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Payments in Lieu of Taxes (PILT): Section 6902 Payments

Introduction

Several federal programs compensate local jurisdictions for the presence of nontaxable federal lands. The widest-ranging program is the Department of the Interior's (DOI's) Payments in Lieu of Taxes (PILT) program. PILT compensates units of general local government for selected lands administered by several federal agencies. Units of general local government typically are referred to as *counties*. P.L. 118-42 provided \$621.6 million in funding for PILT for FY2024, with \$621.2 million paid to more than 1,900 counties in 49 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The remaining \$0.4 million was for program administration.

PILT funding is allocated under three payment mechanisms—Section 6902, Section 6904, and Section 6905—corresponding with the sections of law (31 U.S.C. §§6902, 6904, 6905). Section 6902 payments account for nearly all of the funding disbursed under PILT. Section 6904 and 6905 payments are provided under selected circumstances, generally account for less than 1% of PILT payments, and are made to a minority of counties (most of which also receive Section 6902 payments). This product discusses Section 6902 payments. Issues for Congress center on the types of lands that should be covered by PILT and the amount and type of funding.

Payment Formula

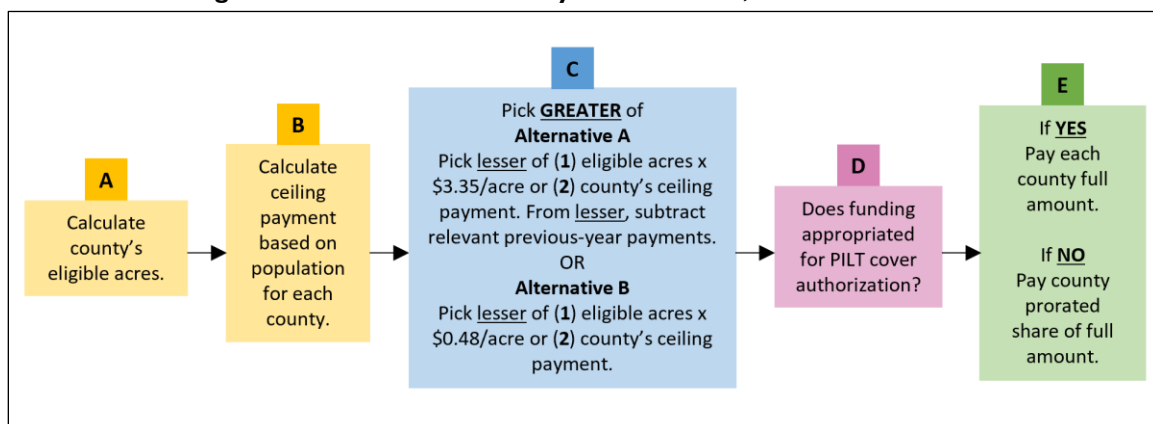
Section 6902 payments are made to counties pursuant to a formula provided in statute (**Figure 1**). Several factors are used to calculate the authorized PILT payment amount for a county: entitlement land and per acre payment rates, population-based payment ceilings, prior-year non-PILT payments, and inflation. These factors are described below. Additionally, the level of funding available each year for PILT payments determines whether counties receive the fully authorized payment amount.

Entitlement Land and Per Acre Payment Rates: Lands eligible under PILT are referred to as *entitlement lands* in statute (31 U.S.C. §6901) and include federal lands

- in the National Park System;
- in the National Forest System;
- administered by the Bureau of Land Management;
- in the National Wildlife Refuge System withdrawn from the public domain;
- dedicated to the use of federal water resources development projects;
- used for certain dredge disposal areas;
- located near Purgatory River Canyon and Piñon Canyon, CO, and acquired after December 31, 1981, to expand the Fort Carson military reservation;
- on which are located semi-active or inactive Army installations used for certain purposes; and
- acquired per the Southern Nevada Public Land Management Act (P.L. 105-263).

The first step in calculating authorized payments is determining the number of entitlement acres within a county, which is the responsibility of the various federal agencies that administer the lands (**Figure 1**, Step A). Taking into account a *population-based payment ceiling* as described below (**Figure 1**, Step B), a county's authorized payment is calculated by multiplying the number of entitlement acres by one of two per acre payment rates—a higher rate offset by *prior-year non-PILT payments* (Alternative A) or a non-offset lower rate (Alternative B) (**Figure 1**, Step C). The higher amount is the authorized payment.

