

PAYMENTS IN LIEU OF TAXES

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS
AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Hearing held on Friday, October 14, 2011	1
Statement of Members:	
Bishop, Hon. Rob, a Representative in Congress from the State of Utah ...	1
Prepared statement of	3
Gosar, Hon. Paul A., a Representative in Congress from the State of Arizona, Prepared statement of	50
Grijalva, Hon. Raúl M., a Representative in Congress from the State of Arizona	4
Prepared statement of	4
Statement of Witnesses:	
Corn, M. Lynne, Ph.D., Specialist in Natural Resources Policy, Congressional Research Service, Library of Congress	7
Prepared statement of	9
Haze, Pamela K., Deputy Assistant Secretary, Office of Budget, Finance, Performance and Acquisition, U.S. Department of the Interior	5
Prepared statement of	6
Yonk, Ryan M., Assistant Professor of Political Science, Southern Utah University	28
Prepared statement of	29
Additional materials supplied:	
Gila County Board of Supervisors, Letter to The Honorable Paul Gosar dated October 13, 2011, submitted for the record	41
National Association of Counties, Statement submitted for the record	51

OVERSIGHT HEARING ON “PAYMENTS IN LIEU OF TAXES.”

Friday, October 14, 2011
U.S. House of Representatives
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:07 a.m., in Room 1324, Longworth House Office Building, The Honorable Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, Lamborn, Coffman, McClintock, Tipton, and Grijalva.

Also present: Representative Gosar.

Mr. BISHOP. The Subcommittee will be in order. The Chairman notes the presence of a quorum; grateful for all of you who are here.

The Subcommittee on National Parks, Forests and Public Lands is meeting today to hear testimony on the Payment in Lieu of Taxes programs initiative. It is very important to all constituents of the West.

Under the Committee Rules, opening statements are limited to the Chairman and the Ranking Member of the Subcommittee; however, I ask unanimous consent to include any Members' opening statements in the hearing record if submitted to the Clerk by close of business today. And hearing no objections, we will do that.

I also ask unanimous consent that any member of the Subcommittee or the full committee wishing to participate in today's hearing be allowed to participate from the dais. Even though that doesn't apply to anybody, but we will make that a UC anyway. OK, no objections; we are doing it.

STATEMENT OF THE HONORABLE ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. Today we are going to hear testimony on the history and the construction of PILT and how PILT payments are configured and how they impact Federal lands and Federal land management decisions that we have in our communities.

While PILT is enacted to compensate local governments for the loss of property tax revenues for nontaxable Federally owned land, it has never fully accounted for the numerous management prescriptions that accompany that particular land. Not all Federal public lands are created equal. PILT does not adjust for variations in land-use designation, especially if moving from accessible multiple-use to a more restrictive or non-impairment management status.

PILT has become an essential lifeline for many rural communities and counties. And since more than half of all the land in the West is unfortunately owned and managed by the Federal Government, PILT has a significant impact on all rural economies of western states.

PILT is not an equalizer. While PILT is a necessary source of funds for rural and primarily western counties, although almost every county benefits in some way throughout this country from it, it often does not accurately reflect the economic opportunities that would be available through active management and use of the Federal public lands.

When land management decisions reduce access or utilization of natural resources, local economies bear the brunt, and too often vital economic opportunities and resources, including traditional and renewable energy sources, are lost. And again, PILT cannot and does not fill that void. PILT alone is not adequate reimbursement for an absentee Federal landlord, especially one that pushes additional reductions in access and multiple use on our public lands.

Contrary to claims by the Administration and others, the designation of monuments and wilderness are not a boon to local economies but rather a detriment in most scenarios. And I look forward to hearing about the work of Dr. Yonk and his colleagues which clearly calls into question the validity of recent testimony this Subcommittee had from the Director of Headwaters Economics.

America is in the midst of a recession with elevated unemployment, yet the Obama Administration continues to push a wilderness agenda that competes with our natural priorities of job creation and domestic energy independence. This is counter-productive.

At a time when the budgets are tight around the nation, particularly in the rural West, the Obama Administration needs to closely evaluate the real impact of advancing a wilderness agenda. To lock out millions of acres of public lands in the West without Congressional approval and restricting access for energy production, recreation and other job-creating activities would devastate these rural communities that unfairly bear the brunt of the restrictive land management designations.

With the expiration of the full funding of PILT looming in Fiscal Year 2012, the interests and livelihoods of all the residents and stakeholders should be considered and protected when making land use decisions. Land use designations, such as national monuments and wilderness, should be initiated at the local level, not out of pressure from Washington without adequate understanding of the

impact on local communities, who are too often left shouldering the heavy burden of these dictates.

The Majority in Congress understands that we are at a critical juncture when it comes to managing our national assets and the current state of economic mandates that we do more with less. It is imperative that we begin to manage our Federal lands and natural resources for maximum returns on conservation, economic and public benefit, and improved management of our Federal lands and resources will create much-needed jobs, amplify conservation efforts and make America more self-reliant. This approach will help to keep PILT-reliant counties productive and viable.

I look forward to hearing from our witnesses today. And I recognize the Ranking Member for his opening statement.

[The prepared statement of Mr. Bishop follows:]

**Statement of The Honorable Rob Bishop, Chairman,
Subcommittee on National Parks, Forests and Public Lands**

Today we will hear testimony on the history and construction of PILT, how PILT payments are configured and the impact federal land management decisions have on surrounding communities.

While PILT was enacted to compensate local governments for lost property tax revenues on non-taxable federally owned land, it never fully accounted for the numerous management prescriptions that accompany that land.

Not all federal/public lands are created equal. PILT does not adjust for variations in land use designations, especially if moving from accessible multiple-use to a more restrictive or non-impairment management status.

PILT has become an essential lifeline for many rural counties. Since more than half of all the land in the West is owned and managed by the federal government, PILT has a significant impact on the rural economies of Western States.

PILT is not an equalizer. While PILT is a necessary source of funds for rural, primarily western counties, it often does not adequately reflect the economic opportunity available through active management and use of federal public lands.

When land management decisions reduce access and utilization of natural resources, local economies bear the brunt and too often vital economic opportunities and resources, including traditional and renewable energy resources are lost. Again, PILT cannot and does not fill that void.

PILT alone is not adequate reimbursement for an absentee federal landlord, especially one that pushes additional reductions in access and multiple-use on our public lands.

Contrary to claims by the administration and others, the designation of monuments and wilderness are not a boon to local economies, but rather a detriment in most scenarios.

I look forward to hearing more about the work Dr. Yonk and his colleagues have done that clearly calls into question the validity of recent testimony before this Subcommittee by the Executive Director of Headwaters Economics.

America is in the midst of a recession with elevated unemployment, yet the Obama Administration continues to push a "wilderness agenda" that competes with our national priorities of job creation and domestic energy independence. This is counter-productive.

At a time when budgets are tight around the nation and particularly in the rural West, the Obama Administration needs to closely evaluate the real impact of advancing a "wilderness agenda."

To lock-up millions of acres of public lands in the West, without Congressional approval, and restricting access for energy production, recreation, and other job-creating economic activities would devastate these rural counties that unfairly bear the brunt of these restrictive land management designations.

With the expiration of full funding for PILT looming in fiscal year 2012, the interests and livelihoods of all residents and stakeholders should be considered and protected when making land use decisions.

Land use designations such as national monuments and wilderness should be initiated at the local level, not out of pressure from Washington without adequate understanding of the impact on local communities who are too often left shouldering the heavy burden of these dictates.

The Republican Majority in Congress understands that we are at a critical juncture when it comes to managing our nation's assets and the current state of our economy mandates that we do more with less.

It is imperative that we begin to manage our federal lands and natural resources for a maximum return on conservation, economic and public benefit.

Improved management of our federal lands and resources will create much-needed jobs, amplify conservation efforts and make America more self-reliant. This approach will help to keep PILT-reliant counties productive and viable.

I look forward to hearing from our witnesses today.

STATEMENT OF THE HONORABLE RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman. I am sorry I was tardy, and I apologize to the witnesses as well.

Mr. Chairman, in 1976 Congress created the Payment In Lieu of Taxes or PILT program to ensure that county governments receive compensation for the presence of public lands within their county boundaries. The amounts provided under the PILT program are over and above the revenues generated on Federal lands, which are shared with local governments.

Since 1976, under Democratic Majorities, the PILT program has been fully funded. When the Republicans took the Majority in 1994, PILT was under-funded, with appropriations between 40 and 70 percent of the authorized amount. And it took a Democratic Majority in 2008 to restore full funding for PILT as a mandatory spending program for the next five years.

But starting in 2013, PILT will again need to be authorized and appropriated by Congress. I am worried that history is about to repeat itself with the Republican Majority either allowing PILT to expire or targeting the program for significant cuts in funding.

Just like the Secure Rural Schools program, which the Republicans allowed to expire in the 109th Congress, the Republican Majority will have to decide next year what the future is of PILT. If programs like PILT and Secure Rural Schools are truly vital to our rural communities throughout the West, then we must find ways to fully fund them.

What we must not do is cut PILT and then use the cut as an excuse to degrade our environmental safeguards on our public lands. Our public lands provide substantial benefits to states and local counties from travel and tourism dollars. Our public lands are the backbone of the outdoor recreation economy, which generates over \$730 billion in economic activity, 6.5 million jobs and \$88 billion in annual state and Federal tax revenue.

We need to find bipartisan solutions to helping our rural counties meet their budgetary needs. We stand ready to work with the Majority on an effective long-term funding solution for PILT.

I want to thank the witnesses for joining us today and look forward to their thoughts on these proposals. Thank you, and I yield back.

[The prepared statement of Mr. Grijalva follows:]

**Statement of The Honorable Raúl Grijalva, Ranking Member,
Subcommittee on National Parks, Forests and Public Lands**

Mr. Chairman, in 1976, Congress created the Payment in Lieu of Taxes, or PILT, program to ensure that county governments receive compensation for the presence of public lands within their county boundaries. The amounts provided under the

PILT program are over and above the revenues generated on federal lands which are shared with local governments.

Since 1976, under Democratic majorities, the PILT program had been fully funded. When the Republicans took the majority in 1994, PILT was underfunded, with appropriations between 40 and 70 percent of the authorized amount. And, it took a Democratic majority in 2008 to restore full funding for PILT as a mandatory spending program for the next five years.

But starting in 2013, PILT will again need to be authorized and appropriated by Congress. I am worried that history is about to repeat itself with the Republican Majority either allowing PILT to expire or targeting the program for significant cuts in funding.

Just like the Secure Rural Schools program, which the Republicans allowed to expire in the 109th Congress, the Republican majority will have to decide next year what the future of PILT will be.

If programs like PILT and Secure Rural Schools are truly vital to our rural communities throughout the West, then we must find ways to fully fund them.

What we must *not* do is cut PILT, and then use that cut as an excuse to degrade our environmental safeguards on public lands.

Our public lands provide substantial benefits to states and local counties from travel and tourism dollars. Our public lands are the backbone of the outdoor recreation economy, which generates over \$730 billion in economic activity, 6.5 million jobs, and \$88 billion in annual state and federal tax revenue.

We need to find bipartisan solutions to helping our rural counties meet their budgetary needs. And, we stand ready to work with the Majority on an effective, long-term funding solution for PILT.

I thank the witnesses for joining us today and look forward to their thoughts on these proposals.

Mr. BISHOP. All right. As I said, we are going to have some problems here. But we may have time, I think we do have time, to get at least the first two witnesses' testimony in. Then we are going to have to take a break to go back to votes, and then we will come back and finish this panel.

So, like all of our witnesses, your written testimony will appear in the record. We want to hear your oral testimony here, and we want you to keep it as best you can to five, this time we need you to keep it to five minutes.

The lights in front of you indicate green, you are still going fine; yellow, you have one minute left; please stop when it hits red.

And with that, we will start with Ms. Pamela Haze, who is the Deputy Assistant Secretary for the Office of Budget, Finance, Performance and Acquisition at the Department of the Interior. Ms. Haze, please.

STATEMENT OF PAMELA K. HAZE, DEPUTY ASSISTANT SECRETARY, OFFICE OF BUDGET, FINANCE, PERFORMANCE AND ACQUISITION, UNITED STATES DEPARTMENT OF THE INTERIOR

Ms. HAZE. Good morning. As you said, I am the Deputy Assistant Secretary for Budget, Finance, Performance and Acquisition, and executing the Payments In Lieu of Taxes is in my portfolio of programs.

I have here with me today from the Department of the Interior Jason Buckner, Adrienne Moss and Brian Yost. I just wanted to mention their names. So, good morning. Thank you for inviting me to be a part of this panel this morning. I have a formal statement, and I just have a few brief comments, a quick overview of the program if you will and how we manage the program. Many of you are

already very knowledgeable about the program and its history, so hopefully I am not repeating things you already know.

The Payments in Lieu of Taxes program makes annual payments to counties to help offset the costs of services and infrastructure that are incurred by these local jurisdictions where certain Federal lands are located. Payment eligibility is reserved for local governments that contain nontaxable Federal lands, and these jurisdictions provide services related to public safety, housing, social services, transportation and other services.

PILT payments are made to counties that have lands within them. This includes lands that are in the National Forest System, the National Park System, lands managed by the Bureau of Land Management, lands affected by the Corps of Engineers and the Bureau of Reclamation Water Resource Development projects.

We use a formula in allocating PILT. We use a formula that is provided in the PILT Act. The annual payment to each county is computed based on the number of acres of Federal entitlement land within that jurisdiction, and population serves as a cap on the formula.

The PILT Act also requires that we consider prior-year revenue payment amounts from a select number of revenue-sharing programs in the calculation of the payment.

Since the inception of the program, the Act was passed in 1976, the first payment was made in 1977. So, since 1977 and through 2011, with the last payment we made in June of 2011, the Department of the Interior has made payments totaling \$5.5 billion. From 1977 through 2008, funding for the PILT program was included in annual discretionary appropriations, so we sought funding through our annual budget request, and it was considered as part of the Appropriations process.

In 2008, the Emergency Economic Stabilization Act authorized a five-year program of mandatory funding for PILT payments. So, beginning in 2008, we made full entitlement payments to the counties and have through 2011. In 2011 we made payments of \$375 million to about 1900 counties. This authorization expires in 2012, as you have already mentioned.

So, a brief overview of the administration of the program. Payments are distributed to counties in June. To ensure they receive funding on a timely manner, in most cases the counties have a fiscal year that begins in July, as you know. So, we are trying to accommodate their need to get the money before the end of the fiscal year.

We use approximately \$400,000 to administer the program on an annual basis. This is about 0.1 percent of the total program funding. We use a portion of this to make adjustments to prior-year payments when counties come in and give us new information or Federal agencies change acreage.

With that, I am going to conclude my remarks. Thank you.

[The prepared statement of Ms. Haze follows:]

Statement of Pamela K. Haze, Deputy Assistant Secretary for Budget, Finance, Performance and Acquisition, U.S. Department of the Interior

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to testify today on the Department of the Interior's Payments-in-Lieu of Taxes (PILT) Program. The Administration strongly supports ways that the Federal

government can fulfill its role of being a good neighbor to local communities, such as PILT.

Background

The PILT Act (P.L. 94-565) was passed by Congress in 1976 to provide payments to local governments in counties where certain Federal lands are located within their boundaries. PILT is based on the concept that these local governments incur costs associated with maintaining infrastructure on Federal lands within their boundaries but are unable to collect taxes on these lands; thus, they need to be compensated for these losses in tax revenues. The payments are made to local governments in lieu of tax revenues and to supplement other Federal land receipts shared with local governments. The Department has distributed more than \$5.5 billion dollars in PILT payments since these payments began in 1977.

The annual PILT payments to local governments are computed based on the number of acres of Federal entitlement land within each county or jurisdiction. Federal entitlement lands include lands within the National Forest and National Park Systems, those managed by the Bureau of Land Management (BLM), those affected by Corps of Engineers and Bureau of Reclamation water resources development projects, and certain other Federal lands. The formula for calculating PILT payments takes into account the population within an affected unit of local government, the number of acres of eligible Federal land, and the amount of certain Federal land payments received by the county in the preceding year. These payments are made from Federal revenue generating programs (such as receipts from mineral leasing, livestock grazing, and timber harvesting) that the Federal Government transfers to the counties.

Prior to 2008, the amounts available for PILT payments to local governments required an annual appropriation by Congress. In 2007, the last year that PILT funding was subject to appropriation, PILT payments were 64.7 percent of the full authorized level for counties.

The Emergency Economic Stabilization Act of 2008 (Public Law 110-343) converted PILT to a mandatory program under which counties have received the full PILT entitlement level. In 2011, a total of \$375.2 million was distributed to approximately 1,850 local government units (mostly counties) in 49 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

The amount authorized for the program in FY 2011 was \$375.6 million, comprising \$375.2 million for payments to counties and other local governments and \$400,000 for expenses to administer the program.

Conclusion

The Administration recognizes that PILT is important to local governments, sometimes comprising a significant portion of their operating budgets. The PILT monies have been used for critical functions such as local search and rescue operations, road maintenance, law enforcement, schools, and emergency services. These expenditures often support the activities of people from around the country who visit or recreate on Federal lands.

As we look forward to reauthorization of the program, the Department hopes to continue to work to ensure an efficient and effective program.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or the other members may have.

Mr. BISHOP. Ms. Haze, thank you very much for your testimony. We can get one other witness in here easily within our time limit before we run out of time for the votes, so I will ask that Dr. Corn, who is a Specialist in Natural Resources Policy with the Congressional Research Service, Library of Congress, address us now. Same thing, five minutes, please, ma'am.

STATEMENT OF M. LYNNE CORN, PhD, SPECIALIST IN NATURAL RESOURCES POLICY, CONGRESSIONAL RESEARCH SERVICE—RSI, LIBRARY OF CONGRESS

Dr. CORN. Good morning, Mr. Chairman. I have been asked by the Subcommittee to describe how the program works for Payments in Lieu of Taxes. I have submitted written testimony in the form

of a CRS report that I updated recently. With the help of some slides from that report, I will describe this program.

