



# State-Tribal Relations Committee

67th Montana Legislature

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## SENATE MEMBERS

BOB BROWN  
MIKE FOX  
JASON SMALL – Vice Chair  
SUSAN WEBBER

## HOUSE MEMBERS

CASEY KNUDSEN  
JOE READ  
TYSON RUNNING WOLF - Chair  
LOLA SHELDON-GALLOWAY  
FRANK SMITH  
SHARON STEWART PEREGOY

## COMMITTEE STAFF

PAD MCCRACKEN, Lead Staff  
LAURA SANKEY KEIP, Staff Attorney  
BETHANY MCDOWELL JAMES, Secretary

TO: State-Tribal Relations Committee (STRC)  
FROM: Pad McCracken, Committee Staff  
RE: Fee-to-trust update; PILT basics  
DATE: July 15, 2022

Various background documents on this topic are available on the [STRC Fee-to-Trust Conversion Study webpage](#).

At your May meeting, I provided a [memo](#) regarding the concept of asking Congress to consider providing compensation to counties for nontaxable lands held in trust by the federal government for individual Indians or Indian tribes, perhaps similar to Payments in Lieu of Taxes or PILT. The discussion that followed generated several questions and assignments for staff:

1. The committee asked staff to pursue several questions posed by Jordan Thompson, Deputy Executive Officer, CSKT:
  - a. How will population and taxable value increases in Lake County impact Lake County revenue and expenditures?
  - b. How much land on the Flathead Reservation has been converted from trust status to fee status, becoming taxable and increasing Lake County's property tax base?
2. The committee expressed a desire to understand the basics of PILT.

The information below and in the attached documents addresses these questions.

## **Lake County demographics and property taxes**

It's important to remember that Lake County property tax revenue and expenditures are largely in the hands of elected commissioners who have some discretion in setting mills as well as the authority to adopt an expenditure budget, as well as Lake County voters who have the authority to pass or deny levy and bond proposals. The property tax increase limits under 15-10-420, MCA, certainly come into play, but local decisions play a major role.

Many areas of Montana are growing in population, and property values have escalated greatly in recent years.

Population growth alone will not increase property taxes. But population growth often leads to the development of existing undeveloped parcels, and this will increase the property tax base or taxable

value within a county or other taxing jurisdiction. This development, as *newly taxable property*, may result in county revenue increasing beyond the limit in 15-10-420; the policy rationale behind this is that new development may require new county expenditures to provide services to previously undeveloped areas.

Increases in the taxable value of existing property alone will not increase *local* property taxes or county revenue.<sup>1</sup> The property tax limitation in 15-10-420 does come into play here; it will allow some inflationary growth in county revenue, but it will also force mills to float down. A property's taxable value may increase greatly with a hot market, but all other things being equal, the mills levied on that property will decrease, moderating any tax increase in dollars.

I have reached out to both the Department of Revenue and the CSKT land office on question 1(b) above regarding land moving from trust status to fee status and at this point in time have not been able to acquire any data. In his testimony to the committee in May, Mr. Thompson stated that roughly equal numbers of parcels have gone from fee to trust and trust to fee. It's certainly possible that the net change in taxable value in Lake County due to these status changes is a wash or perhaps even an increase.

### **PILT basics**

The Department of Interior publishes an annual PILT National Summary<sup>2</sup> which I leaned on heavily for this memo. It includes a "Questions and Answers" section which describes PILT as follows:

*Payments in Lieu of Taxes (PILT) are Federal payments to local governments to help offset losses in property taxes due to the presence of nontaxable Federal lands within their boundaries. The law recognizes the financial impact of the inability of local governments to collect property taxes on federally owned land.*

*PILT program eligibility is reserved for local governments (mostly rural counties) that contain nontaxable Federal lands and provide vital services for those lands, such as public safety, housing, social services, and transportation. Those jurisdictions provide significant support for national parks, wildlife refuges, and recreation areas throughout the year. PILT seeks to compensate local governments for their support and for forgoing tax revenue from those Federal lands.*

### **PILT calculations**

I thought school funding had some complex formulas! The committee requested the basics, so I am going to stick to the basics, but let me acknowledge that there are some serious weeds to get down into regarding PILT that involve fiscal and policy choices made over decades. Here are the data points that go into the current formula:

1. How many acres of land in the county are owned by the federal government and eligible under the PILT program? These are referred to as "entitlement acres" on the attached spreadsheet and include BLM, Forest Service, Bureau of Reclamation, Park Service, and certain other federal lands (see map on page 4).

