PILT & PRIOR YEAR PAYMENTS
(House Bill 220, 2021 Legislative Session)

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Purpose: Provide guidance to counties on forming a special district and designating that district as the recipient of federal funds that are designated to the county.

BACKGROUND
- Payments in Lieu of Taxes (PILT) are federal payments to local governments to help offset losses in property taxes due to the existence of nontaxable federal lands within local government’s boundaries. The law, codified here, recognizes the federal impact of the inability of local governments to collect property tax on federally owned land.
- The Department of Interior’s Office of the Secretary (the Department) has administrative authority over the PILT program and is responsible for calculating payments according to the formulas established by law and distributing the funds.
- The formula used to compute the payments is contained in the PILT Act and is based on population, revenue-sharing payments, and the amount of federal land within an affected county but also includes a deduction for prior year payments.
- Prior year payments are federal revenue sharing payments made to local governments under programs other than PILT during the previous fiscal year. The PILT Act requires each state to report these payments to the Department each year, which generally results in lower PILT payments the following year.
- HB 220 allows a local governing body to, by resolution, instruct any federal agency to designate a special district as the recipient of federal funds to be used for the costs and expenses of the special district, thus eliminating the need to report prior year payments (MCA 7-11-1024(5)).

SPECIAL DISTRICTS
- A special district is a unit of local government that is authorized by law to perform a single function or a limited number of functions. The term includes, but is not limited to, cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, road districts, rodent control districts, television districts, and districts created for any public or governmental purpose not specifically prohibited by law (MCA 7-11-1002).
- Create the District
  - MCA 7-11-1003 authorizes the governing body to create a special district by resolution. Prior to the passage of the resolution, the governing body must hold at least one public hearing in accordance with MCA 7-11-1007. The publication of the notice of the public hearing must include the time place of hearing.
  - At the same time as the publication:
    - District boundaries, identified by the governing body as outlined in MCA 7-11-1006, must be made public. The boundaries must follow county lines as much as possible.
The governing body must provide a list of properties subject to potential assessment, fees, or taxation under the creation of the proposed special district and mail a copy of the notice of publication to each current property owner. The governing body must also send each property owner a protest form as outlined in MCA 7-11-1008(2)(c).

- Following the hearing and protest period, if the governing body decides to create the district, a copy of the resolution is delivered to the clerk and recorder and the secretary of state who will issue a certificate of establishment.

- **Govern the District**
  - Once the certificate of establishment is issued the district will have all of the rights, privileges, and powers set forth in MCA 7-11-1021. Depending on the method of board selection, appointments may be necessary, or an election may be held. **In either event, the District Board cannot constitute a quorum of county commissioners.**
  - The District Board will adopt and submit a resolution instructing the State of Montana to designate the district as the recipient of federal funds, pursuant to MCA 7-11-1024(5).

- **And if it does not work as intended, Dissolve the District**
  - While this system has worked in other states, MACo does not warrant or guarantee that the Department will interpret these payments as hoped. Make sure that you put parameters around the special district which will help you to dissolve the district if desired, notwithstanding protests from owners of property in the district. We also recommend that you include wording to help ensure that any funds received are expended in a manner consistent with the Commissions’ general desires. In the event that you need to dissolve, follow the process outlined in MCA 7-11-1029. You will also need to submit a resolution to the State of Montana stating that the county no longer directs any federal funds to the district.

As always, please consult with your county attorney.