The original program was designed as an overlay rather than a substitute for Federal payment programs already in existence for national forests, BLM lands, wildlife refuges and a few other specified areas. The emphasis was on, one, providing at least some payment to counties whose Federal lands produced little or no revenue from Agency payment programs and two, paying proportionately more to counties with very low populations that might be less able to provide government services.

The result was a formula that capped payments based on population, subtracted out specified prior-year payments and set a certain minimum payment so that every county with eligible lands got at least some PILT payment regardless of prior-year payments from other agencies.

There was no adjustment for inflation. The program relied on discretionary spending, and Congress appropriated 90 percent or more of the full authorized amount in all but one year from 1977 to 1994. All states have at least some acreage eligible for PILT payments, but most of the acreage is in western States.

As the years passed, counties receiving PILT payments raised a variety of concerns, particularly the erosion in the value of the payments due to inflation. Some counties also wanted to see more categories of Federal lands or Indian lands become eligible for payments or to move to a system of tax equivalency.

In 1994, Senator Hatfield held PILT hearings in the Committee on Energy and Natural Resources, and many different views were expressed as virtually all proposed changes would have helped some counties and hurt others. A compromise was reached to raise payment rates and then adjust rates in later years for inflation.

As my next slide shows, the authorization levels rose rapidly. The program continued to rely on annual appropriations. So, even though appropriations rose rapidly, they did not keep up with the authorization level, and counties tended to focus on the gaps between these two sets of bars.

However, as my next slide shows, whether measured by current dollars or by constant inflation-adjusted dollars, the payments did go up. The reliance on discretionary spending ended in 2008 with Public Law 110-343. This law provided for mandatory spending authority for PILT from Fiscal Year 2008 through Fiscal Year 2012. The payment next summer is the last under this provision, and after 2012 the program will return to annual appropriations unless Congress changes the law.

To calculate the PILT payment for any given county, you need to know the answers to these five questions. One, how many acres of eligible lands are in the county? The PILT statute specifies which lands are eligible, and I have shown these on page 4 in my written testimony.

Two, what is the population of the county? As my next slide shows, no matter how many acres, and regardless of prior-year payments, a county's payments are limited by the population of the county, and no county is credited with having more than 50,000 people.

Third, what were the previous year's payments, if any, for all of the eligible lands under other payment programs of Federal agencies? In the next slide, note that as prior-year payments, shown there on the X axis, increase, the next year's payments under PILT, shown on the Y axis, decrease. Only those payments named in the PILT statute produce any offset. Any prior-year payment that is not named in PILT as requiring an offset doesn't count. I have shown these prior-year payments that result in an offset in Table A-3 in my written testimony.

Four, does the state have any laws requiring the payments from other Federal agencies to be passed through to other independent local government entities, such as school districts, rather than staying with the county government itself? If they do and the county government never actually receives the funds, then those funds don't count against that county in calculating the next year's PILT payment.

And five, what was the increase in the consumer price index during the year? My next slide shows a very complicated flow chart as to how this calculation is worked out. I would be happy to go through the steps in this if the Committee wishes.

And with that, let me thank you for your invitation to appear today, and I would be pleased to answer your questions on this program.

[The prepared statement of Dr. Corn follows:]

**Statement of M. Lynne Corn, Specialist in Natural Resources Policy,
Congressional Research Service, Library of Congress**

I have been asked by the Subcommittee to testify on the program known as Payments in Lieu of Taxes (PILT). With this memorandum, I am attaching my written testimony—CRS Report RL31392 PILT (Payments in Lieu of Taxes): Somewhat Simplified, a report I recently updated on this program. I appreciate this opportunity to testify on this program, and will be pleased to answer your questions.

PILT (Payments in Lieu of Taxes): Somewhat Simplified

M. Lynne Corn
Specialist in Natural Resources Policy
September 28, 2011
CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

Under federal law, local governments are compensated through various programs for reductions to their property tax bases due to the presence of most federally owned land. These lands cannot be taxed, but may create demand for services such as fire protection, police cooperation, or simply longer roads to skirt the federal property. Some of these programs are run by specific agencies and apply only to that agency's land. The most widely applicable program, administered by the Department of the Interior (DOI), applies to many types of federally owned land, and is called "Payments in Lieu of Taxes," or PILT. The authorized level of PILT payments is calculated under a complex formula. This report addresses only the PILT program administered by DOI. There is no PILT-like program generally applicable to military lands, but a small fraction of military lands are eligible for the DOI PILT program. Furthermore, PILT does not apply to Indian-owned lands, virtually none of which are subject to local taxes.

This report explains PILT payments, with an analysis of the five major factors affecting the calculation of a payment to a given county. It also describes the effects of certain changes in PILT in 2008. Previously, annual appropriations were necessary to fund PILT, but a 2008 provision (in P.L. 110-343) for mandatory spending

ensured that, beginning with FY 2008 and continuing through the payment to be made in 2012, all counties will receive 100% of the authorized payment. Efforts have begun to convert the temporary mandatory spending into a permanent feature of PILT. However, given current attention to debt and deficits on the one hand, and the fiscal pressures on local governments on the other, extension of the mandatory spending feature seems likely to be controversial. If the provision is not extended, the program would return to funding through annual appropriations.

Other issues have been the inclusion of additional lands under the PILT program, particularly some or all Indian lands, which are not now eligible for PILT. Most categories of Indian-owned lands cannot be taxed by local governments, though they generally enjoy county services. In some counties, this means a very substantial portion of the land is not taxable. The remaining tax burden (for roads, schools, fire and police protection, etc.) therefore falls more heavily on other property owners. To help compensate for this burden, some counties have proposed that Indian lands (variously defined) be included among those eligible for PILT payments. Other lands mentioned from time to time for inclusion include those of the National Aeronautics and Space Administration, and the Departments of Defense and Homeland Security. In addition, some counties would like to revisit the compensation formula and emphasize a payment rate more similar to property tax rates (which vary widely among counties), a feature that would be a major change in counties with high property values. Finally, for lands in the National Wildlife Refuge System (NWRS), some would argue that all lands of the system should be eligible for PILT, rather than limiting the PILT payments to lands reserved from the public domain and excluding PILT payments for acquired lands. The exclusion of NWRS-acquired lands affects primarily counties in eastern states.

Contents

Introduction

Changes to PILT in the 110th Congress

How PILT Works: Five Steps to Calculate Payment

Step 1. How Many Acres of Eligible Lands Are There?

Step 2. What Is the Population in the County?

Step 3. Are There Prior-Year Payments from Other Agencies?

Step 4. Does the State Have Pass-Through Laws?

Step 5. What Is This Year's Consumer Price Index?

Putting It All Together: Calculating a County's Payment

National Totals

From Authorization to Appropriation

Current Issues

Inclusion of Indian Lands

Inclusion of Urban Lands and Tax Equivalency

National Wildlife Refuge Lands

Figures

Figure 1. Total PILT Payments, FY1993–FY2011: Appropriations in Current and Inflation-Adjusted Dollars (to 2010)

Figure 2. Total PILT Payments, FY1993–FY2011 Authorized Amount and Appropriation

Figure 3. Ceiling Payments Based on County Population Level, FY2011

Figure 4. PILT Payment Level as a Function of Specific Prior Payments (FY2011)

Figure 5. Steps in Calculating PILT for Eligible Federal Lands

Tables

Table 1. PILT Payments to Selected Urban Counties, FY2011

Table 2. NWRS Acres Eligible for PILT in Selected States, FY2010

Table A–1. Total PILT Payments, FY1993–FY2011: Appropriations in Current and Inflation-Adjusted Dollars (to 2010)

Table A–2. Total PILT Payments, FY1993–FY2011, Authorized Amount and Appropriation

Table A–3. Prior-Year Payment Laws That Are Offset Under Next PILT Payment

Appendixes

Appendix. PILT Data Tables

Contacts

Author Contact Information.

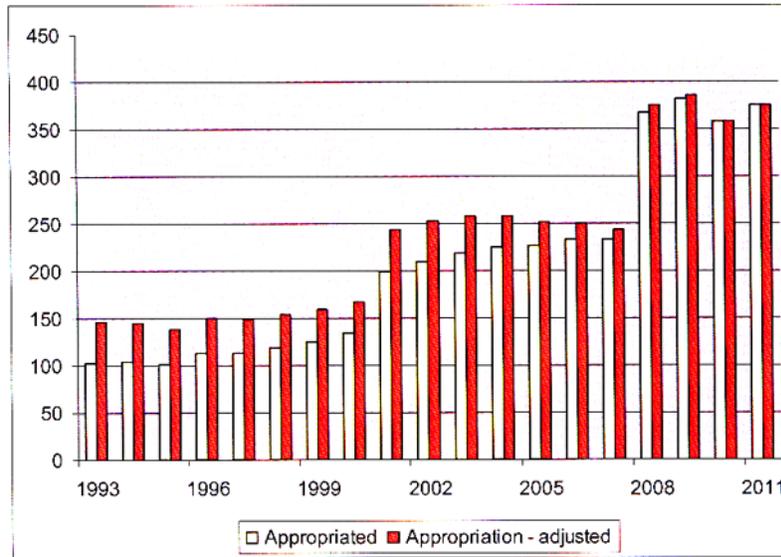
Introduction

Generally, federal lands may not be taxed by state or local governments unless the governments are authorized to do so by Congress. Because local governments are often financed by property or sales taxes, this inability to tax the property values or products derived from the federal lands may affect local tax bases, sometimes significantly. Instead of authorizing taxation, Congress has usually chosen to create various payment programs designed to compensate for lost tax revenue. These programs take various forms. Many pertain to the lands of a particular agency (e.g., the National Forest System or the National Wildlife Refuge System).¹ The most wide-ranging payment program is called "Payments in Lieu of Taxes" or PILT.² It is administered by the Department of the Interior and affects most acreage under federal ownership. Exceptions include most military lands and lands under the Department of Energy (DOE lands have their own smaller payment program).³ In FY2011, the PILT program covered 606.9 million acres, or about 94% of all federal land.

The Payments in Lieu of Taxes Act of 1976 (P.L. 94-565, as amended, 31 U.S.C. §§ 6901-6907) was passed at a time when U.S. policy was shifting from one of disposal of federal lands to one of retention. The policy meant that the retained lands would no longer be expected to enter the local tax base at some later date. Because of that shift, Congress agreed with recommendations of a federal commission that if these federal lands were never to become part of the local tax base, some compensation should be offered to local governments to make up for the presence of non-taxable land within their jurisdictions.⁴ Moreover, there was a long-standing concern that some federal lands produced large revenues for local governments, while other federal lands produced little or none. Many Members, especially those from western states with a high percentage of federal lands, felt that the imbalance needed to be addressed. The resulting law authorizes federal PILT payments to local governments that may be used for any governmental purpose.

Many of the issues addressed when PILT was created have continued. One issue is the appropriate payment level, complicated by later erosion of the purchasing power of the payments due to inflation. For many years, counties held that payments were effectively declining because of inflation. Then PILT was amended in 1994. The authorized payment level went up and was to be adjusted annually for inflation, but was still subject to annual appropriations. Figure 1 shows a major increase in the actual and inflation-adjusted dollars appropriated for PILT from FY1993 to

Figure 1. Total PILT Payments, FY1993-FY2011:
Appropriations in Current and Inflation-Adjusted Dollars (to 2010)
 (\$ in millions)



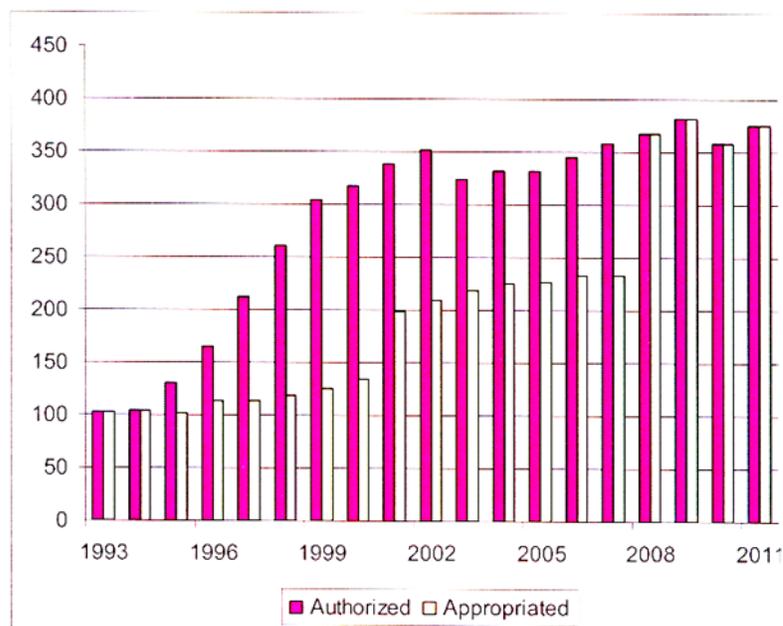
Source: Current dollars from annual *Payments in Lieu of Taxes: National Summary*. Inflation adjustment is based on chain-type price index.

Note: For the same data in tabular format, see **Table A-1**.

But the 1994 amendments, designed to overcome years of erosion due to inflation, caused the authorized payment level to increase still faster. (See Figure 2.)

Critics of PILT cite examples of what they view as its “quirkiness.” First, while there is no distinction between acquired and public domain lands⁶ for other categories of eligible lands, acquired lands of the Fish and Wildlife Service (FWS) are not eligible for PILT—to the consternation of many states in the East and Midwest, where nearly all FWS lands were acquired. Second, while payments under the Secure Rural Schools (SRS) program⁷ require an offset in the next year’s PILT payment for certain lands under the jurisdiction of the Forest Service, if the eligible lands are under the jurisdiction of the Bureau of Land Management (BLM), no reduction in the next year’s PILT payment occurs.⁸ Third, while payments under the Bankhead-Jones Farm Tenant Act (7 U.S.C. § 1012) require a reduction in the next year’s PILT payment if the lands are under BLM, no such reduction occurs if Bankhead-Jones payments are for lands under the Forest Service. Fourth, some of the “units of general local government”⁹ that receive large payments have other substantial sources of revenue, while some of the counties receiving little are relatively poor. Fifth, a few counties which receive very large payments from other federal revenue-sharing programs (because of valuable timber, mining, recreation, and other land uses) nonetheless are also authorized to receive a minimum payment (\$0.33 per acre)¹⁰ from PILT, thus somewhat cancelling out the goal of evening payments across counties. Sixth, in some counties the PILT payment greatly exceeds the amount that the county would receive if the land were taxed at fair market value, while in others it is much less. Given such problems, and the complexity of federal land management policies, consensus on substantive change in the PILT law has been elusive, particularly when Congress has a stated goal of reducing federal expenditures.

Figure 2. Total PILT Payments, FY1993-FY2011
Authorized Amount and Appropriation
 (\$ in millions)



Source: Annual Payments in Lieu of Taxes: National Summary.

Note: For the same data in tabular format, see **Table A-2**.

Changes to PILT in the 110th Congress

The Continuing Appropriations Act, 2009 (P.L. 110-329), provided the FY2008 level (\$228.9 million) through March 6, 2009; if this had been the full-year appropriation, it would have constituted roughly 61% of the figure estimated for full payment of the FY2009 authorized level. However, Section 601(c) of Title VI of P.L. 110-343 (the Emergency Economic Stabilization Act of 2008) provided for mandatory spending of the full authorized level for five years—FY2008-FY2012. For FY2008, an additional payment was made to raise the FY2008 level to the full authorized amount, and for FY2009–FY2012, the payments are at 100% of the authorized amount.

How PILT Works: Five Steps to Calculate Payment

Calculating a particular county's PILT payment first requires answering several questions:

1. How many acres of eligible lands are in the county?
2. What is the population of the county?
3. What were the previous year's payments, if any, for all of the eligible lands under the other payment programs of federal agencies?¹¹
4. Does the state have any laws requiring the payments from other federal agencies to be passed through to other local government entities, such as school districts, rather than staying with the county government?
5. What was the increase in the Consumer Price Index during the year?

Each of these questions will be discussed below. Finally, their use in the computation of each county's payment is described.

Step 1. How Many Acres of Eligible Lands Are There?

Nine categories of federal lands are identified in the law as eligible for PILT payments:¹²

1. lands in the National Park System;
2. lands in the National Forest System;
3. lands administered by the Bureau of Land Management;
4. lands in the National Wildlife Refuge System that are withdrawn from the public domain;
5. lands dedicated to the use of federal water resources development projects;¹³
6. dredge disposal areas under the jurisdiction of the U.S. Army Corps of Engineers;
7. lands located in the vicinity of Purgatory River Canyon and Piñon Canyon, Colorado, that were acquired after December 31, 1981, to expand the Fort Carson military reservation;
8. lands on which are located semi-active or inactive Army installations used for mobilization and for reserve component training; and
9. certain lands acquired by DOI or the Department of Agriculture under the Southern Nevada Public Land Management Act (P.L. 105-263).

Section 6904/6905 Payments

Two sections of the PILT law (31 U.S.C. §6904 and §6905) provide special payments for limited categories of land, for limited periods. These are described in the annual *Payments in Lieu of Taxes: National Summary* as follows:

Section 6904 of the Act authorizes payments for lands or interests therein, which were acquired after December 31, 1970, as additions to the National Park System or National Forest Wilderness Areas. To receive a PILT payment, these lands must have been subject to local real property taxes within the five year period preceding acquisition by the Federal government. Payments under this section are made in addition to payments under Section 6902. They are based on one percent of the fair market value of the lands at the time of acquisition, but may not exceed the amount of real property taxes assessed and levied on the property during the last full fiscal year before the fiscal year in which [they were] acquired. Section 6904 payments for each acquisition are to be made annually for five years following acquisition, unless otherwise mandated by law....

Section 6905 of the Act authorizes payments for any lands or interests in land owned by the Government in the Redwood National Park or acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (P.L. 96-586, 94 Stat. 3383). Section 6905 payments continue until the total amount paid equals 5 percent of the fair market value of the lands at the time of acquisition. However, the payment for each year cannot exceed the actual property taxes assessed and levied on the property during the last full fiscal year before the fiscal year in which the property was acquired by the Federal government.