---

<sup>1</sup> The statewide levies—95 mills for K-12 and 6 mills for the Montana University System—will result in tax increases and increases in state revenue.

<sup>2</sup> The FY 2022 National Summary: <https://www.doi.gov/sites/doi.gov/files/2022-national-summary-pilt-508-final.pdf>

2. How much money did the county receive for these lands through other federal revenue sharing programs in the prior year?
3. What is the county population?

Again, pulling from the annual National Summary, here's a narrative of the formula:

*The amount to be paid to each unit of general local government is the higher of—*

*Alternative A: \$2.94 for each acre of entitlement land within the boundaries of the unit of government, reduced by the amount of certain Federal land payments (see "FY 2022 PILT Payment Summary" earlier in this document) that were received by the unit in the preceding fiscal year. Deductible amounts are reported to the Department each year by the Governor of each State or by his or her delegate. Only the amount of Federal land payments received by units of government in the prior fiscal year is 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 to 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.*

*- or -*

*Alternative B: \$0.42 for each acre of entitlement land within the unit of government. In this case, no deductions are made for the Federal land payments received by the unit of government in the preceding fiscal year.*

*Entitlement land payments to each unit of general local government are subject to population payment limitations, or ceilings. Payment ceilings are based on a sliding scale, starting at \$79.14 per capita and increasing to \$197.84 per capita for populations of 5,000 and fewer (see Table 2). Under Alternative A, if the total calculated payment (\$2.94 x entitlement acres) exceeds the ceiling, then the payment is based on the ceiling, including deductions for other Federal land payments received.*

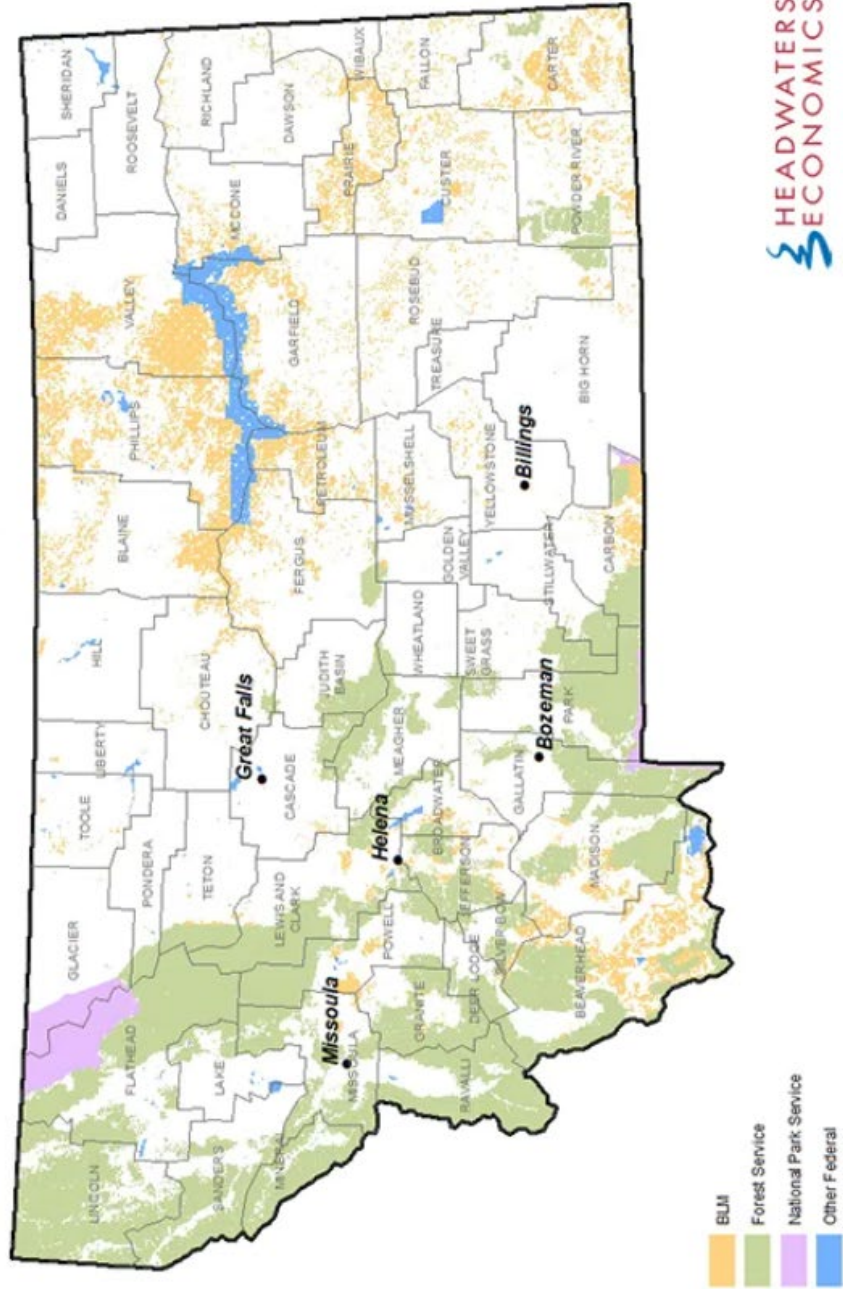
I tried to streamline the above calculation in my annotations to the attached table that shows 2022 PILT payments to Montana counties and will walk through this with you at your July 27, 2022, meeting.

