

Federal Land Payments

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NOVEMBER 29, 2021



FEDERAL LAND PAYMENTS (REVENUE SHARING)

Federal Forest Receipts/Secure Rural Schools Funding

Description: Federal forest receipts are payments from the federal government in lieu of revenues from the sale of forest products of federal land. The federal government authorizes logging operations on federal forest lands located within the borders of Montana. The sale of timber from this land generates revenue that the federal government shares with the state in the following year.

As timber sales began declining, the 25% revenue share that counties had been receiving began to shrink. To help counties with these declining payments the Secure Rural Schools and Community Self-Determination Act (SRS) was passed by Congress in 2000. This buoyed the payments being made to federal timber production counties and has been reauthorized several times.

Payments are divided into three distinct categories, or Titles: Title I for roads and schools, Title II for projects on Federal lands, and Title III for county projects.

Additional Information:

- https://leg.mt.gov/content/Publications/fiscal/leg_reference/Brochures/federal-forest-receipts-2019.pdf
- <https://www.fs.usda.gov/working-with-us/secure-rural-schools>
- <http://followthemoney.stanford.edu/index.html?county=undefined&year=2020&program=SRS&scale=1800&translate=771,397&advanced=false&>

Taylor Grazing Act

Description: According to Stanford University's Follow the Money website¹:

"The Taylor Grazing Act of 1934 (PL 73-482) and a follow-up bill in 1936 (PL 74-827) set aside 142 million acres of the remaining, unsettled lands of the American West. It also created a new agency called the Grazing Bureau to manage federal ranges primarily for grazing interests. The TGA had three stated goals: "to stop injury" from overgrazing, "to provide for their orderly use," and "to stabilize the livestock industry." It also created two ways to manage the lands. Based on a small experiment in Montana called the Mizpah-Pumpkin Creek Grazing District (PL 70-280), Section 3 institutionalized what is now called co-management, what the bill's author later called "democracy on the range," by authorizing ranchers to form grazing districts with local advisory boards. The boards worked with Grazing Service personnel to apportion permits, establish fees, and delimit herds. For areas outside grazing districts, Section 15 authorized the Grazing Bureau to lease parcels of no less than 640 acres (one section or square mile) to ranchers with contiguous property. In practice, Section 15 leases operated on isolated tracts that could not be merged with a grazing district, or in areas.

From the beginning, Taylor Grazing Act revenues have been apportioned for three interests: to bolster the federal Treasury, to fund range rehabilitation programs, and to offset lost tax dollars to western counties. The 1934 act made no distinction between Section 3 and Section 15 receipts: 25 percent of revenues went to the

¹ http://followthemoney.stanford.edu/pages/BLM_GRZ_15.html

Treasury, 25 percent to a special fund controlled by the Secretary of the Interior for range improvement, and 50 percent to the states to benefit grazing counties. After the Reorganization Act of 1945 (79-263) and Reorganization Plan No. 3 of 1946, however, the Department of Interior merged the Grazing Bureau and General Land Office into a new agency called the Bureau of Land Management, now responsible for managing 270 million acres, nearly all of which is in the eleven western states and Alaska. The next year Congress amended the TGA by reducing Section 3 in-lieu payments to 12.5 percent. Section 15 payments remained at 50 percent, and these ratios continue to this day.”

Additional Information:

- Section 15 of the TGA:
http://followthemoney.stanford.edu/index.html?county=undefined&year=2020&program=BLM_GRZ_15&scale=1800&translate=771,397&advanced=false&
- Section 3 of the TGA:
http://followthemoney.stanford.edu/index.html?county=undefined&year=1978&program=BLM_Gr3_3&scale=1800&translate=771,397&advanced=false&
- <https://www.blm.gov/programs/natural-resources/rangelands-and-grazing/livestock-grazing>

Bankhead-Jones Farm Tenant Act

Description: According to Stanford University’s Follow the Money website:

“The Bankhead-Jones Farm Tenant Act (PL 75-210) was passed to ameliorate agricultural crises during the Great Depression. Titles I and II extended credit to poor southern famers and supplied funding to improve marginal lands. Title III authorized the acquisition of lands where settlement had failed. In all the Department purchased or received as gifts 11.3 million acres of degraded agricultural land. The Soil Conservation Service first managed these lands, repurposing some for grazing or forestry; others, totaling 5.8 million acres, it transferred to the Interior Department. In 1953 the Forest Service took over for the SCS on the remaining 5.5 million acres. This is the only federal lands conservation program in the West managed by both the Forest Service and Bureau of Land Management, and in 1960 the Secretary of Agriculture reassigned some Forest Service lands to the new National Grasslands system. Section 33 of the original act, which is still in effect, directs federal agencies to return 25 percent of net proceeds from logging, grazing, mining, and energy development to western counties.”

