

Calendar No. 720

108TH CONGRESS }
2d Session }

SENATE

{ REPORT
108-361

PILT AND REFUGE REVENUE SHARING PERMANENT FUNDING ACT

SEPTEMBER 28, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 511]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 511) to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “PILT and Refuge Revenue Sharing Permanent Funding Act”.

SEC. 2. PERMANENT FUNDING.

(a) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

“§ 6906. Funding

“For fiscal year 2005 and each fiscal year thereafter, amounts authorized under this chapter shall be made available to the Secretary of the Interior, without further appropriation, for obligation or expenditure in accordance with this chapter.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

“6906. Funding.”.

(b) REFUGE REVENUE SHARING.—Section 401(d) of the Act of June 15, 1935 (16 U.S.C. 715s(d)) is amended—

(1) by striking “If the net receipts” and inserting the following:

“(1) If the net receipts”; and

(2) by adding at the end the following:

“(2) For fiscal year 2005 and each fiscal year thereafter, the amount made available under paragraph (1) shall be made available to the Secretary, without further appropriation, for obligation or expenditure in accordance with this section.”.

PURPOSE OF THE MEASURE

The purpose of S. 511 is to amend the Payments in Lieu of Taxes (PILT) Act and the Refuge Revenue Sharing Act to provide for the authorized amounts for both programs to be made available annually to the Secretary of the Interior without the need for further appropriation.

BACKGROUND AND NEED

The Payments in Lieu of Taxes Act (31 U.S.C. 6901 et seq.) authorizes the Secretary of the Interior to make annual payments to units of general local government (usually counties) in which entitlement lands are located. The PILT Act defines entitlement lands to include Federal lands administered by the Forest Service, the Bureau of Land Management and National Park Service; National Wildlife Refuges created from the public domain; lands dedicated for Federal water resource development projects; and certain local areas specifically identified in the Act.

The purpose of the PILT program is to partially compensate local governments for the loss of property taxes as a result of the non-taxable Federal lands located within their boundaries. The PILT Act uses a formula to determine the amount of compensation factoring in Federal acreage, local population, and receipt-sharing payments. In 1994, Congress amended the formula and increased the authorized payments. Historically, appropriations have been far less than the authorized amount, although they have increased significantly in recent years.

The Refuge Revenue Sharing Fund was established in 1935 to provide revenue sharing to units of local government that contain national wildlife refuges. Under the Refuge Revenue Sharing Act (16 U.S.C. 715s), local governments receive either 25 percent of the net receipts generated from refuge lands, $\frac{3}{4}$ of 1 percent of adjusted purchase price of refuge lands, or 75 cents an acre for purchased lands, whichever is greater. Under the 1976 amendments to the Act, the program was expanded to include all lands administered by the Fish and Wildlife Service (not just refuge lands) and authorization was provided for additional appropriations to supplement payments, if refuge revenues fell below the authorized payment level. Like the PILT program, annual payments to local governments now fall far below the authorized level. For FY 2001 the estimated authorized level was approximately \$32 million, while receipts accounted for \$4.3 million and another \$11.4 was appropriated.

S. 511 would eliminate the need for annual appropriations, while providing local governments with more certainty in budgeting for annual revenues from the PILT and refuge revenue sharing programs.

LEGISLATIVE HISTORY

S. 511 was introduced by Senator Bingaman on March 4, 2003 for himself and Senators Baucus, Ensign, Feinstein, Leahy, Reid,

and Wyden. The Subcommittee on Public Lands and Forests held a hearing on September 11, 2003. During the 107th Congress, a similar bill, S. 454, sponsored by Senator Bingaman and nine other Senators was heard in the Subcommittee on Public Lands and Forests on May 9, 2002 and favorably reported from the Energy and Natural Resources Committee on June 5, 2002. The Committee on Energy and Natural Resources ordered S. 511 to be favorably reported, as amended, at its business meeting on September 15, 2004.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on September 15, 2004, by a unanimous voice vote, of a quorum present, recommends that the Senate pass S. 511, if amended as described herein.

COMMITTEE AMENDMENTS

The amendment adopted by the Committee eliminated section 2 of S. 511 (as introduced) and reordered subsequent sections as needed. The amendment eliminated the funding formula provision, but retained the mandatory funding provisions for both PILT and the U.S. Fish & Wildlife Refuge Revenue sharing payments.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 amends the Payment in Lieu of Taxes Act and The Refuge Revenue Sharing Act to make authorized amounts available to the Secretary of the Interior without further appropriations for obligation or expenditure in accordance with the respective Acts, beginning in fiscal year 2005.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

S. 511—PILT and Refuge Revenue-Sharing Permanent Funding Act Summary:

S. 511 would provide new direct spending authority for the Secretary of the Interior to make payments to states and counties under the payment in lieu of taxes (PILT) program and the refuge revenue-sharing program. CBO estimates that enacting S. 511 would increase direct spending by \$376 million in 2005, by about \$2 billion over the 2005–2009 period, and by about \$4.2 billion over the 2005–2014 period. Enacting the bill would not affect revenues.