In the FY2011 payments, the Section 6904/6905 payments totaled \$606,635 or 0.16% of the total program. California counties received the largest amount (\$105,842). Sixteen states and territories had no counties receiving payments under these two sections in FY2011. These states and territories were Alabama, Connecticut, Delaware, Illinois, Iowa, Kansas, New Jersey, North Dakota, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, and Guam, Puerto Rico and the Virgin Islands.

The payments under Section 6904 cease five years after acquired land is incorporated into a National Park unit or a National Forest Wilderness Area. As a result, counties experience a sudden drop in their PILT payment after five years.

In addition, if any lands in the above categories were exempt from real estate taxes at the time they were acquired by the United States, those lands are not eligible for PILT, except in three circumstances:

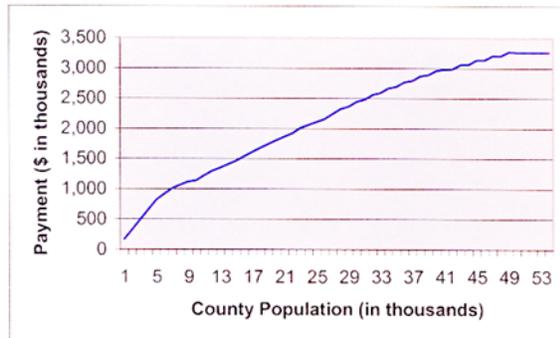
1. land received by the state or county from a private party for donation to the federal government within eight years of the original donation;
2. lands acquired by the state or county in exchange for land that was eligible for PILT; or
3. lands in Utah acquired by the United States if the lands were eligible for a payment in lieu of taxes program from the state of Utah.

Only the nine categories of lands (plus the three exceptions) on this list are eligible for PILT payments; other federal lands—such as military bases, post offices, federal office buildings, and the like—are not eligible for PILT. The exclusion of lands in the National Wildlife Refuge System that are acquired is an interesting anomaly, and may reflect nothing more than the House and Senate committee jurisdictions at the time P.L. 94-565 was enacted.¹⁴

Step 2. What Is the Population in the County?

The law restricts the payment a county may receive based on population. Under the schedule provided in 31 U.S.C. Section 6903, counties are paid at a rate that varies with the population; counties with low populations are paid at a high rate per person, and populous counties are paid less per person. For example, for FY2011, a county with a population of 1,000 people will not receive a PILT payment over \$162,980 (\$162.98 per person); a jurisdiction with a population of 30,000 will not receive a payment over \$2,445,300 (\$81.51 per person). And no county is credited with a population over 50,000. Consequently, in FY2011, at the authorized payment level of \$65.20 per person, no county may receive a PILT payment over \$3,260,000 (50,000 x \$65.20/person) regardless of population. Figure 3 shows the relationship between the population of a county and the maximum PILT payment.

Figure 3. Ceiling Payments Based on County Population Level, FY2011

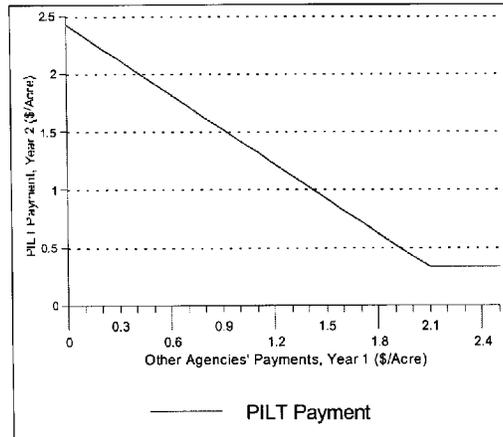


Source: Calculations based on *Payments in Lieu of Taxes: National Summary FY2011*, p. 17.

Step 3. Are There Prior-Year Payments from Other Federal Agencies?

Federal land varies greatly in revenue production. Some lands have a large volume of timber sales, some have recreation concessions such as ski resorts, and some generate no revenue at all. Some federal lands have payment programs for state or local governments, and these may vary markedly from year to year. To even out the payments among counties and prevent grossly disparate payments, Congress provided that the previous year's payments on eligible federal lands from specific payment programs to counties would be subtracted from the PILT payment of the following year. So for a hypothetical county with three categories of eligible federal land, one paying the county \$1,000, the second \$2,000, and the third \$3,000, then \$6,000 would be subtracted from the following year's PILT payment. Most counties are paid under this offset provision, which is called the standard rate. In Figure 4, the standard rate is shown by the sloping portion of the line, indicating that as the sum of the payment rates from other agencies increases, the PILT payment rate declines on a dollar-for-dollar basis.

Figure 4. PILT Payment Level as a Function of Specific Prior Payments (FY2011)



At the same time, Congress wanted to ensure that each county got some PILT payment, however small, even if the eligible lands produced a substantial county payment from other agencies. If the county had payments from three federal payment programs of \$1,000, \$2,000, and \$1 million, for instance, subtracting \$1,003 million from a small PILT payment would produce a negative number—meaning no PILT payment to the county at all. In that case, a minimum rate applies, which does not deduct the other agencies' payments. In Figure 4, the flat portion to the right shows that, after the other agencies' payments reach a certain level (\$2.42 per acre in FY2011), the rate of the PILT payment remains fixed (at \$0.33 per acre in FY2011).

The payments made in prior years that count against future PILT payments are specified in law (16 U.S.C. § 6903(a)(1)). Any other payment programs beyond those specified would not affect later PILT payments. These specified payments are shown in Table A-3. Eligible lands under some agencies (e.g., National Park Service and Army Corps of Engineers) have no payment programs that affect later PILT payments.

Step 4. Does the State Have Pass-Through Laws?

Counties may receive payments above the calculated amount described above, depending on state law. Specifically, states may require that the payments from federal land agencies pass through the county government to some other entity (typically a local school district), rather than accrue to the county government itself. When counties in a "pass-through" state are paid under the formula which deducts their prior year payments from other agencies (e.g., from the Refuge Revenue Sharing Fund (RRSF; 16 U.S.C. § 715s of FWS), or the Forest Service (FS) Payments to States (16 U.S.C. § 500)¹⁵), the amount paid to the other entity is not deducted from the county's PILT payments in the following year. According to DOI:

Only the amount of Federal land payments actually received by units of government in the prior fiscal year are deducted. If a unit receives a Federal land payment, but is required by State law to pass all or part of it to financially and politically independent school districts, or any other single or special purpose district, payments are considered to have not been received by the unit of local government and are not deducted from the Section 6902 payment.¹⁶

For example, if a state requires all counties to pass along some or all of their RRSF payments from FWS to the local school boards, the amount passed along is not deducted from the counties' PILT payments for the following year (31 U.S.C. § 6907). Or if two counties of equal population in two states each received \$2,000 under the FS Payments to States, and State #1 pays that amount directly to the local school board, but State #2 does not, then under this provision, the PILT payment to the county in State #1 will not be reduced in the following year, but that of the county in State #2 will drop by \$2,000. State #1 will have increased the total revenue coming to the state and to each county by taking advantage of this feature.¹⁷

Consequently, the feature of PILT that was apparently intended to even out payments among counties (at least of equal population size) may not have that result if the state takes advantage of this pass-through feature.¹⁸ Under 31 U.S.C. Section 6903(b)(2), each governor gives the Secretary of the Interior an annual statement of the amounts actually paid to each county government under the relevant federal payment laws. DOI checks each governor's report against the records of the payment programs of federal agencies.

In addition, there is a pass-through option for the PILT payment itself. A state may require that the PILT payment itself go to a smaller unit of government, contained within the county (typically a school district) (16 U.S.C. §6907). If so, one check is sent by the federal government to the state for distribution by the state to these smaller units of government. The distribution must occur within 30 days. As of FY2011, Wisconsin is the only state to have selected this feature of PILT.

Step 5. What Is This Year's Consumer Price Index?

A provision in the 1994 amendments to PILT adjusts the authorization levels for inflation. The standard and minimum rates, as well as the payment ceilings, are adjusted each year. Under 31 U.S.C. Section 6903(d), "the Secretary of the Interior shall adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30." This is an unusual degree of inflation adjustment; no other federal land agency's payment program has this feature. But as will be shown below, increases in the authorization do not necessarily lead to a commensurate increase in the funds received by the counties.

Putting It All Together: Calculating a County's Payment

Knowing the answers to these questions, one can then make two comparisons to calculate the authorized payment level for a county. (Figure 5 shows a flow chart of the steps in these comparisons.) All charts and comparisons in this report are based on FY2011 payment levels.

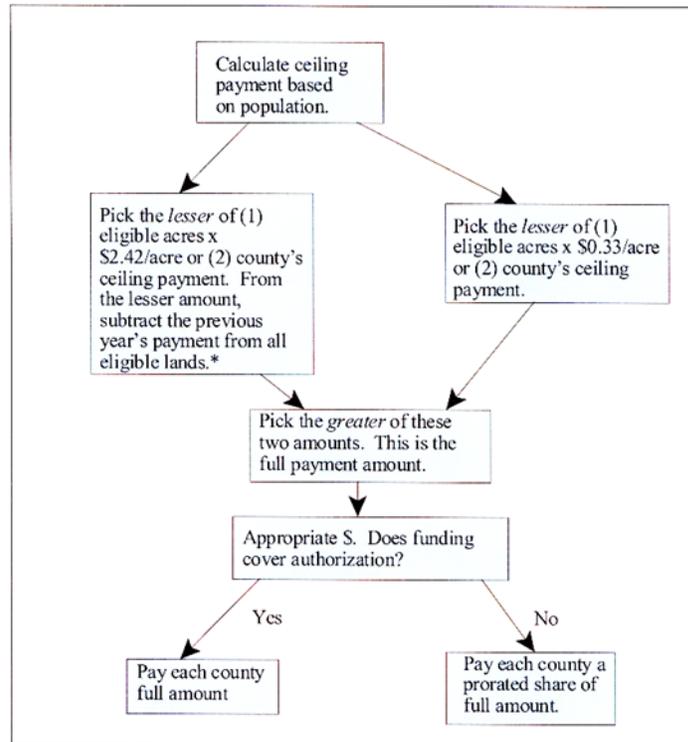
Alternative A. Which is less: the county's eligible acreage times \$2.42 per acre or the county's ceiling payment based on its population? Pick the lesser of these two numbers. From it, subtract the previous year's total payments for these eligible lands under specific payment or revenue-sharing programs of the federal agencies that control the eligible land.¹⁹ The amount to be deducted is based on an annual report from the governor of each state to DOI. This option is called the standard provision.

Alternative B. Which is less: the county's eligible acreage times \$0.33 per acre or the county's ceiling payment? Pick the lesser of these two. This option is called the minimum provision, and is used in the counties that received relatively large payments (over \$2.09 per acre for FY2011) from other federal agencies in the previous year.

The county is authorized to receive whichever of the above calculations—(A) or (B)—is greater. This calculation must be made for all counties individually to determine the national authorization level. From the program's inception through FY2007, the authorized payments were subject to annual appropriations, and if appropriations were insufficient for full funding, each county received a pro rata share of the appropriation. After passage of P.L. 110-343, each county receives the full authorized amount for FY2008–FY2012.

The combination of specific payments and PILT in the standard option means that reductions (or increases) in those other payments in the previous year could be exactly offset by increases (or reductions) in PILT payments. However, provided that the county's population is not so low as to affect the outcome, PILT payments cannot fall below \$0.33 per acre for FY2011 (see Alternative B, above), so the full offset occurs only when the other federal payments in the previous year total less than \$2.09 per acre (i.e., the maximum payment of \$2.42 per acre minus the \$0.33 per acre minimum payment from PILT).²⁰

Figure 5. Steps in Calculating PILT for Eligible Federal Lands
(FY2011 payment levels)



Note: These payments (marked *) are the specific payments for federal lands. The amount subtracted is reduced in states with pass-through laws. Also, funding covers authorization through FY2012; under current law, the PILT program returns to annual appropriations in FY2013.

The standard option, with its offset between agency-specific payments and PILT payments, still does not guarantee a constant level of federal payments to counties, because of the time lag in determining PILT payments. Federal payments for a given fiscal year are generally based on the receipts of the prior year. PILT payments of the following fiscal year are offset by these payments.

To illustrate, consider a county whose only eligible federal lands are under the jurisdiction of FWS. If the federal receipts on the FWS lands drop in FY2011 (compared to FY2010), payments in FY2012 from the FWS Refuge Revenue Sharing Fund will fall. PILT payments will therefore increase to offset the drop—in FY2013. (This example assumes that the PILT payment is calculated under the standard option.) The counties will be authorized to receive at least \$2.42 per acre from RRSF and PILT payments combined,²¹ but the two payments would not come in the same year. Consequently, if RRSF payments fall from year to year, the combined payments in the given year would be less than \$2.42 per acre, but if RRSF payments rise, the authorized combined payment in the given year would be more than \$2.42 per acre.

National Totals

Information from all counties with eligible land is needed on a national scale before an aggregate figure for the nation can be calculated precisely, and consequently no precise dollar figure can be given in advance for each year's PILT authorization

level.²² However, because the amount for full authorization for FY2011 has been calculated, and because major changes in the factors stated above are not likely to decrease the payments at the national level, the full authorization level for FY2012 seems likely to be similar to the amount shown for full authorization in FY2011, which was \$375.5 million, even though individual counties' payments may vary.

From Authorization to Appropriation

Until about 1994, the full amount authorized under the law's formula had generally been appropriated, with a few exceptions such as sequestration under the Gramm-Rudman-Hollings Act (Title II of P.L. 99-177). But the buying power of the payments fell due to inflation. In response, Congress amended the law in 1994 (P.L. 103-397).

The amendment focused on increasing the total payments, building in inflation protection, and making certain additional categories of land eligible.²³ After the amendments passed, the increasing discrepancy between appropriations and the rapidly rising authorization levels led to even greater levels of frustration among local governments, and prompted intense interest among some Members in increasing appropriations, until the passage of P.L. 110-343. (See Figure 2, above.) Whether Congress will make the mandatory spending authority permanent remains to be seen.

Current Issues

While the enactment of five years of mandatory spending put the issue of full funding to rest for the time being, no doubt county governments will strongly support continuing mandatory spending for PILT. This question has been the biggest issue facing the program in the 112th Congress, particularly given congressional debate over spending levels in general. Three other issues are also being debated: inclusion of Indian or other categories of lands; tax equivalency, especially for eligible urban lands; and payments affecting the National Wildlife Refuge System.

Inclusion of Indian Lands

While the inclusion of other lands (e.g., military lands generally or those of specific agencies such as the National Aeronautics and Space Administration) under the PILT program has been mentioned from time to time, some counties with many acres of non-taxable Indian lands within their boundaries have long supported adding Indian lands to the list of lands eligible for PILT. The primary arguments made are that these lands receive benefits from the county, such as road networks, but Indian residents do not pay for them with property taxes; on the other hand, the federal government does not actually own these lands.

The complexity of the PILT formula makes it very difficult to calculate the consequences of such a move, either for authorization levels or appropriation levels. Additionally, Congress would have to decide what sorts of "Indian lands" would be eligible for such payments and a variety of other complex issues.²⁴ Once the eligible categories were determined, Congress might wish to limit payments to counties with more than some minimum percentage of Indian lands within their borders. Regardless, even a very restrictive definition of "Indian lands" seems likely to add many millions of acres to those already eligible. Once the criteria for eligibility were fixed, it would still be difficult to determine the effect on authorization levels. To paint an extreme example, if all of the eligible Indian lands were in counties whose PILT payments were already capped due to the population ceiling, inclusion of Indian lands would have no effect on PILT authorization levels.

As long as mandatory spending is in place, appropriations would go up to fund the newly eligible lands. If mandatory spending expires and annual appropriations are less than the authorized level, each county would receive a pro rata share of the full authorized payment level. Individual counties whose eligible acres had jumped markedly with the inclusion of Indian lands might receive substantially more than in the past. Other counties (particularly those with few or no eligible Indian acres) would receive a smaller fraction of the authorized amount as limited dollars would be distributed among more lands.

Inclusion of Urban Lands and Tax Equivalency

Some observers have wondered whether urban federal lands are included in the PILT program. The response is that urban lands are not excluded from PILT under the current law. For example, in FY2011, the counties in which Sacramento, Chicago, and Cleveland are found, as well as the District of Columbia, all received PILT payments (see Table 1), though the property tax on similar, but non-federal, lands would likely have been substantially greater.

Table 1. PILT Payments to Selected Urban Counties, FY2011

County	Eligible Acres	FY2011 Authorized Payment (\$)
Sacramento County (CA)	9,621	23,068
Cook County (IL)	139	334
Cuyahoga County (OH)	2,592	6,273
Arlington County (VA)	27	0 ^a
District of Columbia	6,963	25,390

a. Under the formula, Arlington County's 27 eligible acres (all under the National Park Service) would generate a payment of \$65. However, under the law, no payment is made for amounts under \$100.

Eastern counties, which tend to be small, rarely have large populations and large eligible acreage in the same county. On the other hand, western counties tend to be very large and may have many eligible acres, and some, like Sacramento, may have large populations as well. Furthermore, as the cases of Arlington and the District illustrate, PILT payments are by no means acting as an equivalent to property tax payments, because if the 6,963 acres in the District or the 27 acres in Arlington were owned by taxable entities, those entities would surely pay much more than \$25,087, or \$0, respectively, in property taxes.

Because the formula in PILT does not reflect an amount commensurate with property taxes, counties such as these might support a revised formula that would approach property tax payments.

National Wildlife Refuge Lands

As noted above, lands in the National Wildlife Refuge System (NWRS) that were withdrawn from the public domain are eligible for PILT, and those that were acquired are not. In addition, the National Wildlife Refuge Fund (NWRF, also called the Refuge Revenue-Sharing Fund, or RRSF) relies on annual appropriations for full funding. For FY2011, payments for NWRF are approximately 38% of the authorized level. For refuge lands eligible for PILT, some or perhaps all of the NWRF payment will be made up for in the following year's PILT payment, but for acquired lands, this will not occur because they are not eligible for PILT. Congress may consider making all refuge lands eligible for PILT, and/or providing mandatory spending for NWRF, as it has for PILT. Eastern counties could be the largest beneficiaries of such a change, although some western states may also have many NWRS acres that are not currently eligible for PILT. (See Table 2 for selected state examples.) Adding the 10.9 million acres of NWRS lands currently ineligible for PILT would increase PILT lands by 1.8%.

