

# **Recommendations for Making Payments to States and Counties**

## **Report to Congress**

Submitted by Forest Counties Payments Committee

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The *Recommendations for Making Payment to States and Counties Report to Congress* was written and edited by members and staff of the Forest Counties Payments Committee.

# Executive Summary

## Introduction

The Federal Government has recognized its responsibility to compensate State and local government for lands it sets aside to benefit all Americans. It does this through a variety of payment statutes and grants, many of which may have specific requirements for their use. Communities adjacent to Federal lands have come to depend on these payments to provide education and transportation services to their citizens. Public lands have played an important role in the economies of many communities, as well as providing amenity values that contribute to the quality of life of many residents and visitors.

The public lands, in turn, have benefited from adjacent communities. Local citizens have been an important source of assistance for firefighting. Volunteer firefighters are often the first to arrive at the scene of wildfires, and extinguish many fires quickly. Search and rescue organizations provide life-saving services for visitors to national forests and the Revested Oregon and California Grant Lands (O&C lands). Local residents have historically provided much of the labor for forest management operations and lumber manufacturing. Local communities have been important partners with Federal agencies constructing recreation facilities, performing important watershed restoration actions, and implementing wildlife and fish habitat projects. Thus, an interdependent relationship exists between public lands and adjacent communities.

Concerns about fair and equitable compensation, healthy rural economies and good schools, and costs and benefits to communities adjacent to public lands have been the focus of several studies over the past 50 years. Directed by Congress, this study presented by the Forest Counties Payments Committee provides a long-term recommendation for making payments to States and counties. It presents information provided to the Committee by elected officials and the public from 10 listening sessions held around the country. This study also discusses the importance of Federal payments to local government finances and to education. The findings and recommendations support the continuation of collaborative efforts underway as a part of the Secure Rural Schools and Community Self Determination Act, P.L.106-393—the most effective means to find common ground on forest management issues are local efforts.

## Highlights

### ***Recommended Payment Method***

**Reauthorize P.L. 106-393 With Amendments:** After considering eight alternatives, the Committee believes that many of the provisions of the interim legislation, P.L. 106-393, provide adequate payments. Congress has already debated and agreed on many aspects of the current legislation, which will expire in 2006. However, to improve the legislation, other provisions need to be added. Specifics of the recommendation are presented in Chapter IV.

### ***Findings***

Several important findings emerged during the course of gathering information and taking input from the public. They are discussed further in Chapter V, as well as within the important observations in Chapter VII. Some of the more significant findings follow:

- Rural schools are still highly dependent on Federal revenue sharing payments.
- About 39 percent of the revenue-sharing payments from the Twenty-five Percent Fund and P.L. 106-393 is spent on schools.
- Federal payments under the Secure Rural Schools and Community Self Determination Act and the Twenty-five Percent Payments Act are not reaching some local schools as intended.
  - When all methods of allocating the school portion of payments by States and counties are considered, it is determined that 63 percent of the money from P.L. 106-393 and the Twenty-five Percent Fund has no direct effect on the budgets of school districts in the counties where these public lands are located.
- Schools that did receive additional funds restored or kept education programs that would have been lost without those payments.
- Loss of historical revenue sources has caused some counties to raise taxes, at a time when higher-paying jobs have been lost in some communities.
- The areas of greatest expense to counties from the presence of Federal lands are search and rescue, law enforcement, road maintenance, and fire control.

- In the first year of implementation:
  - Seventy-six percent of eligible counties elected to receive payments totaling \$448 million (including Title II designations).
  - \$32.6 million was designated for Title II projects on Federal lands.
  - \$20 million set aside for Title II projects on national forests generated an additional \$10.6 million in other funds.
  - A total of 650 projects were developed on national forest and O&C lands with Title II funds.
  - The majority of projects accomplished were watershed and wetlands restoration, noxious weed eradication, recreation trails, road maintenance, and fish habitat improvement.
  - Seventy-two percent of all projects on national forests used contracts to accomplish work, creating a positive impact on local economies.
- Counties designated a total of \$43 million, or 57 percent of their elections, to Title III projects.
  - Categories receiving the greatest number of projects were search and rescue, forest related educational opportunities, and county fire prevention and planning.
  - The total payment available under P.L. 106-393 influenced whether a county elects only Title III projects, or a combination of Title II and Title III.
- Payments made under the 1908 Twenty-five Percent Act were not intended as compensation for loss of property taxes due to Federal ownership, but as grants to mitigate the effects on local communities from lands being retained in Federal ownership.

## **Recommendations**

This report contains specific recommendations for the payment method, as well as recommendations related to issues identified in the direction from Congress to the Committee. Some of the recommendations are included here. A complete list can be found in Chapter V.

- Retain payment levels established under the Secure Rural Schools Act (P.L. 106-393).
- Provide statutory language prohibiting States from offsetting State education dollars with Federal forest payments.
- Future payments made to States and counties should not be subject to annual appropriations, and should be fixed at levels established under P.L. 106-393 for the first 10 years.
- Allow more flexibility for local governments to spend the non-school portion of Federal payments.
- Title III should be continued under long-term legislation, and categories expanded to allow for expenditure of funds for non-reimbursed services provided to public lands by local governments.
- Long-term payment legislation should contain provisions for resource advisory committees.
- The Forest Service and the Bureau of Land Management should initiate regulations to clarify administrative questions to provide consistency for Titles II and III.
- Congress and the administration should consider designating additional funds from other sources for use by resource advisory committees, especially in those national forests and counties where available dollars for Title II projects are limited.

## Acknowledgements

The Forest Counties Payments Committee would like to express its appreciation to the United States Department of Interior (USDI) Bureau of Land Management, and the United States Department of Agriculture (USDA) Forest Service. Both agencies provided funding to the Committee, logistical support for public listening sessions, and information pertaining to implementation of P.L. 106-393. The International Programs and Freedom of Information Staff of the Forest Service assisted the Committee with administrative support, office space, and processing of Federal Register Notices to inform the public of meetings. Computer support was provided by Pat Micielli of the Forest Service, and the Committee's Web site was developed and supported by Bill Disbrow, also with the Forest Service.

Historical information and important literature was made available from the files of the Congressional Research Service, the Pinchot Institute for Conservation, and the Association of Oregon Counties. Judy Keen, from The National Agricultural Library, assisted the Committee in locating publications important to its research. Court decisions pertaining to Federal payments were made available by the USDA Office of General Council, and reviewed by Kevin Davis, Attorney to the Association of O&C Counties, and Special Counsel to the Association of Oregon Counties.

The Government Printing Office provided invaluable assistance in developing the Committee's Interim Report to Congress. John Tobiason, of the GPO, assisted with

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The Committee would like to express its gratitude to congressional staff, especially those from the committees of jurisdiction. Majority and Minority staff from the Senate Energy and Natural Resources Committee assisted with briefings and review of documents developed by the Committee. Staff members from the House Resources and Agriculture Committees were especially helpful in contacting congressional members who had an interest in the work of the Committee and scheduling briefings with their representatives. The Committee would like to express special appreciation to Senator Larry Craig, Senator Tom Daschle, and Senator Ron Wyden, and their staff, for the time they took to meet with Committee members and the executive director to provide feedback and guidance. Members of Congress, through their representatives, attended public listening sessions, assisted with logistics, and provided input to the public record.

Elected officials and the public provided significant amounts of information to the Committee. The members of the Forest Counties Payments Committee would like to thank those who took the time to respond to information requests, and provided testimony at listening sessions. Every effort was made to provide opportunities for input, and the Committee attempted to address issues presented to it.

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# Chapter I: Report of the Forest Counties Payments Committee

The Federal Government is the largest single landowner in the United States. It currently owns 657 million acres, about one-third of the Nation's entire land area. Federal lands comprise about 48 percent of the land area in 11 western States, and almost 67 percent of Alaska is federally owned. The Federal Government owns about 5 percent of the land area in the remaining 38 States. The presence of federally owned land can have profound effects on the fiscal and economic base of a community, as well as on its social fabric. These effects can be both positive and negative. As the Federal estate was reduced from a total of 1.8 billion acres to its current size, numerous laws were passed to offset the impacts from these lands on States and local communities, and to compensate local governments for the loss in tax revenue. There are 21 separate statutes that provide some form of payment to State and local governments from public lands and federally owned natural resources.

## Introduction

In 2000, Congress passed the Secure Rural Schools and Community Self Determination Act, Public Law 106-393. It is considered to be one of the most significant natural resource laws passed in the last 20 years. The act restored historical payment levels made to States and counties from the Federal Government for road and school purposes. Under certain conditions, it provides for the creation of citizen advisory committees, public lands projects, and county projects that meet specific criteria. During the 1990s, Federal payments to States, local governments, and schools, which are mandated through several laws, were being severely affected by reductions in receipts collected from the sale of timber on the national forests and certain BLM lands. These receipts, as well as the economies supported by the harvest of timber, were critical to rural education, transportation, and local economies. Payments to many counties and schools from receipt collections under the Twenty-five Percent Fund Act of 1908 (16 USC. 500), declined by an average of 70 percent from 1986 through 1998 (Appendix C). The Secure Rural Schools and Community Self Determination Act provides for a 6-year period to test new concepts for allocating funds, and for participation by citizens who have a vested interest in management of the public lands. However, the act is not permanent, and expires in 2006 unless Congress passes new payment legislation.

In order to advise it on a long-term solution for making payments to States and local governments, Congress created, under separate legislation, the Forest Counties Payments Committee. In accordance with Public Law 106-291, the Committee is to recommend solutions to Congress for making "adequate" payments to States and counties where national forests and Oregon and California Grant Lands exist. The Committee is comprised of seven members, two who are appointed by the President pro tempore of the Senate, and two appointed by the Speaker of the House of Representatives. The remaining three members are from the Executive Branch, and represent the White House Office of Management and Budget, USDI

Bureau of Land Management, and the USDA Forest Service. Names of Committee members and their affiliation are provided at the front of the report.

This report provides a long-term recommendation to Congress for making future payments to States and counties. It also provides information and recommendations to Congress and the administration about certain Federal payment programs, the source of those payments, and the effect that national forests and O&C lands have on local communities. In developing its recommendations, the Committee considered the following areas specified in the legislative direction:

- a. Evaluation of methods by which payments are made to eligible States and counties.
- b. Consideration of the impact on States and counties of revenues from historical multiple-use of Federal lands.
- c. Evaluation of the economic, environmental, and social benefits that accrue to counties containing Federal lands.
- d. Evaluation of the expenditures by counties on activities on Federal lands, which are Federal responsibilities.
- e. Monitoring and reporting of payments made to eligible States and counties.

During the process of gathering information, the Committee received comments about the loss of potential taxes from Federal lands. The Federal Government does not pay taxes on property it owns, which was established under the Doctrine of Tax Immunity by the Supreme Court in *McCulloch vs. Maryland* in 1819. A number of comments were received about the adequacy of payments to counties from the Payments in Lieu of Taxes Law (PILT). This report does not make recommendations about PILT, but does provide information about the effects of P.L. 106-393 on PILT payments, and compares the combined payments of those two statutes on the tax value of Federal lands for a sample of counties.

The Committee found strong evidence that payments made under the 1908 Twenty-five Percent Payments Act should not be considered as in-lieu tax payments. There is good reason to believe Congress intended that payments made under the Twenty-five Percent Fund be considered as grants, or compensation, to inhabitants of local areas for impacts associated with the presence of Federal lands. In other words, for economic and private development opportunities forgone. The Committee reviewed rulings by State appeal and superior courts, and Federal District and Appeal courts, regarding the intent of Congress when it passed the 1908 Twenty-five Percent Act. The courts consistently ruled that Congress did not intend that payments made to States and counties under the 1908 Act be regarded as “in-lieu” tax payments.

### ***Previous Studies***

The Committee reviewed and evaluated numerous studies about the adequacy of Federal payments to local governments, costs and benefits of public lands to communities, and the impacts of Federal lands on local communities. Both Congress and the Executive Branch have investigated these issues in studies that date back to 1943. Several of these studies evaluated similar issues, but reached very different conclusions. Virtually all of the studies recognized that the presence of Federal lands can have an impact on local communities, but they disagreed on the nature of the effects and the solutions. Also, in at least one comprehensive study on the equity of Federal payments to local governments, significant benefits were attributed to local economies from the level of commodity production that was occurring, and would likely occur well into the future. Significant benefits from improvements constructed and maintained by the Federal Government, primarily transportation systems, were considered to be benefits derived by local communities. These benefits, if they did exist, were not sustained over time. Commodity programs that benefited manufacturing industries were reduced significantly from approximately 12 billion board feet annually in 1980, when the Advisory Commission on Intergovernmental Relations (ACIR) study was completed, to current day levels of 1.7 billion board feet. Benefits from transportation systems mentioned in a previous study have experienced a similar decline, where about 1,000 miles of roads are closed to passenger cars each year on the national forests because of unsafe conditions, and more than 1,000 bridges are substandard and in need of replacement. This illustrates the difficulty in quantifying, with any confidence, the costs and benefits that State and local governments receive from the presence of public lands;

unforeseen circumstances make it a moving target. However, the Committee attempted to evaluate the issue, but used a different approach than previous studies.

### ***The Case for a New Approach***

For many years, local governments and schools adjacent to national forests received very predictable levels of funding that were important for maintaining quality education and transportation systems in their communities. The Committee listened to many accounts from elected officials and the public about the difficulties they faced in the past 10 years in providing educational services and opportunities to the children in their communities. In several cases, county and school officials explained that the fiscal impacts are the result of a set of connected actions. The loss of traditional manufacturing industries removed an important component of own-source revenues that local governments depend on for funding basic services such as law enforcement, medical, social services, and transportation systems. At the same time, payments to States and local governments from receipts collected on the national forest and O&C lands were declining significantly. The combination of reduced own-source revenues, along with reduced Federal payments, created significant financial hardships for many local governments. The Committee was interested in how communities attempted to mitigate these financial impacts.

From information submitted to the Committee, it is apparent that communities pursued several strategies to compensate for fiscal losses. In a general sense, they either raised taxes, or reduced services. Several county officials indicated they raised property taxes to the maximum allowable under State law. According to information submitted by the Bolle School for People and the Environment, this compounds the financial burden to taxpayers. People who lost wages from the closure of wood manufacturing facilities were now paying higher property taxes to maintain basic services.

The laws in some States do not permit increases in property taxes without voter approval. In those situations, or where tax rates are at their upper limit, the only solution is to reduce services. The Committee heard numerous accounts from local officials and people living in forest communities about the unsafe condition of roads where school buses had to travel daily to transport children to school. An official from Mono County, CA, told the Committee the only hospital facility in the county had to be closed, due to the loss of historical revenues.

The examples presented to the Committee about the condition of education in some rural communities are of particular concern. There is no question that Federal payments from public lands receipts were critical for funding education programs and facilities in rural areas. Various formulas used by States to allocate State funds to their school districts may have increased the importance of the Federal payments. If State funds were allocated on a per-student basis, then schools that lost enrollment due to out-migration of families who lost jobs from mill closures would realize reductions in State funding. It is clear the Secure Rural Schools and Community Self Determination Act provided funding at a critical time when reduction of education programs and school closures were being contemplated in most forest communities. However, the potential benefits to education in some rural communities

have been reduced substantially where States have reduced State education funds by supplanting them with the Federal dollars. Lawsuits in the States of Washington and Oregon have challenged the way those States have allocated Federal payments they received.

The following chapters in this report provide a discussion of the historical relationship between the public lands and communities, and an evaluation of payment options considered and recommended by the Committee. There are also a number of findings and related recommendations. In some cases, the committee was presented with information that it believed should be provided to Congress, but without a specific recommendation. This information is presented in a separate chapter.

## Chapter II: Communities and Federal Forest Lands, the Historical Context

Much has been written about the history and purposes of the national forests and the O&C lands. As a result, there are differing interpretations about what Congress intended when it passed laws creating the forest reserves and later designating them as national forests, and when legislation was written to direct the management of the O&C lands. The Committee reviewed publications, judicial interpretations, legislative history, and interviewed knowledgeable individuals to better understand the intended purposes of these lands. This report will not attempt to describe all of the history behind the creation of national forests and the O&C lands. Other publications better serve that purpose. Instead, this chapter will briefly describe some of the key aspects and purposes of these lands as the committee came to understand them.

Of particular interest to the Committee, for the purpose of this report, is the relationship between local communities and the Federal lands. A review of many documents and publications revealed an interdependent relationship between many communities and the adjacent public lands. This relationship was recognized by Congress during debates on the creation of forest reserves, national forests, and the O&C lands. Subsequent laws contained language that attempted to protect communities, or ensured their sustainability, along with the sustainability of the forests. Therefore, it is important to understand the history of these relationships that were established through statute, regulation, and practice.

### Communities and Forest Reserves

National concern over western public lands began to surface in the 1860s, following passage of the Trans-Continental Railroad Act and the Homestead Act. These acts combined to encourage the construction of a railroad to the west coast and to offer free homesteads to citizens who would build homes and settle on the land. These actions greatly accelerated the transfer of public land into private ownership. During the 19th Century, one-half of the Nation would be transferred into private ownership in 160- and 640-acre parcels through land sales, homesteading, and grants to railroads and to States. Railroad grants were in 40- to 80-mile-wide strips along the rights of way. As a result, the railroads controlled vast tracks of land. For example, the Northern Pacific Railroad controlled 22 percent of the State of Montana. In all, about 1.1 billion acres were transferred from the public domain into private ownership. It wasn't until 1976, with the passage of the Federal Land Policy Management Act (FLPMA), that Congress formally declared it was national policy to generally retain the remaining 700 million acres of Government lands in Federal ownership (Gorte and Baldwin, 1999).

From 1860 to 1920, the U.S. population grew by 70 million people, and intense pressure was placed on the public domain from settlers moving west in greater numbers. Settlers rode the trains west, settled near the railroads in order to ship their grain products east, and found themselves locked in an interdependent relationship. Not surprisingly, charges of monopoly and speculation spawned nationwide public land debates in and out of Congress during this time period. Also, abuse of the

natural resources, along with large wildfires, captured the attention of newly formed conservation organizations and Congress, and numerous reports were prepared raising these concerns. Every President from Grant forward sent messages to Congress about the question of a forest policy. By 1898, more than 200 bills on forestry had been introduced in Congress and were primarily focused on five areas. They were to:

1. Preserve forests for the protection of navigable rivers.
2. Protect forests from destruction by fire.
3. Protect forests by blocking public access allowed under various land laws.
4. Protect forests by regulating the sale of timber from public lands.
5. Protect forests in order to protect water supplies needed for irrigation of arid western lands.

In 1891, a bill to repeal the Timber Culture Act, and amend various Homestead Acts, was amended in Conference Committee to give the President sweeping executive powers to set aside public forest lands into Federal reserves. The amendment language was as follows:

*“The President of the United States may from time to time set apart and reserve, in any State or territory having public land bearing forests, in any part of the public lands, wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations; and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof. (26 Stat. 1095).”*

The bill was signed into law on March 3, 1891, and the amendment would become known as the Forest Reserve, or Creative Act of 1891. Days later, on March 30, 1891, President Harrison, using his newly granted executive powers, signed a proclamation setting aside the Yellowstone Park Timber Land Reserve, later to become the Shoshone National Forest, as the first Federal forest reserve.

Prior to 1891, lands had been withdrawn from the public domain, but for specific purposes, such as the creation of Yellowstone Park in 1872, and Federal Live Oak Plantation reserves for military shipbuilding.

### ***Defining the Purposes of the Reserves***

It was soon apparent that Congress had not defined the purposes of the new forest reserves in the 1891 law, and immediately set about to clarify the reasons for their existence. Legislation introduced in 1892, by Congressman McRae of Arkansas, was the first effort to define the purposes of the forest reserves. Much of the language in McRae's Bill would be included 5 years later when Congress passed the Organic Act. In the final analysis, this process would take 6 years. In the meantime, lands placed in the reserves were withdrawn from entry under the land laws and no management was authorized. During the next 6-year period, over 40 million acres were placed in the forest reserves by presidential proclamation.

