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Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000

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Summary

Counties containing federal lands often receive payments from the federal government based on the presence of such lands. Counties containing National Forest System lands and certain Bureau of Land Management (BLM) lands historically have received payments based on the revenue generated from those lands. Revenue-generating activities include recreation, grazing permits, and land use rentals, among other activities. Starting in the 1990s, federal timber sales began to decline substantially—by more than 90% in some areas—which led to substantially reduced payments to the counties. Thus, Congress enacted the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS; P.L. 106-393) as a temporary, optional program of payments. SRS provided payments to counties based on historic rather than current revenues from land use activities, thus minimizing the effect of reduced revenue streams on those counties.

The last authorized SRS payment was distributed in FY2016. Authorization for SRS payments originally expired at the end of FY2006, but Congress extended the program through FY2015 with several reauthorizations, starting with a one-year reauthorization for FY2007 (P.L. 110-28). In 2008, the Emergency Economic Stabilization Act (P.L. 110-343) enacted a four-year extension to SRS authorization through FY2011, with declining payments, a modified formula, and transition payments for certain areas. In 2012, Congress enacted a one-year extension through FY2012 and amended the program to slow the decline in payment levels and to tighten requirements that counties select a payment option promptly (P.L. 112-141). In 2013, Congress again enacted a one-year extension through FY2013 (P.L. 113-40). In 2014, the 114th Congress enacted a two-year extension through FY2015 (P.L. 114-10). SRS payments are disbursed after the fiscal year ends, so the FY2015 SRS payment—the last authorized payment—was made in FY2016.

With the expiration of SRS, county payments returned to a revenue-based system and are significantly lower than previous years' payments. The 115th Congress may consider several options to address county payments, including reauthorizing SRS (with or without modifications), implementing other legislative proposals to address the county payments, and taking no action, among others.

Congressional debates over reauthorization have considered the basis and level of compensation to counties (historical, tax equivalency, etc.); the source of funds (receipts, a new tax or other revenue source, etc.); the authorized and required uses of the payments; interaction with other compensation programs (notably Payments in Lieu of Taxes); and the duration of any changes (temporary or permanent). In addition, legislation with mandatory spending, such as SRS, raises policy questions about congressional control of appropriations. Current budget rules to restrain deficit spending typically impose a procedural barrier to such legislation, generally requiring offsets by additional receipts or reductions in other spending.

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Under federal law, local governments are compensated through various programs due to the presence of federal lands within their borders. Federally owned lands cannot be taxed by state or local governments but may create demand for services from state or local entities, such as fire protection, police cooperation, or longer roads to skirt the property. Counties with national forest lands or certain Bureau of Land Management (BLM) lands have historically received a percentage of agency revenues, primarily from timber sales. In the 1990s, timber sales declined substantially from the historic levels in the late 1980s—by more than 90% in some areas—which had led to substantially reduced payments to the counties. Congress enacted the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS)[1] to provide a temporary, optional system to supplant the revenue-sharing programs for the national forests managed by the Forest Service (FS) in the Department of Agriculture and for certain public lands administered by the BLM in the Department of the Interior.

The law authorizing these payments (SRS) originally expired at the end of FY2006 but was extended an additional nine years through several reauthorizations:

- The 109th Congress considered the program, but did not enact reauthorizing legislation.
- The 110th Congress extended the payments for one year through FY2007, and it then enacted legislation to reauthorize the program for four years with declining payments and to modify the formula for allocating the payments.
- The 112th Congress extended the program for one more year through FY2012 and amended the program to slow the decline in payments.
- The 113th Congress again approved a one-year extension, reauthorizing the program through FY2013, but did not reauthorize the program for FY2014 prior to its expiration.
- After FS and BLM distributed the revenue-sharing payment for FY2014, the 114th Congress reauthorized SRS for two years (through FY2015) and required the agencies to issue the FY2014 SRS payment within 45 days of enactment.
- SRS expired at the end of FY2015; payments were disbursed after the fiscal year ended, so the FY2015 payment was made in FY2016.

This report provides background information on FS and BLM revenue-sharing and SRS payments and describes the issues that Congress has debated and may continue to debate in the 115th Congress.

Background

In 1908, Congress directed FS to begin paying 25% of its gross receipts to states for use on roads and schools in the counties where national forests are located.[2] Receipts come from sales, leases, rentals, or other fees for using national forest lands or resources (e.g., timber sales, recreation fees, and communication site leases). This mandatory spending program was enacted to compensate local governments for the tax-exempt status of the national forests, but the statutory compensation rate (10% of gross receipts in 1906 and 1907; 25% of gross receipts since) was not discussed in the 1906-1908 debates. This revenue- or receipt-sharing program is called Forest

[1] P.L. 106-393, 16 U.S.C. §§7101-7153.

[2] Act of May 23, 1908, 16 U.S.C. §500. For more on these and other county compensation programs with mandatory spending for federal lands, see CRS Report RL30335, *Federal Land Management Agencies' Mandatory Spending Authorities*, by M. Lynne Corn and Carol Hardy Vincent.

Service Payments to States (also referred to as the 1908 payment, or the 25% payment). The states have no discretion in assigning the funds to the county. FS determines the amount to be allocated to each county based on the national forest acreage in each county and provides that amount to the state. The states cannot retain any of the funds; they must be passed through to local governmental entities for use at the county level (but not necessarily to county governments themselves). Each state must spend the funds on road and school programs, and state law sets forth how the payments are to be allocated between road and school projects. The state laws differ widely, generally ranging from 30% to 100% for school programs, with a few states providing substantial local discretion on the split.

Congress has also enacted numerous programs to share receipts from BLM lands for various types of resource use and from various classes of land. One program—the Oregon and California (O&C) payments—accounts for more than 95% of BLM receipt-sharing.[3] The O&C payments are made to the counties in western Oregon containing the revested Oregon and California grant lands that were returned to federal ownership for failure of the states to fulfill the terms of the grant. The O&C counties receive 50% of the receipts from these lands. These mandatory payments go directly to the counties for any local governmental purposes. Concerns about, and proposals to alter, FS revenue-sharing payments also typically include the O&C payments, because both are substantial payments derived largely from timber receipts.

Declining Revenue-Sharing Payments Leads to Enactment of SRS

Timber sale revenue—and, consequently, revenue-sharing payments—peaked in the late 1980s. The FY1989 FS 25% payments totaled $362 million, while O&C payments totaled $110 million. FS and O&C receipts have declined substantially since FY1989, largely because of declines in federal timber sales (see **Figure 1**) and other factors. The decline began in the Pacific Northwest, owing to a combination of forest management policies and practices, efforts to protect northern spotted owl habitat, increased planning and procedural requirements, changing public preferences, economic and industry factors, and other developments. Provisions in the Omnibus Budget Reconciliation Act of 1993 authorized FS and BLM to make so-called owl payments to several counties in Washington, Oregon, and California.[4] These payments were set at a declining percentage of the average revenue-sharing payments made to those counties between FY1986 and FY1990.[5]

As federal timber sales—and revenue-sharing payments—began to decline nationwide, Congress replaced the regional owl payments with the nationwide SRS program in 2000. Similar to the owl payments for the Pacific Northwest, the SRS program was an optional payment that counties could elect to receive instead of receiving the 25% receipt-sharing payment. As originally enacted, the SRS payment was calculated as an average of the three highest payments made to counties between FY1986 and FY1999. With the program extension in FY2008, the SRS payment calculation was modified to also consider county population and per capita income, and it established an annually declining payment level.