If you are interested in understanding PILT better, I would point you to the following resources:

- Congressional Research Service [PILT: Somewhat Simplified report](#)
- Montana Association of Counties (MACo) [PILT webpage](#)
- Headwaters Economics [County Payment Research webpage](#)
- Prairie County Commissioner Todd Devlin

Finally, this might be a good opportunity to remind the committee that its interest in this topic stems from the attention given by the legislature in recent years to the Temporary Tribal Tax Exemption under [15-6-230, MCA](#), which was amended to add a "claw back" mechanism by [SB 214](#) in 2021 (Hertz). While the committee's exploration of the larger fee-to-trust issue has been educational, at some point the relevant question for a legislative committee is whether a problem solvable by state law or other legislative action exists, and if so, how to go about fixing it.

# Federal Land Ownership in Montana



<https://headwaterseconomics.org/economic-development/value-of-montanas-outdoors/>

**U.S. DEPARTMENT OF THE INTERIOR  
PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2022**

**SECTION 6902 PAYMENTS BY COUNTY**

MONTANA  LOCAL UNIT OF GOVERNMENT	ENTITLEMENT ACRES	Timber, grazing, minerals, etc. and Secure Rural Schools	Rounded to 1,000 5K to 50K	Population x \$ minus Prior year	Acres x \$2.94 minus Prior Year up to Ceiling	Acres x \$0.42	Higher of Alt A or			6902 ADJ. FOR	6902 TOTAL PAYMENT
		Prior Year	UNIT POP	CEILING	ALT A	ALT B	ADJ. MADE THIS FY	Alt B 6902 PAYMENTS	6902 99.9% PRORATED	PY	
ANACONDA DEER LODGE COUNTY	215,825	\$93,217	9,000	\$1,266,413	\$541,308	\$90,646	\$0	\$541,308	\$540,921	\$0	\$540,921
BEAVERHEAD COUNTY	2,053,213	\$453,786	9,000	\$905,844	\$905,844	\$862,349	\$0	\$905,844	\$905,196	\$0	\$905,196
BIG HORN COUNTY	41,433	\$1,305,287	13,000	\$331,543	\$0	\$17,402	\$0	\$17,402	\$17,390	\$0	\$17,390
BLAINE COUNTY	451,750	\$79,599	7,000	\$1,141,551	\$1,141,551	\$189,735	\$0	\$1,141,551	\$1,140,735	\$0	\$1,140,735
BROADWATER COUNTY	289,714	\$76,076	6,000	\$1,035,604	\$775,683	\$121,680	\$0	\$775,683	\$775,128	\$0	\$775,128
CARBON COUNTY	574,821	\$91,271	11,000	\$1,392,739	\$1,392,739	\$241,425	\$0	\$1,392,739	\$1,391,743	\$0	\$1,391,743
CARTER COUNTY	593,732	\$60,373	5,000	\$183,959	\$183,959	\$244,332	\$0	\$244,332	\$244,157	\$0	\$244,157
CASCADE COUNTY	215,692	\$72,270	50,000	\$3,884,730	\$561,864	\$90,591	\$0	\$561,864	\$561,462	\$0	\$561,462
CHOUTEAU COUNTY	155,301	\$23,658	6,000	\$1,088,022	\$432,927	\$65,226	\$0	\$432,927	\$432,617	\$0	\$432,617
CUSTER COUNTY	332,435	\$9,499	11,000	\$1,474,511	\$967,860	\$139,623	\$0	\$967,860	\$967,168	\$0	\$967,168
DANIELS COUNTY	200	\$496	5,000	\$323,566	\$92	\$84	\$0	\$92	\$0	\$0	\$0