*“While the presidents were reserving lands under the Forest Reserve Act of 1891, comprehensive legislation on the national forest languished in Congress from 1894 through 1896. During this period, as a result of the vague terms of the 1891 proclamation, the reserves were functioning as quasi-parks and were not being managed.”*

However, after 1894, U.S. Marshals used the authority under various trespass acts to slow fire and sheep trespass. On February 22, 1897, President Grover Cleveland, with less than a month remaining in his term, signed proclamations to set aside 21 million acres as forest reserves, as had been recommended by the Forest Reserve Commission appointed by the National Academy of Sciences in 1896. Through these proclamations, the Forest Reserves doubled in size with a single stroke of the President's pen, and without prior consultation with the affected States or their representatives in Congress. Across the West, rural county commissioners, school superintendents, and school boards expressed grave concerns about the withdrawal of these large blocks of public land from settlement and economic development. Some communities were highly dependent

on these lands as sources of wood for homes and forage for livestock (Rupp, 1981). Uncertainty about how these lands would be managed, and what appeared to be a reversal in policy of transferring public domain lands into private ownership created great concerns. All of this generated a public outcry regarding the inability of rural forest counties to provide public school and public road services with a compromised private land base and an inability to expand the local economy and tax base. By the time the Black Hills Reserve was established in 1897, opposition was so great that 30,000 people gathered in Rapid City, SD, in a demonstration condemning the Reserve as disastrous to the economy of the Black Hills (Rupp 1982).

While support for management of the forest reserves was strong, significant opposition to defining the purposes and management of the reserves still existed, especially in the Senate, where western representation on key congressional committees was strong. An amendment offered by Senator Richard Pettigrew of South Dakota helped resolve the fears of communities throughout the West about the management of those lands. A final bill emerged from Congress in 1897, and was signed by President McKinley on June 4, 1897. The law contained the following three purposes for how national forests would be managed:

1. Improve and protect the forest within the reservation; or
2. Securing favorable conditions of water flows; and
3. Furnish a continuous supply of timber for the use and necessities of citizens of the United States.

Members of Congress recognized that significant differences existed between the reserves, to the extent that adequate administrative procedures could not be prescribed through statute. Therefore, sufficient latitude needed to be afforded to the Executive Branch to interpret the purposes of the act, and develop appropriate regulations and policies. This proved to be significant in allowing the Forest Service in 1905, under the leadership of Gifford Pinchot, to put into place the management philosophies and practices that would guide the agency for the better part of the 20th Century. In his book published in 1907 entitled “The Use of The National Forests,” Pinchot summarized the actions of the 1890s as follows:

*“In 1891 Congress authorized the President to establish forest reserves (now called National Forests), and President Harrison created the first one—the Yellowstone—that same year. Congress took this action because the forests of the great mountain ranges in the West were being destroyed very rapidly by fire and reckless cutting. It was realized that unless something was*

*done to protect them, the timber resources of the country and the many industries dependent upon the forest would be badly crippled. So the law aimed to save the timber for the use of the people, and to hold the mountain forests as great sponges to give out steady flows of water for use in the fertile valleys below. At the start there was much opposition to the forests. Often this opposition was just; for although Congress had set apart the lands and their resources it had made no provision for their use or their protection. The timber was simply locked up and left to burn. This mistake was remedied in 1897, when a law was passed which made it possible to use all of the resources and give them suitable protection.”*

From 1900 through 1908, these purposes were further refined and clarified, and the relationship between forest counties and communities was debated and addressed. In 1905, the assistant commissioner of the General Land Office testified before Congress and indicated that the public use of the forest reserves was necessary in order to avoid the hostilities of local communities.

*“The general policy of the Forestry Bureau and of our office, so far as these reserves are concerned, is to utilize them to the largest degree possible consistent with good administration. It is necessary to the successful policy and administration of the forestry work to allow the largest use possible of the reserves consistent with proper protection.”*

During this same era, the difference between national forests (the name was changed from forest reserves in 1907) and national parks was being clarified. In 1913, the Chief Forester in his annual report stated:

*“The national forests are set aside specifically for the protection of water resources and the protection of timber... The aim of the administration is essentially different from that of a National Park in which economic use of material resources come second to reservation of the natural conditions on aesthetic grounds.”*

This understanding by local communities that the national forests would be used for utilitarian purposes, and not set aside for parks, would last until the 1960s, and was the basis for the development and expansion of communities in and adjacent to national forests, especially after 1950, when Federal timber harvests increased substantially (Appendix 4 displays historical harvest volumes). This sustained-yield management approach is clearly set forth by Gifford Pinchot in his 1907 book, wherein he states:

*“National forests are for use by all of the people. Their resources are now used in such a common-sense way that instead of being used up they keep coming. They are for present use, for use a few years ahead, and for use a long time ahead.”*

Even though the purposes of the forest reserves had been clarified in 1897, it was almost a decade later, in 1906 that Congress began to recognize the perceived inequities to rural areas created by the reservation of our national forests. In 1906, the Committee on Public Lands noted:

*“In many instances a large proportion of the lands in organized counties are included in forest reserves, and thereby permanently reserved from settlement and entry under the provisions of the General Land Laws. This condition of affairs works great hardship. If it were not for this permanent reservation the lands would gradually pass into the hands of private individuals, lumbering and grazing industries would be built up and the lands would return considerable revenues to the States and counties in taxes. Under present conditions, however, these vast areas produce practically no revenues to support the local government.”*

To partially offset these perceived inequities, Congress acted in 1906 to set aside 10 percent of all money received from each national forest during any fiscal year, which was to be paid at the end of each year to the State or territory treasury, and to be expended as the State or territory prescribed for the benefit of the public schools and public roads of the county or counties in which the forest reserve was situated.

On May 23, 1908, Congress, after a lengthy debate, approved an amendment to an appropriations bill and increased the payments from national forest lands from 10 percent to 25 percent of revenues received from all activities. An examination of comments and debates during the period from 1890 to 1908 indicates Congress recognized that strong rural communities were essential for the Nation to prosper, and further recognized that viable communities adjacent to the forest reserves, with adequate roads and schools, were essential to the development and preservation of these national treasures. Thus, by 1908, the economic “compact” between rural forest counties and schools and the Federal Government with respect to mitigating the effects of reserving national forests was complete. This 1908 mitigation mechanism functioned effectively for over 75 years (revenues were low between 1908 and 1950), until a change occurred in the values of many Americans about the purposes of the national forests.

The historical philosophy that forests should be managed for their sustained yield of timber began to be replaced by one that emphasized other resources.

The intent of Congress to hold local communities harmless for public land withdrawals was reiterated in subsequent legislation in 1911 (The Weeks Act), in 1914, and in 1958, when the Federal Government imposed the requirement that States would have to grant consent for Federal land acquisitions for purposes of expanding the National Forest System. It was clear, that without guaranteed payments, required approval by States for land purchases, and a Federal commitment to manage forests for their practical use, support in the West for the National Forest System would have vanished. Thus, the “compact with the people” of rural counties to actively manage these lands in a multiple-use manner in perpetuity, and to share the revenues derived from the land, is part of the very foundation of the National Forest System. Both State and Federal courts have ruled that payments made under the “Twenty-five Percent fund Act” of 1908 (16 USC. 500), Payments Act, were not to be considered as payments in lieu of taxes, but as “grants,” or payments as compensation for impacts associated with the removal of land from potential development.

The Forest Service, created in 1905 to manage the national forests, developed an exceptionally effective fire suppression program, provided a steady supply of timber and fiber for housing and expanding the Nation, issued grazing permits to ranchers, developed a variety of recreational opportunities for the citizens of America, and discovered ways to manage and preserve wildlife populations.

While there is no statutory requirement for the Federal Government to ensure community stability associated with national forests, it was the cornerstone of Forest Service practice in the development of the sustained yield concept. In 1914, Regulation S-2 was developed to codify the policy of restricting annual harvest to annual growth on each national forest. That policy was expanded in the 1920s to include provisions to ensure supplies of forest products to local communities (Parry, Vaux, and Dennis, 1987). The most significant recognition by Congress of the relationship between local communities and the national forests was in 1944, with the passage of the Sustained-Yield Forest Management Act (58 Stat. 132). One of the major purposes of the legislation was to promote the stability of forest-dependent communities. In 1963, the Forest Service adopted a timber policy based on even flow of timber. The policy stated:

*“so far as feasible, an even flow of national forest timber in order to facilitate the stabilization of communities and of opportunities for employment” (CFR 221.3(a)(3).*

These actions all served to create a dependency on the resources of the national forests, as well as expectations for future economic stability.

During the 1960s through the 1980s, Congress considered and enacted a series of environmental and forest management laws designed to direct the actions of Federal land management agencies and further define and restrict management approaches on the national forests. In 1960, Congress passed the Multiple-Use Sustained Yield Act. This new act was determined, through court cases, to be supplemental to, but not in “derogation of,” the purposes for which the national forests were established as set forth in the act of June 4, 1897 (Organic Act). In the 1970s, significant court challenges for both the timber and water sections of the 1897 act would be played out. Throughout the 1960s and 70s Congress would act on a wide array of environmental and forest management issues. In general, by enacting the National Forest Management Act (NFMA), National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and the Clean Water Act, Congress provided specific management mandates regarding the application of the multiple-use and sustained yield concepts in our national forests. Numerous court rulings in the 1980s and 1990s further narrowed the management options utilized by the Federal land management agencies. Also, during this era, significant portions of the national forests were designated, through law, as wilderness and wild and scenic rivers. In addition, special management requirements were created for certain wildlife species and roadless areas by administrative and judicial procedures. As a result, the land base available for sustained-yield timber management was reduced significantly.

It would be inaccurate to state that negative effects to local economies are entirely due to reductions in timber from public lands. Market forces certainly played a role, as it did in the early part of the 1980s, where serious effects to rural communities occurred when timber companies defaulted on sales, primarily due to market conditions, and thousands of jobs were lost. Globalization of markets also creates serious effects on rural economies, which are more dependent on manufacturing. However, the Committee believes there is a strong nexus between the downturn in the national forest timber program, reduced receipt collections, and the economic health of many rural communities in the West.

## Revested Oregon and California Grant

The history of the O&C lands can be traced back to the period when settlement of the public domain was at a highpoint. As mentioned earlier, the railroads played an important role in settling the West. One of the regions of the country where attempts were made to increase settlement was in western Oregon. Between 1866 and 1870, Congress granted nearly 4 million acres of land in Oregon to the Oregon and California Railroad Company. In exchange for the land, the company was required to build a railroad through western Oregon, and the lands were to be conveyed to settlers in 160-acre tracts for \$2.50 per acre.

The railroad was built, but the Oregon and California Railroad, and later the Southern Pacific Railroad, did not honor its obligation to sell O&C lands to settlers. As a result, Congress directed the attorney general to enforce the terms of the grant against the railroad. However, the U.S. Supreme Court refused to require forfeiture of the lands still owned by the company, but ordered that any additional sales by the railroad be in accordance with the law. The court also suggested that Congress develop a remedy to the situation. Congress passed the Chamberlain-Ferris Act, on June 9, 1916. The act provided that all grant lands still held by the company be revested in the United States and provided for compensation to the railroad for the O&C lands turned back to the United States

Congress recognized that removing the lands from private ownership would create an impact on the tax base, and on the future development potential of those lands. Also, many local residents felt strongly that schools and transportation systems would suffer because significant public ownership of lands would reduce the tax base. The Chamberlain-Ferris Act therefore established the "Oregon and California Land Grant Fund" within the U.S. Treasury, and provided a method for distribution of income from the lands. Funds were to be distributed in the amount of 25 percent to the O&C counties, 25 percent to the State of Oregon and the remainder to the United States

Payments to the O&C counties and the State of Oregon never materialized, because very little revenue was collected between 1916 and 1926. To assist the O&C counties, Congress passed the Stanfield Act in 1926. The act provided for payments from the general fund of the U.S. Treasury to the O&C counties. The payments were in lieu of taxes which the O&C counties could have collected, had the O&C lands been privately owned. The Stanfield Act

established in lieu payments to O&C counties from a Land Grant Fund that was to be offset by collections made from revenues generated from the O&C lands. Because the O&C counties' share of revenues was insufficient to reimburse the United States for in lieu payments, the act was repealed.

In 1937, Congress passed the Oregon and California Act. The new legislation provided a new system for distributing revenues from the O&C lands, and repealed prior, inconsistent legislation. The act provided that the O&C counties were entitled to a total of 75 percent of all revenues from the O&C lands. The remaining 25 percent was to be available for the costs of administering the sustained-yield program under which the lands were to be managed by the USDI. However, payments to O&C counties would be reduced until the Federal Government was reimbursed for payments it made to landowners who had purchased grant lands from the railroad and subsequently had their lands revested to the Government in 1916. From 1938 to 1951, revenues from the O&C lands were \$30,169,274. Accordingly, 75 percent of those revenues would have totaled \$22,626,956. Reimbursement to the Federal Government, for reasons already stated, plus payments made for in lieu of taxes, resulted in payments to counties in the amount of \$15,126,259.

By 1952, the Federal Government had been reimbursed for all of its investment costs in the O&C lands, and O&C counties began to receive their full 75 percent share that year. At the same time, the counties were presented with a proposal to reduce the amounts paid to them, and provide a portion of their receipts to be spent on the administration of the O&C lands by the BLM and Forest Service. By 1960, the counties were reinvesting one-third of their receipts in recreational facilities, reforestation, forest protection, and general maintenance and operating expenses. The counties have actually received 75 percent of sale proceeds in only one year out of the 65 years since the O&C Act was adopted. By "plowing back" a portion of the revenue to which they were otherwise entitled, the O&C counties raised the productivity of the lands. The present value of the O&C counties' investment in the O&C lands exceeds \$2 billion.

The legislative mandate for the O&C lands provides clear direction for sustainable management of timber resources and community stability. In 1937, when the legislation was passed, there was a genuine concern for jobs and economic stability - the country was at the height of the Great

Depression, and the current science of forestry was towards sustained-yield management. These two factors, along with recognition that the public lands would create a burden on local communities, greatly influenced the language of the act. The actual language of the act best describes the intent of the legislation for lands classified as timberlands.

*“They shall be managed for permanent forest production, and the timber thereon shall be sold, cut and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities.”*

Additional requirements were specified in the 1937 legislation. The following is specifically stated:

1. Timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained-yield capacity shall be sold annually;
2. The lands shall be administered “to provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region”; and
3. “Due consideration shall be given to establishing lumbering operations in [administering] such lands when necessary to protect the economic stability of dependent communities.”

A significant difference exists between the legislative direction for the national forests and the O&C lands. Where the national forests exist under a mandate that requires consideration of multiple resources, the O&C lands are dedicated to perpetual timber production for the benefit of local communities. At least four Federal appeals court decisions have reviewed the 1937 O&C Legislation and affirmed this mandate. “Much of western Oregon developed on the understanding that these lands would provide for the citizenry in perpetuity.” “In 1937, the Congress of the United States promised the people of western Oregon that they could safely invest their lives and fortunes in communities made stable by sustained-yield forestry on the O&C lands.” “The people of Oregon took Congress at its word, and built communities around the promised even flow of timber.” County budgets are highly dependent on revenues from Federal timber receipts, or the “safety net” substitutes paid to counties in recent years. Combined with revenues from Forest Service lands, O&C Act revenues support more than 20 percent of the total budgets of nine O&C counties.

In the private sector, direct employment in lumber and wood products industries accounts for tens of thousands of jobs in the O&C counties. Direct employment in these basic industries results in additional indirect and induced employment. The generally accepted ratio is 1.4 indirect and induced jobs for every direct job in lumber and wood products. This does not include Government employment for several thousands made possible by shared timber receipts.

## Addressing the Impact to Communities

Several events during the 1980s and 1990s brought about significant changes to local economies and Federal payments for schools and roads. A downturn in the lumber market in the early 1980s resulted in a loss of jobs to communities and reduced payments from receipts. However, by 1985, the market was recovering and receipt collections and payments to States and counties had improved. Public concern about the condition of the environment and the health of public forests continued to grow during this period. National and local organizations actively challenged forest management activities using Forest Service and BLM administrative procedures. Both agencies experienced an increase in litigation, which resulted in several landmark court decisions that served to reduce forest management activities and outputs. The resulting restrictions on management actions created a steep decline in timber harvesting during this period.

Resource dependent businesses and industries in forest counties during this time suffered severe losses, resulting in unprecedented closures of small businesses and sawmills. Many rural communities in western States experienced the closure and removal of most or all of their wood-products-based manufacturing facilities and the exodus of their skilled workforces. While not as widespread as in the West, some counties in the eastern United States also experienced reductions in timber manufacturing industries.

Unemployment, mortgage defaults, and related social problems such as divorce, alcoholism, and domestic violence increased in communities impacted by the collapse of the natural resource-based economy. Payments to many counties and schools from receipt collections under the 1908 Act declined by an average of 70 percent during the years from 1986 through 1998.

Congress began to address the problem in 1993, when a safety-net was put into place for selected California, Oregon, and Washington counties in the Northern Spotted Owl Recovery Area under the Northwest Forest Plan. Counties included in the Northwest Forest Plan were protected from their actual decline in 25 percent receipts and limited to a 3 percent decline each year for 10 years.

Unfortunately, this act only protected 70 of the 780 forest counties nationwide from a decline in national forest and O&C receipts (Appendix 3). County commissioners, school superintendents, school board members, and local business persons in the unprotected counties were increasingly more alarmed as their 25 percent receipts and their overall economies declined, in many cases as much as 95 percent. With no Federal relief in sight, by 1998 these interest groups came together and formed an umbrella coalition of national, State, regional, and local organizations known as the National Forest Counties and Schools Coalition. They developed a set of commonly-held principles focused on restoration of sustained multiple-use management of Federal forest lands, to ensure healthy forests and healthy communities. This coalition joined with members of Congress to support enactment in 2000 of P.L. 106-393, the Secure Rural Schools and Communities Stabilization Act. This landmark piece of legislation co-authored by Congressman Allen Boyd (D) Florida, and Congressman Nathan Deal (R) Georgia in the House of Representatives, and Senator Larry Craig (R) Idaho, and Senator Ron Wyden (D) Oregon, was passed by unanimous consent in both the House and Senate before being signed by President William Clinton. This bill provided a 6-year temporary safety-net payment to forest counties and schools at 85 percent of the average of their three highest receipt years under the Twenty-five Percent Fund Act from 1986-1999. It simultaneously provided an additional 15 percent to support either projects on Federal lands (Title II) or on specified county-based projects (Title III). The bill also authorized establishment of diverse 15-person resource advisory committees to recommend projects on national forests and O&C lands using county-allocated Title II funds. Under the law, resource advisory committees (RACs) of balanced local stakeholder groups were encouraged to combine Title II funds with other funds to complete projects of increased scale and positive effect. The resource advisory committee structure included in P.L. 106-393 was the first attempt to create community involvement in directing on-the-ground projects on the national forests on a system-wide basis.

When P.L. 106-393 was passed in the fall of 2000, the Nation had just concluded one of the worst fire seasons in history with 7.3 million acres burned, many homes destroyed, and lives lost. During the fall of 2000, Congress approved the National Fire Plan and appropriated funds to expand firefighting equipment and manpower to rehabilitate and restore fire-damaged ecosystems, reduce fuels, and to work with local residents to reduce fire risk and improve fire protection. In 2001, 17 western Governors and a diverse group of local leaders reached agreement on a 10-year fire plan implementation strategy to reduce the threat of severe fires and promote healthy forests. This strategy called for active forest management, through thinning and prescribed burning, to reduce the unnatural build-up of forest fuels.

However, just 2 years later in 2002, the Nation once again experienced another significant fire season, with many acres burned, more homes destroyed, and additional lives lost. The media was filled with stories of uncontrollable wildfires, loss of life and property. The fuse of public concern about the health and future of our national forests had been ignited. According to information cited by the White House, there are currently 190 million acres of public land and surrounding communities at increased risk from extreme fires. Solutions to these problems are being debated across the country, and there are no simple answers.

