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Fish and Wildlife Service: Compensation to Local Governments

M. Lynne Corn, Environment and Natural Resources Policy Division

Updated March 6, 1990

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CRS Report for Congress

Fish and Wildlife Service: Compensation to Local Governments

M. Lynne Corn, Specialist
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FISH AND WILDLIFE SERVICE: COMPENSATION TO LOCAL GOVERNMENTS

SUMMARY

The Refuge Revenue Sharing Fund (RRSF) was enacted in response to the concern of local governments regarding losses to their tax base due to the presence of federally owned land under the jurisdiction of the Fish and Wildlife Service. However, for many years the amounts appropriated have been inadequate to meet the formulas contained in the authorizing legislation. One result is that some State and local governments have been reluctant to see additional Wildlife Refuges and Waterfowl Production Areas created within their boundaries.

This report outlines recent history of RRSF payment levels. It examines the RRSF and describes how the fund differs in its treatment of reserved and acquired lands under the jurisdiction of FWS. The report also examines the Payment in Lieu of Taxes (PILT) program in detail. The latter helps compensate counties for certain reserved refuge land (as well as most other Federal lands) within their boundaries. The formulas under RRSF and PILT result in differing treatment of reserved and acquired FWS lands, and make it more likely that counties with reserved FWS lands will receive a higher fraction of the amount owed under the two programs than will counties with acquired FWS lands. FWS lands, on the average, will produce compensation to counties at a lower fraction of the amounts owed in payment formulas than will lands other Federal jurisdictions.

Finally, the report examines the pros and cons of some possible solutions to this controversy:

(1) limit FWS acquisitions under the Land and Water Conservation Fund;
(2) find new funding sources for RRSF;
(3) bring FWS acquired lands under PILT;
(4) limit RRSF payment to the calculated tax obligation; and/or
(5) substitute PILT for RRSF on reserved lands.

One or more of these solutions might lead to full payment, but each one also suffers various drawbacks. None of the proposals is mutually exclusive. Several could be passed and still not provide enough for full funding of RRSF. Probably the most efficent in providing full payments to counties is that of providing new sources of receipts. However, since most proposals for new sources are not truly "new", but instead are shifts from some existing account to the RRSF account, these alternatives would also reduce congressional resources to fund other programs.

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Note: This report was originally prepared at the request of the Honorable Quentin Burdick, Chairman, Senate Committee on Environment and Public Works. It is being reproduced for general use by the Congressional Research Service with his permission.

FISH AND WILDLIFE SERVICE: COMPENSATION TO LOCAL GOVERNMENTS

INTRODUCTION

Federal lands and activities cannot be taxed by State and local governments. One result is that Congress has enacted Federal programs which respond to the loss in the local tax base, even if the programs are not designed to provide one-for-one compensation for that loss. These programs include the Payments to States and Payments to Counties under the Forest Service (FS); the Payment in Lieu of Taxes (PILT) program (administered by the Bureau of Land Management (BLM), but affecting most federally owned land except acquired lands under the jurisdiction of the Fish and Wildlife Service (FWS)); and the National Wildlife Refuge Revenue Sharing Fund (RRSF)[1], administered by FWS. The report will describe how payments are calculated differently for acquired land and land reserved from the public domain under FWS, and finally will outline some proposed modifications of the payment structure in light of current controversies.

For FS and BLM lands, States and local governments have generally received their full allocation of funds required under the formulas contained in compensation legislation. In fact, the formulas for these programs have sometimes been criticized as providing *more* revenue than governments could expect if lands were privately owned. The continuing adequacy of these funding levels results, in part, from the fact that some of these special accounts are permanently appropriated in their enabling legislation from relatively large sources of funds, e.g., the receipts from national forests. In other cases, while the program (e.g., PILT) is not permanently appropriated, Congress has generally fully appropriated the annual request.[2]

In contrast, in recent years, Congress has not fully appropriated the amount needed to meet the formula for RRSF, and counties over the last several years have commonly received less than 75¢ of each $1.00 owed. Because so much of the Refuge System in the 48 States is acquired land,

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[1]45 Stat. 383; Act of June 15, 1935; 16 U.S.C. 715s (as amended). The original Act has been amended a number of times. This program is known by a number of names; among them is the "National Wildlife Refuge Fund", the term used in the President's budget. The receipt account number for the fund is 14-5091; the expenditure account number is 14-5091-0-2-852.

[2]A significant exception to date has been in the case of sequestration under the Gramm-Rudman-Hollings Act (P.L. 99-177).

particularly east of the Rocky Mountains, the failure to appropriate RRSF fully has meant that the burden of the loss of the local tax base has been more severe for counties with FWS lands than with other Federal ownerships. The loss is one main reason for serious local government resistance to the creation of new refuges or waterfowl production areas in some parts of the country.[3]

Several proposals have been considered in Congress or elsewhere to meet the goal of fuller compensation for FWS land to local governments. Five such possibilities are examined in this paper.

One proposed solution is to prohibit any further land acquisitions by FWS under the Land and Water Conservation Fund unless the RRSF is fully appropriated; the goal here appears to be both to stimulate Appropriations Committees to approve more money for RRSF, and to prevent further underfunding of RRSF when still more lands requiring RRSF payments are acquired by FWS.

Second, some have proposed that new sources of funding be sought. Several sources have been proposed; most are not truly new; and some might face obstacles in the congressional budget process.

Third, since the similar Payment in Lieu of Taxes (PILT) program[4] is generally fully appropriated to compensate counties for tax losses due to the presence of national forests, national parks, and certain other Federal ownerships (including *some* FWS lands), some have suggested that *all* FWS lands simply be brought under the PILT program. Presumably then, FWS lands would enjoy the same funding that other Federal lands do.

A fourth possibility would be to modify the current funding formula under RRSF to limit payments to the calculated tax liability of the FWS land. Some argue that current formulas sometimes produce a payment above that which would be made by private owners. By limiting payments to the calculated tax burden, available funds could be reapportioned to give other counties a larger share. However, the costs of necessary appraisals could be substantial. If adopted, such a change would produce larger RRSF payments to some counties, and smaller payments to others.

Finally, another, seemingly paradoxical, way to provide higher payments might be to end RRSF payments for lands reserved from the public domain.

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[3]For example, in 1989, the North Dakota legislature considered a bill that would give counties a veto over Federal land purchases. Another bill would have levied a 10% tax on any land sale to any government agency exempt from property taxes. Both bills were eventually defeated, but State observers expected more bills as long as RRSF is not fully funded.

[4]P.L. 94-565, 90 Stat. 2662, 31 U.S.C. 6901-6907.

For reasons explained below, only a few counties would expect lower revenues, since the decline in RRSF payments would be offset by the formulas under PILT. If total RRSF appropriations remained unchanged, the savings could then be spent only on FWS acquired lands, which are not currently eligible for PILT; spread among a smaller group of counties, the revenues would presumably go farther.

LANDS UNDER FWS JURISDICTION

FWS lands include not only the parts of the National Wildlife Refuge (NWR) System (Refuges, Waterfowl Production Areas, and Wildlife Coordination Areas), but also other lands owned by FWS, such as Fish Hatcheries and Research Areas. (See Table 1.) The latter category represents less than 0.1% of all FWS lands. Over 89% of the acreage consists of lands reserved from the public domain, under the sole jurisdiction of FWS; of this reserved land, 94% is in Alaska. There is also some acquired land, in some cases acquired originally by FWS, and in others by another Federal agency (e.g., the Defense Department) which later turned the land over to FWS, often without payment. In rare cases, FWS may not have primary jurisdiction over the land: it may be owned by another Federal agency, and managed by FWS; it may be managed cooperatively with a State; or it may be leased from a private owner; etc. In such cases, any revenues from the land would vary depending on the circumstances; generally they will probably not be paid to FWS. Moreover, on some lands, FWS does not own all of the subsurface rights to the land, and any revenues from the sale of minerals, oil and gas, etc., from that subsurface would not belong to FWS.

