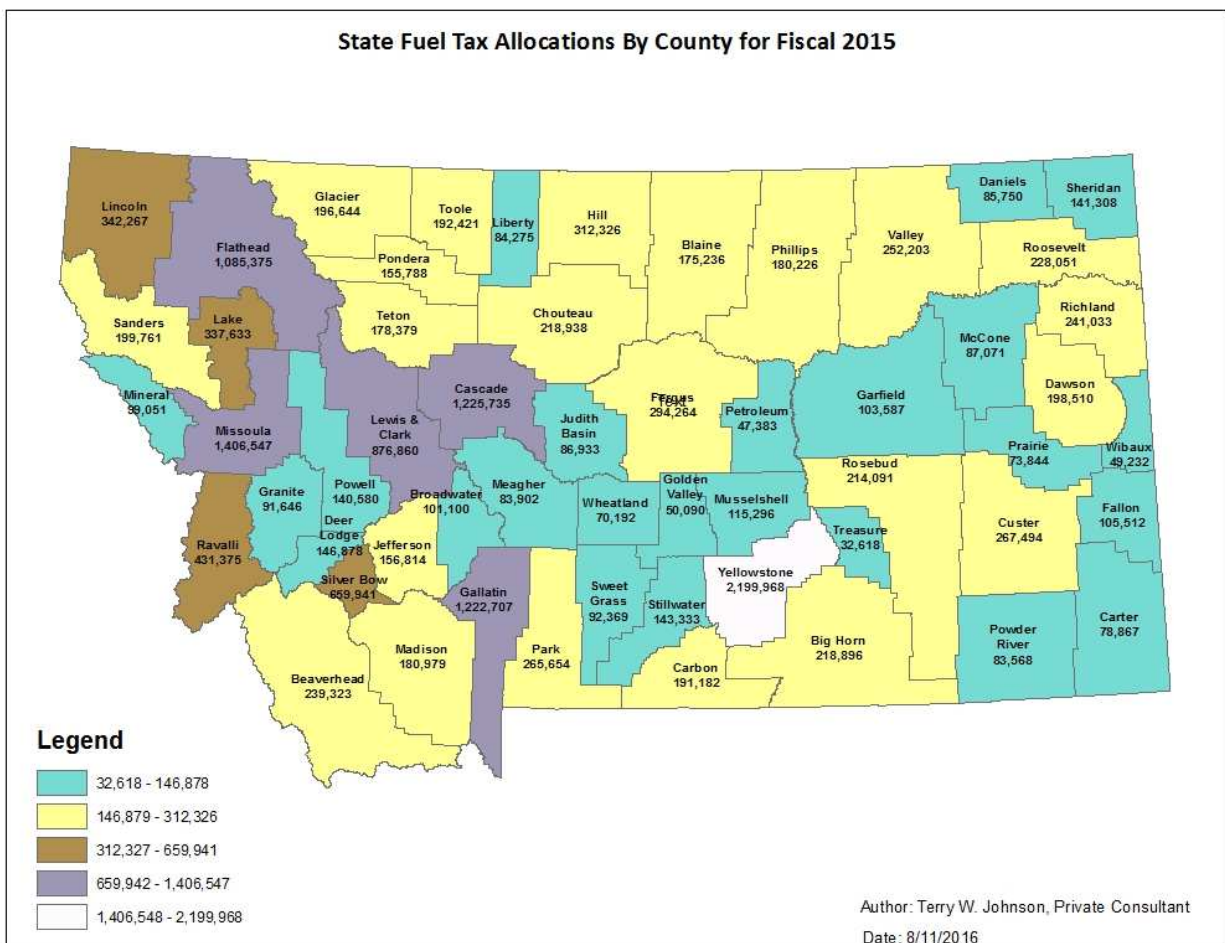
As shown in Figure 4, total fuel taxes (gasoline and diesel) have increased from \$184.6 million in SFY 2000 to \$218.0 million in SFY 2016 for an increase of 1.0% per year. Conversely, the allocations to local governments have remained constant while highway construction costs increased by over 13.0% from 2003 (see small inset in Figure 4). During the period of high energy prices (2006-2008), highway construction costs increased by over 25.0% from the base period of 2003. Strictly from a percentage

## Overview of Critical Local Government Infrastructure Needs

perspective, the local government share of the total fuel taxes has declined from 9.0% in SFY 2000 to 7.7% by SFY 2016.