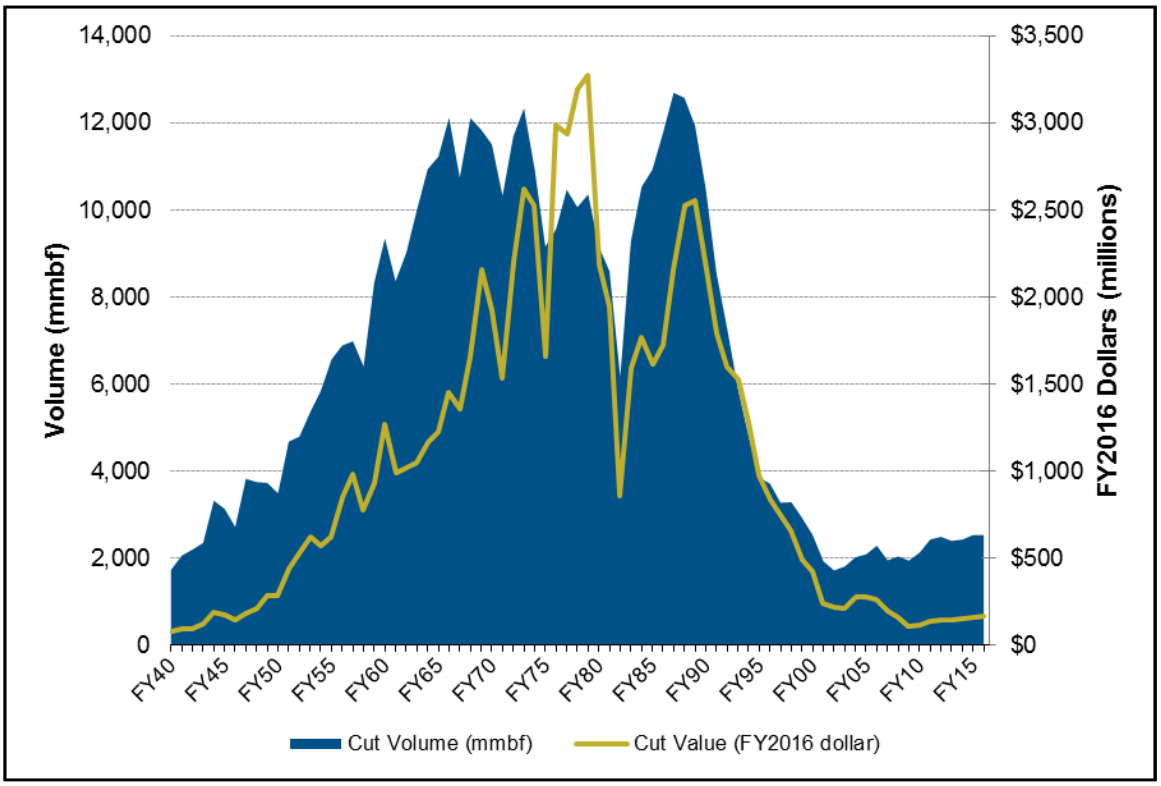
[3] The Coos Bay Wagon Road lands, also in western Oregon and managed by BLM, often are included with the O&C lands. For more information, see CRS Report R42951, *The Oregon and California Railroad Lands (O&C Lands): Issues for Congress*, by Katie Hoover.

[4] Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 §13982-3.

[5] The payment amount began at 85% of the average FY1986-FY1990 payment, and declined by 3 percentage points annually.

Figure 1. Forest Service Cut Volume and Cut Value

(FY2016 dollars)



Sources: FY1977-FY2016 data: U.S. Forest Service (FS), *Forest Cut and Sold Reports*, http://www.fs.fed.us/forestmanagement/products/sold-harvest/cut-sold.shtml. FY1940-FY1976 data: U.S. Forest Service Legislative Affairs Office.

Note: mmbf = million board feet.

Payments under SRS (see **Table 1**) were substantial and significantly greater than the receipt-sharing payments. The FS payment rose from $194 million in FY2000 (all figures in nominal dollars) to a $346 million SRS payment in FY2001.[6] For the initial six years SRS was authorized, the average FS SRS payment was $360 million annually, more than $130 million above the average annual FS payment for the six years prior to the enactment of SRS (FY1995-FY2000). Over the life of the program, the FS SRS payments have averaged $337 million and the BLM SRS payments have averaged $78 million per year.[7]

[6] Unless otherwise specified, "SRS payment" means the payment made to counties under SRS Title I and Title III payments, but does not include SRS Title II payments, which remain with the agency. Data from annual Forest Service report, *All Service Receipts: Title I, II, and III Region Summary (ASR-18-3)*, available from http://www.fs.usda.gov/main/pts/home.

[7] BLM data from annual *Official Payments Made to Counties* reports, available from http://www.blm.gov/or/rac/ctypaypayments.php.

Table 1. SRS Payments, FY2001-FY2015

(nominal dollars in millions)

	FS Payment			BLM Payment			
	Title I and Title III	Title II	FS Total	Title I and Title III	Title II	BLM Total	Total SRS Payment
FY2001	$346.2	$24.9	$371.1	$102.0	$7.7	$109.7	$480.8
FY2002	343.5	30.4	373.9	102.3	8.3	110.6	484.5
FY2003	356.2	32.6	388.8	103.3	8.6	111.9	500.7
FY2004	360.8	33.0	393.9	104.5	8.8	113.3	507.2
FY2005	371.3	33.6	404.9	107.1	8.9	115.9	520.9
FY2006	376.7	32.3	409.0	108.9	8.3	117.1	526.1
FY2007	381.6	26.5	408.1	111.9	5.0	116.9	525.0
FY2008	422.5	45.1	467.6	96.7	8.7	105.4	573.0
FY2009	466.1	51.8	517.9	87.2	7.7	94.9	612.8
FY2010	373.8	42.0	415.8	78.0	7.5	85.5	501.3
FY2011	291.2	30.7	321.9	36.3	3.7	40.0	361.9
FY2012	274.0	31.9	305.9	34.3	3.7	38.0	343.9
FY2013	259.0	30.0	289.0	36.3	3.3	39.6	328.6
FY2014	245.6	28.3	273.9	35.1	3.2	38.3	312.2
FY2015	234.2	26.8	261.0	32.6	3.0	35.6	296.6

Sources: FS FY2001-FY2005, FY2007 data: FS legislative affairs office. FS FY2006, FY2008-FY2015 data: annual Forest Service report, *All Service Receipts: Title I, II, and III Region Summary (ASR-18-3),* available from http://www.fs.usda.gov/main/pts/home. BLM data from annual *Official Payments Made to Counties reports*, available from http://www.blm.gov/or/rac/ctypaypayments.php.

Notes: SRS Title I and Title III payments are disbursed to the counties for specified purposes, while SRS Title II payments are retained by the agency to be used for projects in the counties. Data do not include FS revenue-sharing payments or other miscellaneous county payments authorized through various FS payment programs not discussed in this report, such as payments from land utilization projects.

Figure 2 shows a comparison of the FS actual payments to estimates of what the payments would have been had SRS not been enacted. To illustrate, FS receipts (for revenue-sharing purposes) in FY2012 totaled $230 million.[8] Without SRS, the revenue-sharing payment would have been around $58 million.[9] With SRS, the payments totaled $274 million. Similarly, BLM timber receipts from western Oregon (which includes some non-O&C lands) totaled $28 million in FY2012.[10] Without SRS, the 50% revenue-sharing payment would have been approximately $14 million, compared to the $34 million payment under SRS.[11]

[8] Data provided by the Forest Service Legislative Affairs Office, February 21, 2013.

[9] Estimated 25% payments data available from http://www.fs.usda.gov/main/pts/securepayments/projectedpayments.

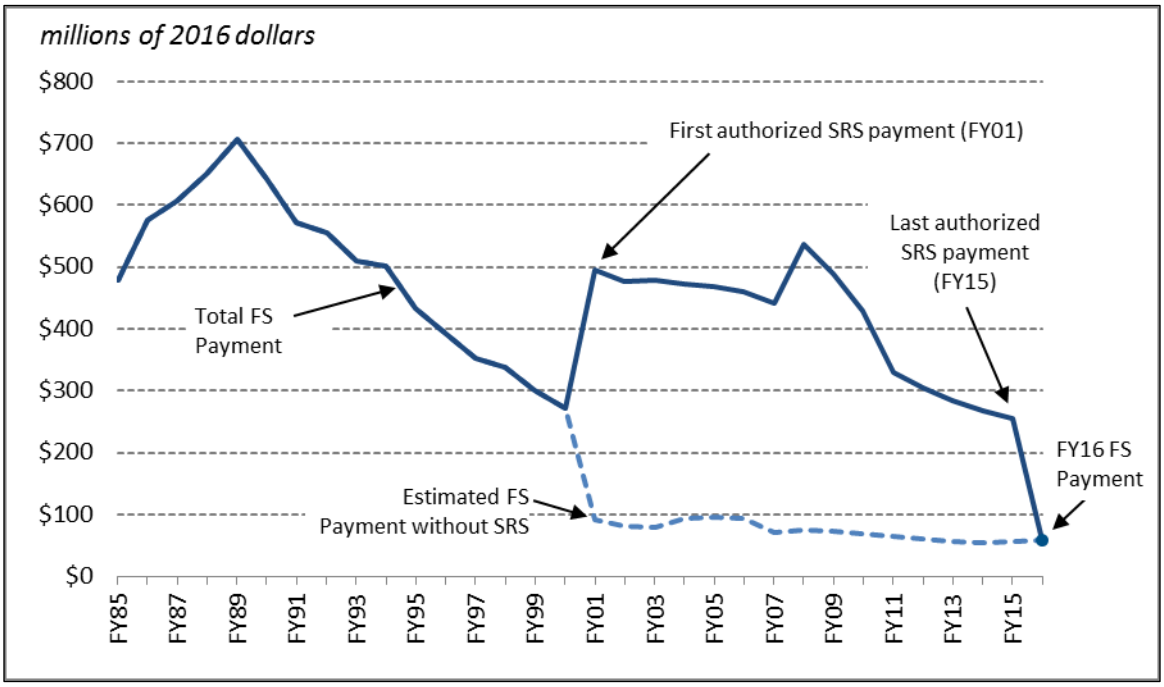
[10] U.S. Dept. of the Interior, Bureau of Land Management, *Public Land Statistics,2012*, Table 3-12, at http://www.blm.gov/public_land_statistics/pls12/pls2012-web.pdf.