Table 2. NWRS Acres Eligible for PILT in Selected States, FY2010

State	NWRS Acres Reserved from Public Domain	Total NWRS Acres	Percent Eligible for PILT
Alabama	0	71,386	0.0
Arizona	1,553,465	1,740,545	89.2
Iowa	334	118,473	0.3
Maine	0	68,107	0.0
Montana	433,135	1,445,163	30.0
Ohio	77	9,234	0.8
Oregon	275,018	590,741	46.5

Source: Annual Report of Lands Under Control of the U.S. Fish and Wildlife Service As of September 30, 2010.

Appendix. PILT Data Tables

The first two tables below show the data presented in Figures 1 and 2. The third shows the agency payments that offset payments under PILT in the following year.

**Table A-1. Total PILT Payments, FY1993-FY2011:
Appropriations in Current and Inflation-Adjusted Dollars (to 2010)**
(\$ in millions)

Year	Appropriated	Appropriation – Inflation Adjusted
1993	103.2	146.31
1994	104.1	144.54
1995	101.1	137.51
1996	112.8	150.55
1997	113.1	148.33
1998	118.8	154.07
1999	124.6	159.25
2000	134	167.63
2001	199.2	243.69
2002	209.4	252.09
2003	218.6	257.75
2004	224.7	257.68
2005	226.8	251.73
2006	232.5	249.98
2007	232.5	242.93
2008	367.2	375.35
2009	381.6	385.99
2010	358.1	358.1
2011	375.2	375.2

Source: Current dollars from annual *Payments in Lieu of Taxes: National Summary*. Inflation adjustment is based on chain-type price index.

Notes: For the same data in a bar chart, see **Figure 1**.

**Table A-2. Total PILT Payments, FY1993-FY2011,
Authorized Amount and Appropriation**
(\$ in millions)

Year	Authorized	Appropriated
1993	103.2	103.2
1994	104.4	104.1
1995	130.5	101.1
1996	165.1	112.8
1997	212	113.1
1998	260.5	118.8
1999	303.7	124.6
2000	317.6	134
2001	338.6	199.2
2002	350.8	209.4
2003	324.1	218.6
2004	331.3	224.7
2005	332	226.8
2006	344.4	232.5
2007	358.3	232.5
2008	367.2	367.2
2009	381.6	381.6
2010	358.1	358.1
2011	375.2	375.2

Source: Annual Payments in Lieu of Taxes: National Summary.

Notes: For the same data in a bar chart, see Figure 2.

Table A-3. Prior-Year Payment Laws That Are Offset Under Next PILT Payment

Federal Agency Making Payment	Short Title of Law or Common Name	P.L. or Date	U.S. Code	U.S.Stat.	U.S. Code	Lands Eligible for Payments	Payment Rate
Forest Service	"25% payments" or "Payments to states"	Act of May 23, 1908 (ch. 192, §13)	16 U.S.C. §500	35 Stat. 260	16 U.S.C. §500	All NF lands	25% of gross receipts to state for roads and schools in counties
	None	Act of June 20, 1910 (ch. 310)	not codified	36 Stat. 557, §6	not codified	NF lands in AZ and NM	Proportion of lands in National Forests (NFs) reserved for schools times proceeds from sales in NF
	None	Act of June 22, 1948 (ch. 593, §5); Act of June 22, 1956 (ch. 425, §2)	16 U.S.C. §577g, §577g-1	62 Stat. 570, 70 Stat. 328	16 U.S.C. §577g, §577g-1	Lands in Superior NF, MN	0.75% of appraised value (in addition to 25% payments above) ^a
	Mineral Leasing Act for Acquired Lands (§6)	Act of Aug. 7, 1947	30 U.S.C. §355	61 Stat. 915	30 U.S.C. §355	NF lands with mineral leasing	50% of mineral leasing revenues to states for counties
	Material Disposal Act	Act of July 31, 1947 (§3)	30 U.S.C. §603	61 Stat. 681	30 U.S.C. §603	Net revenues from sale of land and materials	Varies depending on type of receipt and agency

Federal Agency Making Payment	Short Title of Law or Common Name	P.L. or Date	U.S. Code	U.S.Stat.	U.S. Code	Lands Eligible for Payments	Payment Rate
	Secure Rural Schools and Community Self-Determination Act ^b	P.L. 106-393, as amended	16 U.S.C. §7101 et seq.	114 Stat. 1607, as amended	16 U.S.C. §7101 et seq.	NF lands (but not lands under Land Utilization Program (LUP) or National Grasslands), if this option is chosen by county instead of 25% payments	Complex formula, see CRS Report R41303
Bureau of Land Management	Mineral Lands Leasing Act	Act of February 25, 1920 (ch. 85, §35)	30 U.S.C. §191	41 Stat. 450	30 U.S.C. §191	Public lands	50% of leasing revenues to states for counties
	Taylor Grazing Act	Act of June 28, 1934 (ch. 865, §10)	43 U.S.C. §315i	48 Stat. 1273	43 U.S.C. §315i	Public lands	12.5% of grazing receipts to states for counties
	Bankhead-Jones Farm Tenant Act	Act of July 22, 1937 (ch. 513, §33)	7 U.S.C. §1012	50 Stat. 526	7 U.S.C. §1012	National Grasslands and LUP lands managed by BLM	25% of revenues for use of lands to states
	Mineral Leasing Act for Acquired Lands (§ 6)	Act of Aug. 7, 1949	30 U.S.C. §355	61 Stat. 915	30 U.S.C. §355	Public lands with mineral leasing	50% of mineral leasing revenues to states for counties
	Material Disposal Act	Act of July 31, 1947 (§3)	30 U.S.C. §603	61 Stat. 681	30 U.S.C. §603	Net revenues from sale of land and materials	Varies depending on type of receipt and agency

Federal Agency Making Payment	Short Title of Law or Common Name	P.L. or Date	U.S. Code	U.S.Stat.	U.S. Code	Lands Eligible for Payments	Payment Rate
Fish and Wildlife Service	Refuge Revenue Sharing Act	Act of June 15, 1935 (ch. 261, §401(c)(2))	16 U.S.C. §715s(c)(2)	49 Stat. 383	16 U.S.C. §715s(c)(2)	Public domain lands in NWRS ^c	25% of net receipts from timber, grazing, and mineral sales directly to county; remaining 75% to counties under other formulas
Federal Energy Regulatory Commission	Federal Power Act	Act of June 10, 1920, (ch. 285, §17)	16 U.S.C. §810	41 Stat. 1072	16 U.S.C. §810	NF and public lands with occupancy and use for power projects	37.5% of revenues from licenses for occupancy & use to states for counties

Sources: 31 U.S.C. §6903(a)(1), *Payments in Lieu of Taxes: National Summary FY2011*, p. 16. The latter document has typographical errors which are corrected here, as noted. Because the various payment laws are identified in some documents by title, in others by a U.S. Code citation; or still others by the Statutes at Large; or date, or Public Law, all of these are cited here, where they exist.

- a. *Payments in Lieu of Taxes: National Summary FY2011* erroneously states payment rate is 75% of appraised value.
- b. When payments are made for lands under the jurisdiction of the Forest Service for the Secure Rural Schools (SRS) program, the payments result in a reduction (offset) in the following year's PILT payment. However, if the lands are under BLM jurisdiction, no offset is made in the following year's PILT payment. All BLM lands eligible for SRS payments are in Oregon.
- c. Acquired lands in the National Wildlife Refuge System are not eligible for PILT payments. See text.

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ENDNOTES

- ¹ For more information on some of these agency-specific payment programs, see CRS Report RL30335, *Federal Land Management Agencies' Mandatory Spending Authorities*, coordinated by Ross W. Gorte; and CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*, by Ross W. Gorte. The program under the Department of Energy is described in U.S. General Accounting Office [now Government Accountability Office], *Energy Management: Payments in Lieu of Taxes for DOE Property May Need to Be Re-assessed*, GAO/RCED-94-204 (Washington, DC: July 1994).
- ² U.S. Department of the Interior, Office of Budget, *Payments in Lieu of Taxes: National Summary Fiscal Year 2010*, Washington, DC, 2010. A similar document is issued every year; each contains tables for payments and acreage by state and county. To query data from the most recent fiscal year, see <http://www.doi.gov/pilt/>.
- ³ A program to support local schools for the presence of children of federal employees, including military dependents, provides some support to local governments, however, and to some extent compensates for lost property tax revenue when military families live on federally owned land. For more information, see CRS

Report RL33960, The Elementary and Secondary Education Act, as Amended by the No Child Left Behind Act: A Primer, by Rebecca R. Skinner.

- ⁴Public Land Law Review Commission, *One third of the Nation's Land: A Report to the President and to the Congress*, Washington, DC, June 1970, pp. 235–241. FY2011.
- ⁵Inflation adjustments in this report use the implicit price deflator for the Gross Domestic Product. See http://faq.bea.gov/cgi-bin/bea.cfg/php/enduser/std_adp.php?p_faqid=513.
- ⁶Acquired lands are those which the United States obtained from a state or individual. Public domain lands are generally those which the United States obtained from a sovereign nation.
- ⁷See CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*, by Ross W. Gorte.
- ⁸All of the BLM lands eligible for SRS payments are in Oregon.
- ⁹Unit of general local government is defined in the law (31 U.S.C. § 6901(2)) as “a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that (i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and (ii) is a unit of general government as determined by the Secretary of the Interior on the basis of the same principles as were used on January 1, 1983, by the Secretary of Commerce for general statistical purposes” plus the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. To avoid the use of the unwieldy unit of general local government, the word county will be used in the rest of this report, and must be understood here to be equivalent to the above definition. This shorthand is often used by DOI.
- ¹⁰This and subsequent references to payment rates and ceilings are based on FY2011 figures unless otherwise noted.
- ¹¹Regardless of how many agencies have jurisdiction over eligible lands in a county, all of the payments specified in 31 U.S.C. § 6903(a)(1) are added together and deducted from the following year's single PILT payment. Any other federal lands payments the county may get that are not specified in that provision are not deducted. The formula in 31 U.S.C. § 6903 sets a cap on the total PILT payment for all of the eligible land in the county.
- ¹²See 31 U.S.C. § 6901. The law refers to these nine categories of lands as “entitlement lands,” and the term is used throughout the act. However, because entitlement is a word which is used in a very different, and potentially confusing, context in the congressional budget process, these lands will be called eligible lands in this report.
- ¹³These lands are under the jurisdiction of the Bureau of Reclamation, for the most part.
- ¹⁴At the time, jurisdiction over the National Wildlife Refuge System (NWRS) generally was in one committee, while jurisdiction over public domain lands was within the jurisdiction of a different committees. This was true in both the House and Senate. The committees considering PILT had no jurisdiction over the acquired lands within the NWRS.
- ¹⁵Under 16 U.S.C. § 500, these payments are made to the states or territories, and must be used for schools or roads in the counties where the national forests are located. Each state has its own rules on the mechanics of that transfer, on the proportion to be used for roads and the proportion for schools. Some states direct that the education portion be given directly to school boards. For more information see CRS Congressional Distribution Memo, *Forest Service Revenue-Sharing Payments: Distribution System*, by Ross W. Gorte, Nov. 19, 1999.
- ¹⁶U.S. Dept. of the Interior, *Payments in Lieu of Taxes: National Summary, Fiscal Year 2010*, p. 11.
- ¹⁷Note that even though a county as a whole may benefit from this provision, the county government itself will not, because it forgoes the revenues given directly to its school system.
- ¹⁸However, the Supreme Court has held that states cannot direct counties to spend their PILT payments (i.e., payments under the DOI-managed program described in this report) for particular purposes, once they have actually received their PILT payment. *Lawrence County v. Lead-Deadwood School District*, 469 U.S. 256 (1985).
- ¹⁹Payments under the Secure Rural Schools program for Forest Service lands (but not Bureau of Land Management lands) are included among those prior year payments to be deducted. See CRS Report R41303, *Reauthorizing the Secure*

Rural Schools and Community Self-Determination Act of 2000, by Ross W. Gorte.

- ²⁰To illustrate more concretely, imagine each county as a large bucket, whose sides are marked off in "\$/acre." PILT, in effect, checks the payment already in the bucket from other agencies, then adds at least enough money to the bucket to bring it to the \$2.42/acre mark. Moreover, if the bucket is already above the \$2.09/acre mark, PILT adds 33¢/acre, regardless of the amount in the bucket already. The money bucket could reach levels of \$15/acre or more, with the last 33¢ added by PILT. The county population ceilings might then be thought of as holes in the sides of some of the buckets that prevent the buckets from filling beyond a certain level for that bucket (i.e., county).
- ²¹An exception would occur if the county's population is so small that the county is affected by the PILT ceiling on payments due to population.
- ²²DOI does not include estimated full payment levels in its annual budget justification to Congress, and confines itself to the Administration's request for the year. However, DOI's annual report of current year PILT payments to counties includes this information.
- ²³Other important issues in 1994 were the question of the equity of the payments and the balance struck in the payment formula (a) between heavily and sparsely populated communities, (b) between those with federal lands generating large revenues and those with lands generating little or no revenue, and (c) between the amounts paid under PILT and the amounts that would be paid if the lands were simply taxed at fair market value. But these issues were not addressed in the 1994 amendments and have scarcely been mentioned in the debate since then.
- ²⁴The many classifications of "Indian lands" include trust lands, restricted lands, and fee (private) lands, both on and off reservations. Trust lands are lands held by the federal government in trust for an Indian tribe or individual. Restricted lands are lands held by an Indian tribe or individual but subject to federal restrictions on alienation (e.g., sale) or encumbrance (e.g., mortgaging). Most, but by no means all, Indian trust and restricted lands are on Indian reservations. Trust and restricted lands, whether on or off reservations, are not subject to state or local land taxes. On-reservation Indian fee lands may or may not be subject to state and local land taxes, depending on the federal statute under which the land was fee-patented. Off-reservation Indian fee lands are generally subject to state and local land taxes. (Indian reservations may also include non-Indian fee lands, which are subject to state and local taxation.) Alaskan Native corporation lands (none of which are trust lands) are affected by the Alaska Native Claims Settlement Act's limits on state taxation. Congress would have to decide which of these many classifications of Indian lands would be subject to PILT benefits. Further, Congress might choose to distinguish between Indian lands which have never been taxed by a county or state versus those Indian lands that were once taxable but which were acquired into non-taxable status after some specified date.

Mr. BISHOP. Dr. Corn, thank you. And thank you for keeping within the five minutes. I know that was a lot of material to cover in that short period of time.

We are now going to call a recess to go vote. There are only a couple, so I am estimating maybe 15 minutes, 20 at the most unless something weird happens on the Floor.

So, I would ask you if you would just be kind enough to do that when we come back. Dr. Yonk, we will take your testimony, and then we will turn to the Committee for questions.

[Recess.]

Mr. BISHOP. OK. The Committee will come back to order. I apologize once again for the length of our delay. Let us just say something weird happened on the Floor.

So, with that, we thank the two panelists who have spoken already. We have yet to hear the testimony from Dr. Ryan Yonk from Southern Utah University. Go, Thunderbirds. And your old coach is not related. So, we are happy to hear your testimony if you would, please.

**STATEMENT OF RYAN M. YONK, ASSISTANT PROFESSOR OF
POLITICAL SCIENCE, SOUTHERN UTAH UNIVERSITY**

Dr. YONK. Great. Chairman Bishop, Ranking Member Grijalva and members of the Subcommittee, I appreciate the opportunity to share with you the results of a number of studies conducted by some colleagues of mine at Utah State University and myself, Brian Steed, who is here with me today, and then Dr. Randy Simons.

As I said, as you introduced, my name is Ryan Yonk, and I am Assistant Professor of Political Science at Southern Utah University, with a primary emphasis in the issues that surround public lands and how they impact rural communities.

I will skip the background in PILT that we have received from the other witnesses today other than to say that the fundamental logic of PILT funds was to prevent the systematic disadvantaging of counties where vast Federal land holdings would be forever excluded from the taxable land base. And this initial recognition of the potential harms of these large, permanent Federal ownership has unfortunately given way to claims that suggest this ownership imposes not a cost to local communities but a benefit regardless of the types of lands that are owned.

Questions about the effectiveness and importance of PILT should explore the tradeoffs that occur when large tracts of land are Federally owned and the opportunity costs that arise from these sorts of holdings.

Beginning in 2004, the Center for Public Lands and Rural Economics at Utah State University began a series of studies funded by the Department of Agriculture to investigate the effects these public lands have on rural communities. These studies have focused on healthcare markets, social services, education, the effect of wilderness on life quality and on the economic conditions, and all share similar results, suggesting that across a wide variety of policy areas, the presence of public lands has a non-positive effect on rural communities at best and a negative effect at worst.

For example, we find with regards to education that one of the effects of large Federal ownership is an increase in the size of the county and school district, resulting in increased costs of administration and a reduction due to the Federal land ownership in the tax base available to provide the service.

One other short example suggests that public-lands counties are disadvantaged directly in their economic conditions. Our research indicates that communities with 25 percent of their gross acreage held by the Federal Government have an average household income that is between \$741 and \$1450 per year less than their non-public-lands counterpart.

This is not to say that these funds are not an essential portion, these PILT funds, but rather that they are not the panacea that corrects for the myriad of other effects of large-scale Federal land ownership. Indeed, counties with substantial public lands are severely disadvantaged when PILT payments are reduced or delayed.

We have sort of three examples to present that call into question the idea that in fact Federal lands are a net positive for the communities.

The first is a study that was conducted on the Grand Staircase-Escalante Monument in Utah, designated in 1996 by President Bill Clinton. And our evaluation of the monument focused on the most basic assertion presented by those who supported that designation, that the protection of those lands should have resulted in increased tourism dollars and a net positive impact on the communities in Kane and Garfield Counties. We find no evidence of any positive result other than a single statistical test that indicates the possibility of increased tax revenue in a single year.

Our second study that speaks to this is a study of wilderness areas, and wilderness, to sort of cut to the chase of it, there are lots of other things here in my written testimony. Wilderness, when you control for other factors that influence county economic conditions, wilderness designation is associated with lower per-capita income, lower total payroll and lower total tax receipts in counties where it is present.