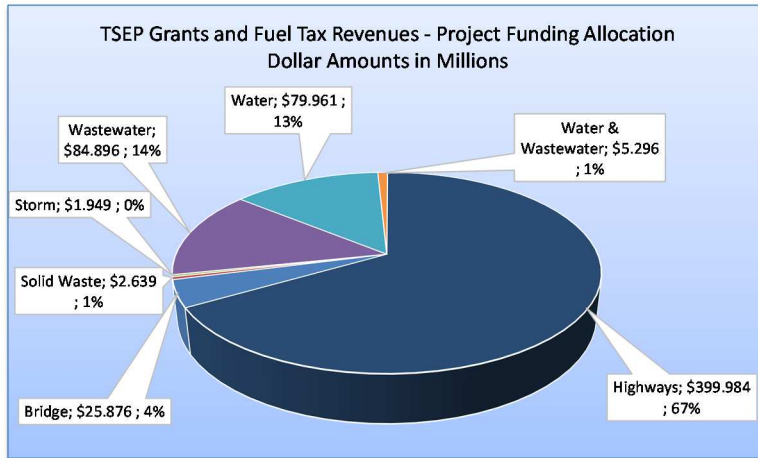
Figure 5 shows the annual total allocation of fuel taxes (\$16.7 million) to counties (cities, towns, and counties summed together) for SFY 2015. Per section 15-70-101, MCA, the allocation procedure is based on rural road mileage (40.0%), rural population (40.0%), and land area (20.0%) for counties. City allocations are based on population (50.0%) and street and alley mileage (50.0%). As specified in the Montana Constitution and state statute (15-70-101, MCA), these monies are allocated “to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys”. Yellowstone, Gallatin, Missoula, Lewis and Clark, Cascade, and Flathead counties receive the largest allocations of the fuel tax. Per section 7-14-301, MCA, counties are authorized to levy up to a \$0.02 per gallon local option motor fuel tax provided the initiative is authorized by majority vote of the county residents. Currently, no county levies this tax.

Figure 5



## Major State Sources of Infrastructure Funding for Water and Transportation

Figure 6



When the TSEP funding and motor fuel allocation to cities, towns, and counties are added together from 1995 forward, the state has committed \$600.6 million to local government infrastructure needs – primarily for water and road projects. To put this in an appropriate perspective, the total local government infrastructure needs for just water and waste water projects in Montana (as discussed previously) is about \$15.0 billion. Information is currently not available for local government road and bridge needs. It

would take almost 415 years (at the current TSEP grant and match rates) to fund this need. There are many other federal, state, and local funding programs but this example illustrates the significant gap between the water and waste water needs and the TSEP funding source. Figure 6 shows the use of these two funding sources for the various local government projects. Highway, water, and waste water projects have consumed 94.0% of the available funding since 1995.

## Selected Local Infrastructure Funding Methods

The National League of Cities (NLC) surveyed 49 states to identify local strategies to fund infrastructure. Figure 7 shows the methods that the NLC identified as well as the number of states that authorize each option and the number of states in which at least one local government uses the option. The figure also identifies whether the option is authorized and used in Montana and whether voter approval is required for use.

Figure 7

Selected Local Funding Methods for Critical Infrastructure					
Option	Number of States that:		Voter Approval		
	Authorize	Use	In Montana: Authorized	Used	Required
<b>Local Option:</b>					
Resort/Sales Tax	28	28	x	x	x
Fuel Tax	16	16	x		x
Motor Vehicle Registration	26	21	x	x	
Public Private Partnership	32	?			
State Infrastructure Banks	27	22			

Source: National League of Cities, Center for City Solutions and Applied Research, "Paying for Local Infrastructure in a New Era of Federalism A State by State Analysis", 2016.

