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RESOLUTION 2020-01

30-DAY COMMENT PERIOD PRIOR TO EXEMPT STATUS

It is the intent of the Montana Association of Counties to seek legislation to require a 30-day comment period by the affected county prior to a property being moved to exempt status by the Montana Department of Revenue (DOR).

WHEREAS, MCA 7-6-2527 provides authority for county commissioners to impose a property tax levy for any public or governmental purpose; and

WHEREAS, MCA 7-6-2501, provides authority to levy a tax annually on the taxable property of the county for county public or governmental purposes to defray expenses; and

WHEREAS, MCA 15-1-201 provides authority for the Department of Revenue to administer revenue laws; and,

WHEREAS, when fee status properties that qualify for exempt status are removed from property tax rolls, an additional tax liability is placed on remaining taxpayers in a district; and

WHEREAS, removing properties to exempt status may impact regulatory jurisdiction, real property taxes, special assessments, and fees which may not be exempted; and

WHEREAS, the county may have information related to the property not available to the Department of Revenue; and

WHEREAS, county commissioners do not receive written notice from the Montana Department of Revenue when properties in a county are moved to exempt status; and

NOW, THEREFORE BE IT RESOLVED that the Department of Revenue in each county is required to notify the commissioners in the affected county that a property has applied for exempt status and provide a 30-day comment period by the commissioners prior to the property being moved to exempt status.

SPONSOR:	LAKE COUNTY
RECOMMENDATION:	DO PASS
REFERRED TO:	MACO TAX, BUDGET & FINANCE COMMITTEE
ADOPTED:	ANNUAL CONFERENCE – OCTOBER 1, 2020

ADDITIONAL INFORMATION

From Lake County: What we are considering is legislation that would require the Montana Department of Revenue to notify and allow a 30-day comment period by the Commissions prior to a fee property being transferred to exempt status by the Department. Currently there is law requiring MDOR to notify a County Treasurer prior to a property being exempted, but no notification to Commissioners is required. Our thought is to use language similar to the Federal statute requiring notification to counties and comment prior to property being moved into trust status. Below is the statute and highlighted is the information requirements that would be important to the County prior to a property being placed in exempt status. Presently, I think a County can appeal to the Montana Tax Appeal Board a property being placed in exempt status, but that is an after the fact process.

25 CFR § 151.10 - On-reservation acquisitions.

§ 151.10 On-reservation acquisitions.

Upon receipt of a written request to have lands taken in trust, the [Secretary](#) will notify the state and local governments having regulatory jurisdiction over the land to be acquired, unless the acquisition is mandated by legislation. **The notice will inform the state or local government that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.** If the state or local government responds within a 30-day period, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply and/or request that the [Secretary](#) issue a decision. The [Secretary](#) will consider the following criteria in evaluating requests for the acquisition of land in trust status when the land is located within or contiguous to an Indian reservation, and the acquisition is not mandated:

- (a) The existence of statutory authority for the acquisition and any limitations contained in such authority;
- (b) The need of the [individual Indian](#) or the [tribe](#) for additional land;
- (c) **The purposes for which the land will be used;**
- (d) If the land is to be acquired for an [individual Indian](#), the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;
- (e) **If the land to be acquired is in unrestricted fee status, the impact on the State county and its political subdivisions resulting from the removal of the land from the tax rolls;**
- (f) **Jurisdictional problems and potential conflicts of land use which may arise;** and
- (g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.
- (h) The extent to which the applicant has provided information that allows the [Secretary](#) to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. (For copies, write to the Department of the Interior, Bureau of Indian Affairs, Branch of Environmental Services, 1849 C Street NW., Room 4525 MIB, Washington, DC 20240.)

[[45 FR 62036](#), Sept. 18, 1980, as amended at [60 FR 32879](#), June 23, 1995]