There is a third example that I am happy to answer questions about that is incurred. It is called the Treasured Landscapes Memorandum that came out from President Obama's Administration, and we look at the opportunity costs that are there.

To conclude, our research suggests that the reality of Federal land ownership and the effects of those lands can be best summed up with two core economic concepts. First, tradeoffs. Every policy action necessarily chooses to do something and not to do others.

The second is opportunity costs. Anytime land is removed from the active economic base, there will, in fact, be costs that are difficult to estimate and that counties, where these lands are protected, have to bear.

Thank you.

[The prepared statement of Dr. Yonk follows:]

**Statement of Ryan M. Yonk PhD, Assistant Professor,
Southern Utah University**

Chairman Bishop and members of the Subcommittee, I appreciate the opportunity to share with you the results of a number of studies conducted by myself and my colleagues Dr. Randy T. Simmons and Dr. Brian C. Steed of Utah State University. My Name is Ryan Yonk and I am an assistant professor of political science at Southern Utah University. My primary area of research is focused on issues surrounding public lands and the effects they have on rural communities.

Understanding PILT and its role in Local Communities:

The Department of the Interior describes the PILT Program as, "Payments in Lieu of Taxes (or PILT) are federal payments to local governments which help offset losses in property taxes due to nontaxable federal lands within their boundaries. PILT was passed at a time when US policy was shifting from one of disposal of federal lands to one of retention. With that shift, Congress agreed with recommendations of a federal commission that if these federal lands were never to become part of the local tax base, then some compensation should be offered to local governments to make up for the presence of non-taxable lands within their jurisdictions. The DOI has distributed more than \$5.5 billion dollars in PILT payments (on average, \$157 million annually) to each State (except RI) plus the District of Columbia, Puerto Rico, Guam and the Virgin Islands since the program began in 1977."¹

PILT legislation was put into place to help local governments avoid the negative financial impact resulting from their inability to collect property taxes on federally-owned land. Congress appropriates PILT payments each year according to a formula that includes population and the amount of federal land within an affected county. Payments are made annually for tax-exempt federal lands administered by the

¹Language directly taken from the Department of the Interior Website www.doi.gov/pilt/summary.html

BLM, the National Park Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service and for federal water projects and for some military installations.

The fundamental logic of the establishment of PILT funds was to prevent the systematic disadvantaging of counties where vast federal land holdings would forever be excluded from taxable land base. This initial recognition of the potential harms of large permanent federal ownership of large portions of rural primarily western counties has unfortunately given way to claims that suggest this ownership imposes not a cost to local communities but a benefit regardless of the type of lands owned. Questions about the effectiveness and importance of PILT should explore the trade-offs that occur when large tracts of land are federally owned and the opportunity costs that arise from those holdings.

The Current State of Public Lands Counties:

Beginning in 2004 the Center for Public Lands and Rural Economics began a series of studies funded by the Department of Agriculture to investigate the effect of public lands on rural communities. These studies, which focused on Health, Social Services, Education, The effect of Wilderness on Life Quality, and on economic conditions all share similar results. These results suggest that across the wide variety of policy areas the presence of public lands has a non-positive effect on rural communities at best and a negative effect in the worst case.

For example, we find with regards to education that one of the effects of large federal ownership of areas is an increase in the size of the county and school district. Large blocks of federal ownership increase costs as local communities attempt to provide educational service for students. Transportation costs were of particular concern for public officials in Nevada for example. They complain that millions of miles are put on school buses without adequate compensation from the federal government. Similar stories and costs are expressed across the west where federal lands cross-sect counties leading to smaller populations dispersed over an increasingly large area.

We further find that areas with large federal lands holdings face market conditions for health care services that lead to higher prices as a result of those lands holdings and that public lands that cross sect rural communities lead to changes in the way in which hospital markets are defined.

One last example illustrates the current state of public lands counties namely their economic conditions. Our research indicates that communities with 25% of their gross acreage held by the federal government have on average household incomes that are between \$741 dollars and \$1450 less than their non-public lands counterparts. Further despite the logic of PILT payments we find no effect on the budgetary processes and decisions of public lands counties as a result of those funds. This is not to say that these funds are not an essential portion of any single counties budget but rather that they are not the panacea that corrects the other effects of large scale federal land ownership. Indeed counties with substantial public lands are severely disadvantaged when PILT payments are reduced or delayed.

Our work in these areas have attempted to provide a clear understanding of the problems faced by public counties but does not take into account the opportunity costs imposed on these counties by large scale federal ownership. Indeed attempting to estimate these costs is problematic because we have no clear example of whole sale transfers of public to private lands in the recent past. We do find, however, examples where lands are transferred from one category of protection to another and those transfers can help illustrate the potential costs of excluding lands from active commercial use.

Example One: The Grand Staircase

One example that provides a clear opportunity to test the effect of these transfers is the Establishment of the Grand Staircase-Escalante National Monument.

The Grand Staircase-Escalante National Monument was created by President Clinton in 1996. The Monument spans nearly 1.9 million acres in south-central Utah along the Arizona border. The monument resides completely within Utah, and as can be seen in Figure 1 below, occupies the majority of Kane County and much of Garfield County. Each of these counties already contained a vast majority of public land. Much of this land had been placed in protected status. Bryce Canyon National Park, for instance, straddles Kane and Garfield Counties. Capitol Reef National Park crosses into eastern Garfield County, and much of Southern Kane County contains the Glen Canyon Dam National Recreation Area.

Located in a geologically diverse region, the Grand Staircase contains a treasure trove of mineral deposits. The area contains an estimated 62 billion tons of coal—estimated to be worth hundreds of billions of dollars. The area also contains large oil deposits, estimated at around 270 million barrels of oil. In the early 1990s,

Andalex Resources Company, a Dutch based coal mining company, had acquired permits to mine coal from the area. Conoco Oil, PacifiCorp, and various other companies had also acquired permission to develop mineral extraction activities in the area.

In 1996, President Clinton stood atop the South Rim of the Grand Canyon in Arizona to make the announcement regarding the creation of the Monument.² In making the announcement, the President alluded to the vast mineral deposits found within the Grand Staircase. He stated, “[m]ining jobs are good jobs, and mining is important to our national economy and to our national security. But we can’t have mines everywhere, and we shouldn’t have mines that threaten our national treasures” (1996 1787). The national treasures contained in the Grand Staircase identified by the President included the area’s aesthetic quality, geology, archeological artifacts, fossils, biology, and its history. Each of these items provides recreational opportunities for explorers and research opportunities for geologists, archeologists, biologists, and historians.

The Grand Staircase-Escalante National Monument became the largest National Monument in the United States. Due to its size, the President established a new management regime for the park. Although all National Monuments up to that date had been managed by the National Park Service, the determination was made that the Grand Staircase would remain under the management of the Bureau of Land Management.

Many local officials complained bitterly about the dramatic negative economic impact that the designation would have. One newsmagazine reported in 1996 regarding the sentiments expressed by Kane County Commissioner Joe Judd:

“Kane Commissioner Joe Judd fumed, ‘The most powerful politician in the world just kicked me in the teeth.’ Judd figures he can kiss goodbye the 900 jobs and millions in tax revenue promised by a coal mine that Andalex Resources Corp., a Dutch company, had planned for the sandstone bluffs and wind-carved buttes of the Kaiparowits Plateau.” (Glick and Begley 1996)

In direct contrast to Commissioner Judd’s view, many academics, environmentalists, and federal government officials have alleged that large federal land holdings and protected lands help generate economic growth. The Sonoran Institute, for example, recently noted:

[T]he presence of public lands is good for the economy. Personal income, adjusted for inflation, grows faster in counties with significant percentages of their land base in public ownership. What’s more, counties with protected lands—land set aside for conservation—show an even more marked increase in personal income (2006).

National Park Service (NPS) data seems to bolster the finding that the National Park and Monument System contributes greatly to local economies.³ 2008 data from all units administered by the NPS generated the following findings:

[P]ark visitors spent \$11.56 billion in the local region surrounding the parks in 2008. Local residents account for 9.8% of this spending. Visitors staying in motels and lodges outside the park account for 55% of the total spending, while non-local visitors on day trips contribute 21% of all spending (Stynes 2009).

All of this spending resulted in over 200,000 jobs with 4.4 billion dollars in labor income, and 6.9 billion dollars of value added. The industries most benefitted from this activity include lodging, restaurants, retail trade, and amusements (Stynes 2009). The Federal Government may also add to the local economy where parks exist by employing various workers to maintain the infrastructure or otherwise conduct the activities of the park.

Our evaluation of the monument focuses on one of the most basic assertion presented by proponents of protected land designation, including those who advocated the creation of the monument, that protection of physical lands should over time increase economic prosperity in communities where the protected land is located. This theory runs counter to other approaches that have generally focused on the consumptive extraction of resources in order to power economic development.

²The fact that the President did not enter Utah in making the announcement was not lost on the local residents and further fueled the resentment regarding the creation of the Monument.

³It should be pointed out that the NPS does not manage the Grand Staircase Escalante. Due to its size, the service declined management, leaving management decisions to the Bureau of Land Management. The Grand Staircase was the first National Monument not managed by the NPS.

We sought to test which assessment of the effect of the designation was correct and we found that we could identify a particular effect of the designation. The single result where the designation appears to have an effect is in Kane County where the designation appears to have provided between 5 and 16 million dollars in additional tax revenues in comparison with the match counties for Kane. However the evidence for increased payroll which is a measure of the gross economic activity shows no such effect. As well in Grand County we see no effect with relation to the comparison counties, and as we cannot reject the null find no evidence that the designation of the monument is either helping or hurting the Economy of Grand County.

The net of our evaluation of the designation of the Grand Staircase-Escalante National Monument is that like general protection, this specific designation has had little or no effect on the economic situation of the host counties. Only with respect to tax revenues in a single model can we identify a statistically significant effect of the monument, and taken on sum these results confirm our broader results.

Example Two: Wilderness Areas

Wilderness, so designated pursuant to the Wilderness Act of 1964, is the most restrictive of all federal land-use designations. The Wilderness Act protects areas “untrammeled by man” that have not been developed for other human uses. To preserve wild characteristics, the Wilderness designation prohibits roads, road construction, mechanized travel, and the use of mechanized equipment. Wilderness also impacts extractive industries such as mining, logging, and grazing. The stringent requirements of the Wilderness Act also disallow the construction of telecommunication towers, facilities for power generation, transmission lines, and energy pipelines.

Due to these restrictions, local officials frequently complain that Wilderness harms local economies by limiting the opportunities for economic development. The State of Utah, for instance, recently passed House Joint Resolution 10 which requested that the U.S. Congress not designate any additional Wilderness in Utah. Through a vote by a supermajority of members, the state legislature asserted that Wilderness’ limitation of multiple uses causes substantial economic hardship for the state.

Environmentalists counter that the presence of Wilderness actually attracts residents and businesses to nearby communities. Wilderness is claimed to increase property values and create a higher quality of life in those communities. Environmentalists also claim that Wilderness contributes to a healthy tourism industry. The Wilderness Society notes “[d]esignated wilderness areas on public lands generate a range of economic benefits for individuals, communities, and the nation—among them, the attraction and retention of residents and businesses.” The Sonoran Institute similarly finds, “protected natural places are vital economic assets for those local economies in the West that are prospering the most.” The Sonoran Institute further notes, “Wilderness, National Parks, National Monuments, and other protected public lands, set aside for their wild land characteristics, can and do play an important role in stimulating economic growth—and the more protected, the better.”

Despite these differing views, Congress has continued creating Wilderness Areas. There are 759 Wilderness Areas currently in the United States, totaling 109,663,992 Acres (Gorte 2010). Wilderness is managed by four federal agencies: the National Forest Service, the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management. Wilderness Areas dramatically vary in size from the Pelican Island Wilderness in Florida, which occupies a mere six acres, to the 9,078,675-acre Wrangle Island Wilderness in Alaska. Due to the stringent requirements laying out Wilderness characteristics, the majority of Wilderness Areas are found within largely rural and lightly populated counties within Alaska, California, Colorado, Montana, New Mexico, Nevada, Oregon, Utah, and Washington. Only six states contain no Wilderness: Connecticut, Delaware, Iowa, Kansas, Maryland, and Rhode Island.

Understanding the Economic Impact of Wilderness

To provide better evidence of economic impacts, we use longitudinal statistical analysis over every county in the United States dating back to 1995. The panels each contain measurements of economic conditions taken every five years. We selected three uniformly applicable variables as proxies for county economic conditions: average household income, total payroll, and total tax receipts. Average household income and total tax receipts are gathered by the U.S. Census Bureau. Total payroll figures are gathered by the Bureau of Labor Statistics.

Average household income is calculated by dividing the sum of all income of the residents over the age of 18 in each household by number of households. Average

household income has the advantage of specifically addressing how individual households are on average affected by Wilderness designation in these counties. It has the disadvantage of being self-reported to the U.S. Census Bureau and, accordingly, may not be as valid as more direct measures.

Total payroll is a broader metric that captures those under the age of 18 and commuters who may live outside but work within a county. Further, it is a measure of the economic situation of individuals rather than households. Total payroll is not a perfect proxy because it does not capture the capital investment, county residents who work outside the county, or most importantly, retirees who do not receive payroll. Nevertheless, the data are readily available and considered a reliable metric for local economic conditions.

County tax receipts present two advantages over the others measures. First, the data are largely complete; local governments are required by state and federal statute to report tax receipts correctly. These requirements provide some confidence in the data that self-reporting does not provide. Second, tax receipts represent all taxable transactions in the county. This provides a useful metric of economic activity. Tax receipts, however, are not a perfect proxy as there are significant institutional differences across states, regions, and often counties themselves about how, when, and why taxes may be collected.

Although none of our dependent variables is a perfect proxy for economic conditions, taken together, they paint a relatively complete picture of the economic situation. We expect that the presence of Wilderness would have similar effects on each variable. To ensure that it is the effect of Wilderness and not simply federal land ownership that harms economic conditions we include control variables for each of the federal agencies that manage public land. We also include variables that control for the significant differences among counties. These variables include population, land area, number of households, birth rate and school enrollment, and infant death rate. Further, we include variables indicated by the economic development literature as likely important in determining outcomes: high school graduates, median household income, poverty rate, crime rate, government employment, unemployment rate, and social security recipients.

Controlling for other factors influencing county economic conditions, the Wilderness designation is significantly associated with lower per capita income, lower total payroll, and lower total tax receipts in counties. These results indicate that Wilderness impacts both households and counties. Average household income within Wilderness Counties is estimated to be \$1,446.06 less than Non-Wilderness Counties. Total payroll in Wilderness Counties is also estimated to be \$37,500 less than in Non-Wilderness Counties. County Tax Receipts in Wilderness Counties is estimated to be \$92,910 dollars less than in Non-Wilderness Counties.

The argument often stated by the environmental community that Wilderness is good for local economies is simply not supported by the data. When comparing Wilderness and Non-Wilderness Counties, Wilderness Counties are at an economic disadvantage to their Non-Wilderness counterparts. Accordingly, if the test for whether or not to designate Wilderness is economic, Wilderness fails. But economics did not underlie the Wilderness Act or any of the Wilderness Areas established since the Act was passed. Wilderness is established for emotional, ecological, and cultural purposes. Our results show that those purposes are accomplished at a cost to local economies.

A variety of factors could lead to the negative relationship between Wilderness and economic conditions. Arguably, areas "untrammelled by man" have less existing economic activity and reducing the potential for future economic development by designating those areas as Wilderness will not, on net, be economically positive. It is also possible that different types of Wilderness may have different implications for economic conditions. As noted, four federal agencies currently manage Wilderness Areas, and different agencies may have different economic impacts on counties. Wilderness within National Parks, for instance, may more effectively attract tourists than Wilderness on Bureau of Land Management or National Forest Service lands.

Finally, it is probable that the location of Wilderness has an impact on the direction and magnitude of its economic impact. Phillips (2004), for instance, found that Wilderness designation in the Green Mountains of Vermont had a positive impact on private land values in that area of Vermont. We should assume that some Wilderness can, in fact, have positive economic impacts, even though our findings indicate that this is not the general rule.

While there may be other legitimate, non-economic reasons for the designation of Wilderness, the tradeoff will likely impose an economic burden on local families and businesses. The benefits and costs from Wilderness are unevenly distributed between local and non-local communities, with local communities incurring a larger

burden of the costs. This provides a good reason why local officials often rally against and adamantly oppose Wilderness.

When environmentalists and national agencies consider the creation of Wilderness designations in the future, they should pay attention to the interests of local communities. This paper illustrates the adverse economic costs of Wilderness on local economies. By working together with local communities to address their concerns, environmentalists can help develop balanced policy that genuinely acknowledges the local economic costs associated with Wilderness.

Example Three: Treasured Landscapes

In 2011 we conducted a review of the fifteen areas identified by the “Treasured Landscapes” memorandum evaluating the likely boundaries, interested parties and most significantly, the energy production potential of each proposed area. The focus of this study was on whether there are substantial opportunity costs to imposing increased legal protection in these areas. To explore this question we use data from the US Department of the Interior, US Department of Agriculture, local environmental groups, energy development companies, and state agencies.

Summary of Results

In conducting the inventory of energy potential for each site we focused on both traditional fossil fuel energies, and the renewable potential of each site. In conducting this review we found that relatively few of the sites identified as candidates by the DOI had significant fossil fuel reserves, although many had the potential for shale extraction, including oil shale. Our review indicates that only the Berryessa Snow Mountains and the Vermillion Basin have readily identifiable oil production possibilities. Similarly only the San Rafael Swell and Montana’s Northern Prairie have a high likelihood of coal production. Natural gas production appears possible only in Montana’s Northern Prairie, the Heart of the Great Basin, and the Vermillion Basin.