[11] SRS payments reported here only include the Title I, Title II, and Title III payments, and do not include the payments to the counties that opted to receive revenue-sharing payments.

SRS expired—temporarily—on October 1, 2014. With the expiration of SRS, the FY2014 payments were again to be based on a percentage of agency receipts (the rolling seven-year average of 25% for national forest lands and of 50% for O&C lands). As nonexempt, nondefense mandatory spending, the payments were subject to the annual sequestration of budgetary authority.[12] The post-sequester revenue-sharing payment for FS was $50 million and $18 million for BLM. These payments were distributed in February 2015.

P.L. 114-10 was enacted on April 16, 2015. It included provisions for a "make-up" FY2014 SRS payment, and it authorized an FY2015 SRS payment.[13] The FY2014 payment was set at 95% of the FY2013 payment level, but for counties that opted to receive an SRS payment, the FY2014 payment was offset by the revenue-sharing payment already distributed. In effect, the counties received their FY2014 SRS payment in two installments. The total FS SRS payment for FY2014 was $274 million; for BLM it was $38 million. Because the payments were authorized after the sequestration amount was calculated for both FY2015 and FY2016, the payments were not subject to sequestration either year.

Figure 2. FS Total Payments and Estimated Payments



Sources: CRS. FS total payments are from the annual Forest Service report, *All Service Receipts: Final Payment Summary Report PNF (ASR-10-01),* available at http://www.fs.usda.gov/main/pts/home. The estimated FS payments if SRS had not been enacted for FY2001-FY2007 are from an unpublished spreadsheet received from Rick Alexander, Secure Rural Schools Act National Program Manager, U.S. Forest Service, on November 30, 2011. The estimated payments for FY2008-FY2014 and FY2016 are from an FS spreadsheet available at http://www.fs.usda.gov/main/pts/home. FS did not report FY2015 estimates.

[12] The sequestration rate for nonexempt nondefense mandatory spending was set at 7.3% for FY2015. Office of Management and Budget (OMB), *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2015*, March 10, 2014.

[13] Medicare Access and CHIP Reauthorization Act of 2015, Section 524.

Notes: The data presented include payments under the 25% Payments to States and SRS programs (all three titles) but do not include miscellaneous county payments authorized through various other FS payment programs not discussed in this report, such as payments from land utilization projects.

SRS expired on October 1, 2016, without congressional reauthorization. Thus, counties received revenue-sharing payments for FY2016 (issued in early 2017). The post-sequester revenue-sharing payment was $54 million for the Forest Service and $19 million for BLM (see **Figure 2**).[14] If SRS payments had been authorized, the FS payment to counties would have been approximately $248 million and the BLM payment would have been approximately $34 million.

SRS and PILT

In addition to the FS and BLM receipt-sharing programs, Congress has enacted other programs to compensate for the presence of federal land. The most widely applicable program, administered by the Department of the Interior, is the Payments in Lieu of Taxes (PILT) Program.[15] PILT payments to counties are calculated in dollars per acre of federal land and are based on eligible federal lands, as specified in statute. The eligible lands include national forests and O&C lands in each county (but total amounts are restricted in counties with very low populations). PILT payments are reduced (to a minimum payment per acre) by other payment programs—including FS Payments to States but not including BLM's O&C payments—so increases in FS payments may decrease a county's payments under PILT (and vice versa). This helps to explain why FY2012 PILT payments to Colorado were double the PILT payments to Oregon, even though there is more federal land in Oregon (32.6 million acres) than in Colorado (23.8 million acres).

Before 2008, annual appropriations were necessary to fund PILT. When the appropriations were less than the authorized total payments, each county received its calculated pro rata share of the appropriation. However, the 2008 and 2012 SRS amendments also made PILT payments mandatory spending for FY2008-FY2013, and the Agricultural Act of 2014 (P.L. 113-79) extended mandatory spending to FY2014. Thus, for those fiscal years, each county received 100% of its authorized PILT payment.[16] For FY2015, Congress provided $439.5 million for PILT payments, 97% of the total authorized payment of $451.5 million. The FY2015 payment was provided through both mandatory spending and discretionary appropriations. For FY2016, Congress provided $452 million in discretionary appropriations (P.L. 114-113) for PILT payments, 98% of the total authorized payment. For FY2017, Congress provided $465 million in discretionary appropriations (P.L. 115-31) for PILT payments, which are expected to be paid in June 2017. The amount paid to counties is likely to be near the total authorized funding amount.

Revenue-Sharing Program Concerns and Responses

Congress, counties receiving SRS funding, and other observers have raised three principal concerns about FS and O&C revenue-sharing programs.[17] These are the decline in FS and O&C

[14] The sequestration rate for nonexempt, nondefense mandatory spending was set at 6.9% for FY2017. OMB, *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2017*, February 9, 2016.

[15] Payments in Lieu of Taxes Act of 1976 (P.L. 94-565 as amended, 31 U.S.C. §§6901-6907). For more information, see CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by M. Lynne Corn and Katie Hoover.

[16] The FY2013 payment was reduced by 5.1% due to the sequestration of budgetary authority that fiscal year.

[17] Forest Counties Payments Committee, *Recommendations for Making Payments to States and Counties: Report to Congress* (Washington: GPO, 2003). The committee was established in Section 320 of the FY2001 Interior and Related Agencies Appropriations Act, P.L. 106-291.

receipts due to the decline in timber sales, the annual uncertainty about payment amounts, and the linkage between timber revenue and county payments.

Declining Timber Receipts

A primary concern about the revenue-sharing programs is the effect of declining revenue on counties. National forest receipts (subject to sharing) declined from their peak of $1.44 billion in FY1989 to a low of $182.3 million in FY2009—a drop of 87%. In FY2015, national forest receipts totaled $254.5 million. In some local areas, the decline was steeper; for example, payments to the eastern Oregon counties containing the Ochoco National Forest fell from $10 million in FY1991 to $309,000 in FY1998—a decline of 97% in seven years. The extent of declining revenues in individual counties is varied, ranging from minimal to substantial. Some counties in Oregon, for example, have begun exploring alternative options to generating revenue to replace the loss of timber receipts and declining SRS payments.

Annually Fluctuating Payments

Another concern has been annual fluctuations in the payments based on revenue generated. Even in areas with modest declines or increases in recent decades, payments have varied widely from year to year. From FY1985 to FY2000, the payments from each national forest fluctuated an average of nearly 30% annually—that is, on average, a county's payment in any year was likely to be nearly 30% higher or lower than its payment the preceding year. Such wide annual fluctuations imposed serious budgeting uncertainties on the counties.

Linkage

A third, longer-term concern is referred to as linkage. Some observers have noted that, because the counties receive a portion of receipts, they are rewarded for advocating receipt-generating activities (principally timber sales) and for opposing management decisions that might reduce or constrain such activities (e.g., designating wilderness areas or protecting commercial, tribal, or sport fish harvests). County governments have often been allied with the timber industry, and opposed to efforts of environmental and other interest groups to reduce timber harvests, in debates over FS management and budget decisions.

Timber sales as the source of funds was deemed appropriate in 1906 when the FS program was created (albeit, prior to creation of federal income taxes). Some interests support retaining the linkage between county compensation and agency receipts; local support for receipt-generating activities is seen as appropriate by these constituencies, because such activities usually also provide local employment and income, especially in rural areas where unemployment is often high. Others assert that ending the linkage is important so that local government officials can be independent in supporting whatever management decisions benefit their locality, rather than having financial incentives to support particular decisions.