One approach that appears to have promise is for people in communities to work together to find solutions. Early indications are that resource advisory committees created under the Secure Rural Schools Act are working well.

Several other examples are worth mentioning. One of the early efforts, the Quincy Library Group in California, was developed because land management activities had almost come to a standstill. They received encouragement and support from the administration during the 1990s, and ultimately received congressional support with passage of the Herger-Feinstein Quincy Library Act. In 2002, a court in Montana ordered the parties in a lawsuit to find a solution over disagreements about logging trees killed by a wildfire in the Bitterroot Valley. They were able to do so. In South Dakota, groups reached agreement on management actions that would be acceptable to them, and their efforts were supported by elected officials. In July, 2002, Senator Tom Daschle (D), South Dakota, then Majority Leader of the Senate, attached an amendment to an appropriations bill which exempted segments of the Black Hills National

Forest in South Dakota from administrative appeal and litigation in order to expedite forest thinning, fuels reduction, and restoration activities. On August 22, 2002, President George W. Bush announced his Healthy Forests Initiative to prevent wildfires and promote stronger forest communities. More than 10,000 people, mostly rural citizens, attended the President's Conference in southern Oregon to show their support for this effort.

An important lesson learned from these efforts is that it is difficult to design a process that works well for everyone—Congress recognized this when it passed the Organic Act in 1897. It is also evident that local communities, and communities of interest, cannot do it alone. They need the support and assistance from State and Federal officials, as well as their elected officials.

It is ironic, that at the dawn of the 21st Century, over 100 years after the creation of the forest reserves, we find ourselves focused again on protecting our forests from devastating wildfires, and concerned about watersheds, wildlife, and the homes and lives of those living on our forest lands—the very same concerns echoed by the Nation 100 years ago. We are engaged in revisiting and re-clarifying

the purposes of our national forests and BLM lands, and defining the management actions that will most effectively lead us toward sustaining these lands for future generations of Americans. At the same time, we must again define how to effectively mitigate the rural economic inequities created when this Nation reserved millions of acres of forest lands and formed our National Forest System.

The history of our national forests reveals a close, mutually beneficial association with local counties and communities in the development and protection of our national forests. The approach of sustained-yield and multiple-use management, accompanied by a system of effective revenue sharing with rural counties and schools, removed opposition to establishing the national forests at the turn of the century and led to strong local support for over 75 years.

Today, our challenge is to take the actions necessary to restore and protect the health and vitality of our public forests and to restore economic and social stability to forest communities through an active program of sustainable forest management. Healthy forests and healthy communities have historically been, and continue to be, essential to the interdependent success and survival of each other.

## Chapter III: Methods Use

The Forest Counties Payments Committee (FCPC), was directed by Congress to consider and evaluate several issues in developing its recommendations to Congress. The timeframe the Committee was given to develop recommendations (18 months), was a key factor in determining what the Committee was able to accomplish with regards to development and evaluation of information. For the most part, information used by the Committee in evaluating subjects identified in the legislation was obtained from previous research, and from information presented by the public in response to specific questions posed by the Committee.

The Committee relied on data from existing studies to the extent possible. Several studies on tax equivalency, cost and benefits of Federal lands to local communities, and the effects to communities from changes in multiple use management were reviewed. New information was developed to evaluate the dependency on Federal payments by schools and counties, and to compare the tax equivalency of Federal lands with the increase in payments from P.L. 106-393 and other Federal payment statutes. The cost and benefit to counties from the presence of Federal lands was evaluated from information gathered through a survey of 118 counties. Data gathering and evaluations were performed by the research unit for Economic Aspects of Forest Management on Public Lands, Rocky Mountain Research Station, Forest Service, and by Committee staff. Data related to implementation of P.L. 106-393 was supplied by the Forest Service and the BLM. Committee staff evaluated the information and provided an analysis included in this report.

The Committee held 10 listening sessions throughout the country to give the public and elected officials the opportunity to present information directly to Committee members, and for the Committee to better understand the issues presented. Listening sessions were held in certain locations to provide adequate geographical representation, and to honor requests by members of Congress. These sessions were published in the Federal Register and notices were placed in local newspapers. A court reporter was used to provide a complete record of oral presentations and discussions at the listening sessions, and is available in a supplement to this report. The location and dates of the sessions are shown on page 19.

Twelve questions were developed to guide the collection of information to be used for consideration by the committee. They are listed on page 19 in this chapter. The public and elected officials were asked to provide comments and information responsive to the questions, or other pertinent information.

Additional outreach and notification included letters to Governors of every State where national forests and O&C lands exist. Letters were also sent to many national, regional, and local groups who represent conservation, industry, environmental, local government, and education interests. Interviews were also conducted with school officials to determine the benefits to education from payments under P.L. 106-393. Business meetings were held in locations around the country and were open to the public. Committee members and staff provided briefings to members of Congress and their staff, and to individuals and groups who expressed an interest. A Web site was established that included information about the work of the Committee, copies of past studies, minutes from listening sessions, and a pathway for providing comments.

### ***Information Collected***

Significant amounts of information exist about issues evaluated by the Committee. Relevant data from the U.S. Census Bureau was used as well as information from existing studies, historical data from the Forest Service and BLM files, and from the research study commissioned by the Committee with the Forest Service. Existing laws and regulations pertinent to the responsibilities of this Committee were also reviewed.

The Committee relied heavily on information submitted by respondents who took the time to provide very detailed accounts about relevant issues in their communities and adjacent public lands. The public was afforded numerous opportunities to provide information and ideas. A total of 92 public and elected officials addressed the Committee in the listening sessions held around the country.

Information about expenditures made under the Secure Rural Schools and Community Self Determination Act (P.L. 106-393), in accordance with legislative direction is included in this report. The interim report submitted to

Congress in May 2002 did not include this information, because data for Titles II and III had not been supplied to the Committee.

The creation of resource advisory committees (RACs), under Title II of the act provides an opportunity to study the long-term feasibility of community collaboration in public lands management. A study plan was developed with the Forest Service, and the Watershed Center located in Hayfork, CA. However, this study plan has not been executed due to funding constraints, and because the Committee is uncertain whether Congress intended for it to pursue such a study.

**Listening Session Locations and Dates**

Pendleton, OR	Aug. 20, 2001
Portland, OR	Aug. 21, 2001
Boise, ID	Nov. 14, 2001
Albuquerque, NM	Nov. 29, 2001
Jackson, MS	Dec. 11, 2001
Tallahassee, FL	Dec. 12, 2001
Reno, NV	April 20, 2002
Rapid City, SD	May 17, 2002
Washington, DC	July 10, 2002
Rhineland, WI	Sept. 27, 2002

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***Forest Counties Payments Committee Public Hearing Questions***

When developing comments, Committee members ask the public to consider the following questions:

1. Do counties receive their fair share of Federal revenue-sharing payments made to eligible States?
2. What difficulties exist in complying with and managing all of the Federal revenue-sharing payments programs? Are some more difficult than others?
3. What economic, social, and environmental costs do counties incur as a result of the presence of public lands within their boundaries?
4. What economic, social, and environmental benefits do counties realize as a result of public lands within their boundaries?
5. What are the economic and social effects from changes in revenues generated from public lands over the past 15 years, as a result of changes in management on public lands in your State or county?
6. What actions has your state or county taken to mitigate any impacts associated with declining economic conditions, or revenue-sharing payments?
7. What effects, both positive and negative, have taken place with education and highway programs that are attributable to the management of public lands within your State or county?
8. What relationship, if any, should exist between Federal revenue-sharing programs, and management activities on public lands?
9. What alternatives exist to provide equitable revenue-sharing to states and counties and promote “sustainable forestry”?
10. What has been your experience regarding implementation of P.L. 106-393, The Secure Rural Schools and Community Self-Determination Act?
11. What specific changes in law, policy, and procedures in the management of public lands have contributed to changes in revenues derived from the historic multiple-use of Federal lands?
12. What specific changes in law, policy, and procedures regarding public land management are needed in order to restore the historical revenues derived from the multiple-use of Federal lands?

## Chapter IV: Payment Options and Recommendations

Eight alternatives were evaluated to develop recommendations that meet the needs of communities and consider the sustainability of national forests and O&C lands. The alternatives were displayed on the Committee's Web site and in its Interim Report for review and comment by the public. The Forest Service, BLM, and Office of Management and Budget were provided the opportunity to make comments and recommendations through their representatives on the Committee.

The following recommendations represent agreement by all members of the Committee, and are in response to information received as a result of extensive public involvement efforts and direction to the Committee contained in legislation. The public presented many comments about past and present payments, and several ideas for developing long-term solutions. The Committee attempted to be responsive to those ideas to the greatest extent possible. Policy issues raised by the public, local officials, and interest groups were also considered when deemed appropriate.

### Alternatives and Criteria

Congress has several options available for making payments to States and counties in the future. However, one option best meets the original intent of payment legislation to mitigate impacts to local governments for the presence of public lands. The recommendation is explained on page 21, and is based on information gathered and evaluated by the Committee.

It is important to keep in mind that the interim legislation will have only been in effect for 2 years when this report is submitted. Information about the effectiveness of advisory committees and requirements for how some payments must be spent should be evaluated over time. Figure 1 shows alternatives considered by the Committee.

#### Figure 1. Alternatives Considered

1. Historic Laws Remain in Effect with Modifications After P.L. 106-393 Expires:
  - O&C Grant Lands Payments
  - Coos Bay Wagon Road
  - 1908, Twenty-five Percent Payment Act
  - Weeks Act
2. Reauthorize P.L. 106-393, with Modifications.
3. Payments Based on Sustainable Economic Asset Value of Resources.
4. Payments Based on Land Value.
5. Payments Based on Tax Equivalency Value.
6. Payments Based on Projected Value of Forest Plan Implementation.
7. Certain Lands Are Managed as Trust Lands for Counties and Schools.
8. Payment Made to States and Counties with No Connection to Receipts.

Several themes emerged early during the public listening sessions, and were consistent issues in almost every location the Committee visited. These themes were developed as criteria to evaluate different payment options. They are important to ensure that recommendations meet the original intent of laws establishing payments to States and counties, and are responsive to direction provided by Congress. They are displayed in Figure 2.

#### Figure 2. Criteria Important to Alternatives

- a. Payments are adequate and stable.
- b. Payment amounts are predictable.
- c. Forest health and sustainability are improved.
- d. Community participation is encouraged.

#### *Adequacy and Stability of Payments*

Many people supplied comments and information regarding the need for payments that do not fluctuate from year to year, and are adequate to meet the educational needs of many rural children. Also, county officials presented information about the poor condition of roads and bridges that are needed to serve their communities. Loss of funding over the past 10 years has resulted in serious public safety concerns. Previous commissions did not identify this as an important issue because Federal timber harvest levels were fairly constant during the 1970s, averaging 10 billion board feet annually. As a result, payments to States and counties did not experience great fluctuations. The Advisory Commission on Intergovernmental Relations acknowledged in their 1978 Report that abrupt changes in national forest program levels could have significant effects on some local

economies - a reality of the 1990s. A downturn in the lumber market during the early 1980s had a slight effect on payments, but was short-lived.

### ***Payment Amounts Are Predictable***

The Committee heard from many county and school officials and from organizations like the National Education Association about the importance of the predictability of payments from one year to the next. Rural schools find it difficult to provide such programs as foreign language and advanced placement courses necessary for students to be competitive when there is little predictability in funding. The “safety net payments” from the Secure Rural Schools Act allowed educators to plan multi-year budgets and retain important education programs that would have otherwise been lost. The same holds true for county and other local governments that must develop budgets for important transportation facilities that are multi-year in nature.

### ***Forest Health and Sustainability***

Legislative direction to the FCPC stated that recommendations should be “consistent with sustainable forestry.” Therefore, alternatives should have some relationship to actions that promote the sustainability of forest resources.

The public felt this issue important, given the responses made to questions posed by the committee. People are concerned about the long-term health of public lands. Wildfires resulting from unnatural conditions in forests have threatened to significantly alter the very resources national forests and O&C lands were created to sustain. Serious safety concerns exist for people who live adjacent to, or visit the public lands, and aesthetic values important to travel and tourism have been severely affected. There is no question that future generations will not have the availability of some of these resources for their use and enjoyment if current trends continue.

### ***Community Participation***

Participation in forest management actions by people who have an interest in, and depend on, public lands is critical to resolving conflicts among various interests. Indications are that resource advisory committees created under the interim legislation will be successful. Discussions with members from several advisory committees revealed they are finding common ground for developing resource management projects. The Committee believes people can work out their differences under the right circumstances. Therefore, a long-term payment alternative should provide citizens the opportunity to be actively involved with Federal land managers in decisions about public lands.

## **Recommended Payment Method**

The following recommendation will go a long way to fulfill commitments made by Congress almost 100 years ago, when it passed the 1908 Twenty-five Percent Payments Act, and later payment legislation for the O&C lands, but with different intended purposes. It will also meet many of the expectations held by communities adjacent to O&C lands and national forests. However, none of the options will completely mitigate the effects on communities when forests are not managed on a sustainable basis. Impacts to local economies, community infrastructure, and reduced services to citizens from loss of manufacturing industries cannot be completely replaced through these Federal payments. Travel and tourism industries are important components to many rural economies, are dependent on public lands for high quality recreation, and are affected when forests are not managed to sustain their aesthetic values. The demand for water from public lands to meet municipal, agriculture, and power generation needs will continue to grow as other sources are depleted. It is unacceptable for our Federal forests to be out of balance ecologically, when, once lost, it may take hundreds of years to restore those values. Significant numbers of people appearing before the Committee at listening

sessions around the country voiced their belief that multiple use management of national forests and O&C lands is critical to sustaining natural resources, and meeting the needs of society.

### ***Reauthorize the Secure Rural Schools and Community Self Determination Act of 2000 (P.L. 106-393), with Modifications***

The Secure Rural Schools and Community Self-Determination Act has accomplished much in a short time. It provides predictability and stability to payments, so that counties and schools can more effectively plan their budgets. Payment levels have been restored to their more historic levels, thus allowing for some schools to keep their doors open, and for counties to provide improved road maintenance that is critical for public safety. If P.L. 106-393 is re-authorized, then the following modifications should be considered:

- Retain provisions for RACs, with changes to membership categories, term of membership, and possible expansion of committee roles;

- Provide for periodic adjustments to payments based on inflation;
- Establish a minimum payment that would increase, should revenues from receipts rise above that amount in the future;
- Minimum payment amounts should be the same as those established for the Secure Rural Schools and Community Self Determination Act (P.L. 106-393), and should be funded from a combination of receipts and treasury funds. Payment methods and amounts should be reviewed every 10 years;
- Counties should continue to have the option of remaining under the 1908 Twenty-five Percent Payment Act, consistent with the provisions described under P.L. 106-393. Continuation of this option should be reviewed every 10 years in conjunction with a review of methods and amounts described above;
- Counties should have greater latitude in the kinds of road activities for which Title I funds can be used. The governing board of any county receiving Title I revenue based on historic payment from the Twenty-five Percent Fund Act of 1908, or from payments under new legislation, should be permitted to allocate whatever portion of revenues received that exceed those necessary for annual operation, maintenance and projects, to offset the cost of law enforcement activities necessary to maintain the county road system (i.e., county road patrol);
- Consider revision of Title III categories for expenditures. An example would be to allow for more flexibility in environmental education programs. Current language requires that these programs be “after school.” There is greater value in making environmental

education programs more broadly available.

Expenditures for law enforcement operations on national forest and O&C lands should also be allowed under Title III;

- Payments would not be subject to annual appropriations. Payments that are intended for education and important rural infrastructure should not be subject to the uncertainties of annual appropriations. The history of appropriations for PILT and Special Education offers good examples of programs that have not been fully funded as were intended, or expected by people who depend on these funds;
- Increase Federal funding for Title II projects. This would provide greater incentives for creating resource advisory committees in locations where historical receipt payments have not been high;
- Federal payments for education and roads are intended to be supplemental to other funds, and should not supplant State, local, or other Federal funds. New legislation should contain language sufficient to ensure that payments accomplish their intended purposes. Prohibition language found in the Individuals With Disabilities Education Act, 20 U.S.C., 1412(a)(18)(C), and the Impact Aid Program Statute (Title VIII of the Elementary and Secondary Education Act of 1965), as amended through August 2, 2002, provides good examples where Congress has included the necessary prohibitions against supplanting. Recommended language to be used in future legislation is presented in Appendix 7; and
- New payment legislation should carry a requirement for some portion of Title I to be used for public education.

## Other Feasible Alternatives

Other payment options are feasible, but may not satisfy all of the criteria, or information is lacking to fully evaluate them. Other alternatives that could potentially provide a long-term solution for payments are:

- Make payments based on Economic Asset Value; and
- Estimate a payment level that has no connection to receipts generated from the public lands, and no requirement for county or public lands projects.

### ***Make Payments Based on Sustainable Economic Asset Value of Resources***

The national forests and O&C lands provide multiple benefits and have tremendous asset value. Management of

these lands for long-term sustainability will ensure that forests remain healthy and continue to provide multiple benefits as they have in the past. However, there have been serious concerns expressed by members of Congress, and the public, about the sustainability of Federal forests. Increases in acreage burned by wildfires, increase in insect infestations and disease, and the spread of noxious weeds all affect the ability of forests to meet the needs of future generations. Decisions we make about the allocation of resources also influence their availability in the future.

The Committee received numerous comments about the condition of Federal lands, and the impacts to local economies from the loss of tourism and forest products manufacturing. Managed on a sustainable basis, public

lands have the potential to generate substantial payments to local governments and provide significant economic contributions to many rural communities. In a way, payments then become a by-product of good management. Previous commission studies attributed substantial benefits to local communities from the development of consumptive forest resources. The assumptions at that time were that production levels would continue, and possibly increase, well into the future.

However, during the last 10 to 15 years, economic and social values associated with forest resources have changed. Concern about ecosystem health has created new methods for managing forest resources. At the same time, new technologies and markets have created good opportunities for industries that add value to forest products that were unimaginable a few years ago.

This alternative establishes a value for consumptive forest resources based on allocation decisions made in forest plans. A payment to states and counties is then calculated based on the receipts that would be generated from development of these resources at levels established in forest plans. Payments would be made, regardless of whether the sale and collection of receipts for these resources actually occur. If approved levels of production were not achieved, then the balance of payments from lost receipts would be made up with treasury payments.

There are several advantages to this approach. First, State and local governments are not negatively impacted by unachieved production levels. Many factors influence the ability to meet objectives. Budget and program levels developed by agencies, budget levels appropriated by Congress, and legal challenges can all influence production levels. Secondly, there would be a greater incentive for Congress to address policy issues and provide adequate budgets to achieve forest plan levels. This would minimize payments that would come from the Treasury to make up for the loss of receipts.

Calculations would only be made for consumptive resources, which include timber and other forest products such as grazing, water, minerals, energy, and some recreation activities. Non-consumptive resources include biodiversity preservation, research and knowledge, and some recreational activities. Models exist for calculating non-consumptive values, but they are not as easily determined, because markets have frequently not been established. This is due in part because user preferences differ, and many forest resources are interrelated from a

biological, physical, and economic nature, irrespective of geo-political boundaries. Consideration of these values is included under the Forest Planning Alternative, which was not recommended for reasons explained later in this chapter.

In some cases, a resource may have more than one value associated with its use. Water is a good example for which there are numerous valuations depending on the intended use, whether it is power generation, irrigation, or domestic supply. There are also different values associated with the same use. Prices charged by the Western Area Power Administration vary significantly from market rates, which tend to be higher. However, market rates would be the preferable method for establishing values of all resources as they more accurately represent the true value of the product, and are a more realistic estimate of assets that would have contributed economic benefits to local communities if they had been in private ownership.