While these fossil fuel resources appear only in a handful of the potential monuments, over half have shale formations likely to enable commercial fossil fuel production. While these areas have identifiable potential for shale production the development of shale fields is highly controversial and the subject of a number of ongoing environmental reviews and lawsuits.⁴

These findings while interesting tell only part of the energy development story. We also evaluated the possibility of renewable energy development in each of these potential monuments. Most of the potential monuments have significant renewable energy possibilities that would be foreclosed by increased protections. Twelve of the fifteen potential monuments have the potential for multiple types of renewable energy development, and only the San Rafael Swell has no renewable energy potential. Developing renewable energy has been a priority of the DOI, environmental groups and energy production companies and has been deemed a national priority by President Obama. The reality, however, is that should these monuments be created, renewable energy production on a significant scale and across a variety of landscapes will be foreclosed.

These results paint a difficult picture for those, including the authors, who in many instances support both the preservation of landscapes like those proposed in the “Treasured Landscapes” memorandum, and who also support increased production of renewable energy. Indeed the most significant lesson we draw from this data is that conflicts between priorities, including environmental priorities, will inevitably require trade-offs. Indeed the potential monuments pose significant costs to renewable energy production if the preservationist impulse is to be followed.

Conclusion

Our research suggests that the reality of federal land ownership and the effects of those lands can be best summed up in two core economic concepts. First, trade-offs, every policy action necessarily chooses to do something and not others. In the case of federal lands local communities face the realities of the decisions of federal policy makers. These decisions often represent choices which place other interests above those of local communities. These sorts of choices suggest that the potential tradeoffs need to be thoroughly evaluated and considered. It is not simply enough to claim that any decision leads to better outcomes and thus the choice can only help local communities. Our research finds no evidence that this assertion can be supported by the data. Second when considering these trade-offs opportunity costs must be appropriately accounted for in the decision making process. Often the

⁴These suits leave us skeptical whether production of large scale shale projects will be allowed on any federal lands.

trade-offs of large federal land ownership are not about precluding currently active projects and activities but rather about prevention future opportunities from being developed. These costs are and substantial and should be considered carefully in making decisions about federal lands.

A final observation is rooted in the nature of federally owned public lands. These lands have varying potential and treating each as having identical trade-offs and opportunity costs as the current PILT system does fails to recognize the context that each community and public lands area functions within and arbitrarily assigns a value that independent of that context.

Mr. BISHOP. Thank you, Dr. Yonk, I appreciate it. I appreciate the testimony of all three witnesses. I will now turn to questions. I will go last.

Mr. Tipton, you were here in the earlier session. Do you have questions for these witnesses?

Mr. TIPTON. Thank you, Mr. Chairman. And I would like to thank our panel for taking the time to be able to be here.

I guess I would like to ask Ms. Haze first, understanding that PILT is fully funded for one more year, does the Administration to the best of your knowledge plan to maintain full funding in their presentations for PILT for the 2013 budget?

Ms. HAZE. I don't think I can answer that. That would be predeciding what we are going to do in future budgets. So, I am not really able to say that at this point.

Mr. TIPTON. OK. You know in your testimony you had mentioned that the payments are typically made in June.

Ms. HAZE. Right.

Mr. TIPTON. There was a decision that was made to delay payments without providing any notice, was it this last year?

Ms. HAZE. There was a delay this past year, yes, to the 2011 payment.

Mr. TIPTON. You know, that creates a lot of problems. I come from a small rural county that has a lot of public lands. We have one county in my district where 98 percent of the entire county is public lands or Federal lands. And the real issue is that does create a real problem for those communities. What are your plans going forward in terms of making sure that the counties are compensated properly?

Ms. HAZE. I am glad you brought that up. I actually would tell you we learned a lot last year about probably how to better communicate with the counties and the states and the members. We didn't send our notification out soon enough, so we know we need to do that.

And we were able to accelerate the process and make the payment before the end of June, so we ended up really only being about a week later than normal. But we assured the counties at that point, and the Secretary was very engaged as well, that we would do earlier notifications and we would just try very hard not to have a delay and we would stick to that early June date.

Mr. TIPTON. Great. Can you expand on this for me a little bit more in terms of the entitlement acres where counties don't receive payments for some acreage that they currently have? Can you explain some of that inequity for me?

Ms. HAZE. So, we make payments for certain lands, the lands that are in the Forest System and the Park System. And there are

some lands for which we don't make payments. And I am a little sheepish to tell you, I don't specifically know the distinction, but Dr. Corn does.

Mr. TIPTON. OK. Dr. Corn?

Dr. CORN. Under the PILT statute, the lands that receive compensation are specified in the statute. So, if there is a category of land, DOD or whatever, that is not specified in the statute, it will not receive compensation.

So, if there is a category, let us say, of Forest Service land that does not get compensation under the PILT statute, then it won't. That is not discretionary with the Department of the Interior.

Mr. TIPTON. OK. You know, I guess the question that I have, and it goes back a little bit to Mr. Yonk's comments, and if I could maybe get you to comment. It seems that we are at cross-purposes. Education is very important for me, for my family, for our entire communities. And we have had restrictions in terms of being able to get in and harvest timber as an example, access to some minerals to be able to provide resources back into our communities.

We see that PILT has only been fully funded I think—I just did a couple of sketches there. If we go back to the beginning, it looks like it has been underfunded to the tune of about \$1.5 billion since its inception in generic round numbers.

Are some of the restrictions that we are going to be putting on going to further impact our ability to make payments that is going to be able to provide for schools, provide for public safety and the building of highways in your estimation?

Dr. CORN. Do you mean under PILT?

Mr. TIPTON. Yes.

Dr. CORN. The factor that would relate to that is any effect in the prior-year payments. In other words, to the extent that you reduce a prior-year payment or increase a prior-year payment, you may—and you will remember I had a very complex formula up there for this calculation—but you may reduce a given county's PILT payment or you may increase it. And it is difficult to tell what the net effect would be.

Mr. TIPTON. Talking about that, and I am about to run out of time here, we have counties like Hinsdale County in my district, which is 98 percent Federal land with a very small population, but they received less.

But if our friends from New York come out to their public lands and drive off the end of the road, they want to have public services there to be able to provide those services. In your estimation, is that fair simply to have that part of the calculation, population, or should it be strictly on the size?

Dr. CORN. As you know, it is difficult for CRS to deal with that sort of question. Let me just say that this is not discretionary with the PILT statute. In other words, they receive whatever the statute calls for.

Mr. TIPTON. I was just going to ask for a comment in terms of fairness, but I understand. Thank you.

Mr. Chairman, I yield back.

Mr. BISHOP. Thank you, thank you. What is for you guys a hypothetical unfortunately is for us a reality.

Mr. Grijalva.

Mr. GRIJALVA. Thank you. Ms. Haze, there have been some suggestions that the formula for PILT payments results in some inequities. Some units of local governments that are already fairly well off receive large PILT payments while some areas that have very limited resources do not receive as much from the PILT program. Does the Department have any suggestions on how the program might be reformed so that we more fairly allocate this funding?

Ms. HAZE. That is a great question. I anticipated you would ask me that and struggled with what I would say.

I hesitate to suggest anything. The formula was so extensively discussed while they were putting the Act together many years ago, and I have gone back and looked at all of that, and there were so many different options they looked at before they settled on what they enacted. So, I really don't have a better way to build that mousetrap.

Mr. GRIJALVA. Thank you. The other question if I may, Ms. Haze. The Department of the Interior shares receipts from resource-development activities on public lands with the units of local government. Can you give us some examples of various programs that have revenue sharing?

Ms. HAZE. I sure can. Many of our revenue-sharing programs share the receipts with states as opposed to going directly to the counties, but their formulas are very diverse across all of the programs.

So, for example, mineral revenue payments to states for onshore mineral production, we share \$2 billion a year with the states. There is also the—let me think what else we have. Of course there is offshore, which has nothing to do with PILT. Grazing revenues. So, there are a number of them.

Mr. GRIJALVA. And that would be a significant transfer of funds, would it not?

Ms. HAZE. It is. It is a significant transfer of funds. On an annual basis, we are sharing about \$8 billion a year.

Mr. GRIJALVA. Thank you. Ms. Corn, according to CRS data, how did the amount of funding authorized for the PILT program compare to the amount actually appropriated between 1976 and 1994?

Dr. CORN. Congressman, the first payment was made in 1977, so between then and 1994, the range was between 100 percent down to 88 percent in 1979. All of the rest of them were over 90 percent, generally over 94 percent.

Even then, in the early years, it was difficult to figure out what a 100 percent payment was because the baseline data were so confused. In other words, counties didn't know accurately the Federal land, or the Agency did not, or how much they had received in the previous year.

Mr. GRIJALVA. And do the same comparison if you would for 2008 to the current year.

Dr. CORN. Between, wait, 2008 did you say?

Mr. GRIJALVA. Yes.

Dr. CORN. That is 100 percent.

Mr. GRIJALVA. And it appears that there was a period from 1995 to 2007 when the amounts appropriated to the program fell short of the authorized levels.

Dr. CORN. That is true.

Mr. GRIJALVA. I will not ask you which party was in Majority from 1995 to 2006. I will leave that for people to figure it out.

Let me ask if I could, Professor, one question. In your written testimony you suggest an analysis of opportunity costs that would be useful in evaluating the merits of Federal land ownership. In other words, we should estimate what is being lost because a coal mine, a uranium mine, another extraction activity is not in place on those lands.

Would an analysis of these opportunity costs as you see it deduct the potential costs for mitigation, cleanup of any waste or pollution that was caused as associated with these projects? Would that deduction be fair, part of the opportunity scale?

Dr. YONK. Absolutely. A good measure of opportunity costs would have to take into account the costs both of production and then post-production timelines. But again, it should be something that is appropriately included and estimated.

Mr. GRIJALVA. My time is up. I yield back.

Mr. BISHOP. Thank you. Mr. McClintock.

Mr. MCCLINTOCK. Dr. Yonk, how much of the State of Nevada, for example, is owned by the Federal Government? Do you have figures on that?

Dr. YONK. Sure, if I were sitting in my office, I could tell you. It is well into 90 percent.

Mr. MCCLINTOCK. How about of California, my home state?

Dr. YONK. I do not know the answer in California.

Mr. MCCLINTOCK. I represent the northeast corner, and we do have counties of which the Federal Government owns 70 to 80 percent of the land area, which stuns me when we reflect on the fact that Washington, D.C., the Federal District of Columbia, with all of its government buildings, the National Malls, all of the memorials and parks, the Federal Government owns about 25 percent of land area of the Federal District of Columbia.

What happened? How was it that the Federal Government seized the vast proportions of the western United States away from the local people?

Dr. YONK. That is quite a question. The short answer is that you had a period where you had divestment occurring in the United States, where you had land holdings that were held by the Federal Government that were being in large measure privatized. And that era ended prior to the introduction of the PILT program, that it was no longer interested in doing those sorts of things. And so it was sort of a default setting as we came out of the Homestead Era when what did you do with the balance of the land? Well, that land was held by in most cases the Federal Government and was not fully allocated.

Mr. MCCLINTOCK. Well, what we have found in the northeastern corner of California is the Federal Government is a lousy landlord and an even worse neighbor. We are watching these Federal agencies shutting down community events that had been exercised in these communities in some cases for generations, driving grazing operations out, forcing people to abandon cabins that had been in their families for generations. It really is a lousy neighbor.

What do we do about all of this? Not only are they consuming vast proportions of land that would otherwise be going for productive use, but they have become an active impediment to simple commerce and activity in these mountain communities.

Dr. YONK. I think the short answer to your question is that that is a fundamentally political question that is left in your capable hands. But there needs to be a recognition that the costs are real to these communities. And it is far too often that those costs are discounted or even suggested that the results are positive, that you should be grateful to have increased levels of protection because you will see increased tourism dollars. Our work does not bear out that that is consistently the case.

Mr. MCCLINTOCK. The Ranking Member has pointed out that there have been years when the Federal Government has been unwilling or unable even to match the current authorization for PILT, which is very low. And of course, as we all know, the Federal cupboard is bare. We are actually borrowing that money, and I am not entirely sure how much more China is going to loan us.

Shouldn't PILT be funded by simply selling off these excess Federal land holdings? Shouldn't we set perhaps a 25 percent limit on the amount of a land area of any state or locality that the Federal Government, certainly any state, that the Federal Government can own considering the fact that it does just fine owning just 25 percent of the land area of the Federal District of Columbia?

Dr. YONK. Again, I think that is a fundamentally political question that this body will have to decide. There are real costs, especially as you cross that 25 percent threshold, and as those land holdings expand, there are increasing costs.

Mr. MCCLINTOCK. If we were selling off this excess land, it seems to me two things would happen. If we were using that to fund PILT, that would provide a source of revenues to provide relief to these communities without tapping a Treasury that is deeply in debt and at the same time would begin reducing the problem by restoring this land from unproductive Federal holding to productive local holding.

Dr. YONK. I think one of the interesting things in response to that is that PILT is not the solution for these public lands counties. I mean, we have heard testimony today that it has typically been funded at over 90 percent, and yet public lands counties still lag behind their non-public lands counterparts in a variety of measures. And so I think the more fundamental question that you are asking is an interesting policy question: Should we be divesting public lands?

Mr. MCCLINTOCK. So, there is a solution then that would create jobs throughout these regions, would create additional tax revenues throughout these regions because of productive activity and would still leave the Federal Government holding far more of the land area of these states than it does of its own Federal District of Columbia. Thank you.

Dr. YONK. The short answer if I may is—

Mr. BISHOP. Five seconds.

Dr. YONK.—maybe that would happen. Thanks.

Mr. BISHOP. You did that in less than five, good job. Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman. And thank you, Chairman Bishop, for holding this important briefing. I would also like to thank the witnesses for testifying, giving this Committee the information it needs on the program.

As a Member from Colorado, I understand how vital the PILT program is to my District, to Colorado and to other western States. Specifically, Douglas County in my District is slotted to receive nearly \$300,000 in PILT payments.

Mr. Yonk, right now we have a continued budgetary problem on the Federal level, but there is a significant need for PILT funding on the local level. So, how can the Department of the Interior increase flexibility for the local communities to extract more dollars from their lands and therefore become less reliant on Federal PILT dollars?

Dr. YONK. Again I refer to part of sort of my written testimony, that as you increase the levels of protection, particularly as it expands beyond simple Federal ownership, and many of these PILT counties have large areas that are protected at some level greater than the standard just ownership, and when that occurs, you see increased costs to those communities.

And so one of the potential avenues would be to reduce some of those levels of protection that could potentially have a positive outcome depending on the context. Now there were a lot of "potentiallys" in that statement because estimating what would happen gets to be very difficult, and it becomes dependent on what resources actually are available on which public lands.

Mr. COFFMAN. Thank you, Mr. Yonk, Professor. Ms. Corn, you testified that the addition of Indian lands to the PILT program is a current issue of debate. But my question is how the addition of these lands will affect the decision to continue the five-year mandatory authorization in the future, and how will this addition affect local communities' ability to earn revenue from these lands and become less reliant on PILT funding?

Dr. CORN. Congressman, this was an issue that was brought up extensively in 1994 in the hearings that were held in the Senate. The biggest difficulty that I recall was that defining Indian lands all by itself was a monumental task. There were multiple categories: reservation lands, trust lands that may or may not be on a reservation, allotments, land holdings that were once owned by other entities and acquired. So, it was practically impossible they felt at the time to determine exactly what should be included. That was the big stumbling block.

In some counties, I don't recall where, but in some counties, the holdings by, let us say a Federally recognized tribe on a reservation, are a very substantial fraction of that county's land. And since they are not taxable, then the burden, the tax burden falls that much more heavily in terms of property taxes on the non-reservation land. And some counties have complained that this is a very severe burden.

Having said that, the reservation lands do sometimes receive important county services, such as fire protection, emergency services and so on. It could vary quite a lot from one county to another.

Mr. COFFMAN. Mr. Chairman, thank you. I yield back.

Mr. BISHOP. Thank you. Dr. Gosar, we welcome you to our Committee. Do you have any questions?

Dr. GOSAR. I do. Mr. Chairman, I ask permission to have included in the record a letter from Ms. Tommie Martin, Board of Supervisors from Gila County, Arizona. And because of the staggering amount of Federal land in Gila County, Supervisor Martin reports that Gila County property owners now shoulder over 90 percent of the burden of the county's budget.

Mr. BISHOP. Without objection, it will be added to the record.
[The letter from Ms. Martin follows:]

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October 13, 2011

Congressman Paul Gosar
United States House of Representatives
504 Cannon Building
Washington, D.C. 20515

Dear Congressman Gosar:

Gila County officials are bracing as Congress considers the reauthorization of federal Payment in Lieu of Taxes (PILT) legislation, which is set to expire on December 31, 2011. The federal government controls 96% of Gila County's total acreage, leaving County officials with the task of providing basic services from the property taxes generated on the remaining 4%. In the State of Arizona, it is no coincidence that Gila County has (1) the largest percentage of Federal land within its borders and (2) the highest county property tax rate.

Gila County property owners now shoulder \$23,900,621, or a staggering 90%, of the funding for local government services. Public lands (PILT) provide only \$3,023,345, or a paltry 10%. This inequitable funding ratio between private and public land COULD be sustainable if federal lands were allowed to support the local economy. From its earliest history, Gila County's economy was built on copper, cattle and timber. As a result of onerous federal regulations and land management by litigation, the once healthy and vigorous cattle and timber industries are virtually non-existent, and copper mining struggles to survive environmental policies and ever increasing impact fees. The Federal government's land "use" policy is one of non-use. Under the guise of protecting the land, the federal government has allowed the lands not only to "rest to death" and be useless and unproductive, but also to become overgrown and ripe for catastrophic wildfire. So long as land is not allowed to be scientifically managed and worked, it will not prosper. Federal monies provided to counties in which these non-working lands are located are a mere pittance when compared to the economic impact which would result from healthy, working lands which support timbering and livestock and not merely wildland fires laying in wait.

Gila County's unemployment rate is above 12%. In addition, over one fifth of our population is living at or below 200% of the Federal Poverty Level. Our taxpayers can no longer afford to subsidize the federal government's mismanagement of our public lands. In fact, Gila County residents are spending more each year to protect homes and small businesses from catastrophic wild fires originating in the National Forests than that which is received from the one small economic benefit

still generated by public lands -- tourism. Ironically, Gila County also shoulders the responsibility of providing law enforcement and emergency responders on the federal lands within its borders. PILT cannot be eliminated before our economy, which depends so heavily on public lands, has had a chance to recover. Over two-thirds of our total funds are spent on law enforcement and courts. A loss of \$3 million in PILT would result in a reduction of \$2 million to these vital County services. This loss in revenue could very well mean a loss of 30 Sheriff Deputy positions -- over one half of our current staffing.