Legislative History of the Secure Rural Schools and Community Self-Determination Act of 2000, as Amended

In 2000, Congress enacted the Secure Rural Schools and Community Self-Determination Act (SRS)[18] after extensive debates and several different bill versions. (See **Appendix B** for an overview of historic proposals to change the revenue-sharing system prior to the enactment of SRS.)

The act established an optional alternative payment system for FY2001-FY2006. At each county's discretion, the states with FS land and counties with O&C land received either the regular receipt-sharing payments or the SRS payment. Each county's SRS payment was calculated as 100% of the average of the three highest payments between FY1986 and FY1999. Title I of the act directed that counties receiving an SRS payment less than $100,000 under the alternative system could distribute the entire payment to roads and schools in the same manner as the 25% payments. However, counties receiving over $100,000 under the alternative system were required to spend 15%-20% of the payment on either (1) federal land projects proposed by local resource advisory committees and approved by the appropriate Secretary (Secretary of the Interior or Secretary of Agriculture) if the projects met specified criteria, including compliance with all applicable laws and regulations and with resource management and other plans (identified in Title II of the act) or (2) certain county programs[19] (specified in Title III of the act). Funds needed to achieve the full payment were mandatory spending, and came first from agency receipts (excluding deposits to special accounts and trust funds) and then from "any amounts in the Treasury not otherwise appropriated."[20]

SRS was originally enacted as a temporary program, expiring after payments were made for FY2006. However, SRS has been reauthorized five times, extending the payments an additional nine years (see **Table 2**). The following sections describe each reauthorization process and any enacted program modifications.

[18] P.L. 106-393, 16 U.S.C. §§7101-7153.

[19] The authorized uses for Title III funds included search, rescue, and emergency services; community service work camps; easement purchases; forest-related educational opportunities; fire prevention and county planning; and community forestry projects. The authorized uses for Title III funds were later modified by P.L. 110-343.

[20] 16 U.S.C. §7112(b)(3)(C).

Table 2. SRS Legislative History

Statute	Duration	Authorized Payment Level	Major Changes
P.L. 106-393	FY2001-FY2006	Determined by formula; average annual payment was $500 million nationally	Established program
P.L. 110-28	FY2007	$525 million	$425 million was paid from discretionary appropriations
P.L. 110-343	FY2008-FY2011	$500 million FY2008; FY2009-FY2011, 90% of previous year funding[a]	Established a declining full funding amount; modified payment calculation formula; phased out transition payments; modified payment allocations; 25% payment based on rolling 7-year average
P.L. 112-141	FY2012	95% of FY2011 level ($344 million)	Modified the declining full funding amount
P.L. 113-40	FY2013	95% of FY2012 level ($329 million)	None
P.L. 114-10	FY2014-FY2015	95% of previous year funding ($312 million for FY2014, ~$297 million for FY2015)	None

Source: CRS.

Notes: Except for the FY2007 payment, Congress authorized the payments as mandatory spending, with a portion of the payment derived from agency revenue and the balance from the General Treasury.

a. The transition payments for specific states authorized in P.L. 110-343 for FY2008-FY2010 resulted in the total payment amount exceeding the "full funding" amount defined in the act.

FY2007 Reauthorization Enacted in the 110th Congress

SRS expired at the end of FY2006, with final payments made in FY2007. Legislation to extend the program was considered in the 110th Congress; various bills would have extended the program for one or seven years. The Emergency Supplemental Appropriations Act for FY2007[21] extended SRS for one year, but the bill was vetoed by President George W. Bush. However, Congress passed and the President signed a new version of the Emergency Supplemental Appropriations for FY2007[22] which included a one-year extension of SRS payments. P.L. 110-28 authorized payments of $100 million from receipts and $425 million from discretionary appropriations, to "be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act."[23] Thus, preliminary FY2007 payments were made at the end of September 2007, with final payments made at the end of December 2007.

[21] 110th Congress, H.R. 1591, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.

[22] P.L. 110-28, H.R. 2206, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.

[23] P.L. 110-28 Title V, Chapter 4, Section 5401.

Four-Year Extension Through FY2011 Enacted in the 110th Congress

In October 2008, Congress passed the Emergency Economic Stabilization Act (P.L. 110-343),[24] which extended SRS payments for four years (through FY2011) and made several changes to the program. Changes included providing "full funding" that declined over four years; altering the basis for calculating payments; providing transition payments for certain states; and modifying the use of SRS funds for Title II and Title III activities.[25] In addition, Section 601(b) modified the original FS 25% payment program by basing the payment on the average revenue generated over the preceding seven years. These provisions are discussed in more detail below.

Full Funding

The act defined *full funding* for SRS in P.L. 110-343, Section 3(11).[26] For FY2008, full funding was defined as $500 million; for FY2009-FY2011, full funding was 90% of the previous year's funding. However, total payments exceeded the full funding amount in the first two years: payments under SRS totaled $572.9 million in FY2008 and $612.8 million in FY2009. This occurred because the *calculated payments* (discussed below) are based on full funding, as defined in the bill, but the act also authorized *transition payments* (discussed below) in lieu of the calculated payments in eight states. Since the transition payments exceeded the calculated payments for those states, the total payments were higher than the full funding amount.

Calculated Payments

SRS payments to each state (for FS lands) or county (for O&C lands) differed significantly from the payments made under the original SRS; **Table A-1** shows the dollars and share of total SRS payments in each state in FY2006 and FY2009. Title I payments were based on historic revenue-sharing payments (like SRS as originally enacted), but modified based on each county's share of federal land and relative income level. The revised payment calculations required multiple steps:

- **Step 1.** Determine the three highest revenue-sharing payments between FY1986 and FY1999 for each eligible county, and calculate the average of the three.[27]
- **Step 2.** Calculate the proportion of these payments in each county (divide each county's three-highest average [**Step 1**] by the total of three-highest average in all eligible counties, with separate calculations for FS lands and O&C lands).
- **Step 3.** Calculate the proportion of FS and O&C lands in each eligible county (divide each county's FS and O&C acreage by the total FS and O&C acreage in all eligible counties, with separate calculations for FS lands and O&C lands).
- **Step 4.** Average these two proportions (add the payment proportion [**Step 2**] and the acreage proportion [**Step 3**] and divide by 2, with separate calculations for FS lands and O&C lands). This is the *base share* for counties with FS lands and the *50% base share* for counties with O&C lands.

[24] P.L. 110-343, Section 601(a).

[25] The authorized uses for Title III funds include reimbursing the participating county for search, rescue, and emergency services performed on federal land and fire prevention and county planning activities, such as developing community wildfire protection plans or activities under the Firewise Communities program (16 U.S.C. §7142(a)).

[26] 16 U.S.C. §7102(11).

[27] Eligible counties are those that choose to receive payments under this program; counties that choose to continue to receive payments under the original revenue-sharing programs are excluded from these calculations.

- **Step 5.** Calculate each county's *income adjustment* by dividing the per capita personal income in each county by the median per capita personal income in all eligible counties.
- **Step 6.** Adjust each county's base share [**Step 4**] by its relative income (divide each county's base share or 50% base share by its income adjustment [**Step 5**]).
- **Step 7.** Calculate each county's *adjusted share* or *50% adjusted share* as the county's proportion of its base share adjusted by its relative income [**Step 6**] from the total adjusted shares in all eligible counties (divide each county's result from **Step 6** by the total for all eligible counties [FS and O&C combined]).

In essence, the new formula differed from the original SRS by basing half the payments on historic revenues and half on proportion of FS and O&C land, with an adjustment based on relative county income. This was done because of the concentration of payments under the original SRS to Oregon, Washington, and California (more than 75% of payments in FY2006; see **Table A-1**). Several counties opted out of the amended SRS system, while others opted in, because of the altered allocation. For example, in FY2006 100% of the payments to Pennsylvania were under SRS, but in FY2009 only 54% of the payments to Pennsylvania were under SRS. Conversely, in FY2006 none of the payments to New Hampshire were under SRS, but in FY2009, 44% of the payments to New Hampshire were under SRS.

In addition, the act set a full payment amount allocated among all counties that chose to participate in the program (eligible counties). Thus, the fewer counties that participated (i.e., the more that opted for the revenue-sharing payment programs), the more each participating county received.

Transition Payments

In lieu of the payments calculated using the formula described above, counties in eight states—California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington—received transition payments for three fiscal years, FY2008-FY2010.[28] These counties were included in the calculations, but received payments of a fixed percentage of the FY2006 payments under SRS, instead of their calculated payments. The schedule in the act specified FY2008 payments equaling 90% of FY2006 payments, FY2009 payments at 81% of FY2006 payments, and FY2010 payments at 73% of FY2006 payments. Because the transition payments were higher than the calculated payments (using the multi-step formula, above), total payments were greater than the "full funding" defined in the act.