A previous study completed in 1985 (Huebner, Hickman, and Kaiser), addressed a variation of this alternative where the tax value of resources, and land, were used to calculate a payment to counties. A floor, or base funding level, was established using historical payments from receipts. Payments would be made directly to counties, and would never be less than the floor level. Payment amounts would be established by the local taxing jurisdiction, and there would be no restrictions placed on the use of funds, only that they be used for public purposes. The source of funds to pay for this method would be from the National Forest Fund, which would continue to collect receipts as authorized by 16 U.S.C. 499.

The study sample included eight states from different regions of the country in order to compare various State tax laws, and determine the effects on historic payments. Payments to counties made under the PILT were calculated to determine net payment effects. This study provides a good indication of effects from adoption of this alternative, as well as the tax equivalent alternative rejected by the Committee. While comparing only eight States, the study concluded that imposing a tax value on land and resources without a base level would reduce overall payments to counties by more than 50 percent. It also concluded that there was great variability between State tax laws, and that all States would have to be evaluated to fully understand the implications of this approach. In addition, many counties in the Rocky Mountain Region lose money under this approach, because of the effects to PILT payments. The study also recognized the difficulty in valuing some resources. Time and cost to assess land and resource values,

as well as who would pay for the assessments, were raised by State and county personnel.

It is likely that applying parameters from the Huebner Study to present-day property values, with a new floor level similar to what was used in P.L. 106-393, would result in significantly higher payments to counties than are currently provided under P.L. 106-393. However, estimating an amount is difficult for the same reasons cited in the 1985 study.

Legislation enacting this alternative should include the same provisions against supplanting Federal funds as described in the recommended alternative.

***Make Payments Based on a Pre-Determined Amount with No Connection to Receipts Generated from Public Lands, and No Requirement for County or Public Lands Projects***

Some input was received from the public that suggested payments made to States and counties should have no relationship to receipts generated from the public lands. This method was proposed by the Forest Service in 1998, and was an option featured in at least one bill in congress. This alternative was evaluated without including provisions for resource advisory committees, because they were not featured in original proposals.

The following features are included as a part of this alternative:

- Provide permanent, fixed payment based on 76 percent of the average of the three highest payments received during 1986-1995;
- The connection between receipts from O&C lands and National Forests, and payments to States, is completely severed;
- Payments are dependent on treasury funds; and
- There is no requirement for counties to spend any portion of their payments on public lands projects, and no requirement for creating resource advisory committees.

Some groups and individuals commented that payments should have no relationship to receipts, or should be

“decoupled.” The Southern Appalachian Forest Coalition, the Bolle Center for People and Forests, and the Wilderness Society include some of the groups who made this recommendation. In considering this issue, the Committee does not find strong evidence to support the notion that revenue-sharing payments by themselves create a “perverse incentive” for cutting more timber. Timber harvest levels from public lands have a greater effect on local economies than do receipt payments. Annual harvest levels on national forests and O&C lands are influenced more by court rulings, timber program levels requested by the agency, and appropriations by Congress. A review of Forest Service annual reports confirms this.

Two of the four criteria, predictability and stability of payments, are assumed to be achieved under this alternative if payments are off-line and not subject to annual appropriations. There are several examples where the Administration has not requested full funding for important payment programs, and the Congress has not appropriated the full amount as authorized. Examples include PILT and funding for Special Education. There is no assurance that another payment program subject to annual appropriations would fare any better. Some members in the Senate and House of Representatives of Congress have attempted to correct the funding level for PILT. However, these bills had not been acted on at the time this report was finalized.

The other two criteria, Forest Sustainability and Community Participation in Management Activities are not addressed through this alternative. Resources are sustained, for example, through activities that help reduce wildfire occurrence and severity, restore degraded streams, and educate people about appropriate management activities. Community participation in developing these projects creates a sense of ownership among communities of interest with the potential to change the paradigm of controversy and gridlock that has been prevalent during the past 20 years. Based on these reasons, the committee can find no basis to recommend this alternative.

If Congress chooses to adopt this approach in future legislation, a prohibition against supplanting Federal funds as described in the recommended alternative should be included.

## If Congress Does Not Pass New Payment Legislation

If Congress does not act to authorize the recommendations contained in this report, payment authorities would revert to the historical statutes beginning October 1, 2006. For National Forests, the Act of May 23, 1908 (25 percent payments), and Section 13 of the Act of March 1, 1911 (Weeks Act) would apply. For O&C lands and Coos Bay Wagon Road lands, the acts of August 28, 1937, and the act of May 24, 1939, would apply respectively. If that happens, certain measures should be enacted to mitigate the effects to local communities. Appendix 6 provides trend information on receipts and estimated payments under the Twenty-five Percent Payments Act since P.L. 106-393 was passed.

For most counties and local governments, reverting to a payment system based entirely on receipts would see a return to the conditions that existed prior to enactment of the Secure Rural Schools and Community Self Determination Act. Receipts will remain low as long as program levels on public lands are affected by legal challenges, inadequate funding to meet forest plan levels, and changed conditions from wildfires and insect and disease infestations.

Previous studies have recognized the impacts that can occur to local government finances when Federal agencies

make abrupt changes to program levels that can affect receipts (ACIR, 1978). Administrative appeals and litigation of activities can delay implementation of projects for one or more years. Program levels may also be affected by budgets and market conditions. When this happens, the stability and predictability of payments for education and transportation systems become uncertain.

The following provisions would be needed to mitigate the impacts associated with payments based solely on receipts.

- Agency programs and budgets should reflect forest plan levels. This has not been the case with past budget requests by the administration, nor in appropriations made by Congress. As a result, significant “backlogs” have been allowed to accumulate in many resource and facility programs.
- Regulations affecting the implementation of forest plans should be streamlined to improve timeliness and effectiveness of program accomplishment. The Forest Service conducted an analysis of statutes and regulations in conflict, but additional work is needed to develop specific proposals.
- If Congress chooses to adopt this approach in future legislation, a prohibition against supplanting Federal funds as described in the recommended alternative should be included.

## Alternatives Considered and Rejected

A range of payment options was available for public comment and consideration by the Committee. Several of these alternatives were discarded for various reasons, which are described in this section. However, some might be viable under other circumstances. The following options were removed from further consideration:

- Payments based on land value;
- Payments based on tax equivalency;
- Payments based on projected value of forest plan implementation; and
- Certain lands are managed in trust for local governments and schools.

### ***Payments Based on Land Value***

This option adopts the provisions of the Payments to Minnesota Act, signed into law in June 1948. This payment method is used to reimburse the State of

Minnesota and three national forest counties in that State. It is based on three fourths of one percent of the appraised value of the public lands as determined by the Secretary of Agriculture. Lands are re-appraised every 10 years.

The Committee did not recommend this alternative after considering comments from the Forest Service raising concerns about the costs associated with appraising approximately 192 million acres across the Nation. The Forest Service indicated the re-appraisal of lands in Minnesota constitutes a significant workload and a major commitment of personnel to accomplish the appraisal.

This method would offer a very clear and understandable means for calculating payments, but it is doubtful that the appraisal work could be done to meet required timeframes, and would be heavily dependent on appropriations from Congress, money that might otherwise be used to accomplish resource programs.

### ***Payments Based on Tax Equivalency***

While this alternative might appear appealing at first, there are some problems associated with this method. The methodology associated with having each county calculate the tax value of national forest and O&C lands within their respective boundaries is not difficult. Most local governments have the ability to make such calculations. However, there are a number of different property tax systems used by local governments across the country. The problem is compounded when considering that some States have special tax considerations for timber and other agriculture uses that would possibly create significant differences between States and local governments. Tax rates are also established through law in some States, which require voter approval to raise the tax value. Other States impose a ceiling to limit the tax rate assessed by local governments. This could have the effect of undervaluing the public lands. It is also doubtful the Forest Service and BLM have adequate staffing to verify tax values claimed by each and every county or local government.

Another important factor resulted in this alternative being removed from further consideration. Research conducted by Committee staff revealed differences in congressional intent for in-lieu tax payments and revenue-sharing payments. State and Federal courts have reviewed and interpreted the legislative record for the 1908 Twenty-five Percent Receipts Statute. The courts found that these payments were not to be considered as in-lieu tax payments, but as payments or grants, to compensate local communities for economic impacts created by the withdrawal of these lands from future development. The Committee calculated the sum of payments made under the Secure Rural Schools Act and PILT to make a comparison of tax value. The information indicates when payments under P.L. 106-393 and PILT are considered together, they do not equal the taxable value of Federal lands for the aggregate of all counties. However, as stated elsewhere in this report, several court rulings have determined Congress did not intend for revenue-sharing payments made under the 1908 Twenty-five Percent Act to compensate counties for a denied tax base.

### ***Payments Calculated on the Value of Goods and Services Identified in Land Management Plans***

Land and resource management plans are developed for each national forest in accordance with the National Forest Management Act of 1976. These plans are to be revised every 10 to 15 years, a process which takes an average of

four years to complete. Among other things, each forest plan establishes levels of use for different resources over the life of the plan. This allows for the calculation of values associated with the implementation of a particular forest plan. For example, timber harvest levels calculated for 10-year intervals allow for average-annual harvest amounts to be determined. Decisions about recreation development, grazing, and oil and gas leasing are also made in the forest plans.

This alternative would provide for the calculation of payments based on a percentage of the value of commodity and non-commodity resources to be developed during a 10-year period. Payments would be made regardless of whether the forest plan projects actually occur or not. This would ensure that local governments and schools are not adversely affected when forest plans are not fully implemented.

Many factors affect the eventual production of goods and services predicted in forest plans. In some cases the local land manager has little or no control over producing expected levels identified in the plans. Those can be greatly influenced by external factors such as budget levels, complexity of environmental analyses, court decisions, and market conditions. In fact, few forest plans have ever received full funding for implementation.

This alternative was removed from further consideration for several reasons. The primary concern is that calculation of non-consumptive values is very difficult. As mentioned previously in this chapter, user preferences differ, potential market uses may not be well developed, and many uses are interrelated and cross geo-political boundaries. Uncertainty about which resources to include in calculations would create difficulties in making calculations.

The current backlog of national forest plan revisions creates another problem that was a factor in this alternative not being recommended. There are currently 49 forest plan revisions behind schedule. Therefore, there is no assurance that revisions would keep pace with the need to periodically update values for calculating payments to states and counties. This is more problematic for non-consumptive uses than many of the consumptive uses previously identified. While citizen participation would occur during revisions, there is no provision for resource advisory committees.

Input received from the Forest Service was in agreement with the Committee's evaluation of this alternative. The agency suggested another option would be to establish

“base level” funding for each forest and calculate payments as a percentage of that level. However, that approach has no relationship to resource values, or needed management actions.

***Certain Lands are Managed in Trust for Local Governments and Schools***

This alternative proposes to set aside lands with very specific management objectives: to manage certain public land resources for maximum revenue generation for schools and local governments. Many States manage lands in trust with similar objectives of maximizing revenue.

Very little input was received on this alternative, and after consideration by the Committee, was determined to be

infeasible. The closest example of this approach being tested was the Sustained Yield Act of 1944. The purpose of that act was to “promote the stability of forest industries, of employment, of communities and taxable forest wealth, through continuous supplies of timber.” The Sustained Yield Act provided for the pooling of Federal and private lands into sustained-yield units. It also allowed the formation of blocks of timber on Federal land where communities depended on Federal stumpage. Lands held in trust, as this alternative prescribes, would have an even narrower set of objectives. Establishment of certain lands to be managed in trust for schools and local governments could come into conflict with the multiple use purposes of the national forests and the purposes defined in statute for management of the O&C lands.

## Chapter V: Related Findings and Recommendations

There were many comments, concerns, and ideas presented to the Committee. Some information suggested ideas for future payment options and for improving the management and sustainability of the national forests and O&C lands. Others described concerns about current management, the state of local economies, and very serious concerns about meeting education needs in communities adjacent to the national forests and O&C lands. Many of the comments and suggestions came from individuals who have a vested interest in the health of the public lands, and who also have the responsibility for meeting the needs of citizens in their communities.

This chapter presents recommendations that should be considered by Congress for any action it takes on legislation for long-term payments. They are responsive to the topics identified in the legislative direction to the Committee, and attempt to address many of the ideas and concerns expressed by the public, local officials, and State agencies.

Some information received was not directly related to issues Congress asked the Committee to evaluate or recommend, or they are issues for which the Committee has no recommendation. However, they are important observations of which Congress and the administration should be aware. They are presented in Chapter VI.

### Importance of Federal Payments to Schools

Education is one of the historic purposes of the Federal payment statutes. That purpose should be retained and possibly strengthened under a new payment statute. There are differences among States in their approach to complying with the education requirements of Federal payment statutes, and information presented to the Committee causes concerns about whether the intended purposes for Federal dollars are being met. One fact emerged from repeated discussions with rural school officials, local citizens, and with the National Education Association—many rural schools in public lands counties are better off as a result of the Secure Rural Schools and Community Self Determination Act. Forest communities that are more dependent on manufacturing and natural resources have been experiencing dramatic changes during the past decade. Education is one of the most critical resources that rural people need, both youth and adults, in finding the means to guide economic and community change (Lee, 1987). Without this assistance into the future, many rural schools are likely to fall farther behind in providing students with the learning environment needed to be competitive. The following findings and recommendations would accomplish this:

#### Findings

- Rural schools are highly dependent on Federal forest payments.

The committee received powerful testimony from school superintendents, teachers, and citizens on the importance of Federal funds to their schools. Education funding for many rural communities is more critical now than in the past.

Rural schools represent 22 percent of all public schools, but only receive about 12.5 percent of Federal funding, 14 percent of State funding, and only 11 percent of local funding (Rural Policy Research Institute). Many States provide funding to school districts on the basis of student enrollment, and a set amount per pupil. The Committee reviewed information that indicated a significant loss in student enrollment for rural counties adjacent to public lands. In many cases, this translates into a loss of total funding for those schools. While it may appear that fewer students may require fewer teachers and facilities, there is a basic funding level required to maintain educational services to all students. Therefore, the Federal payments that go to education frequently fill an important gap. Table 1 shows the loss of student enrollment for selected counties in Oregon, Montana, Idaho, and California.

Table 1. Number of Pupils for Selected Years

County State	Grant Oregon	Lincoln Montana	Clearwater Idaho	Plumas California
1994-95	1602	3911	1761	3851
1998-99	1491	3569	1589	3540

While not all schools in forest-dependent communities experienced similar reductions, many did. Diversity of economies, quality of transportation systems, and the remoteness of the community are all factors affecting student enrollment, thus affecting funding levels for school districts. Schools and local governments in many rural areas do not have the financial flexibility their counterparts have in urban areas. Revenues collected by local

governments tend to fluctuate more in rural areas, because the primary industries are generally agriculture and manufacturing. These industries are more sensitive to market fluctuations, whereas economies in urban areas are more closely associated with service industries, and do not experience the same kinds of fluctuations under similar market conditions.

- **Federal payments under the Secure Rural Schools Act and the 1908 Twenty-five Percent Payment Act are not reaching many local schools as intended.**

In all, there are 41 States receiving payments from P.L. 106-393 and the Twenty-five Percent Fund. The issue of whether States are meeting the intent of the Secure Rural Schools and Community Self Determination Act, and the 1908 Twenty-five Percent Payment Act, is one of the greatest concerns expressed by school officials and citizens from rural areas. Funding for education in some States is designed to provide “equal access to education.” In many cases this provides the same level of funding per student regardless of location. However, education costs per student are frequently higher for rural areas. Language in the Twenty-five Percent Payment Act, and P.L. 106-393, provide for State legislatures to determine the division of monies between public schools and public roads. The law also directs that the payments should be for the county or counties in “which such national forest is situated.” The Committee was able to make the following determinations about how States are allocating Federal payments they receive from P.L. 106-393 and the Twenty-five Percent Payment Act:

- Of the 41 States receiving payments, 14 (34 percent) allocate between 41 and 60 percent of the money to schools. All but one split the payments 50/50 between schools and roads;
- About 39 percent of the revenue-sharing payments from the Twenty-five Percent Fund, or P.L. 106-393, is spent on schools;
- While these 14 States allocate the largest percentage of payments to education, they only receive about 8 percent of the money;
- Five states receive almost 50 percent of the payments, but only allocate between 21 to 40 percent of the money to education;
- Almost 56 percent of payments go to nine states where revenue sharing payments are deducted from State aid; and
- When all methods of allocating the school portion of payments by States and counties are considered, it is

determined that 63 percent of the money from P.L. 106-393, and the Twenty-five Percent Fund has no direct affect on the budgets of school districts in the counties where these public lands are located.

The Committee believes these situations defeat the intended purposes of the Federal payments to communities where public lands exist.

- **Stability and predictability of Federal forest payments is important to maintaining educational services and student activity programs.**

The stability and predictability of Federal payments were criteria used to evaluate payment alternatives. They are absolutely critical to the operation of schools and greatly influence the ability of school administrators to add, or maintain, certain education and student activity programs. Officials are reluctant to make commitments for these services, when funding to maintain them is uncertain at best. In many cases, these programs are vital to ensure that rural children have similar educational opportunities to those enjoyed by their urban counterparts.

### ***Recommendations***

- **Retain payment levels established under the Secure Rural Schools Act (P.L. 106-393).**

The method of calculating payments developed for the Secure Rural Schools Act takes into consideration the significant changes that occurred to the timber management programs in the Forest Service and the BLM during the 1990s. Court decisions, along with decisions made by previous Congresses and administrations significantly reduced program levels and precipitated the downward spiral of Federal revenue-sharing payments. Prior studies predicted this kind of action would have significant effects on local communities. The Committee considered an approach that reduces payments by an amount equal to the benefits received by State and local governments. Two previous studies attempted to do so (Public Land Law Review and ACIR), but were unable to find an approach that was credible. In addition, that method would only measure direct financial losses and gains, and would not address the original purpose of the 1908 Act. In the final analysis, the Committee could find no better method for making payments.

- **Continue to make payments directly to States for counties adjacent to national forests.**

A number of people provided recommendations that payments be made directly to counties and other local governments, rather than to the State level of government. The Committee evaluated this option and requested input from the Forest Service. The agency recommended against changing the initial recipient of the payments for several reasons. The first concerned the mechanics in making payments to approximately 774 national forest and BLM counties, rather than making one payment to each State. While making payments to States may be somewhat easier on the agency, the capability to make payments electronically to the national forest and BLM counties should not create an undue burden. The second reason cited provides a better rationale—in the event of disagreement over payment amounts, the States would be the appropriate level for resolving issues related to payment amounts, rather than the Federal Government.

- **Provide statutory language prohibiting States from offsetting State education dollars with Federal forest payments.**

Congress intended that communities adjacent to national forests and O&C lands should not suffer because of the Federal ownership of those lands. State laws that prevent Federal funding from reaching targeted areas for specific purposes interfere with the intent of legislation. Funds associated with laws similar to Federal Impact Aid are examples where Congress included specific language to ensure Federal dollars reach the intended target group.

In this case, schools in communities adjacent to public lands are the target group. Appendix 7 provides suggested language to prohibit supplanting of Federal funds by States in future legislation.

- **Future payments made to States and counties should not be subject to annual appropriations, and should be fixed at levels established under P.L. 106-393 for the first 10 years. Receipts collected from public lands should be used to reduce the total cost to the Treasury.**

Payments for schools and roads in communities were relatively stable and predictable for many years, because programs that generated those payments did not fluctuate. P.L. 106-393 has restored that level of stability and predictability. If payments associated with new legislation were appropriated on an annual basis, there is no assurance they would not fluctuate as they have during the 1990s. Several examples illustrate the risk of appropriating payments annually. PILT and Special Education Programs have not realized the full amounts that were specified when they were authorized. New payment legislation partially dependent on annual appropriations would have to compete with other funding considerations, which would possibly affect their stability and predictability. Also, a connection to receipts collected from public lands would provide an identifiable source of revenue to partially offset the cost of payments made under new legislation.