By making PILT and refuge revenue-sharing payments fully available without further appropriation action, S. 511 could lead to savings in discretionary spending. Assuming that annual appropriations are reduced accordingly, CBO estimates that discretionary spending could be reduced by \$243 million in fiscal year 2005 and about \$1.3 billion over the 2005–2009 period.

S. 511 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enact-

ing this legislation probably would benefit local governments that receive payments under these two programs.

Estimated Cost to the Federal Government:

For this estimate, CBO assumes that S. 511 will be enacted near the start of fiscal year 2005. The estimated budgetary impact of S. 511 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
DIRECT SPENDING											
Mandatory Spending Under Current Law for PILT and Refuge Revenue Sharing: ¹											
Estimated Budget Authority	6	6	6	6	6	6	6	6	6	6	6
Estimated Outlays	6	6	6	6	6	6	6	6	6	6	6
Proposed Changes:											
PILT:											
Estimated Budget Authority	0	337	342	348	354	360	367	373	380	387	394
Estimated Outlays ...	0	337	342	348	354	360	367	373	380	387	394
Refuge Revenue Sharing:											
Estimated Budget Authority	0	39	41	44	47	51	54	58	62	66	71
Estimated Outlays ...	0	39	41	44	47	51	54	58	62	66	71
Total Changes:											
Estimated Budget Authority	0	376	383	392	401	411	421	431	442	453	465
Estimated Outlays ...	0	376	383	392	401	411	421	431	442	453	465
Mandatory Spending Under S. 511 for PILT and Refuge Revenue Sharing:											
Estimated Budget Authority ¹	6	382	389	398	407	417	427	437	448	459	471
Estimated Outlays	6	382	389	398	407	417	427	437	448	459	471
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ²											
Estimated Authorization Level	0	−243	−247	−250	−255	−259	−263	−269	−273	−278	−284
Estimated Outlays	0	−243	−247	−250	−255	−259	−263	−269	−273	−278	−284

¹ Includes the estimated mandatory portion of annual funding for refugee revenue-sharing payments under current law.

² The changes in spending subject to appropriation represent discretionary savings that could occur under S. 511 beginning in 2005, when all PILT and refugee revenue-sharing payments would become mandatory spending. A total of \$239 million was appropriated for these payments in 2004, including \$225 million for PILT and \$14 million for refugee revenue sharing.

Basis of estimate: CBO estimates that enacting S. 511 would increase direct spending for PILT and refugee revenue-sharing payments by \$376 million in 2005 and about \$4.2 billion over the 2005–2014 period. Enacting this legislation would reduce the need for future appropriations for these programs, but any resulting savings would depend on future appropriation actions.

Permanent funding for PILT

PILT is a payment program that compensates local governments for losses in their tax bases due to the presence of certain federal lands within their jurisdictions, which are exempt from state and local taxation. The Department of the Interior (DOI) calculates the PILT payment authorized for each local jurisdiction based on population, the number of federal acres present, and other federal payments received by the jurisdiction. S. 511 would provide permanent funding for PILT payments, which, under current law, are subject to appropriation. According to DOI, the full authorization level for PILT payments in fiscal year 2004 is \$331 million. (However, only \$225 million was appropriated for those payments.) CBO estimates that providing full funding for future PILT payments would increase direct spending by \$337 million in 2005, about \$1.7 billion over the 2005–2009 period, and about \$3.6 billion over the next 10 years.

Refuge revenue-sharing payments

The Refuge Revenue Sharing Act authorizes the U.S. Fish and Wildlife Service (USFWS) to make payments to counties where national wildlife refuges and other USFWS-administered land is located. Generally, the authorized level of such payments for each county is equal to the greater of: (1) \$0.75 per acre of USFWS land located in the county, (2) 25 percent of net offsetting receipts (if any) earned from commercial activities on such land, or (3) three-fourths of one percent of the land's fair market value. The annual payments are funded by a combination of direct spending authority and discretionary appropriations.

Over the last 20 years, refuge revenue-sharing payments have been less than the authorized level, and each county's payment has been reduced proportionately. Beginning in fiscal year 2005, S. 511 would make available, without further appropriation, the entire amount necessary to fund all payments to counties at the authorized level. CBO estimates that the bill would increase direct spending by \$39 million in 2005, \$222 million over the 2005–2009 period, and \$533 million over the next 10 years.