Title II and Title III Activities

As with the original SRS, the amended version allowed counties with less than $100,000 in annual payments to use 100% of the payments for roads and schools (or any governmental purpose for O&C counties). However, it modified the requirement that counties with "modest distributions" (annual payments over $100,000 but less than $350,000) use 15%-20% of the funds for Title II projects (reinvestment in federal lands). Instead, these counties could use the required 15%-20% either for Title II projects or for Title III projects (county projects). Counties with payments of more than $350,000 were limited to a maximum of 7% of the payments for Title III programs. The amendment also modified the authorized uses of Title III funds, deleting some

[28] 16 U.S.C. §7113.

authorized uses (e.g., community work centers) while expanding authorized uses related to community wildfire protection.[29]

Rolling Seven-Year Average for Calculating Revenue-Sharing Payment

In addition to extending SRS funding through FY2011, P.L. 110-343 altered the FS revenue-sharing (25% payment) program. It changed the payment from 25% of current-year gross receipts to 25% of average gross receipts over the past seven years—essentially a seven-year rolling average of receipts. This reduced the annual fluctuation and provided more stability in the payments. Thus payments increase more slowly than in the past when and where national forest receipts are rising, but decline more slowly when and where receipts are falling. This change immediately affected counties with FS land that chose not to participate in the SRS payment program and all counties with FS land in FY2016.

One-Year Extension Through FY2012 Enacted in the 112th Congress

SRS was set to expire at the end of FY2011, with final payments made at the end of December 2012 (FY2012). Legislation to extend the program for five years was considered in the 112th Congress but not enacted.[30] However, the Moving Ahead for Progress in the 21st Century Act (MAP-21)[31] contained a one-year extension for SRS. MAP-21 authorized an FY2012 SRS payment set at 95% of the FY2011 level (approximately $344 million) and included requirements for the counties to select their payment option in a timely manner.

One-Year Extension Through FY2013 Enacted in the 113th Congress

SRS was again set to expire at the end of FY2012, with final payments made in February 2013 (FY2013). In the first session of the 113th Congress, Congress enacted the Helium Stewardship Act of 2013,[32] which included a one-year extension of SRS through FY2013 at 95% of the FY2012 SRS payment (approximately $329 million). The payments were disbursed in early 2014.

The 113th Congress also conducted oversight on the SRS program, particularly regarding the sequestration of the FY2012 SRS payment (see **Appendix C**).[33]

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[29] A 2012 GAO report found inconsistencies among agency (FS and BLM) oversight and county use of SRS Title III funds. U.S. Government Accountability Office, *Payments to Counties: More Clarity Could Help Ensure County Expenditures Are Consistent with Key Parts of the Secure Rural Schools Act*, GAO-12-755, July 16, 2012, http://www.gao.gov/products/GAO-12-775.

[30] The County Payments Reauthorization Act of 2011 (S. 1692 and H.R. 3599) would have extended SRS through FY2016 and included provisions to slow the decline of the full funding levels to 95% of the preceding fiscal year. Neither the Senate nor the House version was reported out of committee.

[31] P.L. 112-141, §100101.

[32] P.L. 113-40.

[33] House Natural Resources Committee, press release, November 5, 2013, at http://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=360388.

Two-Year Extension Through FY2015 Enacted in the 114th Congress

SRS expired after the FY2013 payments were made in early 2014. Although the 113th Congress considered options for reauthorizing or modifying SRS for FY2014,[34] the program was not reauthorized prior to adjournment.

In April 2015, Congress passed and the President signed into law the Medicare Access and CHIP Reauthorization Act of 2015 (P.L. 114-10), which included a two-year reauthorization of mandatory spending for SRS payments in Section 524. Payment amounts will continue at 95% of the funding level for the preceding fiscal year. P.L. 114-10 provided that counties that elected to receive an SRS payment for FY2013 would automatically receive SRS payments for FY2014 and FY2015. The FY2014 payment was to be made within 45 days of enactment and take into account the revenue-sharing payment already disbursed to the counties.

The 114th Congress considered, but did not enact, several additional options to extend or modify the expired SRS program.

Legislative Activity in the 115th Congress

Two bills have been introduced in the 115th Congress to address SRS. Both H.R. 2340 and S. 1027 would reauthorize SRS for two years (through FY2017, with the last payment to be issued in FY2018) and would provide a make-up payment for the FY2016 SRS payment.

Legislative Issues

Options under congressional consideration include reauthorizing SRS, with or without modifications, implementing other legislative proposals to address the county payments, or taking no action (thus continuing the revenue-based system that took effect upon the program's expiration). Seven issues commonly have been raised about compensating counties for the tax-exempt status of federal lands: the geographic distribution of the payments; the lands covered; the basis for compensation; the source of funds; the authorized and required uses of the payments; and the duration of the new system. In addition, any new mandatory spending in excess of the baseline that would result in an increase in the deficit may be subject to budget rules such as congressional pay-as-you-go (PAYGO) rules, which generally require budgetary offsets.[35] Although SRS has previously been authorized as mandatory spending, Congress might consider funding the program through the regular annual discretionary appropriations process.

[34] The House passed the Restoring Healthy Forests for Healthy Communities Act (H.R. 1526), which would have directed FS and BLM to distribute a payment to eligible counties in February 2015, essentially an FY2014 SRS payment. The payment amount would have been equal to the FY2010 payment for the counties receiving FS payments. For the O&C counties, the payment amount would have been $27 million less than the FY2010 payment. After that payment had been made, county payments would have returned to a revenue-sharing system. The bill would have established Forest Resource Revenue Areas within at least half of the National Forest System and created a fiduciary responsibility to generate revenue by removing forest products for the beneficiary counties. The bill also would have changed the calculation for the FS revenue-sharing payment. It would have changed the payment from 25% of average gross receipts over the past seven years back to the original calculation of 25% of current-year gross receipts. The Senate did not take up the measure.

[35] For an overview of federal budget procedures, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by James V. Saturno. For background on PAYGO rules, see out-of-print CRS Report RL34300, *Pay-As-You-Go Procedures for Budget Enforcement*, available to congressional clients from the author.

Offsets for New Mandatory Spending

The original SRS authorization—and most subsequent reauthorizations—have been for mandatory spending. One policy issue concerns legislation with mandatory spending that would increase federal expenditures, and whether such spending should be offset so as not to increase the deficit. Congress has enacted a set of budget rules requiring that most legislation that creates new or extends existing mandatory spending (in excess of the baseline) be balanced—offset—by increases in receipts or decreases in other spending. Congress may choose to waive or set aside these rules in particular instances, but the increased deficit spending remains a consideration.

Legislation to reauthorize SRS (with or without other modifications), or to enact a different alternative, would require an offset—increased revenues or decreased spending from other mandatory spending accounts—or a waiver to the budget rules. In 2000, Congress provided such a waiver by including a specific type of provision, called a reserve fund, in the budget resolution.

In 2006, to fund a six-year reauthorization of SRS, the Bush Administration proposed selling some federal lands. To fund the O&C payments, the BLM would have accelerated its land sales under Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. §1713). For the FS payments, estimated at $800 million, the FS would have sold approximately 300,000 acres of national forest land. This would have required legislation, as the FS currently has only very narrow authority to sell any lands. The Administration offered draft legislation to authorize these land sales, but no bill to authorize that level of national forest land sales was introduced in the 109th Congress. Instead, Congress again included a reserve fund for SRS payments in the budget resolution. In 2007, the Bush Administration again proposed selling national forest lands to fund a phase-out of SRS payments, with half of the land sale revenues to be used for other programs (including land acquisition and conservation education). Again, no legislation to authorize national forest land sales was introduced.