## Local Governments' Dependency On Payments

Local governments display varying degree of dependency on the Federal payments. Nationally, the largest single revenue source for counties is state-level aid, followed by other county revenue, property taxes, retirement accounts, and Federal payments. Revenue sharing payments represented a decreasing portion of total county revenue in virtually all regions of the country where public lands are located. This is likely the result of the decrease in receipt collections and associated payments that occurred during the 1990s in some regions of the country. According to county officials, loss of revenues from traditional forestry manufacturing industries has increased the dependency on other sources of payments, and forced some local governments to increase property taxes in order maintain traditional services. In some instances, services have been lost. The Committee developed findings and recommendations from information that was presented by citizens and local officials.

### Findings

- **Some counties are assessing the maximum tax rate allowable under law, yet revenues remain insufficient to maintain basic services for their residents and visitors to public lands.**

County officials indicated if current payments are not continued, and receipt collections remain low, property taxes would likely be increased, where possible, to replace revenues historically generated by timber manufacturing in their counties.

- **Costs to counties for maintaining local roads and providing services to those visiting public lands have increased due to reductions in Federal timber programs, Federal revenue-sharing payments, and**

### **increased visitation to national forests and O&C lands.**

County governments report that transportation facilities, previously maintained through the Federal timber program, must now be maintained with county funds, or are closed to the public. This comes at a time when Federal payments to local governments have been significantly reduced. Additional payments received through the Interim Legislation (P.L. 106-393) are providing much needed attention to health and safety issues on local highways. Approximately 61 percent of the \$326 million of Twenty-five Percent Fund, or P.L. 106-393 payments are going to roads.

- **Costs to local governments for certain services they provide associated with public lands have increased.**

County governments indicated they are not fully reimbursed for some services such as law enforcement activities conducted on national forests. Funding currently received through Agency Cooperative Law Enforcement Programs does not cover all of the law enforcement and search and rescue activities. These findings are consistent with the studies conducted by Schuster in 1999, and in 2002. The study found the areas of greatest expense to local governments were search and rescue, law enforcement, road maintenance, and fire control. County officials identified the same kind of expenses in their comments to the Committee.

### **Recommendations**

- **Further study is needed to fully understand the costs to local governments associated with the presence of public lands.**

Costs and benefits to local communities from the presence of Federal resource lands are extremely complex. Different tax and financing structures among States and local governments make it difficult to identify direct costs and benefits, as well as indirect costs and benefits, which can be substantial. A comprehensive review of financial records of local governments would be necessary to completely understand these relationships. This approach might help identify areas where Federal assistance could be targeted, and would assist local governments in understanding critical factors to be considered in land use planning and the costs of providing services.

- **Allow more flexibility for local governments to spend the non-school portion of Federal payments.**

The governing board of any county receiving Title I revenue based on historic payment from the Twenty-five Percent Fund Act of 1908, or from payments under new legislation, should be permitted to allocate whatever portion of revenues received that exceed those necessary for annual operation, maintenance and projects, to offset the cost of law enforcement activities necessary to maintain the county road system (i.e., county road patrol).

- **Title III should be continued under long-term legislation, and categories expanded to allow for expenditure of funds for non-reimbursed services provided to public lands by local governments.**

Expanding the categories under Title III could allow for reimbursement of law enforcement related to public lands and other public land-related services when approved by the local governing body.

## **Resource Advisory Committees**

These committees, created under the Secure Rural Schools Act, are most prevalent where payments to counties are large enough to pay for costs associated with developing projects. Interest by local managers of the Forest Service and the BLM also influence the county's willingness to set aside money for Title II projects. Most resource advisory committees have been operating for 1 year or less. Therefore, the effectiveness of these committees needs to be monitored. The Forest Counties Payments Committee met with members of several RACs and was impressed with the enthusiasm members displayed. There are many examples of improved relationships among RAC members who have been at odds for years. The FCPC initiated a study to answer some of the questions raised about the long-term

potential of this type of citizen involvement. The study is ongoing, and the Committee will provide periodic reports to Congress and the Secretary about information and findings developed. The Committee has the following findings and recommendations to make about resource advisory committees at this time:

### **Findings**

- **Resource advisory committees are working well.**

The Committee received testimony and written letters from people who are members of resource advisory committees. Committee members and staff also attended

advisory committee meetings and participated in telephone discussions with RAC members. Even though most advisory committees have not been together very long, there are already examples of improved relationships. One respondent (not a RAC member) commented that RACs were not working well, but offered no examples that could be verified by the Committee.

An evaluation of Title II and III projects is provided on subsequent pages.

- **The success of resource advisory committees has been in their ability to work together to develop projects, and the availability of funding to implement them.**

One of the more powerful aspects of RACs under the interim legislation that is emerging is their ability to work together when they have a common purpose, and resources, to implement projects. Committees that have primary roles of advice and counsel may not function as effectively.

- **The success of resource advisory committees is greatly influenced by the interest of the local Federal manager.**

Resource advisory committees can have difficulties operating when participation by the local Federal official is not consistent. Frequent changes of personnel assigned as the Designated Federal Official to the RAC can give the impression that it is not a high priority. It can also undo positive relationships developed with members of the RAC. The formation of a resource advisory committee can also be influenced by the amount of interest displayed by a Federal official.

- **The size of payments to counties influences whether they elect to allocate funds for Title II projects on national forests and O&C lands.**

In the first year, 31 percent of counties receiving in excess of \$100,000 elected to place funds in Title II, and establish resource advisory committees. The remaining counties kept their funds in Title III. Counties that had higher payments were more likely to place funds in both Title II and Title III. More counties indicated they will likely place funds in Title II in future years.

- **Some advisory committees had difficulty filling all of the categories for membership, especially where a separate county elected to form a committee rather than set up a multi-county RAC.**

The 15 subcategories currently specified in the legislation may not accurately describe the communities of interest for national forests and O&C lands. Representatives from Wild Horse and Burro groups have been difficult to recruit according to information received from some resource advisory committees.

- **Streamlining the RAC process is needed, including the replacement of members that leave, and aligning the time limits of the RAC Charter with the term limits of RAC members.**

These issues can be addressed administratively, through the RAC charter.

### **Recommendations**

- **Long-term payment legislation should contain provisions for resource advisory committees.**

While advisory committees established under P.L. 106-393 have only been operating for a short period of time, there are already indications that they have been effective in building relationships among people with different ideas about how public lands should be managed. Most committees are able to develop projects using multiple sources of money and partners. Significant investments are being made on public lands with payments.

- **The Forest Service and the BLM should initiate regulations to clarify administrative questions to provide consistency for Titles II and III.**

Legislative language cannot anticipate all questions that need to be addressed in implementation. Many of the operational provisions should be developed through rulemaking with public input. This provides an easier way to make changes when needed.

- **After further monitoring, consider broadening membership categories to allow for participation by relevant local interests.**

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After further monitoring, consider broadening membership categories to allow for participation by relevant local interests.

The intent is to have a diversity of interests represented on an advisory committee. Some areas of the country may not be able to fulfill membership requirements, because there may be no one affiliated with a particular category, and/or local interests may vary in different parts of the country. An example would be the current category for wild horse and burros. Representatives of that particular interest are not present in many parts of the country.

- **Consider expanding the role of resource advisory committees beyond current duties and clarifying the current requirements for restoration projects under Title II.**

Future legislation should expand the role of resource advisory committees to address many different management activities on public lands. Their ability to find agreement with various interests represents an opportunity to accomplish important forest management projects.

- **Congress and the administration should consider designating additional funds for use by resource advisory committees, especially in those national forests and counties where available dollars for Title II projects are limited.**
- **Monitor the long-term effectiveness of using citizen advisory committees.**

Resource advisory committees represent an excellent learning opportunity to understand the factors that contribute to successful collaboration. Comparing committees established under P.L. 106-393 with other collaborative efforts will improve the understanding among Congress, the administration, and the public about methods for involving competing interests in managing the public lands. There is currently no study addressing this.

## Regulations and Statutes

Many comments and examples were presented during listening sessions that highlighted concerns and frustrations about the National Environmental Policy Act, Endangered Species Act, and the Forest Service Appeal Regulations (36CFR215). The Committee did not attempt to conduct an in-depth review of these statutes and policies because several efforts to address these concerns are currently underway by Congress, the Council of Environmental Quality, and the Forest Service. The Committee felt it was important to focus much of its attention on developing a recommendation on a method of payment, and at the same time, identify some of the policy issues that affect Federal payments and local communities adjacent to public lands.

### Findings

- **Regulations and some laws governing implementation of forest management projects are causing significant delays in treating forest health problems, and can reduce payments to State and counties, as well as affect some local economies.**

The recent report issued by the Forest Service entitled the “Process Predicament” provides a good discussion of the effects to forest management actions when regulations conflict with each other, and create “gridlock.”

- **There is a great deal of frustration with the Forest Service Appeal Regulations.**

In the Committee’s public listening sessions, many people voiced concerns and provided examples about the frustration that exists over the appeal regulations currently used by the Forest Service. The public and elected officials described situations where appeals stopped fuels reduction projects in community watersheds that might be destroyed if a wildfire ever happened there. People also described situations where local citizens worked together to find agreement, but their efforts were un-done by those who did not participate, and who simply filed an appeal.

**Recommendations**

- **Revise the Forest Service Appeal Regulations to recognize the role of collaborative efforts and prevent unwarranted appeals from interfering with critical forest management actions related to insect and disease infestations, wildfires, and health and safety. NOTE: The Committee forwarded a recommendation to Congress about the Forest Service Appeal Regulation (36CFR215). The letter can be found in Appendix H.**
- **Congress should continue to address statutes, regulations, and policies that affect forest health.**

**P.L. 106-393 Implementation**

In 2001, approximately 76 percent of the eligible counties elected to receive payments totaling \$448 million in Titles I and III. An additional \$32.6 million was designated for Title II projects on Federal lands, which amounts to a total for all Titles of \$480.6 million. The remaining counties (24 percent) elected to remain under the 1908 Twenty-five Percent Payments Act. About 75 percent those counties electing to receive payments under the Twenty-five Percent Fund are in the East. Many eastern counties had not experienced the severe decline in receipt payments like counties in the West when Congress passed P.L. 106-393. However, Appendix 6 shows that receipts for the Northeast and Southeast dropped by 27 percent from 2000 to 2001.

The Secure Rural Schools and Community Self-Determination Act (P.L. 106-393), provided counties with the option of designating between 15 and 20 percent of their payments for projects on the national forest and O&C lands (Title II), or projects that accomplish other local objectives (Title III), and satisfy specific criteria. The legislation established objectives for Title II of creating additional employment opportunities; improving cooperative relationships; improving the maintenance of existing infrastructure; creating stewardship objectives that enhance forest ecosystems; and restoring and improving land health and water quality. Examples of projects Congress envisioned as meeting these objectives include:

1. Road, trail, and infrastructure maintenance;
2. Soil productivity and improvement;
3. Improvements in forest ecosystem health;
4. Watershed restoration and maintenance;
5. Restoration, maintenance, and improvement of wildlife and fish habitat; and
6. Control of noxious and exotic weeds.

In the first year of implementation, approximately 31 percent of national forest counties receiving more than \$100,000 elected to spend some portion of that in Title II projects, setting aside about \$25 million. Fifteen of the 18 O&C and Coos Bay counties elected to allocate \$7.7 million dollars for Title II projects.

Title III, or “County Projects,” were selected by a large percentage of counties receiving less \$300,000. All counties selecting the full payments amount, and receiving more than \$100,000, placed some of their funds into Title III. County projects had to meet specific criteria as follows:

1. Search and rescue, and emergency service performed on Federal lands
2. Community service work camps
3. Easement purchases
4. Forest related educational opportunities
5. Fire prevention and county planning
6. Community forestry

Table 2 shows the distribution for all three Titles by region of the country.

Table 2

	Title I Amount	Title II Amount	Title III Amount
East	\$35,223,895	\$447,113	\$4,931,347
Interior	\$48,125,927	\$3,174,650	\$4,750,332
Pacific	\$312,866,311	\$28,628,321	\$32,535,887
Alaska	\$7,795,000	\$367,734	\$1,000,865
TOTAL	\$404,011,132	\$32,617,817	\$43,218,431

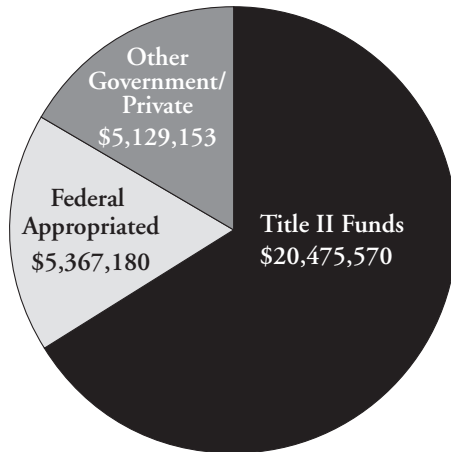
**Title II Accomplishments**

In the first year of implementation, county governments set aside approximately \$32.6 million to accomplish much needed work on the national forests and O&C Lands. Of all funds set aside for Title II and Title III, 43 percent were designated for Title II projects. While the Title II funds alone are significant, other funds generated by these projects is remarkable. Approximately \$20 million set aside for projects on the national forests will generate an additional \$10.6 million and create 504 projects. For every dollar of Title II funds allocated to national forest projects, an additional \$.50 of other funding was generated. The two primary sources were Federal appropriated dollars and county and State funds. However, funds were also contributed from private sources.

Approximately 145 projects funded by Title II were reported by the BLM, with expenditures totaling \$8 million. Since county elections for Title II in 2002 totaled

\$7.7 million, it can be assumed that projects were able to attract other sources of funding. Administrative costs related to these projects, and operation of resource advisory committees was approximately 11.5 percent.

**National Forest Title II Project Funding**



**Pie Chart Showing the Distribution of Funding Sources**

**Kinds of Projects Selected**

Resource advisory committees have recommended projects covering virtually every category specified in P.L. 106-393. For national forests, watershed and wetlands restoration constituted the largest number of projects. Resource advisory committees also recommended many projects covering recreation, noxious weed eradication, fish habitat, and trail and road maintenance activities. Projects on the O&C lands are very similar with watershed restoration, fish habitat improvement, and road and trail maintenance having the greatest number of projects. Wildlife and fish habitat restoration, hazardous fuels reduction, vegetation restoration, and environmental education were frequent recommendations by resource advisory committees. Some projects took a holistic approach and brought in private lands and dollars to address an issue across multiple ownerships. After reviewing 650 projects, the Forest Counties Payments Committee can see no indication that RACs are favoring projects that harvest commercial trees as some feared might happen. In fact, there were only 14 pre-commercial timber stand improvement projects on the national forests out of 504 total projects reviewed, and some of those served the mutual purpose of reducing hazardous fuels near roads.

**Methods of Accomplishing Projects**

Title II projects are being accomplished using volunteers, other government organizations such as State and county personnel, youth groups, and Forest Service personnel. However, the use of contracts to accomplish projects constitutes the most prevalent method. Contracts are being used in about 72 percent of the projects that identified a method; about 289 out of 399 projects. The high percentage of projects accomplished through contracts should have a positive effect on job and economies in local communities. A number of projects reported efforts to involve youth such as YCC, and school groups in accomplishing projects. These efforts serve to provide work experience for young people, and increase their knowledge about natural resource management and restoration.

From the information gathered, there appears to be good participation by State and county governments in accomplishing Title II projects. Grazing permit holders and timber industry employees participated and assisted in accomplishing several projects involving restoration activities.

**Title III Projects**

Nationally, counties designated a total of \$43 million, or 57 percent of their elections to Title III projects. National forest counties set aside a slightly higher percentage to Title III, 58 percent, than O&C counties, which designated 53 percent of their elections. Counties in the Eastern United States designated a higher percentage to Title III than Western States. From comments received, it appears there is a strong correlation between the size of the payment, and the likelihood a county will elect to put funds into Title II. The attitude of the local Federal official can also influence a county's decision to establish a resource advisory committee.

The National Association of Counties conducted a survey of counties to identify decision criteria counties used in determining whether to allocate funds to Title II, or Title III. The survey also sought to determine whether counties might change their election mix after a year of experience with the legislation. Unfortunately, very few responses were received by NACO. Of 447 national forest counties participating in the program, 32 responded. However, those responses provide an insight into how counties used the funds.

In response to the question of why counties allocated funds to Title II, three consistent responses were given; the desire

to work more closely with Federal land managers, to participate with an advisory committee, and to limit reductions in PILT payments (Title III elections may reduce a counties PILT payment). Counties where advisory committees were established during the first year of implementation did not indicate any problems, and stated they will continue to fund projects under Title II.

The majority of counties responding to the survey indicated they selected Title III over Title II, because there was a need for the type of projects specified in the

legislation. Counties also indicated concern about difficulty implementing Title II projects, and maintaining control of their funds. The categories that received the greatest number of projects were search and rescue, forest related educational opportunities, and county fire prevention and planning. Additional comments indicated that the amount of money received also influenced their election decisions. Counties may not believe it is worth the effort to establish an advisory committee when payment amounts are relatively small.

## Chapter VI: Other Observations

During the 18 months the Committee has been together, it has talked with people in almost every region of the country. Members and staff met with leaders of organizations representing conservation, environmental, and local, State, and Federal governments. Over this period, a great deal of information was received about issues that may not have been directly related to subjects mentioned in legislative direction, or for which the committee chose to not make recommendations. Observations and information related to the topics are provided in this Chapter.

### Effects on States and Counties from Changes in Historic Multiple Use Management

The Committee considered the effects to communities from changes to Federal multiple use management programs in developing recommendations, and it has been referenced in other chapters of this report. A tremendous amount of information exists about this subject; more than can be presented here. Therefore, some of the input, along with key points will be summarized. One of the questions posed to the public was to describe the effects from changes to historical programs, and what efforts they had taken to mitigate those impacts. Committee staff also reviewed pertinent literature and discussed issues related to this topic with knowledgeable individuals. The following summarizes the Committee's observations on this subject:

- **Many communities have not recovered from the loss of historic timber management programs.**

Communities that are more remote, lack major highway or interstate access, and are primarily tied to agricultural industries are not generally resilient. As a result, there are still significant unemployment issues in some regions of the country where public lands exist. The inland Northwest is a good example. This region, consisting of eastern Oregon and Washington, and parts of Idaho and western Montana, had substantial timber harvest levels at one time. However, they were not included in the economic adjustment programs that were available to the Pacific Northwest region. Even where those programs were available in the Northwest, they have not fully mitigated the impacts associated with the loss of such a dominant industry. In other regions of the country, the size of historic forest industries was not as great, but still provided a significant contribution to the local economy. Appendix 3 provides a comparison of timber receipt payments by geographic area for the Pacific and inland Northwest States, and northern California. This information shows that counties in eastern Oregon experienced the greatest percentage reduction in receipt payments from 1990 to 1998. A similar situation exists for northern California counties outside of the area covered by legislated payment levels from the 1993 Omnibus Budget Reconciliation Act.

- **Loss of revenue sources has resulted in the reduction of medical services in some communities.**

It is uncertain how extensive this issue is, but several officials provided information about the closure of medical facilities, or reduced medical facilities in rural communities. They cited two primary causes. The first was a loss of revenues from tax revenues generated by a wood manufacturer that had closed. The other reason was the increased costs associated with medical services to people using the public lands, and for which they were not able to fully obtain reimbursement for services provided.

- **Cost of social services, law enforcement, and correctional facilities has increased.**

Communities that have experienced high unemployment from the loss of historic forest industries indicate that crime rates have increased, the need for social services to assist families is in greater demand, and inmate numbers have increased requiring expansion of local detention facilities. The extent of this problem is uncertain, but may be consistent with the loss of any industry that creates high unemployment in a community.