DAWSON COUNTY	63,953	\$91,663	9,000	\$1,267,967	\$96,359	\$26,860	\$0	\$96,359	\$96,290	\$0	\$96,290
FALLON COUNTY	115,901	\$601,934	5,000	-\$42,838	\$0	\$48,678	\$0	\$48,678	\$48,643	\$0	\$48,643
FERGUS COUNTY	484,334	\$51,950	11,000	\$1,432,060	\$1,371,992	\$203,420	\$0	\$1,371,992	\$1,371,011	\$0	\$1,371,011
FLATHEAD COUNTY	2,442,373	\$691,316	50,000	\$3,265,684	\$3,265,684	\$1,025,797	\$0	\$3,265,684	\$3,263,349	\$0	\$3,263,349
GALLATIN COUNTY	732,899	\$147,119	50,000	\$3,809,881	\$2,007,604	\$307,818	\$0	\$2,007,604	\$2,006,168	\$0	\$2,006,168
GARFIELD COUNTY	814,900	\$11,216	5,000	\$239,645	\$239,645	\$250,861	\$0	\$250,861	\$250,682	\$0	\$250,682
GLACIER COUNTY	401,839	\$20,796	14,000	\$1,691,684	\$1,160,611	\$168,772	\$0	\$1,160,611	\$1,159,781	\$0	\$1,159,781
GOLDEN VALLEY COUNTY	31,715	\$7,811	5,000	\$155,803	\$85,431	\$13,320	\$0	\$85,431	\$85,370	\$0	\$85,370
GRANITE COUNTY	708,218	\$327,329	5,000	\$328,906	\$328,906	\$297,452	\$0	\$328,906	\$328,671	\$0	\$328,671
HILL COUNTY	47,558	\$3,677	16,000	\$1,866,883	\$136,144	\$19,974	\$0	\$136,144	\$136,047	\$0	\$136,047
JEFFERSON COUNTY	553,973	\$191,523	12,000	\$1,384,197	\$1,384,197	\$232,669	\$0	\$1,384,197	\$1,383,207	\$0	\$1,383,207
JUDITH BASIN COUNTY	309,919	\$89,814	5,000	\$304,679	\$304,679	\$130,166	\$0	\$304,679	\$304,461	\$0	\$304,461
LAKE COUNTY	174,976	\$21,961	31,000	\$2,989,069	\$492,468	\$73,490	\$0	\$492,468	\$492,116	\$0	\$492,116
LEWIS & CLARK COUNTY	1,083,910	\$319,546	50,000	\$3,637,454	\$2,867,149	\$455,242	\$0	\$2,867,149	\$2,865,099	\$0	\$2,865,099
LIBERTY COUNTY	33,708	\$4,038	5,000	\$464,645	\$95,064	\$14,157	\$0	\$95,064	\$94,996	\$0	\$94,996
LINCOLN COUNTY	1,746,336	\$2,066,847	20,000	\$128,553	\$128,553	\$733,461	\$0	\$733,461	\$732,936	\$0	\$732,936
MADISON COUNTY	1,056,130	\$218,252	9,000	\$1,141,378	\$1,141,378	\$443,575	\$0	\$1,141,378	\$1,140,562	\$0	\$1,140,562
MCCONE COUNTY	274,071	\$4,129	5,000	\$321,911	\$321,911	\$115,110	\$0	\$321,911	\$321,681	\$0	\$321,681
MEAGHER COUNTY	487,706	\$195,518	5,000	\$166,727	\$166,727	\$204,837	\$0	\$204,837	\$204,691	\$0	\$204,691
MINERAL COUNTY	642,127	\$436,395	5,000	\$462,590	\$462,590	\$269,693	\$0	\$462,590	\$462,259	\$0	\$462,259
MISSOULA COUNTY	932,723	\$344,711	50,000	\$3,612,289	\$2,397,495	\$391,744	\$0	\$2,397,495	\$2,395,780	\$0	\$2,395,780
MUSSELSHELL COUNTY	87,517	\$214,694	5,000	\$709,021	\$42,606	\$36,757	\$0	\$42,606	\$42,576	\$0	\$42,576
PARK COUNTY	956,234	\$240,032	17,000	\$1,716,328	\$1,716,328	\$401,618	\$0	\$1,716,328	\$1,715,101	\$0	\$1,715,101
PETROLEUM COUNTY	335,040	\$19,659	5,000	\$79,261	\$79,261	\$98,920	\$0	\$98,920	\$98,849	\$0	\$98,849
PHILLIPS COUNTY	1,377,373	\$249,905	5,000	\$525,430	\$525,430	\$578,497	\$0	\$578,497	\$578,083	\$0	\$578,083