Reserved Lands and Acquired Lands. The Act creating RRSF defines a "fee area" as "any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service." (16 U.S.C. 715s(g)(2)). A "reserve area" is "any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service." (16 U.S.C. 715s(g)(3)). For example, all of Protection Island NWR (Washington) is acquired; all 860,000 acres of Cabeza Prieta NWR (Arizona) is reserved land, and 24% of Red Rock Lakes NWR is reserved; the remainder is acquired. Since the terms "fee area" and "reserve area" are not used under other public land laws (such as PILT), where the terms "acquired land"; and "public domain" or "reserved lands" are used instead, these more common terms will be used in this paper. The distinction is used in defining the different payment formulas for the two types of lands.

Table 1. Lands Under the Jurisdiction of the Fish and Wildlife Service (Sept. 30, 1988)

(x1000 acres)

	Refuge System	**Other FWS**	**Total**
Reserved from Public Domain			
Sole or Primary FWS Jurisdiction	80,995	3	80,998
Secondary FWS Jurisdiction	685	1	686
Acquired by other Federal Agency			
Sole or Primary FWS Jurisdiction	1,559	2	1,561
Secondary FWS Jurisdiction	922	4	926
Gift	499	2	501
Purchased by FWS	3,185	8	3,193
Agreement, Easement or Lease	2,941	1	2,943
Total	**90,787**	**22**	**90,809**

Source: U.S. Department of the Interior. Fish and Wildlife Service. Division of Realty. *Annual Report of Lands Under the Control of the U.S. Fish and Wildlife Service as of September 30, 1988.* Washington, DC. 51 p.

SOURCES OF REVENUE

The RRSF is *permanently appropriated to the extent of receipts*. Products from FWS lands are the chief source of revenue for RRSF. These revenues include fees from grazing, mineral development (though not oil and gas leases on reserved lands)[5], sale of forest products, and other activities. (See Table 2 for gross receipts by region.) From the Fund, the Secretary of the Interior deducts any direct FWS expenses incurred as a result of these revenue producing activities. To the extent that the permanently appropriated net revenues are insufficient to meet the amounts needed in the payment formulas (see below), an amendment[6] to the RRSF Act authorized appropriations from the Treasury to meet any shortfall in the fund. If amounts are still inadequate, then each county is paid a proportionate share of the amount owed. Figure 1 shows net receipts and annual appropriations from FY1985-FY1990. (Amounts for receipts and payments in FY1990 are estimates.) As shown, during this period, net receipts have been inadequate to meet the payment formulas. Additional annual appropriations have more than doubled the available funds, but the total has been between $3.5 million and $6.1 million short of formula requirements from FY1985 to FY1990.

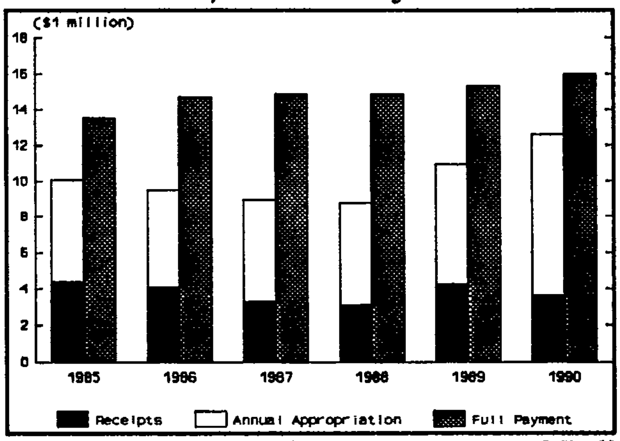

Figure 1. Receipts, Appropriations, and Full Payments: RRSF.

[5]Within RRSF, the Service has created a fund which accounts for the monies received from permittees for energy exploration under Sections 1002 and 1008 of the Alaska National Interest Lands Conservation Act. Because the funds are designed only to cover expenses, and any excess is returned to permittees rather than becoming available for payments to counties, this subaccount will be ignored for the purposes of this report.

[6]P.L. 95-469; 16 U.S.C. 715s(d).

Table 2. Gross Revenues by Region
in FWS Reserved and Acquired Lands, FY1988

(Thousands of dollars)

Region	**Reserved**	**Acquired**	**Total**
1 (CA, HA, ID, NV, OR, WA)	151.6	350.6	502.3
2 (AZ, NM, OK, TX)	223.3	194.9	418.2
3 (IL, IA, MI, MN, MO, OH, WI)	0	1,056.2	1,056.2
4 (AL, AR, FL, GA, KY, LA, MS, NC, PR, SC, TN, VI)	0	3,797.2	3,797.2
5 (CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV)	0	42.7	42.7
6 (CO, KS, MT, NE, ND, SD, UT, WY)	271.3	660.5	931.8
7 (AK)	28.3	21.2	49.5
8 (Research Centers)	0	0.9	0.9
Total	**674.4**	**6,124.4**	**6,798.8**

Average gross receipts for reserved lands: $0.008/acre
Average gross receipts for acquired lands: $1.168/acre

Source: U.S. Department of the Interior. Fish and Wildlife Service. *Analysis of Receipts by Office. National Wildlife Refuge Fund. Period Ending Sep. 30, 1988.* October 21, 1988. Washington, DC. 223 p.

PAYMENTS UNDER RRSF

In order to calculate the RRSF payment prescribed by the law's formula for each of the areas under FWS jurisdiction, several questions about the area must be answered.

1. Does FWS have primary or sole jurisdiction (versus secondary jurisdiction) over the land? If the FWS jurisdiction is secondary (e.g., the land is primarily under the jurisdiction of some other Federal agency such as the Corps of Engineers), then *no* payment is made by FWS, but the county would still get payments through any other programs (such as PILT) of the other Federal agency.

2. How much of the land is reserved from the public domain and how much was acquired by the United States?

3. For both acquired and reserved land, what were the *net* receipts for the FWS land? Expenses for producing revenue or for activities related to revenue are deducted from gross receipts; general expenses of land management are not.

4. For acquired land only, what is the fair market value of the land?[7]

Thus, RRSF provides a payment for FWS land that is under the sole or primary jurisdiction of FWS, but the formulas are different for acquired lands and reserved lands. These payments may be used by the local government for any governmental purpose. (For a flow chart of the steps in calculating RRSF payments, see Figure 2. For four hypothetical examples showing the steps used to calculate the RRSF and PILT payments, see section below.)

Acquired Land. Under RRSF, acquired land receives payments based on the *greatest* of the following three formulas:

a. 75¢/acre,
b. 0.75% of fair market value, or
c. 25% of net receipts.

If the FWS land in question is acquired land, ***these RRSF payments are the only Federal payments for which the land is eligible.***

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[7]Under 16 U.S.C. 715s (c)(4)(A), those refuge payments which are calculated under this formula cannot fall below the same value as calculated on September 30, 1977, if the refuge was owned by the Federal government on that date. For example, after acquisition, if a house was sold and moved from the land, or burned, and therefore decreased the value of the property below the 1977 value, that 1977 fair market value would still be used as the basis for this calculation. The fair market value does not includes the value of any improvements made on the land after it was acquired by FWS.