Additional Information:

- http://followthemoney.stanford.edu/index.html?county=undefined&year=2020&program=Bankhead_Jones_Other&scale=1800&translate=771,397&advanced=false&
- <https://www.doi.gov/sites/doi.gov/files/blm-bankhead-jones-2020.pdf>
- <https://www.fs.usda.gov/working-with-us/secure-rural-schools/bankhead-jones-payments>

U.S. Mineral Royalties

Description: A mineral royalty is a payment to the resource owner for the extraction of the mineral. In the mining industry the royalty is typically based on production (\$/ton) or income (percent of gross or net income). For federal oil and gas leases, royalties are assessed on the gross value of production minus allowable deductions. A wide range of income-based royalties are now applied to oil and gas production and hard-rock mining on private and state-owned lands.

The largely decentralized revenue sharing system for onshore federal energy and mineral resources under the Mineral Leasing Act of 1920 provides states generally with a 50% share of revenues collected (rents, bonuses, and royalties), less 2% for administrative costs. 40% of the revenue collected goes to the federal reclamation fund, and about 10% goes to the federal general treasury fund. In Montana, of the 50% less administration fees that goes to the state, in accordance with 17-3-240, MCA, Montana counties affected by mineral development receive 25% of the money distributed by federal royalties.

Additional Information:

- https://leg.mt.gov/bills/mca/title_0170/chapter_0030/part_0020/section_0400/0170-0030-0020-0400.html
- http://followthemoney.stanford.edu/index.html?county=undefined&year=2020&program=BLM_FML&scale=1800&translate=771.397&advanced=false&
- <https://www.everycrsreport.com/reports/R43891.html>
- <https://www.mtcounties.org/news/county-news/fy-2020-mineral-impact-fund-distribution/>

U.S. Fish and Wildlife Service (USFWS) Refuge Revenue Sharing

Description: The USFWS makes refuge revenue sharing payments to counties and other units of local government for the lands that they administer. Starting in 1935, when the Refuge Revenue Sharing Act, 16 U.S.C. 715s, was passed, the USFWS made payments annually to counties and other units of local government that were equivalent to 25 percent of the net receipts collected from the sale of products and privileges on national wildlife refuge lands (e.g., timber sales, grazing leases) in those areas. However, if no receipts were collected from the refuge lands, the county or other unit of local government received no payment. In 1964, Congress amended the Refuge Revenue Sharing Act to provide a payment of either 25 percent of the net receipts, or 3/4 of 1 percent of the current fair market value of the land, whichever was greater. Counties and other units of local government containing land that was reserved from the public domain (i.e., land that has never left Federal ownership) for national wildlife refuge purposes continued to receive 25 percent of the net receipts.

Beginning in Fiscal Year 1976, receipts from refuge lands were not sufficient to make the full payments authorized under the 1964 amendment to the Refuge Revenue Sharing Act, and the USFWS reduced payments proportionally in accordance with the Act. It was partly because of this that Congress amended the Refuge Revenue Sharing Act again in 1978. The 1978 amendments provide that:

- Congress can appropriate funds to make up any shortfall in the refuge revenue sharing fund.
- All lands administered solely or primarily by the Service (not just national wildlife refuges) qualify for revenue sharing payments.
- The payments to counties and other units of local government can be used for any governmental purpose.

Additional Information:

- <https://www.fws.gov/refuges/realty/rrs.html>
- https://www.fws.gov/refuges/realty/pdf/4Rev_ShareWeb_Local_Govt_Summary_Update_508.pdf
- https://www.fws.gov/northeast/refuges/planning/lpp/pdf/final/11w_LPP_Appendix_B_FAQs_834KB.pdf

FEDERAL LAND PAYMENTS (REVENUE REPLACEMENT)

Payment In Lieu of Taxes

According to the Montana Association of Counties²:

“PILT program eligibility is reserved for local governments (mostly rural counties) that contain nontaxable Federal lands and provide vital services, 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 foregoing tax revenue from these Federal lands.

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 acreage within the National Forest and National Park Systems, those managed by the Bureau of Land Management, those affected by U.S. Army Corps of Engineers and Bureau of Reclamation water resources development projects, and certain other Federal lands. Individual county payments may increase or decrease from the prior year due to changes in computation variables including prior-year payments, inflation, acreage, and population.”