**U.S. DEPARTMENT OF THE INTERIOR  
PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2022**

**SECTION 6902 PAYMENTS BY COUNTY**

MONTANA  LOCAL UNIT OF GOVERNMENT	ENTITLEMENT ACRES	Timber, grazing, minerals, etc. and Secure Rural Schools	Rounded to 1,000 5K to 50K	Population x \$ minus Prior Year CEILING	Acres X \$2.94 minus Prior Year up to ceiling ALT A	Acres x \$0.42 ALT B	ADJ. MADE THIS FY	Higher of Alt A or Alt B	6902 99.9% PRORATED	6902 ADJ. FOR PY	6902 TOTAL PAYMENT
		Prior Year REV. SHAR. PAYMENTS	UNIT POP					6902 PAYMENTS			
PONDERA COUNTY	108,698	\$44,488	6,000	\$1,067,192	\$275,084	\$45,653	\$0	\$275,084	\$274,887	\$0	\$274,887
POWDER RIVER COUNTY	593,800	\$588,726	5,000	-\$256,157	\$0	\$249,396	\$0	\$249,396	\$249,218	\$0	\$249,218
POWELL COUNTY	743,361	\$298,065	7,000	\$923,085	\$923,085	\$312,212	\$0	\$923,085	\$922,425	\$0	\$922,425
PRAIRIE COUNTY	426,957	\$50,203	5,000	\$160,892	\$160,892	\$179,322	\$0	\$179,322	\$179,194	\$0	\$179,194
RAVALLI COUNTY	1,120,317	\$407,381	45,000	\$3,395,569	\$2,886,351	\$470,533	\$0	\$2,886,351	\$2,884,287	\$0	\$2,884,287
RICHLAND COUNTY	52,039	\$234,223	11,000	\$1,249,787	\$0	\$21,856	\$0	\$21,856	\$21,840	\$0	\$21,840
ROOSEVELT COUNTY	4,284	\$106,670	11,000	\$1,377,340	\$0	\$1,799	\$0	\$1,799	\$1,798	\$0	\$1,798
ROSEBUD COUNTY	325,793	\$840,561	9,000	\$519,069	\$117,270	\$136,833	\$0	\$136,833	\$136,735	\$0	\$136,735
SANDERS COUNTY	917,321	\$816,908	12,000	\$758,812	\$758,812	\$385,275	\$0	\$758,812	\$758,269	\$0	\$758,269
SHERIDAN COUNTY	1,781	\$8,767	5,000	\$636,389	\$0	\$748	\$0	\$748	\$747	\$0	\$747
SILVER BOW CENSUS CITY	234,260	\$62,734	35,000	\$3,209,766	\$625,990	\$98,389	\$0	\$625,990	\$625,542	\$0	\$625,542
STILLWATER COUNTY	198,948	\$57,317	10,000	\$1,327,083	\$527,590	\$83,558	\$0	\$527,590	\$527,213	\$0	\$527,213
SWEET GRASS COUNTY	294,237	\$89,883	5,000	\$638,960	\$638,960	\$123,580	\$0	\$638,960	\$638,503	\$0	\$638,503
TETON COUNTY	284,426	\$73,958	6,000	\$1,037,722	\$762,254	\$119,459	\$0	\$762,254	\$761,709	\$0	\$761,709
TOOLE COUNTY	45,779	\$23,955	5,000	\$903,123	\$110,635	\$19,227	\$0	\$110,635	\$110,556	\$0	\$110,556
TREASURE COUNTY	748	\$476	5,000	\$137,023	\$1,723	\$314	\$0	\$1,723	\$1,722	\$0	\$1,722
VALLEY COUNTY	1,122,357	\$33,874	7,000	\$1,187,276	\$1,187,276	\$471,390	\$0	\$1,187,276	\$1,186,427	\$0	\$1,186,427
WHEATLAND COUNTY	66,058	\$37,060	5,000	\$389,681	\$157,151	\$27,744	\$0	\$157,151	\$157,039	\$0	\$157,039
WIBAUX COUNTY	26,995	\$78,502	5,000	\$107,270	\$863	\$11,338	\$0	\$11,338	\$11,330	\$0	\$11,330
YELLOWSTONE COUNTY	78,193	\$2,743	50,000	\$3,954,257	\$227,144	\$32,841	\$0	\$227,144	\$226,982	\$0	\$226,982
<b>TOTAL</b>	<b>27,465,901</b>	<b>\$12,693,861</b>			<b>\$37,083,119</b>	<b>\$11,397,448</b>	<b>\$0</b>	<b>\$38,258,799</b>	<b>\$38,231,349</b>	<b>\$0</b>	<b>\$38,231,349</b>