Respectfully,



Tommie Martin
Gila County Board of Supervisors, District One

cc: Supervisor Mike Pastor
Supervisor Shirley Dawson
Marian Sheppard
Patty Power
Rod Ross
Arizona County Managers

Dr. GOSAR. So, Professor Yonk, I am curious to hear your views on something that is really affecting my District. District 1 is roughly 70 percent Federal lands, and we know how the PILT is calculated. It is the eligible lands divided by or times by a dollar amount received. And this actually is a substitute for the lost property taxes, and that is important. So, here comes my question.

Let me ask you, does PILT compensate localities when natural disasters caused by mismanagement of Federal lands, like forest fires, require the services of local firefighters, policemen and emergency responders?

Dr. YONK. One of the things we do see in public lands counties is that their budgets, when you compare them to non-public lands counties, they spend more on average on public safety and the very things that you are describing than their non-public lands counterparts. So, it would appear that there is at least a cost of having public lands in the county.

Dr. GOSAR. So, do you know if they compensate for natural disasters? That they are inherently—you know, take for example, we have a big, old fire like the Wallow Wildfire. So, this is the biggest fire in Arizona history, and it is directly related to our management of the forests. And yet the counties are impugned by this, and there is no way of compensating back for that.

Dr. YONK. It is difficult to answer that question because PILT in my estimation and what we found, it does not cover the day-to-day operations; it is not a full replacement of property tax revenue in every case. And so, based on that logic, the answer to your question is no. But I can't say that conclusively based on any data or study.

Dr. GOSAR. But it is asking a requirement. The Federal Government is asking a requirement for these Federal lands that they do maintain these on a day-to-day basis yet not compensate it on a day-to-day basis. Is that not true?

Dr. YONK. That sounds correct.

Dr. GOSAR. So, I know that my counterpart from Arizona brought up a compensation mechanism, you know, the minerals. Ms. Haze, is it not true that those mineral allocations are determined by the state Constitution in their allocation?

Ms. HAZE. I don't know about the state Constitution.

Dr. GOSAR. I do. So, let us go back to Arizona.

Ms. HAZE. OK.

Dr. GOSAR. Just so the record states, those monies for compensation for mineral royalties goes to the Land Department, which goes strictly to education. Nothing else, nothing more. So, let me ask you another question, Ms. Corn. Is there any way in a procedural way that counties have the ability or states have the ability to either increase or decrease the numbers of lands in regards to compensation for PILT?

Dr. CORN. No, because that provision is defined in statute. In other words, the eligibility of a Federal land holding to receive a PILT payment is defined in statute. So, any change in a county would require a change in the statute.

Dr. GOSAR. So, we would have to do it here.

Dr. CORN. Yes, barring, now let me just say, one exception. If some lands were to be acquired let us say to fill in an in-holding in a national forest, then that would become National Forest land and would therefore be eligible for a PILT payment. But the status of the land is fixed in the statute. In other words, the types of land that can receive payment are fixed in the statute.

Dr. GOSAR. So, you brought up another question for me in the definition of Indian lands. So, let us say, for example, that a tribe buys a piece of property that is considered part of their holdings. If it was a part of a PILT, does it then become a non-PILT?

Dr. CORN. In effect, you are suggesting that the tribe has acquired some type of Federal holding and it has changed from Federal land that was eligible for PILT into land that is now part of the reservation. I haven't heard of that happening. I am afraid I can't answer that. I don't know what the result would be.

Dr. GOSAR. The reason I ask is that we spent the better part of 100 years trying to get criminal law with native tribes and us fairly similar, and it is fairly similar. But we have yet to touch civil actions in regards to the tribes.

And that is why I have a number of big tribes, Indian tribes in my District, and we have an example of this possibly occurring. And so what we have to do is look at the ramifications because I have some of those holdings where a big tribe has a lock on the land ownership within a county but still drives a lot of those maintenance. And there is no way they can actually compensate or maintain. There is just no way. Navajo County is an example. What those people do is heroic all the way around. The emergency responders, law enforcement, it is just unbelievable what they do at the expense of the Federal Government.

So, I yield back my time.

Mr. BISHOP. Thank you. In fact, I have more questions that have come to my mind as I have been listening to the discussion going on here. So, Ms. Haze, let me start with you if I could. I first want to say it was troubling, very troubling, to hear your answer to one of the other questions, that you don't know if the Department will

be requesting full funding for PILT in the 2013 budget year proposal. I understand that may be at a pay grade different than yours to make that statement or that decision, but it is troubling that the Department has not determined to do that and is willing to publicly say they are determined to do that. Can I ask a question simply about the payment schedule though? Is there statutorily a date certain when PILT payments must go out the door?

Ms. HAZE. Yes. The statutory requirement is that they need to go out the door before the end of the fiscal year, the Federal fiscal year.

Mr. BISHOP. So, there is a cutoff date; there is not a date that it has to be done.

Ms. HAZE. Correct.

Mr. BISHOP. Will the Department of the Interior then this year in PILT payments, will they be made to the county before that date?

Ms. HAZE. They will.

Mr. BISHOP. OK. I appreciate you being that definitive in some time. Can you tell me what then the specific reason was when you all announced the expected delay in the 2010 payment?

Ms. HAZE. We had received some information from a state that impacted our calculation of the payments to the counties, and it had to do with the way Dr. Corn described it as the pass-through money. And it was a new procedure that they had put into the state; the State Assembly had passed new legislation. And so a set of prior-year deductions we would have ordinarily considered in the formula—

Mr. BISHOP. So, it was an accounting problem you had within the Department of the Interior.

Ms. HAZE. I think I am understanding your question, but if not, ask me again. So, it was a delay in trying to understand what happened in the state and get legal clarification around whether we should deduct those payments or not. So, it was a legal interpretation of the new process.

Mr. BISHOP. If there is a statute that tells you that you have to make a payment by this date, then why did you tell the state you may break that statute in order to do the internal calculations?

Ms. HAZE. There is a statute that requires that we make the payment by the end of the Federal fiscal year, September 30. We try to make the payment early June. We had gotten initial information in from the state later than we normally ask for it. We normally get the information in from the states in December. We didn't get it until later in the spring, and then we had additional clarification discussions with that state that went on for a while.

Mr. BISHOP. Thank you. I appreciate that. I think it would probably be helpful for the counties if there was a specific date on which they could depend, not when it has to be done as an end date, but there was a specific date on which those payments had to be going out at some time. And I realize that there is not a statute that demands that particular thing.

I am also under the impression, and correct me if I am wrong, the Department of the Interior does not have the ability to increase or add categories of land or to adjust valuations of land statutorily. That has to be done in a legislative change within the basic bill,

within the basic program itself statutorily. The Department of the Interior does not have, am I right, the flexibility to change classifications of land, categories of land, ceiling payments, population payments, those type of things?

Ms. HAZE. Correct. As Dr. Corn explained, there is a set definition for which lands are subject and get PILT payments and lands that do not.

Mr. BISHOP. Thank you. Let me turn to Dr. Corn then if I could for a few questions. And I think you have already said this. Are there county payments that are not counted against future PILT payments for some counties but not others?

Dr. CORN. The PILT provides for—

Mr. BISHOP. Actually, Doctor, I am going to run out of time before I get through you with all of these. I will come up with that one later on what counties get and what counties don't.

Dr. CORN. Sure. OK.

Mr. BISHOP. Mr. Grijalva, you have sat here through the Republicans; you are the only one on your side. Do you want another round, another question set this round?

Mr. GRIJALVA. I thought I would get one after each one of you. [Laughter.]

Mr. BISHOP. I am not that nice, but you can go now if you would like.

Mr. MCCLINTOCK. You can have my other 32 seconds.

Mr. GRIJALVA. Thank you, appreciate it. Professor, let me ask you a followup on a question. I believe that the wildfire was the result of a lightning strike. Had that land been all private, OK, who would bear the costs for fighting that fire?

Dr. YONK. I don't have any specific information about Arizona's laws, but it would have been borne most likely by whatever level of government is assigned in Arizona primary responsibility for fighting those fires.

Mr. GRIJALVA. And you know, on page 5 of your testimony, let me quote, "The designation of the Grand Staircase-Escalante National Monument has had little or no effect on the economic situation of the host counties." Is that correct?

Dr. YONK. We can find no statistically significant impact of the designation of the monument in either Kane or Garfield Counties.

Mr. GRIJALVA. So, the designation of that monument has had little or no effect on the economies of Kane and Garfield?

Dr. YONK. That is what the data and our study has led us to.

Mr. GRIJALVA. Well, thank you. It is a relief to have that question resolved once and for all. I appreciate it. And with that, I yield back.

Mr. BISHOP. Thank you. Mr. Tipton, do you have other questions?

Mr. TIPTON. Thank you, Mr. Chairman. I have just one more. Mr. Yonk, it is kind of disturbing since we have so many public lands throughout the West, and I come from an area that is typically economically depressed, and unfortunately right now we have better than double-digit unemployment in many of our counties. Going off of some of your analysis, and I would like to be able to actually see that full report, if lands are further designated that becomes more restricted, do you see further negative economic impact? Because I

am hearing testimony, I just held a public hearing out in one of my communities, and one of the contentions is that we are able to actually see positive economic impact off of some designations, but you seem to be indicating to the contrary.

And if you see more restricted designation, we understand not all regulations ever go away. As long as it is BLM land, as long as it is Forest Service lands, there are going to be protections that are going to be in place. But if it gets more restrictive, is there more negative economic impact, or does it stay the same?

Dr. YONK. In response to that, so this notion that there is a positive effect, in none of our studies have we found a consistent positive effect of increasing designation.

We do find, especially in the case if you designate wilderness areas, a greater negative effect on those communities. Now, as we go beyond that, it becomes less clear. For example, the monument study of the Grand Staircase, it is not that it is a positive; we can find no effect where when the claims were that the effect would be this great boon to those two counties through recreation dollars. So, it is a little bit of a mixed bag in answer to your question. There are clearly costs as you restrict the uses of lands.

Mr. TIPTON. OK, great. Ms. Haze, would you like to comment on that at all? Do you have any studies?

Ms. HAZE. No, I am not prepared to do economic study comments. Thank you though.

Mr. TIPTON. Any sort of comment on that? CRS have anything, Doctor, on that?

Dr. CORN. No, I am afraid not. Well, nothing that I am aware of.

Mr. TIPTON. OK, thank you. I yield back, Mr. Chairman.

Mr. BISHOP. All right. Dr. Corn, can I start over this one again here? So, what I was trying to ask is, are there county payments that are not counted against future PILT payments in some counties but are in other counties?

Dr. CORN. Yes. Where states have laws that require this pass-through—in other words, this is a feature where a state may say the payments resulting from BLM must go straight to this entirely separate entity, a school board for example, does not go to the county government. In that case, that payment, let us say \$10,000, would not be counted as having gone to the county government. So, it would not be deducted from the following year's payment.

Mr. BISHOP. So, let me give you another hypothetical just along that same line, different issue. So, we have already established some counties will be treated differently according to those pass-throughs.

Dr. CORN. Right.

Mr. BISHOP. So, for example, on Secure Rural School payments, are they always deducted from the prior year's payments? The following year's payments.

Dr. CORN. They would be for National Forest lands.

Mr. BISHOP. So, is that going to be uniform in all counties? For example, let us talk about ONC counties, an ONC county in the West. Secure Rural School payments would go there. Would they also have PILT payments as well?

Dr. CORN. In the case of ONC lands, the Secure Rural Schools provision does not apply. In other words, if we are talking about National Forest lands, then any prior-year payment under Secure Rural Schools is deducted from the following year's PILT payment.

If, on the other hand, the land in question, an ONC county, has chosen Secure Rural Schools, that payment under Secure Rural Schools would not be deducted from the following year's PILT payment.

Now bear in mind that this is an incredibly complicated problem simply because some of those counties will be limited by the population ceiling, so it wouldn't make any difference anyway. Or some of those counties may be receiving the minimum 33-cents-per-acre payment, so it still wouldn't make any difference. But at least potentially there would be a distinction between ONC lands versus Forest Service lands.

Mr. BISHOP. It could be, and I appreciate that. And I also appreciate you saying that 33-cent figure.

Usually I don't want to ask the question unless I know the answer; I have no clue what this answer is. When that dollar figure was established, why? Was there a specific reason or matrix that we used? We talk about how the formula goes out based on the amount of land and a certain dollar figure attached to it. Was there a matrix used to come up with that figure?

Dr. CORN. In the original law, the dollar figures were 75 cents per acre and 10 cents per acre.

Mr. BISHOP. Why?

Dr. CORN. You know, I just tried to look that up quite recently. I looked at the hearing records in the House and Senate, the committee reports. I haven't looked at the Floor debate yet, but that number just pops out. And in the House Report it says that instead of choosing, and then it lists various options, the Committee selected 75 cents per acre.

Mr. BISHOP. So, it could well be then that if states were allowed to charge a tax levy based on their own standard, they would be getting significantly more money from the Federal Government than they will get in PILT because we have those arbitrary numbers that are there.

Dr. CORN. As long as you bear in mind that some might be getting significantly less, yes, that is possible.

Mr. BISHOP. OK. That is theoretically—in my own mind, I can't envision that scenario, but it is theoretically possible. Could I also ask one other question too just on the history of it? I know population is included as a figure. Historically why?

Dr. CORN. The reason at the time for including population was that they did not want to give counties that had very large population resources. In other words, in the West, the counties tend to be really big geographically. And some of them—I am thinking of Sacramento for instance—are both big counties, a fair amount of public land, and they also have substantial population.

In contrast, there may be other counties just as large, also with a fair amount of public land, but they have very small populations. It was felt that the county that had the very small population needed proportionately more assistance than a presumably more

resourceful if that is the word I want county like one like Sacramento. That was where that started.

Mr. BISHOP. All right. Once again, it seems like once again we made maybe an entirely appropriate decision, but it was a fairly subjective decision.

Dr. CORN. The numeric figures for the 75 cents, 10 cents and the actual county ceiling numbers, I have not found a specific justification for those. And in fact, shortly after the PILT law was passed in 1978, there was a study by the Council on Inter-Governmental Relations which asserted looking back at that 75-cent figure that there was, and I am nearly quoting, no fiscal reason that they could determine for having chosen that number.

Mr. BISHOP. Thank you. Like I said, I didn't know the answer to that. You have given me an answer. I have to admit it is a troubling answer, but it is a good answer. Thank you, Dr. Corn.

Dr. YONK, if I could ask you a couple of questions, and let us go on to this. I think in your written testimony you gave a sentence in there that I thought was interesting and that the idea of PILT was tied to a change in the attitude we had about public lands in the first place. Would you want more time to just reinforce why you said that?

Dr. YONK. Sure. So, the logic of PILT was that there was a change happening in this orientation toward what public lands were meant to do and increasing Federal oversight of what was occurring on those Federal lands. And so part of what PILT was desiring to do, especially those that had advocated very strongly for it, was to prevent the systematic disadvantaging of those counties with large public land holdings based on this change and this new focus on conservation at sort of that time and we might term it environmentalism today. But it was designed with the recognition that there would be costs to these areas with this change.

Mr. BISHOP. So, you have given us another avenue of attacking this problem if we look outside the box in some way. Are you familiar with Headwater Economics and their analysis on the impact to national monuments?

Dr. YONK. I am.

Mr. BISHOP. Can you just tell me why your conclusions differ so starkly from their conclusions?

Dr. YONK. The Headwater Economics analysis uses a simple growth model where they take in Time A what the value of some specific measure was, compare it against Time B, holding constant the dollars for, they used 2009, and they create this notion that there has been an increase. That is great, but it is possible that the increase has happened everywhere.

Our approach suggests that we look at it by controlling for what the other factors are and comparing it against the counties that were most like the counties where a monument was designated, in our case, Grand and Kane, at the time the designation happened. And then we want to see what happens in the intervening years.

And so it is simple to look and say yes, there are in fact larger household incomes in 2011 than there were in, like he uses I think it is 1995. Yes, the household incomes are larger. But there is no clear discussion in that report about why you would see the increase. And the assumption made and the implication that is made

in that report that has been taken from it is that it is the national monument that has led to that. Our work finds no evidence that that is the case.

Mr. BISHOP. So, in your answer to Mr. Grijalva, when you said there is no impact, what you are saying in practical terms is tourists were not flocking to that designation, dropping money on the streets as they went there.

Dr. YONK. Correct.

Mr. BISHOP. But in your study, though, did you include economic opportunities that were lost by those designations?

Dr. YONK. No. In this case, there are two primary reasons. The main opportunity cost that has been identified in the Grand Staircase-Escalante monument is the Andalex Mine. We have serious questions about whether that mine would have been operative in the period based on the regulatory environment.

So, an estimation of what that effect would be we felt was inappropriate, primarily because we have serious doubts about whether or not it would have been open today. Someday would it have been open? Perhaps. But the regulatory environment, which is a whole other discussion, would likely have prevented it.

Mr. BISHOP. Let me finish off with three questions to you, and then I will let you all go. To what extent do PILT payments reimburse counties that are blessed with wilderness or monument designations?

Dr. YONK. At some level, less than the costs of those designations.

Mr. BISHOP. States, like my State of Utah, have productive or try to do with productive state lands, especially School Trust lands. Do you evaluate the economic benefits from state-owned lands as opposed to similarly Federally owned lands?

Dr. YONK. We do include a control for those state-owned lands because we want to make sure we are not inappropriately ascribing the impacts of those lands to the Federal lands. But we have not done a full-scale study of what those impacts would be.

Mr. BISHOP. Do you have an assumption—no, that is unfair—of what you would find out? If I had an assumption of what you would find out, would that be fair? Never mind, that is not a real question.

One last one I would like to do. After our last hearing, and I would just like a quick reaction from you, there was a survey that was done by an interest group that was published in one of the Salt Lake papers that said basically people are loving the Grand Staircase-Escalante monument.