Geographic Distribution of SRS and PILT Payments

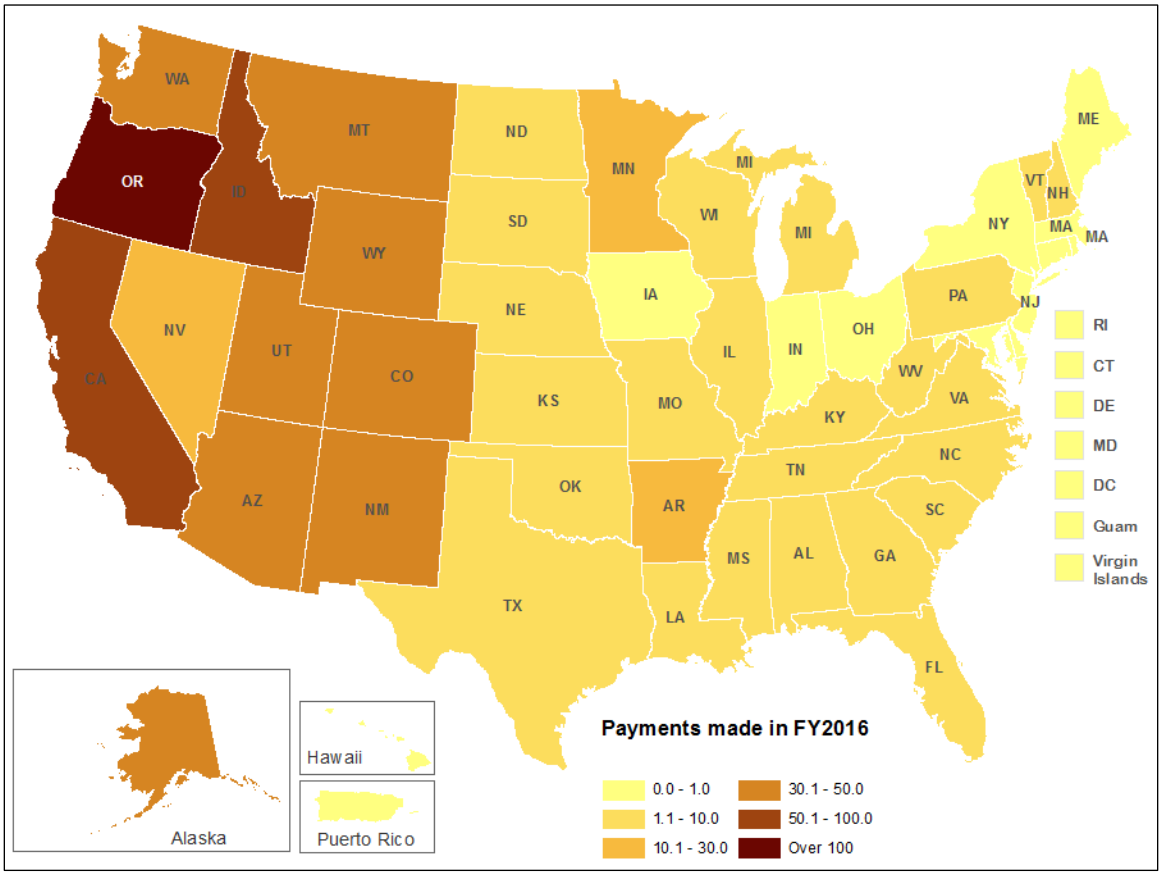
Another issue for Congress is the geographic allocation of the SRS and PILT payments (see **Figure 3**). **Table 3** shows the payments for FY2014 that were made in FY2015. The only BLM SRS payment is made to Oregon for the O&C lands, and Oregon also receives the largest FS SRS payment. With a total SRS payment of approximately $94 million, Oregon received nearly one-third of the total SRS payments made in FY2015. The next-largest SRS payments are in California and Idaho, which both received just under 10% of the total payment that year. PILT payments are more evenly distributed, with no state receiving more than 10% of the total payments.

Lands Covered

SRS includes payments only for national forests and the O&C lands. These compensation programs provide substantial funding for the specified lands, but other federal lands that are exempt from state and local taxation receive little or nothing. The easiest comparison is with the counties that contain national grasslands, which receive 25% of net receipts and were excluded from SRS. Both forests and grasslands are part of the National Forest System, although the laws authorizing their establishment differ. However, it is unclear why national forest counties are compensated with 25% of gross receipts and were protected from declines in receipts under SRS, whereas national grassland counties are compensated with 25% of net receipts and did not receive the option of receiving SRS payments.

More significantly, many other tax-exempt federal lands provide little compensation to local governments. The BLM has numerous compensation programs, but generally the payments are quite small. (The O&C payments account for about 95% of BLM compensation payments, but O&C lands are only about 1% of BLM lands.) The National Park Service has two small compensation programs related to public schooling of park employees' children at two parks. PILT provides some compensation for most federal lands, but many lands—inactive military bases, Indian trust lands, and certain wildlife refuge lands, for example—are excluded, and the national forests and O&C lands get PILT payments in addition to other compensation. In 1992, the Office of Technology Assessment recommended "fair and consistent compensation for the tax exempt status of national forest lands and activities."[36] Congress could consider several options related to extending a compensation program to all tax-exempt federal lands, although determining a fair and consistent compensation level likely would generate significant debate.

Figure 3. PILT and Forest Service Payments, FY2015



Source: Prepared by CRS from data reported in **Table 3**.

Notes: The Forest Service Payment includes the revenue-sharing payment, FS SRS Title I and Title III payments, and BLM Title I and Title III payments.

The preponderance of payments going to western states is mostly due to the large percentage of federal lands located in those states.

[36] U.S. Congress, Office of Technology Assessment, *Forest Service Planning: Accommodating Uses, Producing Outputs, and Sustaining Ecosystems*, OTA-F-505 (Washington: GPO, February 1992), p. 8.

Table 3. PILT and Forest Service Payments Made in FY2016, by State

(in thousands of dollars)

	Forest Service Payments	PILT		Forest Service Payments	PILT
Alabama	$1,547.4	$1,182.1	Nebraska	96.0	1,076.6
Alaska	9,871.0	28,961.2	Nevada	3,459.0	25,632.8
Arizona	11,156.0	35,022.8	New Hampshire	444.0	1,911.9
Arkansas	5,472.0	6,764.6	New Jersey	0.0	112.0
California	31,787.0	47,273.1	New Mexico	9,266.0	37,771.0
Colorado	11,821.0	35,558.9	New York	18.0	161.6
Connecticut	0.0	31.1	North Carolina	1,668.0	4,339.4
Delaware	0.0	78.9	North Dakota	0.3	1,529.2
Florida	2,391.0	5,334.7	Ohio	236.0	674.6
Georgia	1,412.0	2,585.6	Oklahoma	772.0	3,133.2
Hawaii	0.0	352.3	Oregon	86,415.6	18,435.9
Idaho	23,470.0	29,370.3	Pennsylvania	2,533.0	1,072.6
Illinois	273.4	1,210.9	Rhode Island	0.0	0.0
Indiana	232.0	579.7	South Carolina	1,649.0	643.7
Iowa	0.0	496.8	South Dakota	1,429.0	6,298.5
Kansas	0.0	1,192.5	Tennessee	993.0	2,212.1
Kentucky	1,509.0	2,359.3	Texas	2,012.0	5,207.8
Louisiana	1,518.0	785.2	Utah	8,623.0	38,362.4
Maine	64.0	309.7	Vermont	291.0	1,045.5
Maryland	0.0	108.2	Virginia	1,419.0	3,891.6
Massachusetts	0.0	113.6	Washington	17,349.0	20,498.0
Michigan	3,363.0	4,830.0	West Virginia	1,627.0	3,113.4
Minnesota	8,340.0	2,239.2	Wisconsin	1,591.0	3,444.0
Mississippi	4,586.0	1,988.2	Wyoming	4,257.0	28,198.8
Missouri	3,128.0	3,748.5	Other[a]	128.0	70.6
Montana	15,939.0	30,285.2	**Total**	**$284,155.7**	**$451,600.2**

Sources: Forest Service data: U.S. Dept. of Agriculture, Forest Service, "All Service Receipts (ASR), Final Payment Summary Report PNF (ASR-10-01)," at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd494968.pdf, and U.S. Dept. of the Interior, Bureau of Land Management, *FY2016 Secure Rural Schools Act Payments*, at http://www.blm.gov/blm.gov/files/srs-2015-payments.pdf. **PILT data:** U.S. Dept. of the Interior, *Payments in Lieu of Taxes (PILT) Payments by State*, at https://www.nbc.gov/pilt/states-payments.cfm.

