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TRUST LAND IMPACT ON LOCAL GOVERNMENT

*HOUSE JOINT RESOLUTION NO. 38
"Interim Study of the Effect on County Finances of Placing Land in Trust for Montana Indian Tribes or Tribal Members"*

*Lake County, Montana Presentation
Gale Decker, Lake County Commissioner
Sept. 14, 2017*

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Lake County, Montana Quick Facts:

1. *Population: 30,000*
2. *Tribal enrolled members: 8,000; 5000+ reside on the reservation.*
3. *Land area 956,160 acres; 44th of 56 counties*
4. *1,240,320 acres within boundaries of Flathead Indian Reservation*

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1. *Flathead Reservation land was allotted to Indian individuals and families in 1904.*
2. *Reservation was then opened for settlement in 1909 Lake County remains an "open" reservation.*
3. *Lake County was formed in 1923 out of Flathead and Missoula Counties.*

1. Due to the reservation being open, land ownership is checkerboard fashion; tribal trust land and fee land.
2. Lake County inherited the trust land issue when formed as a county.

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What is the status of lands in Lake County?

1. *Fee simple-The landowner holds legal title to the land.*
2. *Tribal trust-The title is held by the Federal government for use and benefit of the Tribe.*
3. *Allotted trust-The title is held by the Federal government for use and benefit of individual Tribal member.*

1. Many Tribal landowners in Lake County have not put their property in trust.

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What kinds of properties are in trust?

Properties or businesses owned by individual tribal members and properties or businesses owned by the CSKT.

1. Not all properties owned by the tribe are in trust. Some remain in fee and pay property taxes.
2. Examples of Tribal businesses on trust land are: The Peoples' Center, Eagle Bank (\$53 million in assets in 2015), S & K Electronics (\$6 million in assets in 2015).

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How is land put into trust and who can apply to put land in trust?

1. *There are 16 steps to putting land in trust. The process must be completed within 5 years.*
2. *Enrolled tribal members and recognized tribes may apply to put land in trust.*

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When do property tax collections cease when landowners or businesses apply for trust status?
MCA 15-6-230 requires two conditions to be met:

- 1) When the Bureau of Indian Affairs determines the trust application submitted is complete;
- 2) A timely property tax exemption application has been submitted and approved by the Department of Revenue.

1. Step 3 of the 16 step trust process is "Respond to Incomplete Request/Application." When the application is determined to be complete, the property is deemed eligible for consideration of trust status.

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What is the primary benefit to the landowner who applies to place land in trust?

Property tax collections cease; the amount of loss to the County varies from a few dollars to thousands of dollars. The tax loss is not a one time only loss, the loss is permanent.

1. It is still unclear if the former Kerr Dam is in trust or not. Currently, there are no property tax collections on the dam or the land it sits on. Tax loss was approximately 1.9 million dollars. The DOR has told Lake County that the land and improvements are "Tax Exempt."

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Are there other advantages to placing land in trust?

Lake County has recently witnessed other benefits of placing land in trust:

1. County land use, zoning, environmental health, etc. regulations no longer apply.
2. Contributions to road improvement or maintenance districts becomes voluntary.
3. State and county noxious weed control regulations/statutes cannot be enforced.

1. Lake County has seen a significant increase in interest in creating both RID and RMD by citizens. Most of these districts contain "benefitted" properties that are in trust that do not contribute to the improvements.
2. Federal courts have ruled that state or local land use regulations cannot be applied to trust land.
3. Noxious weed infestations in Lake County are at epidemic levels; Quarantining of hay in the County is being considered.

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How much land in Lake County is currently in trust?

1. There were about 294,890 acres of land in trust in Lake County in 2015. Property tax loss on land only was \$2,310,318.
2. Trust land can exist both inside and outside the boundaries of an Indian Reservation.

1. Total acres in Lake County is 956,160.
2. Total property tax collections dedicated to Lake County in 2015 was about \$12 million.

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When land is put in trust what is the impact on remaining taxpayers?

The affected government may reduce budget amounts, or the tax loss is made up by remaining property owners.

1. Average property tax bill increase of 24% over past two years in Lake County.
2. Almost all entities, including the County, increase the amount other taxpayers contribute to make up the difference.

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Do properties in trust still receive county services such as road maintenance?

Yes, The county provides services to all residents. These services include road maintenance, snow plowing, weed spraying, mowing along county maintained roads, etc.

1. Lake County is a Public Law 280 county and is charged with prosecuting all felonies. Many of these prosecutions involve tribal members. The cost of PL 280 to Lake County is an estimated \$4 million dollars and the costs are almost entirely funded by property tax revenue.

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The Federal Government has compounded the property tax loss in Lake County.

- 1. The Bonneville Power Administration has used Bull Trout habitat loss dollars to purchase land. After purchasing, the BPA turns management of the property over to the tribe, who then puts the land in trust.*
- 2. The recent initiative to transfer ownership of the National Bison Range to the CSKT, if completed, would have meant a loss of revenue to Lake County.*

1. Hundreds of acres of land along the Jocko River in Lake County have been put in trust by this process. These land acquisitions by the BPA are fairly recent and have compounded the trust land tax loss. The tax loss is thousands of dollars.
2. Lake County currently received about \$10,000 annually from the Refuge Revenue Sharing Act. That payment was to be phased out if the transfer was completed.

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Is the amount of property tax loss due to land in trust made up for by tribal economic contributions to lake County?

Business owners benefit from tribal dollars spent in the county, but the average taxpayer does not benefit. Additionally, new tribal businesses often require additional county services.

1. Businesses on trust land lowers the cost of doing business as improvements made on the land are exempt from state taxation. Businesses on fee land are at a distinct disadvantage as they are subject to taxation which increases the cost of doing business.


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- In summary, the Governor and some legislators continue to provide additional funding to a government that had a budget of over \$180 million last year for 8000 members and doing nothing to address an issue that is severely impacting a county government that serves 30,000 residents with a budget of \$22 million.*

1. 2017 HB 2 provided \$1.6 million of general fund money to Indian Country Economic Development Program.
2. 2017 SB 309 dedicates 0.5% of the lodging tax collected in the state to promoting tourism in Indian Country.
3. 2017 HB 475 increased the state gas tax; when completely implemented it provides CSKT nearly one million yearly that does not need to be committed to roads. Lake County potentially will receive an estimated \$200,000 that must be dedicated to roads when the entire tax increase takes effect.

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What are some possible solutions to the loss of property tax revenue to local governments?

1. *Montana can weigh in at the Federal level in an attempt to get congressional action on the issue as it is affecting several states.*
2. *The Montana Legislature revise MCA 15-6-230.*
3. *Implement a sales tax to replace property tax revenue.*

1. Property tax collections should cease only AFTER land achieves trust status.
2. The Montana Constitution prohibits county taxation of Indian land, but does not prohibit fees for services.

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Solutions, cont.,

1. *Collect fees for services for land in trust.*

1. Lake County currently collects solid waste fees for Tribal members.

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This is NOT a racial issue, but an EQUITY issue. Our county taxpayers are doing the heavy lifting with respect to providing county services to all residents. Some residents, particularly the long time, retired, are having a difficult time keeping pace with property tax increases. There needs to be legislative action to address this issue.

1. Lake County no longer accepts roads for county maintenance due to added costs.
2. The county only does chip seal projects as a road improvement district and benefitted property owners pay the costs.