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SENATE

REPORT
107–190

# PILT AND REFUGE REVENUE SHARING PERMANENT FUNDING ACT

JUNE 28, 2002.—Ordered to be printed

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

# R E P O R T

[To accompany S. 454]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 454) to provide permanent funding for the Bureau of Land Management Payment in Lieu of Texas program and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## PURPOSE

The purpose of S. 454 is to amend the Payments in Lieu of Texas Act and the Revenue Refuge Sharing Act to provide for the authorized amounts of both programs to be made 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.) (PILT) authorizes the Secretary of the Interior to make annual payments to units of general local government (usually counties) in which entitlement lands are located. "Entitlement lands" include Federal lands in the National Forest System and the National Park System, lands administered by the Bureau of Land Management, and lands dedicated to the use of Federal water resources development projects. Also included are dredge disposal areas under the jurisdiction of the Army Corps of Engineers, National Wildlife Reserve Areas withdrawn from the public domain, inactive and semi-Active installations used for non-industrial purposes, and certain lands donated to the U.S. Government by State and local governments.

The purpose of the PILT program is to partially compensate local governments for the loss of property taxes as a result of the nontaxable Federal lands within their boundaries. PILT 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 to adjust it annually based on changes in the Consumer Price Index. The authorized level for FY 2002 is approximately $346 million. All amounts authorized are now subject to appropriation. Payments received by local governments may be used for any governmental purpose.

Historically, appropriations have been less than the authorized amount, although they have increased significantly in recent years. In FY 1997, $113 million was appropriated, increasing to just under $200 million in FY 2001 and $210 million in FY 2003. The administration proposed funding level for FY 2003 is $165 million, a reduction of $45 million from the FY2002 appropriated level.

The Refuge Revenue Sharing Fund was established in 1935 to provide revenue sharing to units of local government containing 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, 3/4 of 1 percent of adjusted purchase price of refuge lands, or 75 cents an acre for purchased lands, whichever is greater. Under 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 the payments if refuge revenues fell below the authorized payment level. Like the PILT program, annual payments to local governments now fall below the authorized level. For FY 2001 the estimated authorized level was approximately $32 million, while receipts accounted for $4.3 million. Congress appropriated an additional $11.4 million in FY 2001.

S. 454 would elimate 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. 454 was introduced by Senator Bingaman on March 5, 2001. Senators Thomas, Baucus, Reid, Leahy, Campbell, Ensign, Johnson, Hatch, and Cantwell are cosponsors. The Subcommittee on Public Lands and Forests held a hearing on S. 454 on May 9, 2002. The Committee on Energy and National Resources ordered S. 454 favorably reported at its business meeting on June 5, 2002.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass S. 454.

## SECTION-BY-SECTION ANALYSIS

*Section 1* entitles the bill the "PILT and Refuge Revenue Sharing Permanent Funding Act."

*Section 2(a)* amends the Payments in Lieu of Taxes Act (31 U.S.C. 6906) to provide the full authorized amount of the program to the Secretary of the Interior in FY 2002 and thereafter without further appropriation.

Subsection (b) amends the Refuge Revenue Sharing Act (16 U.S.C. 715s) to make amounts currently subject to appropriation available to the Secretary of the Interior beginning in FY 2002 and thereafter without further appropriation.

## COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 20, 2002.*

Hon. JEFF BINGAMAN,
*Chairman, Committee on Energy and Natural Resources,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 454, the PILT and Refuge Revenue Sharing Permanent Funding Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Megan Carroll and Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

*S. 454—PILT and Refuge Revenue Sharing Permanent Funding Act*

Summary: S. 454 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. 454 would increase direct spending by $157 million in 2002 and by $3.9 billion over the 2002–2012 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

By making PILT and refuge revenue sharing payments fully available without appropriation action, S. 454 could create savings in discretionary spending. Assuming that annual appropriations are reduced accordingly, CBO estimates potential discretionary savings of $228 million in fiscal year 2003 and about $1.4 billion over the 2003–2007 period.

S. 454 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. Enacting this legislation probably would benefit local governments that receive payments under these two programs.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 454 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— | | | | | |
|---|---|---|---|---|---|---|
| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| DIRECT SPENDING | | | | | | |
| Mandatory Spending Under Current Law for PILT and Refuge Revenue Sharing [1]: | | | | | | |
| Estimated Budget Authority | 7 | 7 | 8 | 8 | 8 | 8 |
| Estimated Outlays | 7 | 7 | 8 | 8 | 8 | 8 |
| Proposed Changes: | | | | | | |
| Estimated Budget Authority | 157 | 273 | 278 | 286 | 296 | 305 |
| Estimated Outlays | 157 | 273 | 278 | 286 | 296 | 305 |
| Mandatory Spending Under S. 454 for PILT and Refuge Revenue Sharing: | | | | | | |
| Estimated Budget Authority [1] | 164 | 280 | 286 | 294 | 304 | 313 |
| Estimated Outlays | 164 | 280 | 286 | 294 | 304 | 313 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION [2] | | | | | | |
| Estimated Authorization Level | 0 | −228 | −233 | −238 | −242 | −248 |
| Estimated Outlays | 0 | −228 | −233 | −238 | −242 | −248 |

[1] These figures represent the estimated mandatory portion of annual funding for refuge revenue sharing payments under current law.
[2] The changes in spending subject to appropriation represent discretionary savings that could occur under S. 454 beginning in 2003, when all PILT and refuge revenue sharing payments would become mandatory spending. A total of $224 million was appropriated for these payments in 2002, including $210 million for PILT and $14 million for refuge revenue sharing.