Reserved Land. Under RRSF, reserved land is eligible for payments under only *one* formula:

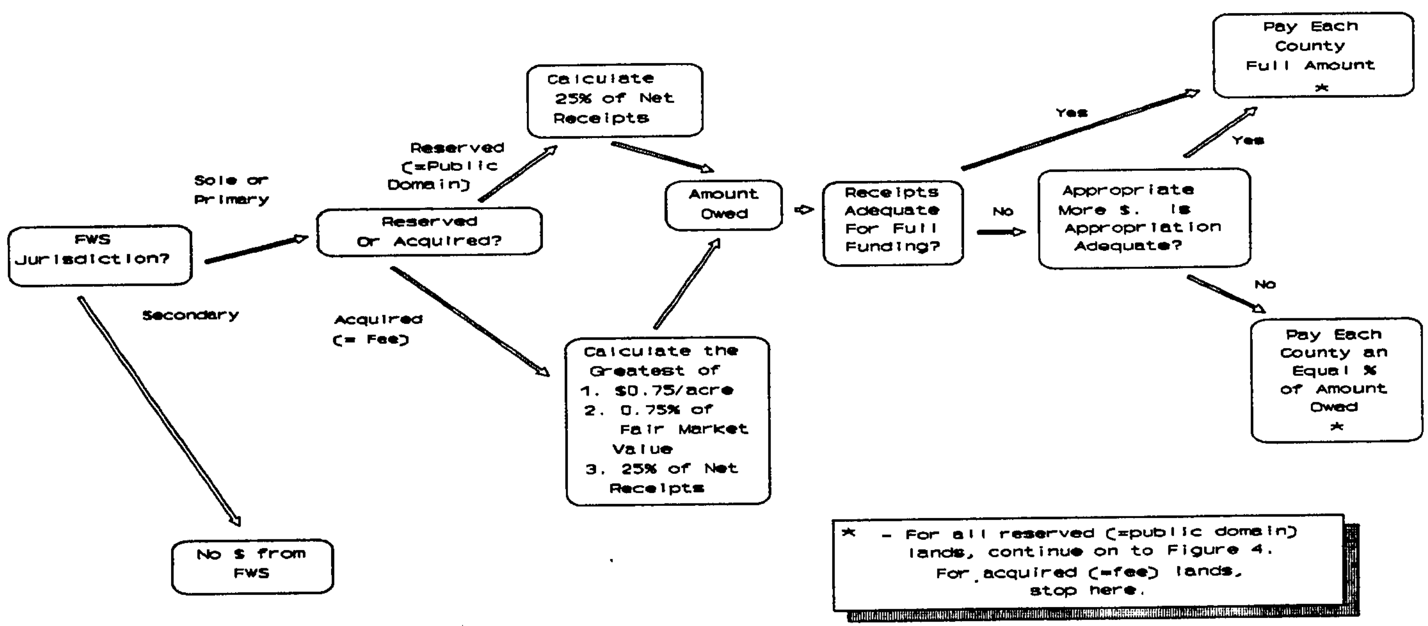
a. 25% of net receipts.

However, as reserved land, these acres *also receive payments under PILT*.

Fair Market Value and Assessed Value

As most homeowners know, the fair market value and the assessed value for tax purposes may not be the same. Regulations (30 CFR 34.7) describe procedures for determining fair market values, yet using this value as a base may result in an overpayment (or underpayment) relative to the amount that a private owner would pay in taxes. Each State and local government has its own procedures for determining assessed value, and the disparity between that tax liability and 0.75% of fair market value as paid by FWS may be responsible for charges by one side of underpayment and by the other of windfall. For example, if the local tax rate is also 0.75%, but the assessed value of the FWS acquired lands is substantially lower than the fair market value, then counties may receive a substantially higher payment from FWS than they would from a private owner.

Figure 2. Refuge Revenue Sharing Fund: Fiscal Year One



PAYMENT IN LIEU OF TAXES

Local governments are also compensated for certain Federal lands under the Payments in Lieu of Taxes (PILT) Act. PILT provides payments for several categories of Federal land that are eligible for payments:[8]

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 dedicated to the use of Federal water resources development projects
5. Dredge disposal areas under the jurisdiction of the U.S. Army Corps of Engineers
6. National Wildlife Reserve Areas *withdrawn from the public domain* [italics added]
7. Land located in the vicinity of Purgatorie [sic.] River Canyon and Pinon Canyon, Colorado that was acquired after December 31, 1981 to expand the Fort Carson military reservation
8. Land[s] on which are located semi-active or inactive Army installation use[d] for mobilization and for reserve component training.

For the four major Federal land-managing agencies (NPS, FWS, BLM, and FS), the PILT Act draws a distinction between reserved and acquired lands only for FWS. Under this Act, calculating a county's payment first requires answering the following questions:

1. What is the population of the county? The law contains a table setting the maximum payment a county may receive based on population. (The relationship between the population and the ceiling is not a linear one; see Figure 3.)
2. How many acres of FWS reserved lands are in the county?
3. What was the *previous* year's payment for *reserved* land, if any, under RRSF?[9]

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[8]United States Department of the Interior, Bureau of Land Management. Division of Finance. *Payments in Lieu of Taxes, Fiscal Year 1989*. Schedule 3, p. 1. This document refers to these eight 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 paper.

[9]There is only one PILT payment for all of the eligible Federal land in any given county. The formula in 31 U.S.C. 6903 actually sets a cap on the total PILT payment for all of the eligible land in the county, whether under FWS, the Forest Service, the National Park Service, etc. For the sake of simplicity, this paper will assume the FWS land is the only Federal land eligible for PILT in the county. However, the reader is cautioned that particularly in western States, this assumption is probably not true. For counties with considerable public land, and low populations, the ceiling based on population may be the amount paid.

The ceilings on the payments are based on the population of the county. For example, a jurisdiction with a population of 1,000 people cannot receive a PILT payment over $50,000; a jurisdiction with a population of 30,000 cannot receive a payment over $750,000. No local government may receive a PILT payment over $1,000,000, regardless of population.

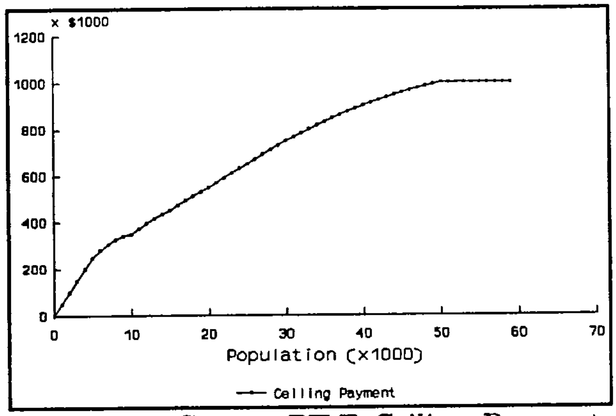

Figure 3. County PILT Ceiling Payments Based on Population.

Knowing these three answers, one then makes two comparisons. (For a flow chart of the steps used in calculating refuge PILT payments, see Figure 4.)

a. Which is *less*: the county's FWS reserved acreage times 10¢ per acre or the county's ceiling? Pick the lesser of these two.

b. Which is *less*: the county's FWS reserved acreage times 75¢ per acre or the county's ceiling payment? Pick the lesser of these two and from it subtract the previous year's RRSF payment (including both the annual and the permanently appropriated portion) for that reserved land.[10]

The county is owed whichever of the above calculations ((a) or (b)) is *greater*. In 1978, about 80% of the eligible counties were aided under the 75¢ provision.[11] This program is annually appropriated. To date, the amount needed under the law's formula has generally been appropriated, with a few exceptions, such as sequestration. (See Figure 5; data based on annual BLM budget documents; compare with Figure 1, but note the difference in vertical scale.) If, for example, all Federal accounts are sequestered by 5%, then each county would be paid 95% of the formula amount. (The sequence of a PILT payment coming after other Federal land payments also means that a sequestered payment under RRSF, for example, could be made up the following year in lands eligible for PILT, if there were no sequestration in the following year.)

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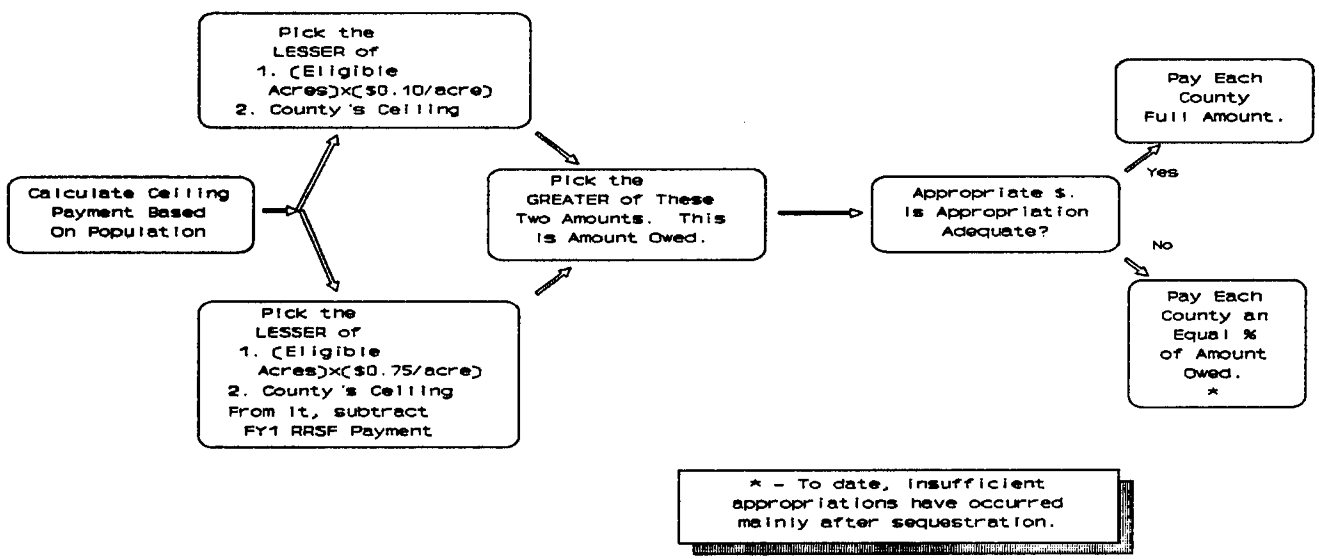
[10]If there are other eligible Federal lands in the county, all the payments from other agencies would be subtracted here as well to generate a single PILT payment for all Federal lands in the county.