### General Sales Tax/ Community Specific Resort Tax

A slight majority of states allow local governments to impose a general sales or more limited resort tax. Although Montana statute does not allow local communities to impose a general sales tax, certain designated incorporated communities and unincorporated areas within defined population limits and economic conditions may levy a resort tax on statutorily defined goods and services under certain conditions (7-6-1501, MCA). Funds raised by these taxes can be used for a variety of purposes, including local infrastructure.

In Montana there are four communities with a resort tax (Whitefish, Red Lodge, Virginia City, and West Yellowstone) and there are six areas with a resort tax (St. Regis, Big Sky, Cooke City, Gardiner, Wolf Creek, and Craig). All resort taxes must be approved by local voters, with the first resort tax adopted in 1986 and the most recent adopted in 2011. All communities and areas impose a 3.0% tax, the maximum rate allowed under Montana statute.<sup>26</sup> Some communities limit the length of time the tax can be imposed and require a vote to extend the tax for another specified period of time.

### Local Option Fuel Tax

Fewer than half the states authorize local governments to impose a fuel tax. However, as noted previously, Montana allows counties to impose up to \$0.02 per gallon in fuel tax, in increments of \$0.01 per gallon, if approved by county voters (7-14-301, MCA). Revenue derived from such taxes may be used only for construction, reconstruction, maintenance, and repair of public streets and roads as well as for reimbursement to retailers to cover the cost of compliance. Funds from the local fuel tax must be apportioned among the county and municipalities in the county based on population, road miles, or another agreed upon method. No Montana counties levy this tax.

### Local Option Motor Vehicle Registration

A county may impose a local option motor vehicle tax or a local option flat fee on motor vehicles subject to registration fees. These taxes/fees are authorized in 26 states and used by local governments in 21 states. Montana authorizes such a tax with a maximum rate of 0.7% of the vehicle value or a flat fee equivalent to the registration fee. A vote is not required to impose the tax or fee. All but six Montana counties levy the optional motor vehicle tax/fee. In SFY 2013, collections totaled \$38.8 million. These local revenues are distributed among a county and incorporated cities and towns within a county based on a population ratio. The local governing entity defines the distribution of the revenue by resolution.

### Public Private Partnership

NLC found that 32 states authorize public private partnerships (PPPs), with 13 states allowing broad authority for PPPs to undertake all types of infrastructure projects. A PPP is a contract between a public entity, typically a state or local government, and a private sector entity to provide infrastructure for public uses.<sup>27</sup> PPP's are a relatively new model in the United States. NLC did not indicate the number of states in which such partnerships have been implemented. Montana does not provide broad statutory authority for PPPs.

PPPs can be structured in a variety of ways. For instance, a local government could identify the type of infrastructure improvement needed and contract with a private entity to manage any or all aspects of the project including finance, design, construction, and management. However, most typically, the public sector retains the functions of determining infrastructure improvements that are needed, negotiating project financing, and maintaining ownership and operation once a project has been completed.<sup>28</sup>

### State Infrastructure Banks

Infrastructure banks (I banks) are authorized in 27 states and there are 22 active banks. Montana does not have an I bank.

Typically I banks are investment funds that furnish loans or grants to local governments for infrastructure projects. However, most I banks issue loans that usually have subsidized or low interest rates. I banks can be capitalized in a variety of ways, including bonding proceeds and cash deposits from government funds.

Some states specify the types of infrastructure that can be funded through I banks. Each state bank operates differently; however, many "base their selection of projects on regional and local economic impact analyses".<sup>29</sup> Most states, including Montana, have revolving loan funds for water and wastewater treatment infrastructure. Many I banks are focused on funding transportation projects.<sup>30</sup>

### Summary

Critical local water and transportation infrastructure is in need of repair and maintenance, receiving mediocre and near failing grades in an ASCE review. The immediate funding need for water and waste water infrastructure repair is \$1.5 billion, while the replacement cost is estimated to be between \$12.0 billion to \$15.0 billion.