- **A loss of higher wage jobs has resulted in a loss of population in some counties, along with student enrollment, teachers, and "social capital."**

Most sociologists and educators agree that a key factor in a community's ability to rebound after the loss of a major industry is education and the availability of resources. When a community begins losing students because families leave to find higher paying jobs, it can have a profound effect on funding, teachers, and programs available to those students who remain. In rural communities, schools and fire stations are two of the more important institutions that bind the members of the community together. As activities such as athletics and music associated with schools cease to exist, the social interaction in the community can be adversely affected. Concurrently, as Federal and State

agencies downsize and close facilities, a significant loss of highly educated people from the community may occur. This can hamper a community's ability to create new opportunities and develop new job skills in the community.

- **Value-added wood products and community forestry industries are emerging.**

Traditional timber manufacturing has been replaced by value-added industries in some communities. These industries produce a variety of products and utilize smaller diameter trees. Community forestry organizations focus on restoration and forest management activities, in addition to the manufacture of the final product. Some of the following observations apply to these industries:

- Federal statutes and agency policies, such as contracting, may not be flexible enough to facilitate development of these industries;
- Local Federal managers may not fully understand the important role they should play in supporting these efforts;
- The success of community forestry industries is frequently dependent on the leadership of a few individuals in a community; and

- Other communities would benefit from leadership training and access to information and venture capital.

- **Many local governments have created economic development authorities and programs.**

Most communities and local governments realize the value of diversification. Their economies are affected by market conditions as well as supply of raw materials. Some counties have been successful in adding facilities to attract foreign interests, and one county was able to receive a commitment from the Dell Corporation to construct a facility that would provide significant employment opportunities. Others have initiated job skills training programs when resources were available. Counties have also realized that there is strength in forming regional coalitions to draw on each other's skills.

Some communities have taken advantage of resources available through the Department of Commerce and various State agencies. Creation of "Hub Zones" makes it easier for small businesses to compete for Federal contracts, and is an example of one method being used to assist communities.

## Costs and Benefits to Local Communities from Public Lands

Costs and benefits to local communities from the presence of public lands has been the subject of several studies dating back to the Public Land Law Review Commission Report of 1970. Two other studies since 1970 have not been able to fully quantify direct benefits and costs from the public lands. The public was asked to present information on costs and benefits in responding to questions posed by the Committee. Also, a study conducted by the Forest Service in 1999 was provided to the Committee. In that study, 118 counties were surveyed to identify direct costs and benefits to local governments from the presence of Federal lands. Responses were based on experience and professional judgment, not on a detailed examination of fiscal records or accounts. An examination of county records would involve significant time and resources, and was not an option given the timeframe the Committee had to provide a Report to Congress.

- **An increase in second home construction adjacent to public lands may increase the financial burdens of local governments to provide transportation and fire protection services to these areas.**

One of the more commonly held beliefs about public lands are the potential they offer for additional residential development, increases in property values, and added tax revenue. The 1999 survey of county officials conducted by the Forest Service provides additional confirmation that the presence of public lands has an effect on property values. Most regions of the country indicated increased value to private lands from the adjacent Federal lands. While the increased demand for properties adjacent to public lands has raised private land values, residential construction, especially second home construction, may actually create additional stress on local services that are not offset by increased tax revenue. Additional research on this issue would be helpful to local governments in their planning efforts.

- **Public lands provide multiple benefits to residents of rural communities and to urban populations.**

Many people commented about the environmental benefits provided by national forests and the O&C lands. Clean air and water, recreation, contribution to economies, and a preferred way of life were identified as positive attributes

from the presence of public lands. The survey of county officials conducted in 1999 indicated that benefits to people and communities from Federal land were possibly more important than direct fiscal costs and benefits.

This is possible, because many county services that create a direct impact on local budgets are not influenced by the presence of public lands. County officials and the public commented during listening sessions that benefits such as hunting and fishing, and other recreational activities supplied by the Federal lands are of benefit to local communities.

Direct fiscal costs and benefits to counties from Federal lands are small for most services provided by counties with the exception of four areas.

The 1999 survey concluded that Federal lands do not create significant direct fiscal impacts, or benefits to many counties, because Federal lands generally do not depend on most services that counties provide. County officials did identify where public lands do create a moderate to significant cost to counties. They are search and rescue, law enforcement, road maintenance, and fire control. This agrees with recent testimony by county officials at listening sessions, and comprises the type of projects counties most frequently spent Title III funds on.

## Payment Statutes and Other Laws

### Payment in Lieu of Taxes (PILT)

The Committee's interest in PILT is the result of interest expressed by elected officials and the public at several listening sessions and from information contained in letters received by Committee staff. Concerns included inadequate funding levels, whether Federal payments adequately compensated counties for lost taxes, and the effects of P.L. 106-393 on PILT payments. To answer these questions, the Committee contracted with the Rocky Mountain Research Station of the Forest Service. To address the question of tax equivalency, tax and Federal payment relationships developed in 1997 were adjusted to FY 2002 price levels. Data were obtained from a nationwide sample of 100 counties containing 75 million acres of Federal land, and involved the coordinated efforts of study personnel, Forest Service personnel, tax officials, and the executive officer in each sampled county. The tax value of the Federal lands was determined to be almost \$16 billion. The Study found the following facts:

- **Payment in Lieu of Taxes (PILT) has not been fully funded as authorized, and creates confusion among some counties, because of its relationship to other payment statutes.**

In 2002, PILT payments were in excess of \$200 million, but when expressed in constant dollars, reflect only 80 percent of the value of the original \$100 million paid in fiscal year 1977.

- **Decreases in revenue sharing payments in the 1990s resulted in reduced PILT payments to counties that have a high dependency on this payment statute.**

Because prior year revenue sharing payments are deducted from a county's PILT payment (under certain circumstances), as Federal revenue sharing payments decreased during the 1990s the prorated share of each county's PILT payment decreased. The largest shortfall was in FY 1999, when PILT was only funded at 40 percent of the authorized amount.

- **Passage of the Secure Rural Schools and Community Self Determination Act relieved pressure on PILT appropriations.**

Because the interior West contains the highest percentage of Federal lands, counties in this region receive a higher percentage of the PILT payments (62 percent). With the influx of payments under P.L. 106-393, the prorated factor used to adjust the PILT shortfall changed from 58.7 percent to 65.2 percent. Therefore, all counties, even those with no land related to the Secure Schools Act, were made better off. Even though payments to counties electing the full payment amount would go down, increased payments under 106-393 more than offset the decrease. The bottom line is that while PILT payments to counties selecting payments under P.L. 106-393 dropped by almost 5 percent, payments to other counties rose by about 9 percent.

- **When considered together, payments from the Secure Rural Schools and Community Self Determination Act and PILT are less than the tax per acre.**

Overall, the estimated tax bill on Federal lands is about \$1.17 per acre. PILT payments average about \$.27 per acre while revenue sharing payments are about \$.59 per acre. These figures are for the aggregate of all counties, where some counties would be tax equivalent with increased revenue sharing payments, and some would not. The regions that have the greatest disparity between payments and tax value are the interior West and the East, and for those counties that are not tax equivalent, the tax bill is 10 times that faced by tax equivalent counties.

## Federal Environmental Laws and Statutes

- **Implementation of Federal environmental laws and regulations is not efficient and can create adverse impacts on communities.**

Most people believe that environmental laws are well intended. However, they also believe that certain statutes and regulations designed to implement these laws, and different methods employed by Federal agencies, have created an unworkable situation and should be reviewed. As a result, the health of communities and forest resources are suffering.

## Collaborative Efforts

There are numerous community collaboration efforts taking place across the country. There are some significant differences between them, and there may be important variables that determine their success.

- **Advisory committees that have financial resources to manage, and have a decision-making role, may experience a sense of accomplishment that improves working relationships.**

There may be an important distinction between advisory committees that provide advice versus committees that have funds to develop projects. Advisory committee members interviewed indicated they were able to find agreement on many projects because they were in a position to recommend projects. The benefits of these improved relationships may extend beyond the Committee into the community.

- **Forest Service units would benefit from the creation of advisory committees similar to those established under the Secure Rural Schools and Community Self Determination Act of 2000.**

Some national forests may not be developing advisory committees because receipt payments are not high, and establishing a committee under other authorities may be difficult. Other reasons cited include limited budgets to support the administrative needs of a committee, and the amount of time required to work with them.

- **Several questions about the operation of advisory committees were identified. These are examples of issues that can be addressed under legislation, or through administrative procedures.**

- Timing of elections for Title II or Title III by local governments and identification of projects by RACs needs to be clarified.
- Some national forests and counties had little incentive to participate with an advisory committee, when few dollars are available for projects on public lands. Funds to cover administrative costs and salaries are also scarce on some national forests.

- **Experience gained from participation in an advisory committee may help build capacity of citizens to work together in their communities to develop solutions for improving their economies.**

Mitigating impacts from loss of traditional timber manufacturing requires the capacity to build effective coalitions in communities to seek venture capital, create start-up business, and gain political support. Leadership skills gained through participation in these types of committees may help build this type of capacity.

- **Agency field managers differ in the way they view their responsibilities in working with local communities to improve social and economic conditions.**

Several examples were observed where involvement by the land manager was important for efforts in communities to develop new businesses dependent on forest resources with sustainability objectives. There were different levels of interest and involvement shown by agency employees. Local

managers should play an important role with communities to address various options for improving the quality of life within the context of the forest plan.

- **Relationships between the local governments and the Federal agencies have improved as a result of the Secure Rural Schools and Community Self Determination Act.**

Relationships between local officials and agency personnel have become strained in some communities over the past several years. Agency managers have become frustrated as well, by an inability to solve

problems beyond their control. The Secure Rural Schools and Community Self Determination Act brought Federal and local officials together, working toward a common objective, with financial resources.

The Committee observed instances where guidelines for involving local elected officials in project decisions under Title II are either unclear, or do not exist. Some local elected officials also expressed uncertainty about the level of involvement they should expect for other types of projects and forest planning efforts.

## Forest Sustainability

- **There is a link between sustainable forests and sustainable communities.**

Many people believe that there is an interdependent relationship between communities and forests. Examples of this are evident in the United States, and in other parts of the world. When communities suffer economically, then forests may suffer as well.

- **The long-term sustainability of public forests is a concern to many people.**

Testimony was given to the Committee that cited examples where increased mortality to trees from insects and diseases, wildfires, and other factors were affecting the health of forests, local economies, and the quality of life in communities.

## Chapter VII: Report Summary

This Chapter summarizes the key aspects of the report. Highlights from chapters are presented without a detailed discussion. For more information about each subject, refer to the appropriate chapter.

### Chapter I: Introduction

Chapter I provides information about the purpose of the report and the factors that created the need for addressing payments to States and counties. The following topics are addressed:

- Payments to counties and schools from receipt collections under the 1908 Act declined by an average of 70 percent during the years from 1986 through 1998;
- Passed by Congress in 2000 to provide temporary relief to local governments, the Secure Rural Schools and Community Self Determination Act, Public Law 106-393, is considered to be one of the more significant natural resource laws passed in the last 20 years;
- Congress created the Forest Counties Payments Committee to recommend long-term solutions for making “adequate” payments to States and counties where national forests and Oregon and California Grant lands exist; and
- The Committee is charged with the following tasks:
  - a. Evaluate methods by which payments are made to eligible States and counties;
  - b. Consider the impact on States and counties of revenues from historical multiple-use of Federal lands;
  - c. Evaluate the economic, environmental, and social benefits that accrue to counties containing Federal lands;
  - d. Evaluate the expenditures by counties on activities on Federal lands, which are Federal responsibilities; and
  - e. Monitor and report payments made to eligible States and counties.
- Several studies conducted in the past looked at similar issues, but came to different conclusions. Most of the studies recognized the impacts to local communities from the presence of Federal lands, but they disagreed on the nature of the effects. While previous studies acknowledged that local communities also received benefits from adjacent public lands, it was virtually impossible to quantify them.
- Abrupt changes in commodities sold from Federal forests significantly impacted many local communities. Business closures, loss of tax revenue, and loss of “family-wage” jobs, along with reduced Federal receipt payments combined to create a tremendous hardship on rural areas.
- The Secure Rural Schools Act provided funding at a critical time when school closures and reduction of education programs were being contemplated in some communities.
- Disagreements exist over methods used by some States for allocating Federal forest funds to local governments. Lawsuits have been filed against some States to challenge these methods.

### Chapter II: Communities and Federal Forest Lands, the Historical Context

Much has been written about the history behind the creation of the national forests. The Committee felt it was important to discuss the relationship between local forest communities and the public lands. Information about this history is presented in Chapter II.

- From 1860 to 1920, the United States population grew by 70 million people, and intense pressure was placed on the public domain from settlers moving west in greater numbers.
- During the 19th Century, one-half of the Nation’s land would be transferred into private ownership.
- The Forest Reserve Act of 1891 set aside vast areas of the public domain from settlement and other uses.
- Rural elected officials, school superintendents, and school boards expressed grave concerns about the withdrawal of these large blocks of public land from settlement and economic development.
- The Organic Act of 1897 attempted to address concerns of many rural communities and defined the

purposes of the forest reserves. They were for the protection of the forests from fire, protection of the forests for watershed purposes, and protection of the forests for timber purposes.

- Congress recognized there were perceptions that communities adjacent to national forests would experience certain hardships, and passed legislation to provide payments as compensation, or grants for education and highways.
- Congress later passed legislation to reimburse local governments for Revested Oregon and California Grant Lands.
- Early policies of the Forest Service recognized the need to provide for the economic stability of local communities. This intent was also emphasized by Congress when it passed the Sustained Yield Act in 1944.
- These actions all served to create a dependency on the resources of the national forests, as well as expectations for future economic stability.
- Beginning in 1960, Congress passed the Multiple Use Sustained Yield Act, which served to codify the intent of the 1897 Organic Act.
- The period between 1960 and 1980 would see numerous laws passed by Congress to provide for protection of species, ensure that environmental issues would be addressed in the management of the public lands.
- Court challenges during the 1980s and 1990s would further define the intent of these laws.
- Legal challenges, along with a change in public values about the management of natural resources would result

in a significant change in the levels of timber harvest on the Federal forests.

- Many rural communities experienced the closure and removal of most, or all, of their wood products-based manufacturing facilities and the exodus of their skilled workforces. Unemployment, mortgage defaults, and related social problems such as divorce, alcoholism, and domestic violence increased in communities impacted by the collapse of the natural resource-based economy.
- Payments to States and local governments from receipts declined an average of 70 percent, and schools and county governments faced mounting financial problems.
- In 2000, Congress passed the Secure Rural Schools and Community Self Determination Act, P.L. 106-393, to provide a 6-year period of stable payments until a long-term solution could be developed.
- Counties that select the interim legislation and receive more than \$100,000, must designate 15 to 20 percent of their funds for either public lands projects, county projects, or both.
- A unique feature of the legislation is the creation of citizen advisory committees that use funds set aside to accomplish resource management projects on the national forests and O&C lands.
- Implementation of this legislation comes at a time when significant concerns over forest health exist, and the increase in hazardous fuels on the public lands has led to significant acreage being burned.
- The President, Congress, and many citizen groups are working to find a solution to bring the forests back into ecological balance.

## Chapter III: Methods

The Committee established a schedule to complete the Report to Congress consistent with the 18-month timeframe specified in the Legislation. An extensive public outreach effort was undertaken in order to gather as much information as possible. The following actions and methods were used to gather and analyze information.

- Information used by the Committee was obtained from existing information, studies commissioned by the Committee, interviews, and from information

presented by the public in response to specific questions posed by the Committee.

- Studies about the effects from changes in historical multiple use management were evaluated to the extent that the Committee could identify their existence, and to the extent that they were deemed relevant.
- A previous study on costs and benefits and tax equivalency was updated through an agreement with the Forest Service.
- Ten listening sessions were held across the country. The dates and locations are shown in Chapter III.

- Locations and dates of listening sessions were published in the Federal Register and notices were placed in local newspapers. Court reporters were used to provide a complete record of oral presentations.
- Outreach included letters to governors, and many national, regional, and local groups representing diverse interests.
- A Web site was developed that included information about the work of the Committee, copies of past studies, minutes from listening sessions, and a pathway for providing comments to the Committee.
- The report considered information submitted by respondents.

## Chapter IV: Payment Options and Recommendations

- Eight alternatives were evaluated to develop recommendations that meet the needs of communities and consider the sustainability of national forests and O&C lands.
  1. Historic laws remain in effect, with modifications, after P.L. 106-393 expires:
    - O&C Grant Lands payments;
    - Coos Bay Wagon Road;
    - 1908 Twenty-five Percent Payment Act; and
    - Weeks Act.
  2. Reauthorize P.L. 106-393, with modifications.
  3. Payments based on sustainable economic asset value of resources.
  4. Payments based on land value.
  5. Payments based on tax equivalency value.
  6. Payments based on projected value of forest plan implementation.
  7. Certain lands are managed as trust lands for counties and schools.
  8. Payment made to States and counties with no connection to receipts.
- The following four criteria were developed to evaluate them against one another.
  1. Payments are adequate and stable. They should not fluctuate from year to year, and must be adequate to meet the educational needs of rural children.
  2. Payment amounts are predictable. Payments must be predictable so that schools and local governments can adequately plan multi-year budgets and retain important education programs and services to residents.
  3. Forest health and sustainability are improved. People are concerned about the long-term health of public lands. Alternatives should have some relationship to actions that promote the sustainability of forest resources.
  4. Community participation is encouraged. Alternatives should provide citizens the opportunity to be actively involved with Federal land managers in decisions about public lands.
- ***Recommended Payment Method—Reauthorize the Secure Rural Schools and Community Self Determination Act of 2000 (P.L. 106-393), with modifications.***
  1. Retain provisions for resource advisory committees with some modifications.
  2. Periodically adjust payments based on inflation.
  3. Establish a minimum payment level consistent with P.L. 106-393 that would increase if receipts rise above that level.
  4. Title I expenditures should be more flexible for the county portion of funds.
  5. Broaden the category of expenditures that may occur with Title III funds.
  6. Future payments should not be subject to annual appropriations, and should be fixed at levels established under P.L. 106-393 for the first 10 years.
  7. Increase Federal funding for Title II projects.
  8. Require that some portion of Title I to be used for public education, and prohibit supplanting of payments by States.
- Other feasible alternatives.
  1. Make payments based on economic asset value.
  2. Estimate a payment level that has no connection to receipts generated from the public lands, and no requirement for county or public lands projects.

- Alternatives considered, but rejected.
  1. Payments based on land value.
  2. Payments based on tax equivalency.
  3. Payments based on projected value of forest plan implementation.
  4. Certain lands are managed in trust for local governments and schools.
- If Congress does not pass new payment legislation, all counties would revert to the historic payment statutes. The following changes should be made to ease the associated impacts.
  1. Agency programs and budgets should reflect forest plan levels.
  2. Regulations should be streamlined to improve timeliness and effectiveness of program accomplishment.

## Chapter V: Related Findings and Recommendations

During the course of gathering and analyzing information, a number of issues were identified that pertained to the issues Congress instructed the Committee to evaluate. They are presented as findings and recommendations.