Spending subject to appropriation

By making PILT and refuge revenue-sharing payments fully available without further appropriation action, S. 511 would reduce the need for future appropriations for these programs. Assuming that annual appropriations are reduced accordingly, CBO estimates that discretionary spending could be reduced by \$243 million in fiscal year 2005 and about \$1.3 billion over the 2005–2009 period. Those potential savings in spending subject to appropriation are less than the estimated increase in direct spending under S. 511 because, in recent years, appropriations for PILT and refuge revenue-sharing payments have been less than the full amounts authorized for such payments. As a result, CBO's baseline for PILT and refuge revenue-sharing payments assumes that, under current law, appropriations would continue to fall short of authorized levels of payments.

Intergovernmental and private-sector impact: S. 454 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Enacting this legislation probably would benefit local governments that receive payments under these two programs.

Estimate prepared by: Federal Costs: Megan Carroll and Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 511.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 511.

EXECUTIVE COMMUNICATIONS

On September 11, 2003, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 511. These reports had not been received when this report was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 511 follows:

STATEMENT OF CHRIS KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to testify today on S. 511, a bill to make the Bureau of Land Management's (BLM) Payments-in-Lieu of Taxes (PILT) Program and the U.S. Fish and Wildlife Service's (FWS) Refuge Revenue Sharing (RRS) Program mandatory. A hearing on PILT took place last year on May 9, 2002, before this Subcommittee. Our position on this bill remains unchanged. The Administration strongly supports the PILT and RRS programs and views them as high priorities, but the Administration is strongly opposed to S. 511 because it would force the Federal Government to either raise taxes or cut into other programs that are integral to the President's budget and important for the American people.

BACKGROUND

The PILT Act (P.L. 94-565) was passed by Congress in 1976 to provide payments to local governments in counties where certain Federal lands are located within their boundaries. PILT is based on the concept that these local governments incur costs associated with maintaining infra-

structure on Federal lands within their boundaries but are unable to collect taxes on these lands; thus, they need to be compensated for these losses in tax revenues. The payments are made to local governments in lieu of tax revenues and to supplement other Federal land receipts shared with local governments. The amounts available for payments to local governments require annual appropriation by Congress. In the past, the BLM has allocated payments according to the formula in the PILT Act. The formula takes into account the population within an affected unit of local government, the number of acres of eligible Federal land, and the amount of certain Federal land payments received by the county in the preceding year. These payments are other Federal revenues (such as receipts from mineral leasing, livestock grazing, and timber harvesting) that the Federal Government transfers to the counties. In recognition of the fact that this program is multi-bureau in nature, beginning in FY 2004, funding and management of PILT will be administered at the Department level.

The President's FY 2004 budget request demonstrates our commitment to PILT. The Administration requested \$165 million in FY 2003 for PILT, and \$200 million in FY 2004, an increase of \$35 million. Furthermore, while the total amount requested for all programs by the Department for FY 2004 represents a 3.3 percent increase from the prior year, the request for PILT is more than 21 percent over last year's request for this important program, reflecting our continued commitment and obligation to the PILT program even in the context of other significant budget priorities. While we recognize the importance of the PILT program, it should not be viewed in isolation from other departmental and Federal programs that bring or will bring benefits to counties in the future. Examples include funding provided for rural fire assistance and our efforts to work with Gateway Communities to increase tourism opportunities.

This year, some counties received slightly reduced PILT payments to adjust for increased revenue received during the previous fiscal year under the Secure Rural Schools and Community Self-Determination Act. This Act provides payments to compensate certain counties for declining timber receipts. The combination of PILT payments and payments under the Secure Rural Schools Act, however, will result in a higher overall payment to affected counties.

RRS (16 U.S.C. 715s), as amended, was enacted in 1935. It authorizes payments to be made to offset tax losses to counties in which the FWS fee and withdrawn public domain lands are located. The original Act provided for 25 percent of the net receipts from revenues from the sale or other disposition of products on refuge lands to be paid to counties. The Act was amended in 1964 to make it more like the PILT program. The new provisions distinguished between acquired lands that are purchased by the FWS and lands that are withdrawn from the public domain for

administration by the FWS. For fee lands, the counties received $\frac{3}{4}$ of 1 percent of the adjusted value of the land or 25 percent of the net receipts, whichever was greater, with the value of the land to be reappraised every 5 years. They continued to receive 25 percent of the net receipts collected on the withdrawn public domain lands in their county.