[11]Advisory Commission on Intergovernmental Relations. *The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands.* Washington, DC. July, 1978. p. 6.

Figure 4. Payment in Lieu of Taxes for FWS Reserved Lands: Fiscal Year Two



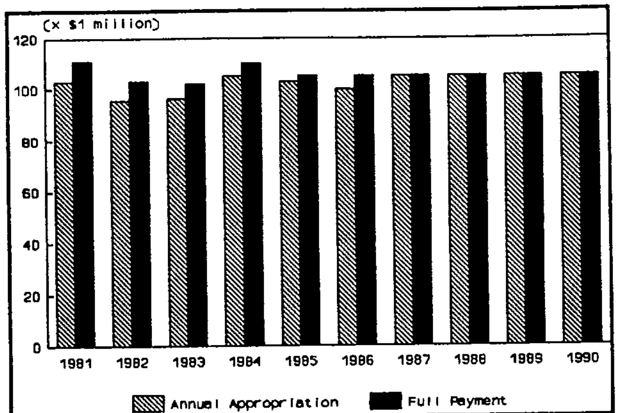


Figure 5. Appropriations and Full Payments: PILT.

The combination of RRSF and PILT means that reductions (or increases) in RRSF payments could be exactly offset by increases (or reductions) in PILT payments. However, PILT payments cannot fall below 10¢ per acre (see step (a), above), so the full offset occurs only when RRSF payments are less than 65¢ per acre (i.e., less than the standard 75¢ per acre minus the 10¢ per acre minimum). Even so, in FY1988, the two refuges with the highest gross receipts per acre from reserved lands (Wichita Mountains National Wildlife Refuge in Commanche County, Oklahoma, and Fort Niobrara National Wildlife Refuge in Cherry County, Nebraska) were both compensated under the 75¢ per acre provision in FY1989. Figure 6 illustrates RRSF and PILT payments at various levels of net receipts per acre.

The offset between RRSF and PILT payments does not guarantee a constant level of Federal payments to counties, because of the time lag in determining PILT payments (see step (b), above). RRSF payments for a given fiscal year are based on the receipts of the previous year. PILT payments of the <u>following</u> fiscal year are offset by these payments. For example, if receipts on FWS lands are low in FY1989 then, for those counties whose payment is calculated under (b), RRSF payments will fall in FY1990, but PILT payments will be increased in FY1991 to offset the drop. Thus, on average, counties will receive at least 75¢ per acre from RRSF and PILT payments combined,[12] but the two payments would not come in the same year. Consequently, if RRSF payments are falling, the combined payments in the given year may be less than 75¢ per acre, but if RRSF payments are rising, the combined payment is more than 75¢ per acre.

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[12]An 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.

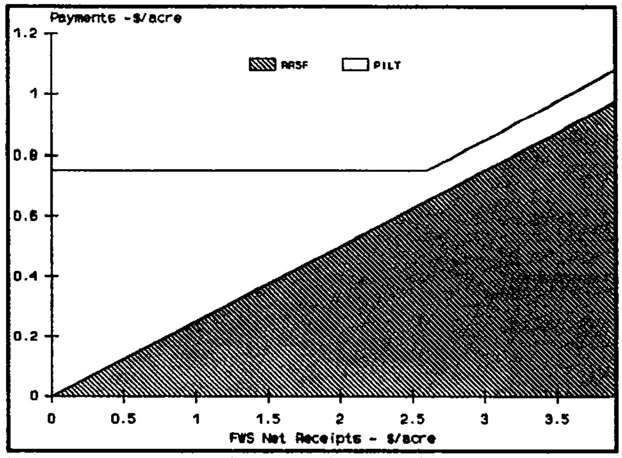

Figure 6. The Relationship of PILT Payments to Previous RRSF Payments.

The result is that with PILT as financial safety net, reserved lands under FWS will get a payment approaching or equal to that which would be given if these lands were under some other Federal agency's jurisdiction, such as the National Park Service or the Forest Service. (See below for examples.) However, FWS acquired lands are not eligible for the PILT safety net.[13] Receiving the full amount under the RRSF formula for acquired lands depends on the annual appropriation of adequate funds to supplement the permanent appropriation of net receipts.

PILT Pass-through to School Districts

Some States have laws which may allow counties to increase their payments above the calculated amount described above if they are paid under the formula which deducts their prior year payments from other agencies. According to the BLM:[14]

> Only the amount of Federal land payments actually received by units of government in the prior fiscal year are deducted. If a unit of government receives a Federal land payment, but is required by State law to pass all or part of this payment to financially and politically independent school districts, or other single or special purpose district, such redistributed payments are considered to have not been received by the unit of local government and are not deducted from the section 1 in-lieu payment. The amounts to be deducted are reported to the Bureau of Land Management each year by the Governor of each State or his delegate.

Thus, if a State requires all counties to pass along some or all of their RRSF payments to the local school board(s), for example, the amount passed along is not deducted from the counties' PILT payments for the following year. Consequently, the feature of PILT which acts to even out payments among counties (at least of equal population size), may be avoided if the State takes advantage of this pass-through feature. For example, if two counties of equal

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[13]The acquired lands of most other Federal agencies are eligible for such payments.

[14]United States Department of the Interior, Bureau of Land Management. Division of Finance. *Payments in Lieu of Taxes, Fiscal Year 1989*. p. 2.

populations in two States are each owed $2,000 by RRSF, and State #1 requires the payment to be given to the local school board, but State #2 does not, then under this provision, the PILT payment to the county in State #2 will be reduced by $2000 in the following year, but no such deduction will occur for the county in State #1. Not surprisingly, many States have taken advantage of this provision. PILT payment reports do not specify the extent to which PILT payments are increased due to the pass-through feature, either for RRSF or for any other agency's payments.

PILT Funding Levels: A History of Constancy

PILT payment requirements have been surprisingly steady over the last 10 years (see Figure 5), as have congressional appropriations to meet those requirements although, in constant dollars, the payment levels are actually declining. The steadiness is remarkable because PILT payments are largely dependant on the payment formulas of other agencies, and in many cases the payments of these agencies, such as BLM and FS, may vary widely, depending on timber prices, energy revenues, etc. This flat level is not explained in BLM budget submissions. Three factors are major influences on PILT's funding levels, but other factors cannot be ruled out.

First, any surplus in the annual PILT appropriation is returned to the Treasury. An agency faced with a fluctuating need might therefore consistently request an excess, and deal with fluctuations simply by returning the unexpended balance. For FY1988 for example, $105,000,000 was appropriated: $104,074,000 was paid to State and local governments; the agency spent $277,000 in various administrative expenses. (The law limits these expenses to $400,000.) The result was a $649,000 unobligated balance lapsing to the Treasury at the end of that fiscal year. In general, these lapsing balances have been less than 1% of the appropriation. Even so, as Table 3 shows, the amounts returned are still unusually constant, and the constancy of the amount actually spent is still surprising.