# Fiscal Year 2022 PILT Information Sheet

County: ROSEBUD COUNTY

State: MONTANA

FY 2022 Payments
------------------

FY 2021 Payments
------------------

6902 Calculation:

<b>Population Limit:</b>	9,000 (pop) X 151.07 =	\$1,359,630		9,000 (pop) X \$147.67 =	\$1,329,030
<b>ALTERNATIVE A:</b>	325,793 (acres) X \$2.94 =	\$957,831		325,793 (acres) X \$2.87 =	\$935,026
	Deduction for Prior Year Paymt	\$840,561			\$58,175
	Net Amt Before Pop Limitation	\$117,270			\$876,851
	Net Amt after Applying Lower of: Above vs Population Limit - Prior Year Payment	\$117,270			\$133,575
<b>ALTERNATIVE B:</b>	325,793 (acres) X \$.42 =	\$136,833		325,793 (acres) X \$.41 =	\$133,575
	(No Deduction for this Alternative)				
	Net Amt After Applying Pop Limitation	\$136,833			\$133,575

Alternative 'B' is in effect:

Alternative 'B' is in effect:

<b>6902 Calculation Result</b>	less Adj	\$136,833		\$133,575
<b>6904/5 Calculation Result</b>	less Adj	\$0		\$0
<b>Total Pay before Admin</b>		\$136,833		\$133,575
X After Admin Factor		.9992848372		
Amount Due before PY Adjustments		\$136,735		\$133,477
Prior Year Adjustments		\$0		\$0
<b>Total Amount Due</b>		\$136,735		\$133,477

**Formula Factors(\*)**

FY 2022
---------

FY 2021
---------

Per Acre Value (Alt. "A")	\$2.94	\$2.87
Per Acre Value (Alt. "B")	\$.42	\$.41
Population (Per Capita, Sliding Scale)	\$79.14-\$197.84	\$71.67-\$179.15

(\*) All of the above formula factors have been adjusted for inflation as required by the PILT Act.

# Fiscal Year 2022 PILT Information Sheet

County: LAKE COUNTY

State: MONTANA

FY 2022 Payments
------------------

FY 2021 Payments
------------------

6902 Calculation:

<b>Population Limit:</b>	31,000 (pop) X \$97.13 =	\$3,011,030		30,000 (pop) X \$96.73 =	\$2,901,900
<b>ALTERNATIVE A:</b>	174,976 (acres) X \$2.94 =	\$514,429		175,006 (acres) X \$2.87 =	\$502,267
	Deduction for Prior Year Paymt	\$21,961			\$21,922
	Net Amt Before Pop Limitation	\$492,468			\$480,345
	Net Amt after Applying Lower of: Above vs Population Limit - Prior Year Payment	\$492,468			\$480,345
<b>ALTERNATIVE B:</b>	174,976 (acres) X \$.42 =	\$73,490		175,006 (acres) X \$.41 =	\$71,752
	(No Deduction for this Alternative)				
	Net Amt After Applying Pop Limitation	\$73,490			\$71,752

Alternative 'A' is in effect:

Alternative 'A' is in effect:

<b>6902 Calculation Result</b>	less Adj	\$492,468		\$480,345
<b>6904/5 Calculation Result</b>	less Adj	\$0		\$0
<b>Total Pay before Admin</b>		\$492,468		\$480,345
X After Admin Factor		.9992848372		
Amount Due before PY Adjustments		\$492,116		\$479,990
Prior Year Adjustments		\$0		\$0
<b>Total Amount Due</b>		\$492,116		\$479,990

**Formula Factors(\*)**

FY 2022
---------

FY 2021
---------

Per Acre Value (Alt. "A")	\$2.94		\$2.87
Per Acre Value (Alt. "B")	\$.42		\$.41
Population (Per Capita, Sliding Scale)	\$79.14-\$197.84		\$71.67-\$179.15

(\*) All of the above formula factors have been adjusted for inflation as required by the PILT Act.