The TSEP program is the primary source for state grants to support local water system repair and upgrades. TSEP grants are limited to \$750,000 per project, which is combined with other state and federal grant and loan sources with the majority of costs repaid by local citizens. Grants are funded from interest earnings on the TSEP trust, which is capped at about \$288.0 million at the end of SFY 2016. If the trust received additional funds, each \$1 million in new deposits would provide about \$13,000 annually in additional grant funds if short-term interest rates remain at current rates. If \$1.0 million was deposited to the trust each year for the next 10 years, about \$1.6 million per year would be available for grants by the tenth year.

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Local roadways are in need of repair and improvement, with nearly half of local roadways in mediocre to poor condition. Allocations of state fuel taxes to local governments have remained stagnant despite increases in state fuel tax collections and the increasing cost to maintain and operate local transportation networks.

There are a variety of funding methods available to support improvements to local infrastructure. Some of these options are allowed by Montana statute and some have been implemented by local governments in Montana.

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<sup>1</sup> American Society of Engineers Montana Section, "2014 Report Care for Montana's Infrastructure", 2015, p. 3.

<sup>2</sup> Ibid, p. 10 and p. 28.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid, p. 10 and p. 28.

<sup>5</sup> Ibid, p. 10.

<sup>6</sup> Ibid, p. 10 and p. 28.

<sup>7</sup> Ibid, p. 11.

<sup>8</sup> Ibid, p. 12.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid, p. 30.

<sup>11</sup> Ibid, p. 30.

<sup>12</sup> Ibid, p. 13.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid, p. 32.

<sup>15</sup> Duncan, Cathy. "Local Government Infrastructure Funding Current and Conceptual", March 14, 2014, p. 4.

<sup>16</sup> Ibid.

<sup>17</sup> Montana Department of Transportation, 2011.

<sup>18</sup> American Society of Civil Engineers, p. 42.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid, p. 39.

<sup>21</sup> Ibid, pp. 42-43.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid, p. 46.

<sup>24</sup> Ibid, p. 41.

<sup>25</sup> Ibid, p. 44.

<sup>26</sup> Montana Department of Revenue, "Local Resort Tax", accessed August 1, 2016 from <https://revenue.mt.gov/localresort-tax>.

<sup>27</sup> National League of Cities, p. 12.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid 14.

<sup>30</sup> Ibid.



# DRAFT CITY OF BILLINGS LEGISLATIVE AGENDA

67th Montana legislative Session - 2021

8/12/20

## Billings' Proposed 2021 Legislative Agenda will focus on six primary goals:

- Enhance **public safety** and security;
- Support **self-governing powers**;
- Facilitate **sustainable economic development** and vitality of the City and surrounding region;
- Secure and protect **funding** for efforts to **reduce the burden** of COVID-19 on the **city residents**
- **Increase investments** in **critical infrastructure** to support our local economy; and
- **Lower the tax burden** on **property owners**, supporting programs where **users of government services pay for those services**

**Therefore, the City Council of the City of Billings adopts the following priorities for the 2021 Legislative Session:**

1. Support legislation that provides for and enhances the safety, health, and security of Billings residents, including combating human trafficking, reducing the sale and distribution of illegal drugs, fighting drug abuse and associated crime, reducing homelessness and providing resources for mental health services;
2. Support Legislation that will encourage and facilitate public and private investment in the City of Billings;
3. Support legislation that increases investment in infrastructure critical to supporting our economy;
4. Support legislation that secures and maintains tangible relief for the City of Billings' residents, small business, and services from COVID-19
5. Support legislation to shift the tax burden from Billings property owners to users of government services, where appropriate;
6. Support, in general, the Montana League of Cities and Towns (MLCT) Legislative Resolutions for 2021, and;
7. Support in general the Montana infrastructure Coalition's (MIC) 2021 legislative agenda