### Findings

- Rural schools are highly dependent on Federal forest payments.
- About 39 percent of the revenue-sharing payments from The Twenty-five Percent Fund, or P.L. 106-393 is spent on schools.
- Federal payments under the Secure Rural Schools Act do not reach many local schools as they were intended.
  - While 34 percent of States allocate 50 percent of the monies to education, those States only receive about 8 percent of the payments.
  - Almost 56 percent of payments go to nine States where revenue sharing payments are deducted from State aid.
  - When all methods of allocating the school portion of payments by States and counties are considered, it is determined that 63 percent of the money from P.L. 106-393, and The Twenty-five Percent Fund has no direct affect on the budgets of school districts in the counties where these public lands are located.
- Stability and predictability of Federal forest payments is important to maintaining education services and student activity programs.
- Some counties are assessing the maximum tax rate allowable under law, yet revenues remain insufficient to maintain basic services for their residents and visitors to public lands.
- Costs to local governments for maintaining and reconstructing local roads and bridges have increased due to reductions in Federal timber programs and Federal revenue-sharing payments.
- Costs to local governments for services they provide associated with public lands have increased. The greatest expense to local governments from Federal resource lands is search and rescue, law enforcement, road maintenance, and fire control.
- In the first year of implementation of P.L. 106-393 76 percent of eligible counties elected to receive payments totaling \$448 million (including Title II designations).
  - Approximately \$32.6 million was designated for Title II projects on Federal lands.
  - About \$20 million that was set aside for Title II projects on national forests generated an additional \$10.6 million in other funds.
  - A total of 650 projects were developed on national forests and O&C lands with Title II funds.
  - The majority of projects accomplished were watershed and wetlands restoration, noxious weed eradication, recreation trails, road maintenance, and fish habitat improvement.
  - Seventy-two percent of all projects on national forests used contracts to accomplish work, thus creating a positive impact on local economies.
- Counties designated a total of \$43 million, or 57 percent of their elections to Title III projects.
  - Categories receiving the greatest number of projects were search and rescue, forest related educational opportunities, and county fire prevention and planning.
- The total payment available under P.L. 106-393 influences whether a county elects only Title III projects, or a combination of Title II and Title III.
- The success of resource advisory committees has been in their ability to work together to develop projects, and the availability of funding to implement them.
- The success of resource advisory committees is greatly influenced by the interest of the local Federal manager.
- Some advisory committees had difficulty filling all of the categories for membership, especially where a separate county elected to form a committee rather than set up a multi-county RAC.

- Several questions about the operation of advisory committees were identified. These are examples of issues that can be addressed under legislation, or through administrative procedures.
- Regulations and some laws governing implementation of forest management projects are causing significant delays in treating forest health problems, and can reduce payments to State and counties, as well as affect some local economies.
- There is a great deal of frustration with the Forest Service Appeal Regulations.

### Recommendations

- Retain payment levels established under the Secure Rural Schools Act (P.L. 106-393).
- Continue to make payments directly to States for counties adjacent to national forests.
- Provide statutory language prohibiting States from offsetting State education dollars with Federal forest payments.
- Future payments made to States and counties should not be subject to annual appropriations, and should be fixed at levels established under P.L. 106-393 for the first 10 years. Receipts collected from public lands should be used to reduce to total cost to the Treasury.
- Further study is needed to fully understand the costs to local governments associated with the presence of public lands.
- Allow more flexibility for local governments to spend the non-school portion of Federal payments.
- Title III should be continued under long-term legislation, and categories expanded to allow for expenditure of funds for non-reimbursed services provided to public lands by local governments.
- Long-term payment legislation should contain provisions for resource advisory committees.
- The Forest Service and the BLM should initiate regulations to clarify administrative questions to provide consistency for Titles II and III.
- Broaden membership categories to allow for participation by relevant local interests.
- Consider expanding the role of resource advisory committees beyond current duties and relax the current requirements for restoration projects.
- The administration and Congress should consider designating additional funds for use by resource advisory committees, especially in those national forests and counties where available dollars for Title II projects are limited.
- Monitoring of P.L. 106-393 needs to be undertaken.
- Revise the Forest Service Appeal Regulations to reward collaborative efforts.
- Congress should continue to address statutes, regulations, and policies that affect forest health.

## Chapter VI: Observations

Some comments and information supplied to the Committee may not have been directly related to the issues being evaluated, or there were no recommendations developed in the report. However, some of the information is important and should not be ignored. Chapter VI contains a discussion of these observations.

- Many communities have not recovered from the loss of historic timber management programs.
- Loss of revenue sources has resulted in the reduction of medical services in some communities.
- The cost of social services, law enforcement, and correctional facilities has increased due to social problems caused by loss of jobs from closure of timber manufacturing industries.
- A loss of higher-wage jobs has resulted in a loss of population in some counties, along with student enrollment, teachers, and “social capital.”
- Value-added wood products and community forestry industries are emerging. Also:
  - Federal statutes and agency policies, such as contracting, may not be flexible enough to facilitate development of these industries;
  - Local Federal managers may not fully understand the important role they should play in supporting these efforts;
  - The success of community forestry industries is frequently dependent on the leadership of a few individuals in a community; and
  - Other communities would benefit from leadership training and access to information and venture capital.
- Many local governments have created economic development authorities and programs that are aiding in diversification of economies.

- An increase in second home construction adjacent to public lands may increase the financial burdens of local governments to provide transportation and fire protection services to these areas.
- Public lands provide multiple benefits to residents of rural communities and to urban populations.
- Payment in Lieu of Taxes (PILT) has not been fully funded as authorized, and creates confusion among some counties, because of its relationship to other payment statutes.
  - In 2002, PILT payments were in excess of \$200 million, but when expressed in constant dollars, reflect only 80 percent of the value of the original \$100 million paid in fiscal year 1977.
  - Decreases in revenue sharing payments in the 1990s resulted in reduced PILT payments to counties that have a high dependency on this payment statute.
  - Passage of the Secure Rural Schools and Community Self Determination Act relieved pressure on PILT appropriations.
  - When considered together, payments from the Secure Rural Schools and Community Self Determination Act and PILT are less than the tax per acre for the aggregate of all counties.
- Implementation of Federal environmental laws and regulations is not efficient and can create adverse impacts on communities.
- Advisory committees that have financial resources to manage, and have a decision-making role, may experience a sense of accomplishment that improves working relationships.
- Forest Service units would benefit from the creation of advisory committees similar to those established under the Secure Rural Schools and Community Self Determination Act of 2000.
- Experience gained from participation in an advisory committee may help build capacity of citizens to work together in their communities to develop solutions for improving their economies.
- Agency field managers differ in the way they view their responsibilities in working with local communities to improve social and economic conditions.
- Relationships between the local governments and the Federal agencies have improved as a result of the Secure Rural Schools and Community Self Determination Act.
- There is a link between sustainable forests and sustainable communities.
- The long-term sustainability of public forests is a concern to many people. Increased mortality to trees from insects and diseases, wildfires, and other factors were affecting the health of forests, local economies, and the quality of life in communities.

## Appendix A

### Historical Studies on Payments to States and Local Governments

#### Federal Real Estate Board 1943

The Federal Real Estate Board was created by executive order to study and make recommendations regarding the effects of Federal land acquisition on communities. Much of the land the government was purchasing at that time was heavily cut over and provided little in terms of receipts. The general view was that government ownership of this land would improve the value because of forest and range restoration activities. This in turn would generate more receipts in the long term that would benefit counties.

The following represents key findings and recommendations from the Board.

- A distinction was made between public domain lands that had never been in private ownership, and acquired lands that had previously been privately owned.
  - The board concluded that loss of taxes should not be a consideration for counties adjacent to public domain lands—“the whole structure of local government has been built up around these lands without the benefit of such taxes.”
  - The restriction on the use of the money—roads and schools—may not be the best use of funds in all counties
  - The board recommended that a partial tax equivalency payment be made for a period of years when lands move from private ownership to public ownership.
  - The board adopted principles that have been studied by just about every board or commission since then. The principles advocate that the payment by the Federal government should consider the actual tax loss, the benefit to the local community from Federal ownership, and the effects of Federal ownership on the requirements for services provided by State and local governments.
  - The board supported the practice of using receipts to offset the difference in lost tax revenue and costs imposed on local governments with benefits derived by local communities for the presence of public lands.
- The board also criticized the fluctuation in payments made from year to year. This is an indication that receipts from timber harvesting fluctuated significantly during this time.

#### Hoover Commission 1949

The Hoover Commission was created to study the organization of the Executive Branch. In the course of its work, it contracted with the Council of State Governments to conduct a study on tax immunity. The council encountered similar problems that future commissions would wrestle with. When an estimate is made about how public lands might have been developed if they were in private ownership, the possibilities can only be conjecture at best. An argument can be made that they could generate greater economic value, but an argument of equal merit can be made that adjacent lands would actually lose value. Regardless of these uncertainties, the Council of State Governments made the following conclusions.

- The presence of public land increases the value of adjacent private lands.
- If Federal lands were privatized, the costs to local communities to provide and extend services to those lands might offset any gain.
- There is a question whether the presence of public lands have a negative impact on local taxes since the public domain lands have never been available for taxation.

#### BUREAU of Budget (Now OMB) 1951

The Bureau of Budget began their study in 1949, after a request was made for it to assess effects on local governments which have had property removed from its tax base. The recommendations developed by the bureau only dealt with acquired lands, and did not address public domain lands. The recommendations established classifications for properties according to their use. The recommendations were never adopted.

#### Commission on Intergovernmental Relations (Kestnbaum Commission) 1955

The Kestnbaum Commission made an assessment of the impact of denied tax base on local communities, and

concluded that impacts were severe where the Federal property constituted a large portion of the total property. The commission considered all Federal ownerships, and considered two broad categories of lands; those where revenue payments are shared, and those that receive no payments. The following conclusions and recommendations were made by the commission.

- Federally owned lands have created a severe impact on local communities where they comprise a large percentage of the land base.
- A tax equivalency approach to reimbursement is not realistic due to a lack of uniformity in property values, and the diverse nature of the lands.
- Supported a revenue sharing approach on the national forests.
- Recommended that payments be calculated on a five-year moving average.
- When timber is traded, the value of that timber should be shared. Present day application of this approach would be the Pilot Program of Goods for Services.
- Restrictions on the use of funds for roads and schools should be abolished.
- Acquired lands should receive an in-lieu payment for 10 years.

### **Public Land Law Review Commission 1970**

The Public Land Law Review Commission was a 19-member bipartisan commission that looked at many issues related to public lands. While they did not develop a separate recommendation for national forest land they did address Federal ownership. They made recommendations covering 10 areas. There are eight that are related to the work of the Forest Counties Payments Committee.

- State and local governments should receive payments for the tax immunity of Federal lands, and the costs should be born by all citizens of the United States.
- Payments should be reduced by a discount rate of 10 percent to 40 percent for benefits derived from the public lands. The commission could not establish methods for measuring benefits.

- Payments should be made to the State. The appropriate role for the Federal government is to deal with the State rather than the local level of government.
- Payment formulas should not distinguish public domain lands from Federally purchased lands.
- Federal payments should not be earmarked for schools and roads.
- Receipts bear no relationship to fiscal burdens associated with Federal ownership.
- Valuations for tax equivalency payments should be made every 5 to 10 years, with annual adjustments
- Federal ownership creates greater burdens on some communities for a number of reasons. This needs to be recognized and provided for.

### **Advisory Committee on Intergovernmental Relations 1978**

*The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands*

The Advisory Committee began the study in 1975, and completed their report in 1978. The purpose was to examine the fairness of payments made to States and counties for the presence of Federal lands. The study focused on the impacts to local government finances and made recommendations to compensate for any adverse fiscal effects. The commission made the following conclusions and recommendations.

- The presence of public land does not create an additional tax burden, except in certain counties.
- The presence of public lands does not add to the operating expenditures above what is normally spent to meet the needs of local residents.
- Special problems do exist in certain counties.
- Revenue sharing payments plus PILT payments may not completely protect against unusual cases of fiscal distress caused by Federal land ownership.
- Criteria should be developed and additional compensation should be made to counties that meet these criteria.

- Local governments may experience severe fiscal disruption when the Federal government purchases lands, or makes changes in land management policies which sharply reduce receipts.
- Adjustment payments should be made for several years to allow State and local governments to adjust to the revenue loss.
- In 1908, roads and schools were the principle local government function. In effect, the restriction for use of the payments was no restriction at all.
- The Congress should remove the restrictions on the use of funds for roads and schools.
- Local governments are affected by the stability of payments from one year to the next.
- Payments should be determined based on an average of several years.

Some important distinctions need to be made about this report. The commission acknowledged that its conclusions were based on local governments as a whole, or in the aggregate. As a result, the report does not adequately measure the effects to individual counties.

Several of the members of the commission disagreed with some of the methods used to compare costs incurred by local governments, and the determination that costs imposed on public lands counties is no different than those imposed on other rural counties.

### **Comptroller General Report 1979**

*Alternatives for achieving Greater Equities in Federal Land Payment Programs*

The comptroller general conducted an assessment of various land payment programs which compensate States and counties for lost tax revenue on Federal land. The study looked at eight western States, which receive about 80 percent of the payments. The following conclusions and recommendations were made in the report that was submitted to Congress.

- Most programs pay States and local governments a percentage of receipts rather than equivalent taxes, and have little, if any, relationship to taxes that would be collected if those lands were privately owned.

- Many States and local governments are overpaid when compared to tax equivalency, and others receive little or no payment.
- Some counties received more in land payments than they would have in taxes for the same land, and received an added bonus through minimum payments under PILT.
- For six of the eight States reviewed, States and local governments received an average of \$1 more an acre from the Federal government than they would have received on a tax-equivalent basis.
- Federal land receipts are likely to increase over time.
- Congress should change the law to require payments made on a tax-equivalency basis.
- Payments should not be earmarked for particular purposes.
- If Congress retains payments made on receipts, payments should be made to counties.
- Delete the minimum payment method under PILT. It increases the disparity of payments among counties when all payments are considered.
- It is not feasible to implement a payment system based on calculating costs and benefits to States and counties. The process of calculating costs and benefits is costly, time consuming, and probably inaccurate.

### **An Analysis of PILT-Related Payments and Likely Property Tax Liability of Federal Resource Management Lands**

*Schuster, Beckley, Busher, Gebert, Niccolucci 1999*

This is the most recent study involving a comparison of certain Federal payments with the tax value of Federal resource management lands. In addition to payments made under PILT, it compared PILT, plus revenue-sharing payments. It also made an assessment of costs and benefits that local governments incur, or receive from the presence of these Federal resource lands. While this Study's primary focus is on PILT, it is appropriate to include it as a source of relevant information, because it addressed costs and benefits to communities for the presence of Federal lands, and made comparisons between PILT, revenue sharing payments, and the likely property taxes Federal lands would

generate if they could be taxed. However, the Forest Counties Payments Committee believes, as presented in the report, that it is not appropriate to assume that revenue-sharing payments made under the 1908 Twenty-five Percent Payments Act were intended to compensate local governments for a denied tax base.

The Study made the following findings using 1997 payment data.

- Individually, payments to many counties are equivalent to the taxes those Federal resource lands would generate. However, many are not equivalent to the extent that when all counties are considered, payments are not equivalent. In fact, the study found that potential taxes that could be generated, exceeded PILT plus revenue-sharing payments by \$.94 per acre.
- Considering PILT payments alone, about 51 percent of all counties are tax equivalent.
- If PILT were fully funded and revenue-sharing payments were held constant, then about 62 percent of the counties are tax equivalent.
- In order to generate a national tax equivalency, PILT would have to be increased by a factor of almost three

times. Still, 18 percent of the counties would not be tax equivalent.

- Costs and benefits to local governments were evaluated through a questionnaire, and not on a detailed examination of fiscal records or accounts.
- Consistent with previous studies, there was limited data collected to indicate the specifics of costs imposed. However, the study concluded that Federal lands and programs mostly increased costs for search and rescue, law enforcement, road construction and maintenance, and fire protection and control. Local officials commenting through the questionnaire indicated some of those costs were small, and attributed the recreation programs as responsible for the greatest increase in costs.
- Direct fiscal benefits to counties from Federal lands is low. However, this should not be interpreted the same as benefits to communities from economic activity generated by certain national forest programs, nor indirect fiscal benefits to local governments. Widespread cost savings to local governments from Federal lands are difficult to document because direct fiscal benefits were perceived to be low.

## Appendix B

### Historical Payments (Millions of Dollars)

Year	Forest Service 25% Payments to States and Puerto Rico	Forest Service P.L. 106-393	BLM Payments to O&C & Coos Bay Counties	BLM P.L. 106-393 To O&C & Coos Bay Counties
2001	15.5	370.9		109.6
2000	192.4		62.4	
1999	205.4		65.2	
1998	227.8		68.0	
1997	239.1		70.8	
1996	260.8		73.6	
1995	277.7		76.4	
1994	316.2		79.2	
1993	301.5		79.3	
1992	329.2		91.2	
1991	327.2		97.2	
1990	372.6		104.1	
1989	371.5		110.9	
1988	293.3		109.7	
1987	270.0		69.0	
1986	382.7		72.3	
1985	225.0		61.6	
1984	199.8		66.5	
1983	132.6		47.8	
1982	230.4		39.9	
1981	233.6		97.8	
1980	280.3		98.1	
1979	277.0		97.4	
1978	238.8		88.1	
1977*	224.1		107.2	
Trans Qtr	48.9		29.6	
1976	109.5		60.3	
1975	89.8		49.3	
1974	117.5		57.8	
1973	113.7		47.2	
1972	84.7		37.7	
1971	56.6		31.1	

- Source: Forest Service and BLM
- Numbers are in millions of dollars and may vary slightly due to rounding.
- The increase from 1976 to 1977 reflects changes made to the formula for calculating payments to States as result of National Forest Management Act.
- 2001 was the first year of payments made under P.L. 106-393

## Appendix C

### Federal Payments to States for Certain Geographic Areas from 1908 25% Payment Act (Millions of Dollars)

Geographic Area	1990	1999	% Decline
N. California counties covered by legislated payment levels	19.8	13.1	34 %
N. California counties not covered by legislated payment levels	24.1	6.8	72 %
State of Idaho	14.5	7.5	48 %
State of Montana	11.1	6.2	45 %
Eastern Oregon counties not covered by legislated payment levels	33.7	4.2	87 %
Western Oregon counties covered by legislated payment levels	115.9	76.3	34 %
Eastern Washington counties not covered by legislated payment levels	1.8	.974	46 %
Western Washington counties covered by legislated payment levels	35.0	24.7	29 %

Source: Forest Service ARS-10

Note: Legislated payment levels for certain counties in Oregon, Washington, and California are based on the Omnibus Budget Reconciliation Act of 1993. Payments to States for fiscal year 1995 were based on 82 percent of the 5-year average payments for fiscal years 1986 to 1990 for those national forests affected by decisions on the Northern Spotted Owl. Provisions of the 1993 act were repealed with passage of P.L. 106-393.

Note: Numbers are not adjusted for inflation and may vary slightly due to rounding.

## Appendix D

**Trend of National Forest and O&C Timber Sales**  
Billion Board Feet

YEAR	National Forests Timber Volume Sold	O&C Lands Timber Volume Sold
2002	1.6	
2001	1.5	.05
2000	1.7	.07
1999	2.2	.06
1998	2.9	.2
1997	3.6	.2
1996	3.3	.2
1995	2.9	.1
1994	3.1	.01
1993	4.5	.05
1992	4.5	.05
1991	5.8	.42
1990	9.2	1.1
1989	8.4	.7
1988	10.9	1.0
1987	11.3	1.1
1986	10.9	1.6
1985	10.8	1.0
1984	10.6	1.1
1983	11.1	1.1
1982	10.0	1.1
1981	11.4	1.1
1980	11.3	1.1
1979	11.3	1.1
1978	10.9	1.1
1977	9.9	1.2
1976	11.8	1.1
1975	10.8	1.1
1974	10.2	1.2
1973	10.3	1.2
1972	10.3	1.2
1971	10.6	1.2
1970	13.4	1.7
1969	19.5	1.1
1968	11.7	1.3
1967	11.6	1.3
1966	11.3	1.2
1965	11.5	1.2
1964	11.7	1.6
1963	12.2	1.6
1962	10.3	
1961	8.8	
1960	12.2	
1959	9.3	
1958	13.3	
1957	6.5	
1956	6.8	
1955	10.1	
1954	6.4	
1953	4.7	
1952	4.7	
1951	4.9	
1950	3.4	

Source: Forest Service and BLM

Note: Numbers are in billion board feet, and may vary slightly due to rounding.

On average, it takes about 12,000 board feet of lumber to build a house in the United States.