Notes: Figures in the table reflect payments made in the 2016 fiscal year. This includes the FY2016 PILT payment, and the FY2015 Forest Service payments made in FY2016. The Forest Service payments include the revenue-sharing payment and Forest Service SRS Title I and Title III payments, and do not include amounts paid in Title II. The Oregon and Total Forest Service Payments include $32.6 million paid by BLM to the O&C counties under SRS Title I and Title III.

a. "Other" includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Basis for Compensation

The legislative histories of the agriculture appropriations acts establishing the FS payments to states (the last of which, enacted on May 23, 1908, made the payments permanent) indicate that the intent was to substitute receipt-sharing for local property taxation, but no rationale was discussed for the level chosen (10% in 1906 and 1907; 25% in 1908 and since). Similarly, the rationale was not clearly explained or discussed for the Reagan tax-equivalency proposal, for the owl payments (a declining percent of the historical average), or for the legislation debated and enacted by the 106th Congress (generally the average of the three highest payments during a specified historical period). The proposals' intents were generally to reduce (Reagan Administration) or increase (more recently) the payments.

The geographic basis has been raised as a potential problem for FS payments. FS revenue-sharing payments (25% payments) are made to the states, but are calculated for each county with land in each national forest.[37] Depending on the formula used—the average of selected historical payments from each national forest or to each county or each state—the calculations could result in different levels of payments in states with multiple national forests.[38] (This is not an issue for O&C lands, because the O&C payments are made directly to the counties.)

Source of Funds

As noted above, the FS revenue-sharing payments (25% payments) are permanently appropriated from agency receipts and were established prior to federal income taxes and substantial federal oil and gas royalties. Most of the proposals for change also would establish mandatory payments; lacking a specified funding source, funds would come from the General Treasury. SRS directed payments first from receipts, then from the General Treasury. **Figure 4** shows the breakdown of FS SRS funding between receipts and the General Treasury. The amount of funding that came from the Treasury fluctuated in part due to the declining full funding level but also due to fluctuations in the level offset by receipts. Critics are concerned about the continued availability of General Treasury funds, given the current fiscal climate and some Members' desire to reduce government spending. On the other hand, recipients of these funds argue that continuing Treasury funding is fair compensation for the presence of FS lands in their jurisdiction. Another concern for some is that retaining the linkage between agency receipts (e.g., from timber sales) and county payments (albeit less directly than for the 25% payments) still encourages counties to support timber sales over other FS uses.

Authorized and Required Uses of the Payments

Compared to the revenue-sharing programs, SRS modified how the counties could use the payments by requiring (for counties with at least $100,000 in annual payments) that 15%-20% of the payments be used for other specified purposes: certain local governmental costs (in Title III); federal land projects recommended by local advisory committees and approved by the Secretary (under Title II); or federal land projects as determined by the Secretary (under §402). Use of the funds for federal land projects has been touted as "reinvesting" agency receipts in federal land

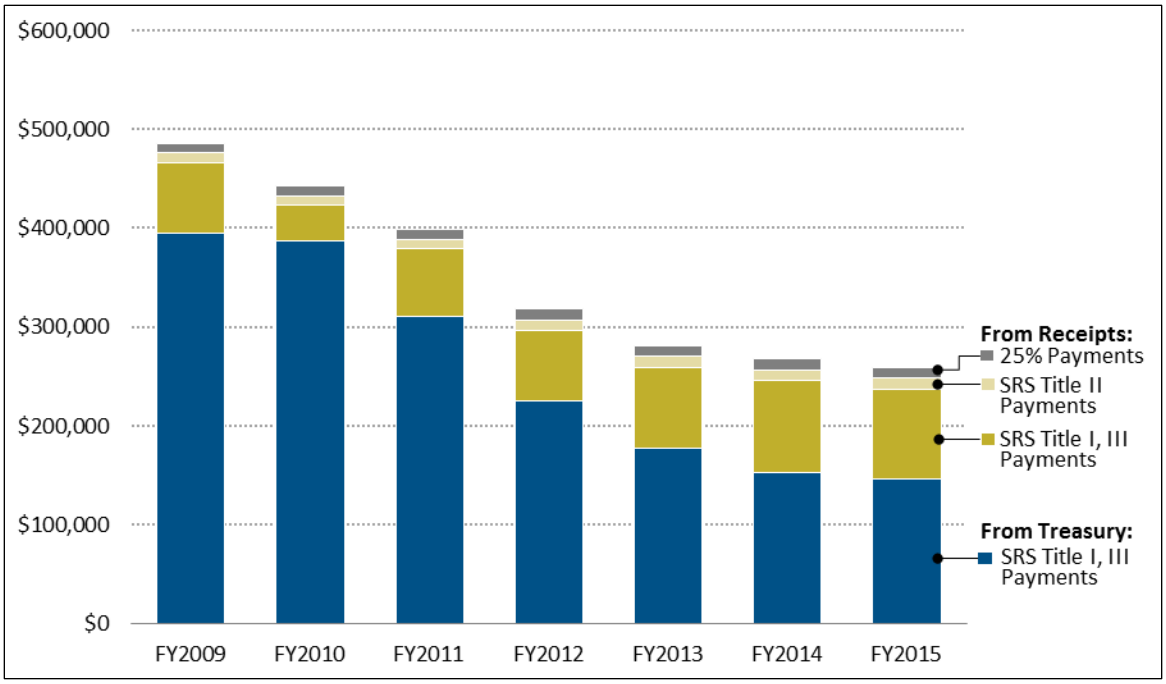
[37] There was no discussion in the legislative history of why the payments were made to the states, and not directly to the counties.

[38] The complexity of this situation is shown using Arizona as an example in out-of-print CRS Report RL30480, *Forest Service Revenue-Sharing Payments: Legislative Issues* (available from the author to congressional clients upon request).

management, but opponents argue that this "re-links" county benefits with agency receipt-generating activities and reduces funding for local schools and roads. The Forest Counties Payments Committee recommended granting local governments more flexibility in their use of the payments.[39] The committee also recommended that the federal government prohibit the states from adjusting their education funding allocations because of the FS payments.[40] In practice, such a prohibition could be difficult to determine and enforce. The O&C payments are available for any local governmental purpose.

Figure 4. Source and Distribution of FS Payments

(dollars in thousands)



Source: CRS. Compiled from data provided by the Forest Service and from Forest Service, *FY2010-FY2016 Budget Justifications*, available from http://www.fs.fed.us/aboutus/budget/.

Notes: Figures reflect the proportion of the payment that is derived from either receipts or the Treasury. The figures do not directly correspond to other FS reports on SRS payments. For example, the budget justification reported that the SRS Title I and Title III payments derived a total of nearly $466 million from receipts and the Treasury combined for FY2009. However, FS reports on SRS payments (e.g., ASR-10-01) indicate that FS distributed a total of $423 million in SRS Title I and Title III payments in FY2009 (a difference of $43 million). FS SRS Title I and Title III payments are passed through the state to the counties to use for specified purposes. SRS Title II payments are retained by FS for use on approved National Forest projects in the same county.

Duration of the Programs

Other policy questions that arise from the SRS payments include (1) how often Congress should review the payment systems (these or any other county compensation programs) to assess

[39] Forest Counties Payments Committee, *Recommendations for Making Payments to States and Counties: Report to Congress* (Washington: GPO, 2003). The committee was established in Section 320 of the FY2001 Interior and Related Agencies Appropriations Act, P.L. 106-291.

[40] Some states include FS payments allocated for education in their calculations allocating state education funds to the counties.

whether they still function as intended and (2) which options, if any, Congress might consider (e.g., a sunset provision) to induce future Congresses to undertake such a review. The FS revenue-sharing payments and the O&C payments are permanently authorized.[41]

SRS was originally enacted as a six-year program that expired on September 30, 2006, but was extended an additional nine years through five separate reauthorizations. As noted earlier, SRS expired on September 30, 2015, with the final payment made in FY2016. The last three reauthorizations have been for one or two years. The annual uncertainty about the continuation and funding level of the program concerns those interested in providing a consistent and predictable payment for local governments and also may concern those interested in reviewing federal spending more broadly.

[41] The FS 25% payments were established in 1908 (after having been enacted as a one-year program in 1906 and again in 1907). The O&C payments were established in 1937. The owl payments were to be a 10-year program, enacted in 1993.

Appendix A. SRS Payments in FY2006 and FY2009

As described in the text (under "Four-Year Extension Through FY2011 Enacted in the 110th Congress"), P.L. 110-343 modified the SRS payment formula to include federal acreage and relative income in each county, as well as transition payments in some states. The result was a change in the payments and the allocation of total payments in the modified formula. These changes are shown in **Table 2**. Note, however, that the change in the payment formula led some counties that had chosen 25% payments for FY2006 to opt for SRS payments for FY2009, and vice versa. Some of the increase in SRS payments in FY2009 is due to more counties opting for SRS payments in some states, such as Michigan, New Hampshire, Ohio, Puerto Rico, and Wisconsin. In at least one state—Pennsylvania—a portion of the decline is due to some counties opting for 25% payments in FY2009.