Second, receipts from lands covered by PILT have fluctuated markedly. For example, between FY1981 and FY1987, receipts deposited in the National Forest Fund have ranged from $294 million to $765 million (in 1982 dollars).[15] Other agencies have also had fluctuating receipts. These changes should affect PILT payment levels, especially if 80% of counties are still paid under the formula which requires the subtraction of the payments of other agencies in the previous year.

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[15]Cited *in* U.S. Library of Congress. Congressional Research Service. *National Forest Receipts: Sources and Dispositions*. [by] Ross W. Gorte. CRS Rept. No. 89-284. 1989. p. 6.

Third, more States have passed laws which require agency payments to be given to school board or other units of local government. The effect of such laws, as noted above, is to raise PILT payments to higher levels.

It is possible but unlikely that the last two influences cancel each other. The constancy of PILT's payment requirements remains unexplained, and contrasts markedly with the fluctuations in appropriations and payments under RRSF.

Table 3. PILT's Unobligated Balances
Lapsing to the Treasury, FY1979-1989 (x $1,000)

Fiscal Year	Unobligated Balance
1979	94
1980	708
1981	41
1982	3,900
1983	622
1984	254
1985	393
1986	298
1987	301
1988	649
1989	848

RRSF AND PILT FOR FOUR HYPOTHETICAL COUNTIES

The four hypothetical examples below demonstrate the steps required to calculate RRSF and PILT payments; each is designed to be representative of county payments in those States or regions.[16] In each case, the revenues illustrated from the fictional refuge are similar to recent real refuge revenues in the selected States. In order to calculate the payments that the counties would actually receive from RRSF, it was assumed that the combination of revenues and additional appropriations would produce 64% of the formula contained in the law. This figure was the median payment for Fiscal Years 1985-1989. The PILT payment was assumed to be 100%. In all cases, the land in the refuge was assumed to be the only Federal land in the county. A summary of the calculations is shown in Table 4 at the end of this section.

Example 1: Populous County, Massachusetts, Seabird National Wildlife Refuge (SNWR).

Assume that SNWR lies in two counties, and that 2,000 acres of the 3,600 acre Refuge are in Populous County. Assume further that all of the land in the Refuge is acquired -- a gift from a private landowner, and subject to property taxes before the gift was made. The estimated fair market value of the 2,000 acres in Populous County is $1,000,000. The Refuge is a seabird colony, has few visitors, and generates no revenue.

For acquired land, the payment is the greatest of the following three figures:

75¢/acre x 2,000 acres =	$1,500
0.75% x $1,000,000 =	$7,500
25% x $0 in net receipts =	$0

Therefore RRSF owes the county $7,500. However, since the national combination of receipts and annual appropriations for this hypothetical fiscal year is enough to supply 64% of the RRSF payments, then *Populous County will get a total of $4800* (64% of $7,500).

Since all of the SNWR land in Populous County is acquired land, then the land will not be eligible for any payment under PILT.

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[16]The reader who is extremely familiar with current RRSF and PILT payment mechanisms may wish to skip this section. However, the effects of various proposals on these four hypothetical counties will be analyzed in later sections.

Example 2. Prairie County, North Dakota, Dry Bones National Wildlife Refuge (DBNWR).

Assume that all of DBNWR is in Prairie County.[17] Of the 10,000 acres in DBNWR, 1,000 are reserved land, and 9,000 are acquired. Of the acquired lands, 8,000 were purchased, and 1,000 were a gift from a private, non-profit duck-hunting club. The club's lands were not taxed before they were acquired. The estimated fair market value of the 9,000 acquired acres is $200,000. The only source of revenue on the Refuge is two grazing allotments, one entirely on reserved land, and one entirely on acquired land. In the previous fiscal year, the former resulted in $1,000 in revenues, and the latter in $7,000. The reserved allotment cost FWS $200 to administer; the one on acquired land cost $1,500. The population of Prairie County is 12,000.

<u>RRSF payment: reserved lands.</u>

The net receipts on the reserved lands are $800 ($1,000-200), so the amount owed for the reserved lands in this fiscal year would be $200 (25% of $800). *The amount paid would be $128* (64% of $200).

<u>RRSF payment: acquired lands.</u>

There are 9,000 acquired acres eligible for an RRSF payment. For acquired land, the payment is the greatest of the following three figures:

75¢/acre x 9,000 acres =	$6,750
0.75% x $200,000 =	$1,500
25% x $5500 in net receipts =	$1,375

Therefore RRSF owes the county $6,750 for the acquired lands. However, since the combination of receipts and annual appropriations for this hypothetical fiscal year is enough to supply 64% of the RRSF payments, then *Prairie County will get a total of $4,320* (64% of $6,750) for its acquired lands.

<u>PILT Payment: reserved lands only</u>

The reserved portion of DBNWR is also eligible for PILT payments. According to law (31 U.S.C. 6904), the maximum PILT payment for a county with a population of 12,000 is $396,000. These two calculations must be made:

Which is less--the reserved acreage times 10¢ per acre or the county's ceiling?

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[17]Note that it is still assumed here that this is the only Federal land in the county. However, in North Dakota, it is quite likely that there are Waterfowl Production Areas in the county, and possibly other refuges as well. As more land is eligible within a given county, the county's ceiling payment under PILT is more likely to be a limiting factor.

1,000 acres x 10¢/acre =	$100
County's ceiling =	$396,000

So the lesser amount is $100. Now, which is less--the reserved acreage times 75¢ per acre, or the county's ceiling?

1,000 acres x 75¢/acre =	$750
County's ceiling =	$396,000

The lesser amount here is $750; from it, subtract the RRSF payment for reserved lands of $128 (64% of $200) to get $622. Since $100 is less than $622, the county is owed $622 under PILT. Assuming that Congress, as is normal, fully appropriates the required amount, and sequestration does not occur, *$622 will be paid to the county.*

Therefore, Prairie County, as result of activities occurring in Fiscal Year #1, will, in Fiscal Year #2, receive $4,448 under RRSF for reserved and acquired land combined ($128 and $4,320, respectively). In Fiscal Year #3, the county will receive another $622 under PILT for reserved lands alone. Thus, Prairie County will receive a total of $5,070 in two fiscal years. (In the meantime, the whole cycle will be starting for activities in Fiscal Year #2, etc.)

Example #3: John Muir County, California, Duxerus National Wildlife Refuge (DNWR).

Assume that all of DNWR is in John Muir County. Of the 148,000 acres in DNWR, 140,000 are reserved land, and 8,000 are acquired. Of the acquired lands, 6,000 were purchased, and 2,000 were once a State Park which was donated to the Refuge. The park lands were not taxed before they were donated to the Refuge. The estimated fair market value of the 8,000 acres is $200,000. Haying, grazing, and a concessionaire operation all occur on the Refuge. These bring in $120,000 from reserved land, and $30,000 on acquired land. It costs $30,000 to manage these activities on reserved lands and $4,000 on acquired lands. The population of John Muir County is 10,000.

<u>RRSF payment: reserved lands.</u>

The net receipts on the reserved lands are $90,000 ($120,000-30,000), so the amount owed for the reserved lands in this fiscal year would be $22,500 (25% of $90,000). *At 64%, the actual payment would be $14,400.*

<u>RRSF payment: acquired lands.</u>

There 8,000 acquired acres eligible for an RRSF payment. For acquired land, the payment is the greatest of the following three figures:

75¢/acre x 8,000 acres =	$6,000
0.75% x $200,000 =	$1,500

25% x $26,000 in net receipts = $6,500

Therefore RRSF owes the county $6,500 for the acquired lands. However, since the national combination of receipts and annual appropriations for this hypothetical fiscal year is enough to supply 64% of the RRSF payments, then *John Muir County will get $4,160* (64% of $6,500).

PILT Payment: reserved lands only

The reserved portion of DNWR is also eligible for PILT payments. According to law (31 U.S.C. 6904), the maximum PILT payment for a county with a population of 10,000 is $350,000. These two calculations must be made:

Which is less--the reserved acreage times 10¢ per acre or the county's ceiling?

140,000 acres x 10¢/acre =	$14,000
County's ceiling =	$350,000

So the lesser amount is $14,000. Now, which is less--the reserved acreage times 75¢ per acre, or the county's ceiling?