Figure 1. PILT Section 6902 Payment Formula, with FY2024 Rates



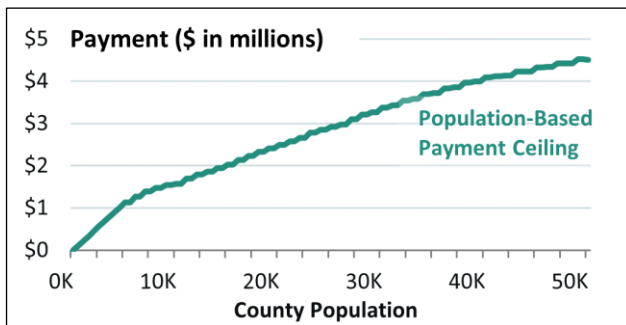
Source: CRS, with data from 31 U.S.C. §§6901 et seq. and DOI, *Fiscal Year 2024 Payments in Lieu of Taxes National Summary*.

Population-Based Payment Ceiling: The law limits the payment a county is authorized to receive based on a *population-based payment ceiling*. This ceiling is calculated by multiplying a county's population by a corresponding per capita payment rate (**Figure 1, Step B**). As a county's population increases, the per capita payment rate generally decreases, although the ceiling generally increases (**Figure 2**).

For counties with a population of 5,000 or larger, the population is rounded to the nearest 1,000. For counties with populations smaller than 5,000, the actual population is multiplied by the per capita rate for a county with a population of 5,000. Counties with populations greater than 50,000 have the same ceiling as counties with populations of 50,000.

Figure 2. Population-Based Payment Ceiling, FY2024

Figure is interactive in HTML report version and shows per capita payment rates.



Source: CRS, with data from DOI, *Fiscal Year 2024 Payments in Lieu of Taxes National Summary*.

Prior-Year Non-PILT Payments: The PILT formula accounts for counties receiving certain other federal land based payments. Under Alternative A, PILT requires the amounts received in the prior year pursuant to these payments to be subtracted from the payment amount calculated. Prior-year payments are considered from several federal programs identified in statute (31 U.S.C. §6903(a)). Prior-year payments are subtracted only under Alternative A and only when a state has not implemented *pass-through laws* (**Figure 1, Step C, Alternative A**).

States may have *pass-through laws* that require federal payments under selected compensation programs to automatically pass through the county to specified local jurisdictions or districts (such as school districts). Only prior-year payments under other programs made at the county level are deducted during Alternative A calculations; payments subject to pass-through laws do not count as prior-year payments and are not deducted.

Inflation: Per acre payment rates used in Alternatives A and B and per capita payment rates used for population-based payment ceilings are adjusted for inflation annually based on the Consumer Price Index (31 U.S.C. §6903(d)).

Alternative A or Alternative B: A county's authorized payment is the higher of either Alternative A or Alternative B. Alternative A has a higher per acre payment rate but accounts for prior-year payments, which are subtracted during the payment calculation. Alternative B has a lower

per acre rate, but prior-year payments are not subtracted. Under both alternatives, if the product of multiplying the number of entitlement acres by the per acre payment rate is greater than the population-based payment ceiling, the population-based ceiling is used to calculate a county's authorized payment (**Figure 1, Step C**).

Appropriations

The DOI Office of the Secretary calculates authorized PILT payments each fiscal year pursuant to the statutory formula. The amount available for disbursement depends on how much funding is appropriated for PILT (**Figure 1, Step D**). Over the years, PILT has been funded through either discretionary or mandatory appropriations or both. In recent years, for instance FY2018-FY2024, PILT generally has been funded through mandatory appropriations at the full authorized level. For many of the earlier years of the program, including FY1995-FY2007, PILT received discretionary appropriations that were not at the full authorized level. In years when funding for PILT payments was less than the authorized amount, county payments typically were prorated (**Figure 1, Step E**). The amount of proration depends on the difference between the authorized and appropriated amounts. For example, a county's prorated payment can be substantially less than its authorized payment if there is a substantial difference between the authorized and appropriated amounts.

Appropriations laws also have provided other terms and requirements. For example, they sometimes have included provisions directing payments to counties to be made proportionally if appropriated funding is insufficient to cover full authorized payments, prohibited county payments of less than \$100, and authorized the Secretary of the Interior to adjust payments to counties to correct for prior overpayments or underpayments.

FY2024 Payments and FY2025 Status

For FY2024, Section 114 of Division E of the Consolidated Appropriations Act, 2024 (P.L. 118-42), provided for PILT to be funded at the authorized amount. As noted, under the law, a total of \$621.6 million was appropriated, with up to \$0.4 million of the total for program administration. DOI issued the FY2024 PILT payments in June 2024.

For FY2025, the Full-Year Continuing Appropriations and Extensions Act, 2025 (P.L. 119-4), generally provided appropriations under the terms and conditions in pertinent FY2024 appropriations laws, unless otherwise excepted. The FY2025 law did not contain a specific exception for PILT. In FY2024, DOI calculated the PILT payment at the full authorized amount. In recent years, DOI typically announced the total payment and the disbursement of the payment to counties in June of the pertinent fiscal year.

For more information, see CRS Report R46260, *The Payments in Lieu of Taxes (PILT) Program: An Overview*.

Carol Hardy Vincent, Specialist in Natural Resources Policy

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