Basis of estimate: CBO estimates that enacting S. 454 would increase direct spending for PILT and refuge revenue sharing payments by $157 million in 2002, $273 million in 2003, and about $3.7 billion over the 2003–2012 period. Enacting this legislation would reduce the need for future appropriations for these programs, but any resulting savings would depend on future appropriation actions. In 2002, funds provided in appropriations acts for these payments totaled nearly $230 million. The total estimated cost to fully fund the PILT and refuge revenue sharing program in 2002 is $391 million.

This estimate is based on information provided by the Department of the Interior and on CBO baseline assumptions regarding future payments to local governments under certain other payment programs as well as continuing land acquisitions and increases in the fair market value of public lands. For this estimate, CBO assumes that S. 454 will be enacted before the end of fiscal year 2002.

*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 Bureau of Land Management (BLM) 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. 454 would provide permanent funding for PILT payments, which under current law are subject to appropriation. According to BLM, the full authorization level for PILT payments in fiscal year 2002 is $351 million, and the agency already has received appropriations totaling $210 million for those payments. Hence, CBO estimates that fully funding the program this year would create direct spending of $141 million. We also estimate that S. 454 would create PILT direct spending of $241 million in 2003 and about $3.3 billion over the 2003–2012 period.

*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 1 percent of the land's fair market value. The annual payments are funded by a combination of direct spending authority and discretionary appropriations. In the last 20 years, those two sources have not been sufficient to fully fund the entire authorized level of refuge revenue sharing payments, and each county's payment has been reduced proportionately. Beginning in fiscal year 2002, S. 454 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 $16 million in 2002, by $32 million in 2003, and by $442 million over the 2003–2012 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through fiscal year 2006 are counted.

| | By fiscal year, in millions of dollars— | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| Changes in outlays | 157 | 273 | 278 | 286 | 296 | 305 | 315 | 465 | 478 | 492 | 507 |
| Changes in receipts | Not applicable | | | | | | | | | | |

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. Impact on the Private Sector: Cecil McPherson.

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. 454. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant 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. 454.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing 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. 454, a bill to make the Bureau of Land Management's (BLM) Payments-in-Lieu of Taxes (PILT) Program and the Fish and Wildlife Service's Revenue Sharing (RRS) Program mandatory. The Administration strongly supports the PILT and RRS programs and views them as high priorities, but the Administration is strongly opposed to S. 454 because it would force the Federal Government to either raise taxes or cut into other programs that are integral to the President's budget.

### BACKGROUND

The PILT Act (P.L. 94–565) was passed by Congress in 1976 to provide payments to local governments in counties where certain Federal lands are located within their boundaries. PILT is based on the concept that these local governments incur costs associated with maintaining infrastructure on Federal lands within their boundaries but are unable to collect taxes on these lands; thus, they need to be compensated for these costs. 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. The BLM allocates payments 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.

The President's FY 2003 budget request demonstrates our commitment to PILT. The Administration requested $150 million for FY 2002 for PILT, and this year the Administration is requesting $165 million, an increase of $15 million that is more in line with historical PILT funding levels. Although the FY 2003 budget request appears to indicate a downward trend, I would point out that most counties (and their respective states) also receive significant and growing benefits from Federal lands. Many of the counties that receive PILT funding receive other Federal payments that have recently or will soon increase substantially. For example, the Secure Rural Schools and Community Self-Determination Act passed in 2000 provides for

permanent payment of an additional roughly $110 million annually to western Oregon counties—approximately the amount the countries received during the mid-1980s peak of timber production in the Northwest. I would also point out that the Federal government covers many of the costs that the counties would otherwise incur if the land were not in Federal ownership.

The Refuge Revenue Sharing Act (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 U.S. Fish and Wildlife Service (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 payment-in-lieu of tax program. The new provisions distinguished between acquired lands that are purchased by the Service and lands that are withdrawn from the public domain for administration by the Service. For fee lands, the counties received ¾ 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 Act was amended again in 1978 in order to provide more equitable payments to counties with lands administered by the Service within their boundaries. The method used to determine the adjusted cost of the land acquired during the depression years of the 1930's (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 the 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 Service to pay counties containing lands acquired in fee the greater of: 75 cents per acre, ¾ 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 the funds for any governmental purpose, and can 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 Service fee lands within their boundaries. Counties with Service 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.

I would like to note that many of the same concerns we have expressed regarding PILT funding hold true for RRS funding as well. Moreover, we believe that it would be prudent to take another look at the PILT and RRS formulas, authorization levels and other issues including those raised in the Department's report to Congress dated January 11, 1999, before considering such a significant action as converting these payments to permanent mandatory payments.

CONCLUSION

The Administration recognizes that these payment are important to local governments, often 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 activities are often undertaken in support of people from around the country who visit or recreate on Federal lands. The BLM and the FWS look 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 question 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 the bill/Act S. 454, 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. 6906

**§ 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 appropriations laws.**]**

*There is authorized to be appropriated such sums as may be necessary to the Secretary of the Interior to carry out this chapter. Beginning in fiscal year 2002 and each year thereafter, amounts authorized under this chapter shall be made available to the Secretary of the Interior, out of any other funds in the Treasury not otherwise appropriated and without further appropriation, for obligation or expenditure in accordance with this chapter.*

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

SECTION 1. * * *

* * * * * * *

SEC. 401. * * *
(a) * * *

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(d) AUTHORIZATION OF APPROPRIATIONS EQUAL TO DIFFERENCE BETWEEN AMOUNT OF NET RECEIPTS AND AGGREGATE AMOUNT OF REQUIRED PAYMENTS.—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. *Beginning in fiscal year 2002 and each year thereafter, such amount shall be made available to the Secretary, out of any other funds in the Treasury not otherwise appropriated and without further appropriation, for obligation or expenditure in accordance with this section.*

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