140,000 acres x 75¢/acre =	$105,000
County's ceiling =	$350,000

The lesser amount here is $105,000; from it, one subtracts the RRSF payment for reserved land of $14,400 (64% of $22,500) to get $90,600. Since $14,000 is less than $90,600, the county is owed $90,600 under PILT. Assuming that Congress, as is normal, fully appropriates the required amount, and sequestration does not occur, *$90,600 will be paid to the county.*

Therefore, John Muir County, as result of activities occurring in Fiscal Year #1 will, in Fiscal Year #2, receive $14,400 under RRSF for reserved land and $4,160 for acquired land. In Fiscal Year #3, the county will receive another $90,600 under PILT for reserved lands alone. Thus, John Muir County will receive a total of $109,160 in two fiscal years. (In the meantime, the whole cycle will be starting for activities in Fiscal Year #2, etc.)

Example #4. Dusty County, Arizona, La Mosca National Wildlife Refuge (LMNWR)

Assume that LMNWR has 500,000 acres, all of them reserved from the public domain, and all within Dusty County. The Refuge generates $200 in revenues from the sales of forest products; the FWS expense in producing this revenue is $100. The population of the county is 20,000.

RRSF payment: reserved lands.

The net receipts on the reserved lands are $100 ($200-100), so the *amount owed for the reserved lands in this fiscal year would be $25* (25% of $100).

Therefore RRSF owes the county a total of $25, since there is no acquired land in this Refuge. However, since the national combination of receipts and annual appropriations for this hypothetical fiscal year is enough to supply 64% of the RRSF payments, then *Dusty County will get a total of $16.00* (64% of $25).

PILT Payment: reserved lands only

The entire Refuge is also eligible for PILT payments. According to law (31 U.S.C. 6904), the maximum PILT payment for a county with a population of 20,000 is $550,000. These two calculations must be made:

Which is less--the reserved acreage times 10¢ per acre or the county's ceiling?

500,000 acres x 10¢/acre =	$50,000
County's ceiling =	$550,000

So the lesser amount is $50,000. Now, which is less--the reserved acreage times 75¢ per acre, or the county's ceiling?

500,000 acres x 75¢/acre =	$375,000
County's ceiling =	$550,000

The lesser amount here is $375,000; from it subtract RRSF payments of $16 to get $374,984. Since $374,984 is greater than $50,000, the county is owed $374,984 under PILT. Assuming that Congress, as is normal, fully appropriates the necessary amount, and sequestration does not occur, *this amount ($374,984) will be paid to the county.*

Therefore, Dusty County, as result of activities occurring in Fiscal Year #1 will receive $16 under RRSF in Fiscal Year #2. In Fiscal Year #3, the county will receive $374,984 under PILT, for a total of $375,000 in two fiscal years. (In the meantime, the whole cycle will be starting for activities in Fiscal Year #2, etc.)

Table 4. Payments Owed and Paid to Four Hypothetical Counties Under PILT and RRSF (Amounts in Dollars)

	County			
	Populous	Prairie	John Muir	Dusty
Payment				
RRSF: Acquired Lands				
Owed	7,500	6,750	6,500	--
Paid	4,800	4,320	4,163	--
RRSF: Reserved Lands				
Owed	--	200	22,500	25
Paid	--	128	14,400	16
PILT: Reserved Lands	--	622	90,600	374,984
Total Owed	7,500	7,500*	111,500*	375,000*
Total Paid	4,800	5,070	109,160	375,000
Paid, as a Percent of Amount Owed	64.0	67.6	97.9	100.0

*If this county is paid the amount owed under RRSF for its reserved lands, its PILT payment would be reduced accordingly. This figure is corrected for that adjustment.

CURRENT PROPOSALS TO AMEND RRSF

Various remedies have been proposed by those seeking to increase payments to counties that contain lands under the jurisdiction of FWS. Between FY1985 and FY1989, the shortfall in funding RRSF has ranged from $3.5 million to $6.1 million. (See Figure 1.) Remedies for meeting this shortfall are outlined below, and "winners" and "losers" under each proposal are described. Bills on these subjects in the 101st Congress are identified. The extent of the change for the four hypothetical counties is also discussed and, where data permit, calculated.

Limit FWS Acquisitions Under Land and Water Conservation Fund

One proposal is to forbid expenditures for new FWS lands under the Land and Water Conservation Fund (LWCF) in any year in which RRSF is not fully funded. There are two major sources of funding for land acquisition in the National Wildlife Refuge System. New acquisitions under the Migratory Bird Conservation Fund must be approved by the State, and therefore no State is subject to any additional unwanted loss of its tax base under this program. It is worth noting that State revenues, generally dependant on State income taxes and/or sales taxes, are often unaffected by Federal ownership, but local governments are often heavily dependant on property taxes. It may not be a coincidence that occasionally States do approve an acquisition in spite of opposition by local governments.

Purchases using LWCF do not require State or local approval. However, extending such a veto power to FWS acquisitions funded through LWCF would merely prevent any further decrease in the tax base, and would not address the current lack of funding, except perhaps by creating pressure on the congressional and Executive budgets to add additional funds to RRSF appropriations, presumably at the expense of other programs. A bill in the 101st Congress (H.R. 1066) adopts this approach; another bill (H.R. 2322, later superseded by P.L. 101-233, in which this provision was dropped) is similar, but restricts a fund created in the bill, rather than LWCF.

Winners: Local governments which wish to avoid further loss of their tax base would benefit from this approach. If the threat of LWCF restrictions also results in full funding for RRSF, then all counties currently suffering a reduced tax base would benefit, though the Federal deficit would be slightly exacerbated. To the extent that RRSF is not fully appropriated, and the savings from LWCF are not spent elsewhere, the total Federal deficit would be reduced some similar minuscule amount.

Losers: If the congressional and Executive branches do not respond with full funding of RRSF, then counties currently concerned about their reduced tax base would see no benefit from the legislation, except the guarantee that it would get no worse due to the addition of more FWS land. Moreover, opportunities would probably be lost for timely additions to the Nation's protected natural resource base, to the potential detriment of endangered species habitat and wetland ecosystems especially.

Find New Funding Sources for RRSF

Additional sources of funding have been suggested as a solution. Because RRSF is permanently appropriated to the extent of receipts, this approach would immediately and directly increase funds to counties. In recent years, four additional sources of funds have been discussed. Under H.R. 2587, all fines, penalties and funds from FWS enforcement actions (with some exceptions for violations of the Endangered Species Act) would have been deposited in RRSF. However, P.L. 101-233 recently authorized the appropriation of funds received as penalties for violations of the Migratory Bird Treaty Act (roughly $1 million per year according to an estimate by the Congressional Budget Office) to carry out the North American Wetlands Conservation Act. How much, if any, money might be available from penalties exacted under other laws administered by FWS, is not known.

A second proposed source (e.g., H.R. 1600) is the possible receipts from energy development in the Arctic National Wildlife Refuge (ANWR). At this point, any revenues from ANWR are dependant on congressional approval of energy development in the Refuge.[18] The structure of H.R. 1600 suggests that its authors feel that the size of the bonus bids would be more than ample to provide for full funding of RRSF. If no commercial quantity of oil is found and bidding stops, RRSF would presumably return to its previous shortfall.

A third source is proposed in S. 1150. This bill would direct all "undedicated receipts"[19] collected by the Department of the Interior (DOI) to

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[18]Revenues would probably not depend on the actual discovery of oil, since likely bidding schemes would produce revenues before and, for a time, regardless of, the actual discovery of oil.

[19]The bill says that these funds are "all monies that the Secretary of the Interior is authorized to collect that are not required by law to be paid to a particular person or entity or into a particular fund (other than miscellaneous receipts in the United States Treasury)." This term is not defined in "A Glossary of Terms Used in the Federal Budget Process." (U.S. General Accounting Office. March, 1981.) It may include "undistributed offsetting receipts", to which that document attaches three definitions (p. 81), only one of which can possibly be relevant: "proprietary receipts from rents and

be paid into the Refuge Revenue Sharing Fund, up to the amount required for full funding of the formula. Since DOI receipts include the revenues from offshore oil and gas leasing, until recently there would have been little doubt that these revenues would be sufficient for full funding. However, these offshore receipts are falling, and in FY1989 were insufficient to meet current commitments to the Land and Water Conservation Fund and the Historic Preservation Fund.