## Appendix E

### Payments to States and Counties Fiscal 2001 P.L. 106-393

Forest Service County Elections by State	TITLE I	TITLE II	TITLE III	TOTAL TITLE I,II,III	% Allocated Title II & III	% of Title II and Title III Allocated To Title II	% of Title II and Title III Allocated to Title III
ALABAMA	1,755,528.98	0.00	276,852.88	2,032,381.86	14	0	100
ALASKA	7,794,999.52	367,733.67	1,000,864.74	9,163,597.93	15	27	73
ARIZONA	6,206,346.80	319,079.78	793,903.46	7,319,330.04	15	29	71
ARKANSAS	4,611,130.39	234,458.85	522,601.61	5,368,190.85	14	31	69
CALIFORNIA	55,122,779.58	4,042,659.21	6,041,471.74	65,206,910.53	15	40	60
COLORADO	2,715,868.01	0.00	324,549.89	3,040,417.90	11	0	100
FLORIDA	2,022,327.82	0.00	357,411.69	2,379,739.51	15	0	100
GEORGIA	1,136,530.27	0.00	84,438.60	1,220,968.87	7	0	100
IDAHO	19,450,288.59	2,631,538.51	751,698.73	22,833,525.83	15	78	22
ILLINOIS	261,840.24	0.00	23,217.96	285,058.20	8	0	100
INDIANA	121,965.20	0.00	0.00	121,965.20	0	0	0
KENTUCKY	356,332.88	0.00	27,594.12	383,927.00	7	0	100
LOUISIANA	3,108,319.57	0.00	535,441.39	3,643,760.96	15	0	100
MAINE	38,797.87	0.00	0.00	38,797.87	0	0	0
MICHIGAN	481,286.42	0.00	98,352.16	579,638.58	17	0	100
MINNESOTA	727,242.83	0.00	128,336.97	855,579.80	15	0	100
MISSISSIPPI	6,440,613.42	62,893.62	970,913.34	7,474,420.38	14	6	94
MISSOURI	2,047,905.09	0.00	285,844.27	2,333,749.36	12	0	100
MONTANA	11,391,154.37	54,154.97	1,972,989.53	13,418,298.87	15	3	97
NEBRASKA	28,364.00	0.00	0.00	28,364.00	0	0	0
NEVADA	302,461.51	0.00	26,864.75	329,326.26	8	0	100
NEW HAMPSHIRE	0.00	0.00	0.00	0.00	0	0	0
NEW MEXICO	1,652,522.01	103,690.67	128,473.69	1,884,686.37	12	45	55
NEW YORK	4,457.20	0.00	0.00	4,457.20	0	0	0
NORTH CAROLINA	933,317.41	0.00	22,853.28	956,170.69	2	0	100
NORTH DAKOTA	0.00	0.00	0.00	0.00	0	0	0
OHIO	40,418.70	0.00	0.00	40,418.70	0	0	0
OKLAHOMA	1,107,138.09	0.00	195,377.31	1,302,515.40	15	0	100
OREGON	128,341,365.14	13,696,607.49	12,734,042.01	154,772,014.64	17	52	48
PENNSYLVANIA	1,198,409.39	0.00	211,484.01	1,409,893.40	15	0	100
SOUTH CAROLINA	2,588,138.06	0.00	491,548.10	3,079,686.16	16	0	100
SOUTH DAKOTA	3,278,812.54	0.00	390,374.73	3,669,187.27	11	0	100
TENNESSEE	487,627.81	0.00	37,106.19	524,734.00	7	0	100
TEXAS	3,958,839.42	183,196.99	487,677.42	4,629,713.83	14	27	73
UTAH	1,253,359.45	0.00	144,479.09	1,397,838.54	10	0	100
VERMONT	224,531.00	0.00	0.00	224,531.00	0	0	0

<b>Forest Service County Elections by State</b>	<b>TITLE I</b>	<b>TITLE II</b>	<b>TITLE III</b>	<b>TOTAL TITLE I,II,III</b>	<b>% Allocated Title II &amp; III</b>	<b>% of Title II and Title III Allocated To Title II</b>	<b>% of Title II and Title III Allocated to Title III</b>
VIRGINIA	602,517.19	0.00	16,121.89	618,639.08	3	0	100
WASHINGTON	36,233,196.63	3,168,715.07	4,969,412.70	44,371,324.40	18	39	61
WEST VIRGINIA	1,559,255.17	0.00	267,690.30	1,826,945.47	15	0	100
WISCONSIN	50,346.10	0.00	0.00	50,346.10	0	0	0
WYOMING	1,887,284.77	66,627.03	215,832.72	2,169,744.52	13	24	76
PUERTO RICO	0.00	0.00	0.00	0.00	0	0	0
<b>State Totals</b>	\$311,523,619.44	\$24,931,355.86	\$34,535,821.27	\$370,990,796.57	16	42	58

**Payments to States and Counties Fiscal 2001  
P.L. 106-393**

<b>BLM O&amp;C and Coos Bay Counties</b>	<b>TITLE I</b>	<b>TITLE II</b>	<b>TITLE III</b>	<b>TOTAL TITLE I, II, III</b>	<b>% Allocated Title II &amp; III</b>	<b>% of Title II and Title III Allocated To Title II</b>	<b>% of Title II and Title III Allocated to Title III</b>
Benton	\$2,597,062.51	\$274,983.09	\$183,322.06	\$3,055,367.66	15	60	40
Clackamas	\$5,129,429.52	\$0.00	\$905,193.45	\$6,034,622.97	15	0	100
Columbia	\$1,903,896.36	\$110,873.96	\$225,107.75	\$2,239,878.07	15	33	67
Coos	\$5,452,907.06	\$452,270.53	\$510,007.19	\$6,415,184.78	15	47	53
Coos (CBWR)	\$682,664.52	\$56,621.00	\$63,849.21	\$803,134.73	15	47	53
Curry	\$3,373,408.61	\$29,765.37	\$565,542.03	\$3,968,716.01	15	5	95
Douglas	\$23,151,749.47	\$3,064,202.14	\$1,021,400.71	\$27,237,352.32	15	75	25
Douglas (CBWR)	\$123,410.01	\$16,333.68	\$5,444.56	\$145,188.25	15	75	25
Jackson	\$14,482,551.46	\$1,277,872.19	\$1,277,872.19	\$17,038,295.84	15	50	50
Josephine	\$11,164,596.15	\$610,769.08	\$1,359,453.77	\$13,134,819.00	15	31	69
Klamath	\$2,162,678.40	\$190,824.56	\$190,824.56	\$2,544,327.52	15	50	50
Lane	\$14,112,862.86	\$1,245,252.60	\$1,245,252.60	\$16,603,368.06	15	50	50
Lincoln	\$332,719.74	\$29,357.63	\$29,357.63	\$391,435.00	15	50	50
Linn	\$2,439,944.86	\$215,289.25	\$215,289.25	\$2,870,523.36	15	50	50
Marion	\$1,349,363.44	\$23,812.30	\$214,310.66	\$1,587,486.40	15	10	90
Multnomah	\$948,142.56	\$0.00	\$237,035.64	\$1,185,178.20	20	0	100
Polk	\$1,996,318.52	\$35,229.15	\$317,062.35	\$2,348,610.02	15	10	90
Tillamook	\$517,564.05	\$61,194.34	\$30,140.50	\$608,898.89	15	67	33
Washington	\$582,259.57	\$25,687.92	\$77,063.77	\$685,011.26	15	25	75
Yamhill	\$665,439.51	\$0.00	\$117,430.50	\$782,870.01	15	0	100
<b>County Totals</b>	\$93,168,969.18	\$7,720,338.79	\$8,790,960.38	\$109,680,268.35	15	47	53
<b>National Forest &amp; O&amp;C Totals</b>	404,692,589	32,651,695	43,326,782	480,671,065	16	43	57

## Appendix F

### Future Outlook for Receipt Collections from the National Forests

When Secure Rural Schools and Community Self Determination Act was passed, historical receipts from 1886 to 1999 were used to calculate the "Full Payment Amount" described in the act. Projections about future of receipt collections, and their contribution to payments made from P.L. 106-393, can never be certain. However, the following table indicates the trend of receipt collections after passage of the act. The data also provides useful trend information to illustrate the effects of not passing long-term payment legislation and all counties having to revert to the 1908 payments act. Counties deciding whether to remain under the Twenty-five Percent Act, or switch to the full payment amount during this interim period should be aware of trends in receipt collections from all programs that collect receipts.

Estimated 25 Percent Payment Based on Actual Receipts Collected

	P.L. 106-393 Full Payment Amount	2000 25% Payment Estimate	2001 25% Payment Estimate	2000 Receipts Collected	2001 Receipts Collected	% Decline 2000-2001
Western Regions	270,454,000	32,642,110	20,756,184	130,568,440	83,024,736	36%
Rocky Mountain Regions	39,380,000	29,157,940	20,756,184	116,631,760	83,024,736	28%
Northeast and Southeast	54,211,000	34,202,937	24,877,211	136,811,751	99,508,844	27%

Source: Forest Service ARS-04

Note: 2000 and 2001 estimates are without the owl guarantees to illustrate what payments would be in the future without them.

Owl guarantees would have expired had P.L. 106-393 not rescinded the 1993 legislation that created them.

Note: Full Payment Amount column includes funds from Titles I, II, & III

## **Appendix G**

### **Language to Prevent States from Substituting Federal Funds**

The following language, or similar language, should be included in new legislation to prevent the substitution of Federal funds by States.

“Funds paid to a State under 16 U.S.C. 500 and this act must be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) that are available to counties with national forests, and in no case may supplant otherwise available Federal, State, or local funds.”

## Appendix H

Date: August 4, 2002

The Honorable James V. Hansen  
Chairman, Committee on Resources  
1324 Longworth House Office Building  
Washington, DC 20515

Dear Congressman Hansen:

The Forest Counties Payments Committee has conducted nine listening sessions in many areas of the Country to gather information for developing recommendations to Congress in accordance with P.L. 106-291. One of the issues the Committee consistently heard from the public was frustration about the Forest Service project appeal regulation (36 CFR 215).

Many people with diverse interests and values are working together in communities to find common ground on issues related to the management of forests and rangelands. Through their collaborative efforts, they develop projects that restore water quality, reduce hazardous fuels, and improve wildlife habitat. Unfortunately, their efforts, and the efforts of the Forest Service, are easily undone by an administrative process that provides for objections by individuals not actively engaged in finding solutions.

The devastating wildfires this year will create a critical need for restoration projects, as well as salvage operations. The current appeal process used by the Forest Service has the potential to create a serious bottleneck when a bias for action is needed. When these types of projects are delayed, there is a loss of economic value to local communities. The Committee believes that a different approach is needed to ensure proper management of the national forests and grasslands, to promote more meaningful collaboration by citizens, and to ensure adequate due process.

The Forest Counties Payments Committee has the responsibility to make recommendations to Congress regarding evaluations it makes of costs and benefits to counties from the presence of public lands, to look at those factors affecting payments, and to consider sustainable forestry as defined in the legislation. We believe that the Forest Service appeal process for projects has a direct effect on these areas.

The Committee recommends an interim and a long-term solution to the problem. In the short-term, Congress should withdraw the statutory requirement for project-level appeal regulations set forth in appropriation law. No other agency in the Executive Branch has this requirement. The Forest Service should be instructed to evaluate the need for retaining the current appeal regulation at 36 CFR 215, and take steps within a specified time to make changes they deem necessary. Congress would exercise its oversight responsibilities to monitor progress and provide feedback.

The Forest Service should also be given authority to suspend the current 215 Appeal Regulation for restoration and salvage operations of wildfires that occur in calendar year 2002. This would provide the necessary relief to quickly treat these areas and engage in salvage operations where appropriate. It would also give the Agency time to complete its evaluation of the current appeal process and make needed changes.

Sincerely,

/s/Mark Evans

MARK EVANS  
Chair  
Forest Counties Payments Committee

*Editor's Note: This letter was addressed to the Chairs of the six Committees of Jurisdiction*

## Appendix I

### Establishment of the Advisory Committee on Forest Counties Payments

Sec. 320 P.L. 106-291

- (a) Definitions.—In this section:
- (1) Advisory committee.—The term “Advisory Committee” means the Forest Counties Payments Committee established by this section.
  - (2) Committees of jurisdiction.—The term “committees of jurisdiction” means the Committee on Agriculture, the Committee on Resources, and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.
  - (3) Eligible county.—The term “eligible county” means a county that, for one or more of the fiscal years 1986 through 1999, received—
    - (A) a payment under title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), or the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f-1 et seq.); or
    - (B) a portion of an eligible State's payment, as described in paragraph (4).
  - (4) Eligible State.—The term “eligible State” means a State that, for one or more of the fiscal years 1986 through [[Page 114 STAT. 991]] 1999, received a payment under the sixth paragraph under the heading of “FOREST SERVICE” in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), or section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).
  - (5) Federal lands.—The term “Federal lands” means the following:
    - (A) Lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)), exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010-1012).
    - (B) Such portions of the Oregon and California Railroad grant lands revested in the United States by the Act of June 9, 1916 (chapter 137; 39 Stat. 218), and the Coos Bay Wagon Road grant lands reconveyed to the United States by the Act of February 26, 1919 (chapter 47; 40 Stat. 1179), as are or may hereafter come under the jurisdiction of the Secretary of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.
- (6) Sustainable forestry.—The term “sustainable forestry” means the practice of meeting the forest resource needs and values of the present without compromising the similar capability of future generations.
- (b) Establishment of Advisory Committee.—
- (1) Establishment required.—<<NOTE: Forest Counties Payments Committee.>> There is hereby established an advisory committee, to be known as the Forest Counties Payments Committee, to develop recommendations, consistent with sustainable forestry, regarding methods to ensure that States and counties in which Federal lands are situated receive adequate Federal payments to be used for the benefit of public education and other public purposes.
  - (2) Members.—The Advisory Committee shall be composed of the following members:
    - (A) The Chief of the Forest Service, or a designee of the Chief who has significant expertise in sustainable forestry.
    - (B) The Director of the Bureau of Land Management, or a designee of the Director who has significant expertise in sustainable forestry.
    - (C) The Director of the Office of Management and Budget, or the Director's designee.
    - (D) Two members who are elected members of the governing branches of eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act. [[Page 114 STAT. 992]]
    - (E) Two members who are elected members of school boards for, superintendents from, or teachers employed by, school districts in eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking

members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act.

- (3) Geographic representation.—In making appointments under subparagraphs (D) and (E) of paragraph (2), the President pro tempore of the Senate and the Speaker of the House of Representatives shall seek to ensure that the Advisory Committee members are selected from geographically diverse locations.
- (4) Organization of advisory committee.—
  - (A) Chairperson.—The Chairperson of the Advisory Committee shall be selected from among the members appointed pursuant to subparagraphs (D) and (E) of paragraph (2).
  - (B) Vacancies.—Any vacancy in the membership of the Advisory Committee shall be filled in the same manner as required by paragraph (2). A vacancy shall not impair the authority of the remaining members to perform the functions of the Advisory Committee under this section.
  - (C) Compensation.—The members of the Advisory Committee who are not officers or employees of the United States, while attending meetings or other events held by the Advisory Committee or at which the members serve as representatives of the Advisory Committee or while otherwise serving at the request of the Chairperson of the Advisory Committee, shall each be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-15, as provided in the General Schedule, including traveltime, and while away from their homes or regular places of business, shall each be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.
- (5) Staff and rules.—
  - (A) Executive director.—The Advisory Committee shall have an Executive Director, who shall be appointed by the Advisory Committee and serve at the pleasure of the Advisory Committee. The Executive Director shall report to the Advisory Committee and assume such duties as the Advisory Committee may assign. The

Executive Director shall be paid at a rate not in excess of the maximum rate of pay for grade GS-15, as provided in the General Schedule.

- (B) Other staff.—In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments to the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such [[Page 114 STAT. 993]] title relating to classification and General Schedule pay rates, the Advisory Committee shall have authority to enter into contracts with private or public organizations which may furnish the Advisory Committee with such administrative and technical personnel as may be necessary to carry out the functions of the Advisory Committee under this section. To the extent practicable, such administrative and technical personnel, and other necessary support services, shall be provided for the Advisory Committee by the Chief of the Forest Service and the Director of the Bureau of Land Management.
  - (C) Committee rules.—The Advisory Committee may establish such procedural and administrative rules as are necessary for the performance of its functions under this section.
- (6) Federal agency cooperation.—The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Advisory Committee in the performance of its functions under this section and should furnish, as practicable, to the Advisory Committee information which the Advisory Committee deems necessary to carry out such functions.
- (c) Functions of Advisory Committee.—
    - (1) Development of recommendations.—
      - (A) In general.—The Advisory Committee shall develop recommendations for policy or legislative initiatives (or both) regarding alternatives for, or substitutes to, the payments required to be made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a) in order to provide a long-term method to generate annual payments to eligible States and eligible counties.
      - (B) Reporting requirements.—  
<<NOTE: Deadline.>> Not later than 18

months after the date of the enactment of this Act, the Advisory Committee shall submit to the committees of jurisdiction a final report containing the recommendations developed under this subsection. The Advisory Committee shall submit semiannual progress reports on its activities and expenditures to the committees of jurisdiction until the final report has been submitted.

- (2) Guidance for committee.—In developing the recommendations required by paragraph (1), the Advisory Committee shall—
- (A) evaluate the method by which payments are made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and the use of such payments;
  - (B) consider the impact on eligible States and eligible counties of revenues derived from the historic multiple use of the Federal lands;
  - (C) evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands, including recreation, natural resources industries, and the value of environmental services that result from Federal lands; and
  - (D) evaluate the expenditures by counties on activities on Federal lands which are Federal responsibilities.

[[Page 114 STAT. 994]]

- (3) Monitoring and related reporting activities.—The Advisory Committee shall monitor the payments made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and submit to the committees of jurisdiction an annual report describing the amounts and sources of such payments and containing such comments as the Advisory Committee may have regarding such payments.
- (4) Testimony.—The Advisory Committee shall make itself available for testimony or comments on the reports required to be submitted by the Advisory Committee and on any legislation or regulations to implement any recommendations made in such reports in any Congressional hearings or any rulemaking or other administrative decision process.
- (d) Federal Advisory Committee Act Requirements.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Committee.
- (e) Termination of Advisory Committee.—The Advisory Committee shall terminate three years after the date of the enactment of this Act.
- (f) Funding Source.—At the request of the Executive Director of the Advisory Committee, the Secretary of Agriculture shall provide funds from any account available to the Secretary, not to exceed \$200,000 in fiscal year 2001, for the work of the Advisory Committee necessary to meet the requirements of this section.

## Appendix J

### Definitions

The following definitions to words and terms utilized in this Report are provided to assist the reader, and to avoid any misunderstanding about the intent, or the meaning of a particular word being used.

**County:** For the purposes of this report - local governments of jurisdiction as defined in State constitutions. They may include counties, parishes, townships, boroughs, etc.

**Full Payment Amount:** A provision of P.L. 106-393. A payment amount determined by averaging the three highest years of payments from 1986 to 1999, for national forests, O&C lands, and Coos Bay Wagon Road grant lands.

**RAC's:** Resource Advisory Committees as defined in P.L. 106-393.

**P.L.106-393:** The Secure Rural Schools and Community Self Determination Act. Signed into law in 2000, it established a six-year period of stable payments to States and counties, required monies to be set aside for public lands projects, or county projects when counties elect to receive payments under the Act, and their payments exceed \$100,000. Public lands projects require the formation of resource advisory committees.

**Title I:** A provision of P.L. 106-393. In the case of national forests; payments made to States for use by counties in funding education and transportation needs. In the case of O&C and Coos Bay Wagon Road Lands; payments made to counties to be used for public safety, law enforcement, education, and other public purposes.

**Title II:** A provision of P.L. 106-393. A portion, not exceeding 20% in combination with any Title III elections, of a county's Full Payment Amount to be used for projects on the national forests and O&C Lands. Designation of funds to this Title requires establishment of a resource advisory committee.

**Title III:** A provision of P.L. 106-393. A portion, not exceeding 20% in combination with any Title II elections, of a county's Full Payment Amount to be used for projects designated by the county in accordance with specific guidelines specified in the Act.

## Appendix K

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