The RRS was amended again in 1978 in order to provide payments that better reflected market land values to counties with land administered by the FWS within their boundaries. The method used to determine the adjusted cost of the land acquired during the depression years of the 1930s (using agricultural land indices) resulted in continuing low land values compared to the land prices that existed in 1978. Also, other lands that were purchased during periods of inflated land values were found to be overvalued. The Congress decided that the payments did not adequately reflect current tax values of the property. It also recognized that national wildlife refuges are established first and foremost for the protection and enhancement of wildlife and that many produce little or no income that could be shared with the local county.

In the 1978 amendments, Congress chose to distinguish between lands acquired in fee and lands withdrawn from the public domain, by recognizing that the financial impact on counties tends to be greater when lands are directly withdrawn from the tax rolls, rather than when the refuge unit is created out of the public domain and has never been subject to a property tax. The formula adopted then, and still in effect, allows the FWS to pay counties containing lands acquired in fee the greater of: 75 cents per acre, $\frac{3}{4}$ of 1 percent of the fair market value of the land, or 25 percent of the net receipts collected from the area. If receipts are insufficient to satisfy these payments, appropriations are authorized to make up the difference.

Counties can use funds for any government purpose and pass through the funds to lesser units of local government within the county that experience a reduction of real property taxes as a result of the existence of FWS fee lands within their boundaries. Counties with FWS lands that are withdrawn from the public domain continue to receive 25 percent of the receipts collected from the area and are paid under the provisions of the PILT Act.

Section 2 would amend the funding formula for PILT found in 31 U.S.C. 6903(c)(2) by replacing the present limitation of "\$135.07 times the population" with "\$265.68 times the population" and amending the table at the end of the section to reflect corresponding increased or decreased amounts for each population level. The Administration appreciates the bill's intent to help compensate those counties with high public land acreage and low population. Given the complexity of the PILT formula and the intent of the program to compensate counties for the inability to collect property taxes on Federal lands, we must be careful to ensure that the compensation formula compensates counties fairly and does not result in counties actually re-

ceiving payments that are substantially different than they otherwise would receive in order to achieve tax equivalency. Accordingly, we need to further examine this issue to determine the effect of increasing the population multiplier value over all counties collectively. We are also concerned that this proposed change would increase overall PILT authorization levels significantly, thereby increasing the cost of the bill even further. Again, this counsels in favor of a more systematic evaluation of how to address issues with the PILT formula within the current authorization levels.

We continue to engage in discussions with the National Association of Counties concerning issues associated with the allocation formula and we believe those issues should be addressed before considering such a significant action as converting these payments to permanent mandatory payments, or making any changes to the formula. I would like to note that many of the same concerns we have previously expressed regarding PILT funding hold true for RRS funding as well.

Although the Administration supports the purpose of S. 511, we must oppose it for the same reasons that we opposed a similar bill last year in the 107th Congress. We support protections for local governments against the loss of property tax revenue when private lands are acquired by a Federal agency. However, the Administration is strongly opposed to creating a new mandatory spending category to fund the PILT program because it would force the Federal government either to raise taxes or cut into other programs that are integral to the President's budget and important to the American public.

CONCLUSION

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

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

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 511, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in

italic, existing law in which no change is proposed is shown in roman):

31 U.S.C. Sec. 6906

TITLE 31—MONEY AND FINANCE

Subtitle V—General Assistance Administration

CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

SEC. 6906. AUTHORIZATION OF APPROPRIATIONS.

【Necessary amounts may be appropriated to the Secretary of the Interior to carry out this chapter. Amounts are available only as provided in appropriation laws.】 *For fiscal year 2005 and each fiscal year thereafter, amounts authorized under this chapter shall be made available to the Secretary of the Interior, without further appropriation, for obligation or expenditure in accordance with this chapter.*

16 U.S.C. 715

AN ACT

To amend the Migratory Bird Hunting Stamp Act of March 16, 1934, and certain other Acts relating to game and other wildlife, administered by the Department of Agriculture, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MIGRATORY BIRD HUNTING STAMP

* * * * *

TITLE IV—PARTICIPATION OF STATES IN REVENUE FROM CERTAIN WILDLIFE REFUGES

* * * * *

“SEC. 401. (a) Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter

referred to as the “System”) includes those lands and waters administered by the Secretary as wildlife refuges, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

* * * * *

(d) Authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments:

【If the net receipts】 *(1) If the net receipts* in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of payments required to be made for such fiscal year under subsection (c) of this section to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

(2) For fiscal year 2005 and each fiscal year thereafter, the amount made available under paragraph (1) shall be made available to the Secretary, without further appropriation, for obligation or expenditure in accordance with this section.

○