A fourth "new" source would in fact be merely a change in the pricing of existing refuge resources. For example, some claim that grazing resources are priced below fair market value on some refuges. If increases were made in the pricing of some or all existing resources under existing administrative authority, additional receipts would be generated.

One drawback of this option for all sources except changes in pricing policy, is the possibility of violating the 1974 Budget Act[20] prohibition by breaching spending limits set in the Congressional Budget Resolution. The Act would be a serious, but not insurmountable, obstacle to this approach.[21] However, recent attempts to create or expand existing permanent appropriations have generally encountered resistance from the Budget and Appropriations Committees due to such violations, and from advocates of fiscal restraint in both Houses of Congress.

> *Winners*: To the extent that a new source of funds is sufficient to meet funding requirements, this approach should be among the most likely to meet the goals of counties, since it offers the greatest certainty that the counties would actually receive their payments. If the proposal also reduced the resistance of State and local governments to new FWS acquisitions in their jurisdictions, it might ease the way for further expansion of protected wetlands and other ecosystems.

> *Losers*: If the funds, whether fines and forfeitures, ANWR revenues, DOI receipts, or some other source, are considered as being diverted from the entire gamut of other national needs, those needs would suffer. If the new sources were inadequate to meet full funding requirements, counties would still seek further congressional appropriations to meet their needs.

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royalties on the Outer Continental Shelf lands." It seems reasonable to assume that at least this account is included in the terms of S. 1150, but other sources may be as well.

[20]Congressional Budget and Impoundment Control Act of 1974, P.L. 93-344, 88 Stat. 297.

[21]For examples of waivers, *see*: *Waivers of the 1974 Budget Act Considered in the House During the 100th Congress*. [by] Edward M. Davis. 1989. CRS Rept. 89-535 GOV. 21 p.

Modification of current pricing systems would not offer this drawback, but those persons or businesses faced with higher prices for resources on FWS lands would be expected to object to such changes. Moreover, if FWS later developed more protective policies (e.g., to afford even greater protection to more endangered species or to populations of migratory birds), opportunities for increased revenues might slow, or even be eliminated.

Bring FWS Acquired Lands Under PILT

Acquired land held by most other Federal agencies is generally eligible for payments under PILT. However, PILT generally does not provide payments for acquired lands which were owned by a State or local government and exempt from property taxes when the land was conveyed to the U.S. government.[22] To some extent, PILT might be used to make up for the chronic shortfall under RRSF.[23] The validity of this assumption may be examined by considering the four examples described above.

If PILT were available for FWS lands in Populous County, even though they are acquired, the county would get an additional $200 from PILT; Prairie County would get an additional $900; and John Muir County would get an additional $1,380. There would be no change in Dusty County, since there was no acquired land on the Refuge. If one then adds these funds to the amounts already paid to the counties, and divides by the total amounts owed under the two programs, one can compare how each county fares under current law, and then under a PILT law amended as described. (See Table 5.)

Table 5. Percent of Formula Payments to Four Hypothetical Counties Under Current PILT and RRSF Programs and If PILT Amended to Make FWS Acquired Lands Eligible.

County	Current Law: Percent Paid	PILT Amended: Percent Paid
Populous County	64.0%	64.9%
Prairie County	67.6%	70.5%
John Muir County	97.9%	97.91%
Dusty County	100.0%	No Change

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[22]See 31 U.S.C. 6902(b) for further specific qualifications.

[23]The proposal assumes that the current pattern would hold: RRSF continues to be underfunded by roughly 20-50%, while PILT continues to be fully funded, or nearly so. Obviously, if funding for PILT were also to drop, this option would have to be re-evaluated.

Winners: As the above table illustrates, no county would be hurt by this change, but most would benefit only marginally. Refuges consisting entirely of reserved lands would be unaffected, assuming continued full funding of PILT. The amounts added under this change seem likely to be so small, that it is possible that the unobligated balances in PILT that have typically lapsed to the Treasury may be sufficient to fund this change. (See Table 3.)

Losers: It was not possible to estimate how much such a change in PILT would cost. However, it seems unlikely that it would add even a million dollars to PILT's current annual appropriation of $105,000,000. Losers if this proposal passed would be the Federal deficit as a whole, or any other Federal programs on which such funds might have been spent.

Limit RRSF Payment to Calculated Tax Obligation

Some have argued that the current payment formulas under RRSF result in a greater payment than a private owner would incur if the land were taxed.[24] Consequently, these counties are, in a sense, overpaid at the expense of other counties. Therefore, it is argued, funds could be stretched farther if payments were limited to the calculated tax obligation of the lands. This argument apparently assumes that the tax obligation of FWS lands would be calculated while considering any other restrictions or laws which might diminish its assessed value. For example, if the refuge has substantial wetlands, the presence of these wetlands could prevent the construction of, say, a shopping mall, and the tax rate would be at the rate for local wetlands rather than shopping malls. Similarly, refuges on barrier islands designated under the Coastal Barrier Resources Act[25] would be taxed at a rate reflecting current Federal policies restricting barrier island development, rather than at a rate reflecting the unrestricted highest and best use.

It is difficult to determine how much money would be shifted from one refuge to another with such a cap on payments. One would have to know the value of the refuge land for local tax purposes, the local property tax rates, and which counties are being paid more than they would be for comparable private holdings. In the four hypothetical counties, it is highly likely that Populous County would benefit by such a scheme, since the value of its refuge land is very high; whether the savings elsewhere would be enough for full payment to the remaining counties seems unlikely. Dusty County would lose

[24]See, for example, the testimony of William C. Reffalt, Program Director for the National Wildlife Refuge System of the Wilderness Society in a hearing before the House Merchant Marine Committee on the Refuge Revenue Sharing Fund. Sept. 18, 1987. Serial No. 100-40.

[25]16 U.S.C. 3501-3509.

virtually nothing since its RRSF payment was only $16. With the data available, it is not clear how Prairie County and John Muir County would be affected.

If this strategy were adopted, all counties would still be underpaid, unless the savings due to the limitation is bigger than the shortfall. *Any* shortfall in the fund as a whole means that all counties are paid a proportionate share of the amount that they are actually owed. In the four examples above, certain other counties would be owed less, and therefore all counties would shift from being paid 64% of the amount owed under RRSF to some higher percentage.

Winners: Counties with lands of relatively high fair market value would benefit by this proposal, though probably not enough to match the formulas under current law. Counties with refuge land that is largely reserved land generating little revenue would see very little difference in their payments. Whether the savings from the counties with reduced payments would be enough to add substantially to the others is unclear. The change could erase any perception that RRSF produces a windfall payment for some counties.

Losers: Counties whose lands currently produce RRSF payments above the calculated tax obligation would see their payments reduced, and could be expected to object to this proposal. It seems unlikely that the change in distribution of funds would be enough to make up the current shortfall. To the extent that reduced payments affected reserved lands, much, and probably all, of the loss should be made up the following year by the PILT payment.

Substitute PILT for RRSF on Reserved Lands

Some suggest that if reserved lands under FWS were ineligible for RRSF, the slack might be fully taken up by PILT. Such a change would leave more money for acquired lands, especially if receipts to RRSF were sufficient to provide full funding without further annual appropriations. The validity of this assumption may be examined by considering the four examples in described earlier.

For Populous County, there would be an increase whose size would depend on the amount of money saved by not paying RRSF moneys for reserved lands.

For Prairie County, RRSF for acquired lands would increase, but by an undetermined amount, again due to the unknown size of the savings. For reserved lands, there would be no RRSF payment (which had been $128 for the reserved portion of the Refuge), and the PILT payment would be $750, rather than $622. In other words, the loss of the RRSF payment for reserved lands would be exactly offset by the increase in the PILT payment, and the total payment would increase by some unspecified amount, depending on the savings to RRSF for not paying for reserved lands.