I want to read what the question was to you. And the question that was given was, "The Grand Staircase-Escalante National Monument protects public lands between Bryce and Capital Reef in southern Utah. The national monument allows for continued public use for grazing and recreation, including hunting, but prohibits new development. Do you think the Grand Staircase-Escalante National Monument is good or bad for Utah?"

In their survey, they asked one person who lived in Garfield County, one person who lived in Kane County, one in Wayne, nobody in Piute, and then went five miles by car away and asked 132 people in Salt Lake City.

As somebody who works in the academic area, what kind of validity would you give to that type of survey, both the question and the survey sample?

Dr. YONK. Having not seen the actual sampling methodology, the question is clearly both vague and provides direction to the answer.

We just recently completed a survey of broadband internet penetration in Utah, and one of our primary concerns was if we simply draw a random sample in Utah, we are going to get a large majority from the Wasatch Front Counties of Salt Lake, Davis and Weber. And if that is the only people we ask, we can identify what the result of that survey will be. They will in fact almost all have access to high-speed internet. So, we had to use a different sampling methodology to ensure that you got geographic representation in the sample. And so that would be our approach to dealing with those potential problems.

Mr. BISHOP. I appreciate that very much except those three counties are all in my District, so they are good people, they are good people.

I want to thank the witnesses who have been here to give their testimony and thank the Members who have shown up to ask questions. I want to make public, the hearing record will be open for 10 days to receive responses if anyone here wants to add to their testimony or if we send you those other responses.

Sometimes I think just for me, I have found this very illuminating. Ms. Haze, I think it would be very helpful if there were some specific deadlines or dates on when those checks need to be going out, and I appreciate your answers to the reason for the delay that was announced at one time.

Dr. Corn, I appreciate your historical insight. If you can tell me why 75 cents was picked sometime, good for you, and I would actually appreciate that data.

Dr. Yonk, I appreciate your being here, and I appreciate the studies you have had on the impacts these lands have on the people who live in those areas. I thank you for your testimony.

With that, this Subcommittee hearing is adjourned.

[Whereupon, at 11:46 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

**Statement of The Honorable Paul Gosar, a Representative
in Congress from the State of Arizona**

Chairman Bishop and Ranking Member Grijalva, thank you for orchestrating this important hearing, to examine the Payment in Lieu of Taxes or PILT program. From the very beginning of our nation's history, we have recognized that states and localities are unable under the principles of federalism to tax federal land. In states such as my state and the Ranking Member's state of Arizona, where the majority of land is federally owned, the inability to impose local property tax on federal land has real world consequences for states and localities that still have to provide all the public safety and education services that citizens count on with a greatly reduced tax base. Additionally, federal workers, contractors and concessionaries, as well as their families utilize local schools and services. Without programs like the PILT program, which provides a payment to local counties in lieu of the property taxes that cannot otherwise be assessed, local school districts and counties shoulder the entire financial burden for the impact of federal land within their locality.

The positive impact of PILT in Western states particularly, and more specifically in Arizona's First District, cannot be stated enough. My district boasts an array of federal forest land, and federal parks that are counted among our nation's treasures. In fact, the majority of land in my district is owned and managed by the United

States government. This state of affairs unfortunately limits the economic development potential of western states, and also requires the county officials in my district to manage a delicate balancing act to find the revenues that every community needs to pay for essential services. PILT is a crucial part of this balancing act and failing to reauthorize it at the end of this fiscal year would jeopardize the health, safety, and prosperity of all eight counties in Arizona's First District. PILT is not a give-away, it is not an entitlement, and it is not an earmark. It is a crucial portion of the agreement that the federal government has made in exchange for its ownership of land in the West. A staggering 28 million acres in Arizona alone is eligible for PILT, and yet the PILT program yielded only slightly more than \$31 million for Arizona counties in Fiscal Year 2011.

In Graham County, Arizona, for example nearly 40% of the county's land is owned by the Bureau of Land Management and the Forest Service combined. Only 10% of the county's land is private land, subject to property tax. The PILT program is a vital source of revenue for a county like Graham, providing 14% of the county's budget. Local officials tell me that PILT is "live or die" for Graham County—and what many do not realize is, that local officials must still budget for law enforcement and public safety services for anything that happens on federal land. For example, in Navajo County Arizona, only 14% of the county's land mass is subject to property tax. This state of affairs, combined with state budget reductions, make the PILT program more important than ever. I cannot envision a scenario for Arizona's counties that doesn't involve the PILT program.

In other instances before the Natural Resources Committee, I have made the argument that the future of the PILT program is a question to be considered within the broader question affecting my district every day. Does the federal government own too much land altogether, particularly in the West? Could some of these lands be better managed than they are, and provide more opportunities for economic development that might compensate localities more fairly for the services they provide on federal land? I believe the answers to these questions are a firm yes and no respectively—but until we can meaningfully tackle these questions, the Payment in Lieu of Taxes program is a vital program. We must reauthorize PILT and we must continue to provide the support these counties and communities need.

Thank you and I look forward to hearing the witnesses' testimony.

Statement submitted for the record by the National Association of Counties

Chairman Bishop, Ranking Member Grijalva, we appreciate the subcommittee scheduling the hearing on Payments in Lieu of Taxes (PILT) held on Friday, October 14th 2011. Thank you for giving counties and the National Association of Counties (NACo) the opportunity to submit testimony for the record.

The PILT program provides payments to counties and other local governments to offset losses in tax revenues due to the presence of substantial acreage of federal land in their jurisdictions. Since local governments are unable to tax the property values or products derived from federal lands, these payments are essential to support essential government services (mandated by law) such as education, first responders, transportation infrastructure, law enforcement and healthcare in nearly 2,000 counties in 49 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

HISTORY

In 1954, elected county officials from several western states joined together to develop a regional coalition of counties called the Interstate Association of Public Land Counties—an organization that would ultimately evolve into the Western Interstate Region of the National Association of Counties. The primary purpose of the organization was to educate policy makers in Washington, DC and advocate for Federal payments to counties in lieu of lost property tax revenue due to the presence of a vast Federal estate.

The organization grew and incorporated membership from counties in the fifteen western states and enlisted support from other public land counties in other regions of the United States through what was then the National Association of County Officials. After several years of growing pressure from county officials nationwide, the 94th Congress passed the Payment in Lieu of Taxes Act (PL 94-565). The PILT Act was codified in Chapter 69 of Title 31 of the United State Code. Applicable regulations are in Subpart 1881, Title 43 of the Code of Federal Regulations.

The impetus for its passage in 1976 was the passage of the Federal Land Policy and Management Act (FLPMA), specifically FLPMA established that disposal of public lands would largely cease. In lieu of a future in which lands could continue

to pass from Federal ownership to private ownership (such as the Homestead Act), Congress opted to reimburse local governments for land that would remain in Federal ownership “in lieu” of paying direct property taxes.

Congress established national formulas which took into account population, existing revenue-sharing payments for resources harvested or extracted from public lands, and base acreage of the Federal estate within the jurisdiction. With a few exceptions in New England and Wisconsin, states determined that counties were the jurisdictions that would receive payments.

Local governments (usually counties) which provide services such as public safety, environment, housing, social services and transportation and have non-taxed federal land within their jurisdiction, are eligible for annual payments.

Payments are made directly to the counties unless the state government concerned chooses to receive the payments and, in turn, pass the money on to other smaller governmental units such as a township or city. (Wisconsin is the only state currently employing this option)

Historically, payments were limited to an amount appropriated by Congress. Initially authorized at \$100,000,000, that amount was appropriated annually during the first decade of the Act. During the 1980s there were attempts to zero out the amount in budgets, but Congress consistently restored the funds to the authorized level, such that the minimum amount was available each year.

The Act was amended in 1994 to provide for a more equitable authorization level in light of disparities that existed between property values and current PILT payments. The law as amended, uses the consumer price index to adjust the population limitation and the per acre dollar amounts used to calculate alternative “A” and “B” under Section 6902. However, an individual county’s payment from one year to the next may not necessarily increase since the total amount of money available under the PILT program is set by Congress each year in the Department of the Interior and Related Agencies Appropriations Bill. Payments also vary with changes in “prior-year” payments.

From 1994 on, the authorized level and the appropriated level began to diverge, since the authorization crept up by an amount equal to the CPI each year, while appropriations stayed almost constant. Initial payments were set at \$0.75/acre (Alternative A) and \$0.10/acre (Alternative B).

PILT is one of the few Federal funding programs that has a “floating” authorization. Most enabling acts set an authorized amount. Since the 1994 amendment that indexed individual payments, the total authorized for the program has grown from the \$100 million to over \$375 million (FY2011) since the authorized level flows directly from a summation of each county’s indexed maximum payment level.

Until the passage of PL110–343, appropriation levels had never reached authorized levels. The table below shows the national levels of authorization and appropriation since 2000. There was a large increase in FY 2001, and steady increases until FY 2006. In FY 2008, the DOI submitted two payments—the first payment in June was fixed at the FY 2007 level by Continuing Resolution, less a 1.6% rescission. The second payment was paid following the signing of the Emergency Economic Stabilization Act (PL110–343) on October 3, 2008—which modified the PILT program from a discretionary program (subject to annual appropriations) to a fully funded mandatory entitlement program. PILT has been fully funded from FY 2008 to FY 2012.

FY	Alt A payment per acre	Alt B payment per acre	Authorization (full funding) level	Appropriation level	Appropriations adjustment
FY 2000	\$1.87	\$0.25	\$314,912,098	\$133,986,821	0.42185365
FY 2001	\$1.92	\$0.26	\$336,040,296	\$199,160,880	0.58819575
FY 2002	\$1.99	\$0.27	\$350,851,795	\$209,364,595	0.59701812
FY 2003	\$2.02	\$0.27	\$324,197,726	\$218,172,589	0.67346439
FY 2004	\$2.06	\$0.28	\$331,303,522	\$224,301,697	0.67733316
FY 2005	\$2.09	\$0.29	\$331,971,069	\$226,804,730	0.68232558
FY 2006	\$2.15	\$0.30	\$344,356,399	\$232,527,874	0.67453925
FY 2007	\$2.23	\$0.31	\$358,293,428	\$232,527,874	0.64705280
FY 2008	\$2.29	\$0.32	\$367,226,525	N/A	N/A
FY 2009	\$2.37	\$0.33	\$382,047,942	N/A	N/A
FY 2010	\$2.40	\$0.33	\$358,078,641	N/A	N/A
FY 2011	\$2.42	\$0.33	\$375,158,254	N/A	N/A

HOW ARE PAYMENTS CALCULATED

Payments under each section of the Act are calculated as follows:

Section 6902 payments:

Alternative A:

\$2.42 (in fiscal year 2011) times the number of acres of qualified federal land in the county, reduced by the amount of funds received by the county in the prior fiscal year under certain other federal programs.

(\$2.42 X [number of acres of qualified federal land])—[prior year funds received]

OR

Alternative B:

Thirty three cents (in fiscal year 2011) times the number of acres of qualified federal land in the county, with no deduction for prior year payments.

\$0.33 X [number of qualified acres]

Payments under either alternative are subject to population payment limitations.

Section 6904 and 6905 payments—

Payments on Federal lands acquired after December 30, 1970 as additions to lands in the National Park System or National Forest Wilderness Areas (Section 6904) and payments on Federal lands in the Redwood National Park or lands acquired in the Lake Tahoe Basin near Lake Tahoe under the Act of December 23, 1980 (Section 6905) are computed by taking one percent of the fair market value of the purchased land and comparing the results to the amount of property taxes paid on the land in the year prior to federal acquisition. The payment to the county is the lesser of the two.

Section 6904 Payments are made for a period of five years following each acquisition.

Section 6905 Payments are made each year from the date the land was purchased by the federal government until an amount equal to 5% of the fair market value at the time of acquisition is fully paid. However, the yearly payment may not exceed the lesser of one percent of the fair market value or the property taxes assessed prior to federal acquisition.

DEFINITIONS

Federal entitlement acreage

All Federally held lands in all States, Commonwealths and Territories are counted with the exception of those lands that are part of Department of Defense installations and withdrawals. Nationally the following lands are counted:

- a. All land administered by the United States Forest Service
- b. All land administered by the National Park Service
- c. All land administered by the Bureau of Land Management
- d. All land withdrawn from public lands administered as part of the National Wildlife Refuge System (acquired land is not included)
- e. All dredge and flood control land administered by the Corps of Engineers
- f. Project lands withdrawn and administered by the Bureau of Reclamation
- g. Lands in Colorado acquired after Dec. 31, 1981 to expand Ft. Carson
- h. Land on which are located semi-active or inactive Army installations for “use for mobilization and for reserve component training”
- i. Land in Utah acquired for the inter-basin water transfer (URC land) project

Prior Year Payments

Prior year payments are payments to local government under programs other than PILT during the previous fiscal year. These payments include those made under:

- a. the Refuge Revenue Sharing Fund,
- b. the National Forest Fund (“25% Fund”)
- c. the Taylor Grazing Act,
- d. the Mineral Leasing Act for acquired lands,
- e. the Federal Power Act,
- f. Titles I and III of the Secure Rural Schools and Community Self-Determination Act.

The PILT Act requires each state to report these payments to the Department of the Interior each year.

DISBURSEMENTS

In 2010, the Department of the Interior announced a decision to delay the annual PILT payments. This decision caused widespread panic and confusion for counties nationwide as local governments have historically received annual PILT payments in June of each year and plan their budgets accordingly. The DOI last minute decision to delay payments without providing any notice was problematic, and placed countless public lands counties in difficult financial hardship.

Many counties begin their fiscal year July 1 and rely on the June PILT payment to be available as net working capital available to the county general fund. For example, in the state of Oregon, property taxes are primarily received in November. The PILT payment being received in June allows for adequate operating funds to provide services to the community until the tax revenue flows again. In counties that are heavily encumbered by Federal lands, the PILT payment represents anywhere from 50–80% of the counties beginning cash balance.

Another problem created by the DOI decision to delay payments has to do with violating individual state budget laws. In a number of states, counties operate on a cash basis, which requires posting of revenue once it is received. In counties whose fiscal year ends June 30th, without the PILT payment those counties could be in violation of state budget law.

NACo and a bipartisan list of United States Senators and members of the House of Representatives requested Secretary Salazar take every effort to disburse payments to counties prior to June 30, 2010 in order to avert substantial financial distress in public lands counties across the nation.

Ultimately, the DOI resolved the problem in time and released the payments in late June, 2010. In light of the payment disbursement conflict, Senators Ensign (R–NV), Tom Udall (D–NM), and Begich (D–AK) introduced Payment in Lieu of Taxes Amendments Act of 2010 (S. 3730). The legislation would require the Department of the Interior to issue payments to counties not later than May 1 of each fiscal

year. While the legislation was not enacted, the DOI received a very strong message from Congress and NACo that payments need to be made in a timely fashion.

STATUS QUO

On October 3, 2008, Congress enacted the Emergency Economic Stabilization Act of 2008 (PL 110-343) which authorized counties to receive their full PILT entitlement from 2008 through 2012. The amount authorized for the program in FY 2011 was \$375.6 million.

Currently, the Department of the Interior has one remaining payment that will be disbursed in June 2012. Congress will be required to act in order to maintain mandatory funding for fiscal years FY 2013 and beyond. Currently, only one piece of legislation has been introduced in the 112th Congress to provide continued funding for the PILT program. Senator(s) Jeff Bingaman (D-NM) and Lisa Murkowski (R-AK) introduced S. 1692 the County Payments Reauthorization Act of 2011 on October 12, 2011. The proposal would provide continued mandatory funding for PILT for FY 2013 through FY 2017.

While the United States Senate and the House of Representatives may approach legislative solutions for funding the PILT program differently, NACo will continue to urge leadership on both sides of the aisle to act in a spirit of bipartisan and bicameral cooperation and work together to move a final legislative solution to the President's desk.

POTENTIAL MODIFICATIONS TO PILT

NACo believes several policy modifications should be explored by Congress to identify ways to make payments to counties more equitable. A range of possible alternatives should be considered to more evenly distribute PILT funds to counties to provide more budget certainty.

Over time, some programmatic anomalies have become evident. Among these are the non-inclusion of Federal acquisitions, substantially reduced payments to jurisdictions with large Federal estates, and the inability of current formulas to account for externally induced costs resulting from Federal land use by persons originating from outside the jurisdiction.

Some suggest, population (up to 50,000 persons) may not be the most appropriate method for providing fair allocation. The 1994 amendments primarily changed the method of establishing the annual authorization level, but left the basic distribution formulas intact. Revenue sharing programs identified as prior year payments have provided some additional funding to county governments, such as the Secure Rural Schools program. However, increases in these other payment programs have reduced the amount of PILT funding annually in many resource dependant counties. Such payments have generally evolved downward as Federal land use has shifted from revenue-producing use to public outdoor recreation use. Such shifts have not only reduced or altered the inflow of revenue sharing; they have also created cost impacts to jurisdictions to provide services such as emergency search and rescue, law enforcement and increased road maintenance, among other impacts.

PILT is not only an important element to county funding, the fact that it is indexed to inflation and is paid to counties for general purposes is critically important so as to assure it retains its character as a property tax payment and can be utilized for any general fund purpose, and we believe it should retain this basic character. Counties with extensive Federal estates, however, receive PILT payments which neither reflect the local government costs resulting from that estate, or the payment is not fully reflective of the vastness of such estate within the jurisdiction.

National formulas inadequately account for all the factors present. NACo has reviewed a number of possible formula changes, but as with any formula there are "winners and losers." We agree that PILT should count acres first and consider local population last, if at all. We believe that more fair distributions can result through modifications to the current formula to reflect not only acreage and current revenue payments, but also other factors such as external use pressures that may be present within some of the jurisdictions.

CONCLUSION

Again, NACo appreciates the opportunity to provide testimony before the House Natural Resources Subcommittee on Parks, Forests and Public Lands. We look forward to working with members of the Committee to pass legislation that will continue the historic partnership between Federal and county government by extending continued mandatory funding for the Payment in Lieu of Taxes program for fiscal years 2013 and beyond. Please contact Ryan R. Yates, Associate Legislative Director for the National Association of Counties for more information.