Additional Information:

- <https://www.mtcounties.org/resources-data/pilt/>
- <https://www.mtcounties.org/wp-content/uploads/resources/federal/pilt/current-pilt-payments-and-historical-payments.xlsx>
- <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>
- <http://followthemoney.stanford.edu/index.html?county=undefined&year=1978&program=PILT&scale=1800&translate=771,397&advanced=false&>

NEW PAYMENTS/FUTURE POSSIBILITIES

American Rescue Plan, Section 605: Local Assistance and Tribal Consistency Fund

Description: Included in the American Rescue Plan Act (ARPA) are appropriations under Section 605 for eligible revenue sharing counties that can be used for any governmental purpose other than lobbying. “Eligible revenue sharing county” means a county that is independent of any other unit of local government; and that, as determined by the Secretary of the Treasury, is the principal provider of government services for the area

² <https://www.mtcounties.org/resources-data/pilt/>

within its jurisdiction; and for which, as determined by the Secretary, there is a negative revenue impact due to implementation of a Federal program or changes to such program. Under ARPA, “for each of fiscal years 2022 and 2023, the Secretary shall reserve \$750,000,000 of the total amount appropriated under subsection (a) to allocate and pay to each eligible revenue sharing county in amounts that are determined by the Secretary taking into account economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic indicators, over the 20-year period ending with September 30, 2021.”³

According to Senator Ron Wyden of Oregon, per his statement for the record concerning Section 605 of ARPA, this section was intended to create a new program under the Treasury Department. Senator Wyden stated that the program’s purpose is “to help stabilize the budgets and economies of counties that have historically hosted extractive industry on private or public lands and where downturns in those extractive industries, caused by government action, affected the county economically and budgetarily.” The Treasury will review the prior economic conditions of the counties for determining the allocations; revenue sharing counties, per Senator Wyden, are those counties that have a direct fiscal relationship with public lands and public resources. Allocations are still being determined by the Treasury and are anticipated at a later date, possibly next year.

Additional Information:

- [https://today.westlaw.com/Document/I6d0a3e36836e11ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)](https://today.westlaw.com/Document/I6d0a3e36836e11ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=(sc.Default))
- <https://www.finance.senate.gov/imo/media/doc/Statement%20for%20the%20Record%20on%20Sec.%20605.pdf>

Wyden-Crapo Secure Rural Schools Endowment Fund & SRS Reauthorization Act

Description: In 2019, Senators Wyden and Mike Crapo of Idaho introduced the Forest Management for Rural Stability Act (S. 1643), which sought to establish the Natural Resources Permanent Fund, an endowment fund that would ensure stability of future Forest Service and USFWS payments in that they would not be subject to continual reauthorization. It also allows interest earned from the endowment’s investment to be used to finance payments for counties.⁴ Although failing to pass during the 116th session of Congress, this may be a future option that Congress may consider for federal land payments.

Additionally, in February 2021, Senator Crapo sponsored the Secure Rural Schools Reauthorization Act (S. 435), which seeks to extend through FY 2023 payments made to states and eligible counties containing certain federal land under the Secure Rural Schools and Community Self-Determination Act of 2000. In this legislation, any county funds that were obligated by a county before October 1, 2017, but are unspent on October 1, 2020,

³ <https://www.congress.gov/117/bills/hr1319/BILLS-117hr1319enr.pdf> (pg. 231-232)

⁴ <https://www.wyden.senate.gov/imo/media/doc/Forest%20Management%20for%20Rural%20Stability%20Act%20of%202019%20One%20Pager.pdf>

may be used by the county for any authorized use and shall be available for projects initiated after October 1, 2020. While still active, no action has yet been taken on this bill since its introduction.

Additional Information:

- <https://www.congress.gov/bill/116th-congress/senate-bill/1643>
- <https://www.wyden.senate.gov/news/press-releases/wyden-crapo-merkley-risch-reintroduce-legislation-to-provide-long-term-stability-for-secure-rural-schools-program>
- <https://www.congress.gov/bill/117th-congress/senate-bill/435>

RESOURCES

- Stanford University, Follow the Money: A Spatial History of In-Lieu Programs for Western Federal Lands:
<http://followthemoney.stanford.edu/index.html?county=undefined&year=1978&program=PILT&scale=1800&translate=771,397&advanced=false&>
- Montana Association of Counties, PILT Payments & History: <https://www.mtcounties.org/resources-data/pilt/>
- Headwaters Economics, Economic Profile System (Federal Land Payments under Land Management Reports): <https://headwaterseconomics.org/apps/economic-profile-system/30000>
- Congressional Research Service, Effect of COVID-19 on Federal Land Revenues (2020):
<https://crsreports.congress.gov/product/pdf/R/R46448>
- Congressional Research Service, Compensating State and Local Governments for the Tax-Exempt Status of Federal Lands: What is Fair and Consistent (2012):
https://digital.library.unt.edu/ark:/67531/metadc807263/m2/1/high_res_d/R42439_2012Mar22.pdf