For John Muir County, RRSF for acquired lands would increase, but by an undetermined amount, again due to the unknown size of the savings. For reserved land, there would be no RRSF payment (which had been $14,400 for the reserved portion of the Refuge), and the PILT payment would be $105,000, rather than $90,600. As in the previous example, the loss of the RRSF payment for reserved lands would be exactly offset by an increase in PILT payments. Therefore, the total payment would increase by the same unspecified percentage as Prairie County's payment.

For Dusty County, the RRSF payment of $16 would be eliminated, and the PILT payment would increase from $374,984 to $375,000--again an exact offset.

In sum, for all four examples, the total payments would increase, or, if the refuge was entirely reserved land, be unchanged. Refuges with reserved land would lose funds only if those counties contained FWS reserved lands generating an RRSF payment over 65¢/acre. As noted above, only Fort Niobrara NWR (NE) and Wichita Mountains NWR (OK) exceed this level even in gross receipts.

The benefit to refuges with acquired lands can be estimated roughly. As shown in Table 2, FWS reserved lands had gross earnings of $674,400; after subtracting expenses, 25% was owed to the counties, i.e., at most $168,600. This figure would be the maximum that could be freed for payments to other counties--a figure that is slightly less than 3% of the gross revenues of all FWS lands in FY1989, and 3.8% of the shortfall that year.

Moreover, the benefits are predicated, as before, on the assumption that PILT payments would continue to be fully appropriated, i.e., that they would increase above the current $105,000,000 level in order to make these additional payments. In addition, the transition between the current program and the abolition of RRSF payments for reserved lands would be difficult for many counties, since they would start with one year of no payments at all, due to the built in lag in PILT.

> *Winners*: Remaining RRSF funds, no longer going to reserved lands, would be spread among fewer beneficiaries, so each would receive more. Slightly less money would need to be appropriated for RRSF. Probably most, and perhaps all, counties with acquired FWS lands would increase their Federal payments with this proposal. Counties with reserved FWS lands only would likely be unchanged.
>
> *Losers*: All counties with FWS reserved lands would initially have one year with no RRSF payment for reserved lands, and an unchanged PILT

payment. (The following year, the PILT payment would reflect the drop in the previous year's RRSF.)

To the extent that PILT appropriations were increased to meet the new demand, the funds would presumably be taken from other programs. The foregoing assumes that PILT would be increased. If it were not, then *all* Federal lands eligible for PILT would see a decrease. However, the relative size of RRSF and PILT suggests that it would be very unlikely that the reduction would exceed 1%. A shortfall of a mere 1% might be welcome to counties with FWS reserved lands, especially if their acquired lands were likely to receive a substantial increase as well.

CONCLUSIONS

The dissatisfaction of local governments with the chronic underfunding of RRSF has created a major obstacle in some States to the creation of new or expanded National Wildlife Refuges on acquired lands. County governments may believe, erroneously, that the purpose of Federal land payment programs is to substitute for all losses to the local tax base.[26] Congress and the Executive have not generally adopted this view, instead citing other major local benefits of Federal ownership through such programs as the Highway Trust Fund and Federal Impact Aid to Education.

On the other hand, the Federal government has often been willing to adopt a receipt-sharing approach. For lands which generate major revenues, such as some Forest Service and BLM lands, this has been satisfactory from the standpoint of many local governments. However, for other lands, local governments complain that they might generate far more income if the lands were privately held. Fairness is in the eye of the beholder, and probably any one system might seem reasonably fair to most parties, but is nearly certain to be contentious in at least a few instances due to local circumstances.

According to a 1978 study by the Advisory Commission on Intergovernmental Relations (hereafter called the "ACIR study"), "counties covered by [PILT] were neither fiscally 'disadvantaged' nor fiscally 'advantaged' in comparison to similar counties which have little or no federal land."[27] However, ACIR also concluded that PILT "may not completely protect against unusual cases of fiscal distress caused by federal land ownership." ACIR therefore recommended that Congress authorize BLM (as the agency responsible for administering PILT) to grant additional compensation to eligible counties meeting certain hardship criteria. The study did not describe a mechanism for making decisions about hardship criteria. The proposed change was never adopted. It could be relevant to this controversy, but only if FWS acquired lands were made eligible for PILT.

Some basic information would be helpful in assessing the accuracy of county complaints about unfair treatment under RRSF. It would be particularly useful to know how much FWS acquired land is compensated under each of the three RRSF payment formulas. If the great majority are compensated under the 75¢/acre provision, then failure to provide full

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[26]The following discussion draws on the comprehensive review by the Advisory Commission on Intergovernmental Relations: *The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands.* Washington, DC. July, 1978. 203 p.

[27]ACIR study, p. 5.

appropriations for RRSF puts counties with FWS acquired lands at a clear disadvantage relative to counties with other Federal ownerships. Since 80% of such PILT-eligible counties are eligible for the 75¢/acre provision, and will almost certainly receive that amount, counties with FWS acquired lands would be at a marked disadvantage--even compared to FWS reserved lands. As the ACIR report made clear in 1978, the equities and inequities of Federal land payments are tied to a number of Federal programs, and it is difficult to reform just one thing. The same appears to be true for FWS lands specifically. The pros and cons of the five proposals to address the specific issue of compensation for FWS lands are analyzed below.

Pros and Cons of Proposals to Amend RRSF

None of the five proposals discussed above is mutually exclusive. Several could be passed and still not provide enough for full funding of RRSF. Probably the most efficient of the proposals, in terms of obtaining increased revenues for the counties, is that of providing new funding sources for RRSF; if these were added to the current receipts entering the fund, the permanent appropriation in the current law would assure counties that they would actually receive the full benefit of the new funds. However, one potential source, the undistributed offsetting receipts from revenues from energy leasing on the Outer Continental Shelf (OCS), has just recently become less promising. These receipts have fallen substantially in the last few years, and are currently inadequate for existing commitments to other funds, such as LWCF. Most alternatives (including OCS revenues) would also reduce congressional resources to fund other programs, since the funding sources are not truly "new", but rather shifts from some existing account to the RRSF account.

Probably second in efficiency is ending RRSF payments to FWS reserved lands. Such a change would cause only short-term disruption to counties with such lands, and in the second year would result in no net loss of funds whatsoever, if two conditions held:

1. the FWS land is currently being paid under PILT's 75¢/acre provision, *or* the county was, and continues to be, paid at the ceiling based on population for that county; and
2. the State does not have a law requiring RRSF payments to be passed on to some unit of local government other than the county.

As discussed above, the first assumption at least, is very likely to be true for most, and possibly all, counties with FWS lands. However, the additional amount that would be made available for payment for FWS acquired lands would be only a small fraction of the current shortfall.

Bringing FWS acquired lands under PILT would help some counties, but where the fair market value of the FWS land is very high, the proposal would add only marginally to the county's total payment. However, the relative certainty of a PILT payment may make this option attractive, particularly if it were combined with other measures to increase payments.

Limiting RRSF payments to the calculated tax obligation would shift RRSF funds from some counties to others. The amount of the transfer is uncertain, and the political cost is probably high. At the same time, it might "remove from OMB [Office of Management and Budget] the idea that probably exists out there that there may be a windfall for certain counties. . .based on the current formulas. . . . As long as there is a doubt that the payments are truly just removing a disincentive, . . . I think there will be a reluctance to fully fund the act."[28] If so, securing full appropriations could be easier. No new funds would be required under this proposal, and in combination with one or more of the other options, it might result in full payments to counties.

Limiting FWS acquisitions under the Land and Water Conservation Fund would have no direct effect on county payments and the current shortfall. It might indirectly stimulate those who support other FWS acquisitions (whether in the executive or legislative branches) to support full funding for RRSF, but there would be the risk of chronic stoppages of the FWS acquisition program. Moreover, proposals of this type have not indicated how the law would deal with temporary shortfalls in RRSF that might result from sequestration or similar widespread reductions of Federal accounts generally.

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[28]Testimony of William C. Reffalt, Program Director for the National Wildlife Refuge System of the Wilderness Society in a hearing on the Refuge Revenue Sharing Fund before the House Committee on Merchant Marine and Fisheries. Sept. 18, 1987. Serial No. 100-40. p. 15.

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