Table A-1. FY2006 and FY2009 FS and O&C Payments Under SRS, by State

(in thousands of dollars and percentage of total SRS funding for all of the United States)

	FY2006 FS and O&C SRS Payment		FY2009 FS and O&C SRS Payment			FY2006 FS and O&C SRS Payment		FY2009 FS and O&C SRS Payment	
	Dollars	Percentage	Dollars	Percentage		Dollars	Percentage	Dollars	Percentage
AL	2,133.8	0.44%	2,236.2	0.44%	NY	16.9	<0.01%	29.5	0.01%
AK	9,377.2	1.92%	18,760.5	3.68%	NC	1,020.9	0.21%	2,326.6	0.46%
AZ	7,289.8	1.50%	16,688.2	3.27%	ND	0.0	0.00%	0.8	<0.01%
AR	6,568.0	1.35%	8,309.6	1.63%	OH	68.8	0.01%	339.7	0.07%
CA	65,279.3	13.44%	50,125.6	9.83%	OK	1,238.9	0.26%	1,192.4	0.23%
CO	6,338.7	1.31%	14,641.3	2.87%	*OR-FS*	*149,153.3*	*30.72%*	*121,316.4*	*23.80%*
FL	2,504.5	0.52%	2,862.3	0.56%	*OR-O&C*	*108,852.0*	*22.42%*	*87,175.0*	*17.10%*
GA	1,304.6	0.27%	1,864.1	0.37%	OR-Total	258,005.3	53.13%	208,491.4	40.91%
ID	21,173.5	4.36%	34,900.0	6.85%	PA	6,491.6	1.34%	2,505.6	0.49%
IL	304.2	0.06%	107.6	0.02%	PR	0.0	0.00%	184.7	0.04%
IN	130.2	0.03%	337.4	0.07%	SC	3,288.2	0.68%	2,498.4	0.49%
KY	682.1	0.14%	2,596.9	0.51%	SD	3,823.4	0.79%	2,931.1	0.58%
LA	3,726.1	0.77%	2,620.1	0.51%	TN	560.3	0.12%	1,428.4	0.28%
ME	41.4	0.01%	99.3	0.02%	TX	4,688.8	0.97%	3,655.9	0.72%
MI	789.8	0.16%	3,397.1	0.67%	UT	1,872.5	0.39%	14,177.0	2.78%
MN	1,468.8	0.36%	3,330.1	0.65%	VT	392.3	0.08%	400.7	0.08%
MS	8,287.2	1.71%	7,705.7	1.51%	VA	925.2	0.19%	2,093.7	0.41%
MO	2,767.2	0.57%	4,681.7	0.92%	WA	42,293.9	8.71%	33,990.9	6.67%
MT	12,934.8	2.66%	24,523.6	4.81%	WV	2,006.3	0.41%	2,356.8	0.46%
NE	55.6	0.01%	584.4	0.11%	WI	577.6	0.12%	2,730.1	0.54%

	FY2006 FS and O&C SRS Payment		FY2009 FS and O&C SRS Payment			FY2006 FS and O&C SRS Payment		FY2009 FS and O&C SRS Payment	
NV	408.8	0.08%	5,174.2	1.02%	WY	2,387.4	0.49%	4,357.6	0.85%
NH	0.0	0.00%	275.2	0.05%					
NM	2,383.6	0.49%	18,185.9	3.57%	**Total**	**485,567.7**		**509,667.8**	

Sources: FS: U.S. Dept. of Agriculture, Forest Service, "All Service Receipts (ASR), Final Payment Summary Report PNF (ASR-10-01)," unpublished reports. **O&C:** U.S. Dept. of the Interior, Bureau of Land Management, *FY2011 Budget Justification*, p. X-6, at http://www.doi.gov/budget/2011/data/greenbook/FY2011_BLM_Greenbook.pdf.

Note: Counties could choose to receive the regular 25% FS payments or 50% O&C payments, rather than the SRS payments, and in many cases opted for the 25% in FY2006 or FY2009, and sometimes in both fiscal years. Thus, a change in the SRS payments in the table might not reflect the total change in FS payments to that state.

Appendix B. Historical Proposals to Change the Revenue-Sharing System

Concerns about the FS and BLM programs have led to various proposals over the years to alter the compensation system. Most have focused on some form of *tax equivalency*—compensating the states and counties at roughly the same level as if the lands were privately owned and managed. Many consider this to be a valid approach for fairly and consistently compensating state and county governments. However, most also note the difficulty in developing a tax equivalency compensation system, because counties and states use a wide variety of mechanisms to tax individuals and corporations—property taxes, sales taxes, income taxes, excise taxes, severance taxes, and more. Thus, developing a single federal compensation system for the tax-exempt status of federal lands may be very difficult if not impossible.

In his 1984 budget request, President Reagan proposed replacing the receipt-sharing programs with a tax equivalency system, with a guaranteed minimum payment. The counties argued that the proposal was clearly intended to reduce payments, noting that the budget request projected savings of $40.5 million (12%) under the proposal. The change was not enacted. The FY1986 FS budget request included a proposal to change the payments to 25% of *net* receipts (after deducting administrative costs). Legislation to effect this change was not offered.

In 1993, President Clinton proposed a 10-year payment program to offset the decline in FS and O&C timber sales, and thus payments, resulting from efforts to protect various resources and values including northern spotted owls in the Pacific Northwest. Congress enacted this program in Section 13982 of the 1993 Omnibus Budget Reconciliation Act (P.L. 103-66). These "owl" payments began in 1994 at 85% of the FY1986-FY1990 average payments, declining by 3 percentage points annually, to 58% in 2003, but with payments after FY1999 at the higher of either this formula or the standard payment.

In his FY1999 budget request, President Clinton announced that he would propose legislation "to stabilize the payments" by extending the owl payments formula to all national forests. The proposal would have directed annual payments from "any funds in the Treasury not otherwise appropriated," at the higher of (1) the FY1997 payment, or (2) 76% of the FY1986-FY1990 average payment. This approach would have increased payments in areas with large payment declines while decreasing payments in other areas, as well as eliminating annual fluctuations in payments and de-linking the payments from receipts. The Administration's proposed legislation was not introduced in Congress. The FY2000 and FY2001 FS budget requests contained similar programs, but no legislative proposals were offered.

The National Association of Counties (NACo) proposed an alternative in 1999.[42] The NACo proposal would have provided the counties with the higher of (1) the standard payment, or (2) a replacement payment determined by the three highest consecutive annual payments for each county between FY1986 and FY1995, indexed for inflation. NACo also proposed "a long-term solution ... to allow for the appropriate, sustainable, and environmentally sensitive removal of timber from the National Forests" by establishing local advisory councils. The NACo approach would have maintained or increased the payments and might have reduced the annual fluctuations, and would likely have retained the linkage between receipts and payments in at least some areas.

[42] National Association of Counties, *NACo Resolution in Support of a Forest Counties "Safety Net,"* Washington, DC, April 21, 1999.

Appendix C. FY2013 Sequestration Issues

Section 302 of the Budget Control Act (BCA)[43] required the President to sequester, or cancel, budgetary resources for FY2013, in the event that Congress did not enact a specified deficit reduction by January 15, 2012.[44] Congress did not enact such deficit reduction by that date, and on March 1, 2013, the Office of Management and Budget (OMB) determined the amount of the total sequestration for FY2013 to be approximately $85 billion.[45]

Under the BCA, half of the total reduction for FY2013 was allocated to defense spending, and the other half to non-defense spending.[46] Within each half, the reductions were further allocated between discretionary appropriations and direct spending.[47] Discretionary appropriations are defined in the BCA as budgetary resources provided in annual appropriations acts.[48] In contrast, direct spending was defined to include budget authority provided by laws other than appropriations acts.[49] The BCA further required OMB to calculate a uniform percentage reduction to be applied to each program, project, or activity within the direct spending category.[50] For the direct spending category, OMB determined this percentage to be 5.1% for FY2013.

Section 102(d)(3)(e) of SRS directed that payments for a fiscal year were to be made to the state as soon as practicable after the end of that fiscal year, meaning that the FY2012 payment was made in FY2013.[51] Because the authority to make these payments is not provided in an annual appropriations act, such payments are not discretionary spending for purposes of the BCA. These payments were classified as non-defense, *direct* spending for purposes of sequestration.[52] The BCA exempts a number of programs from sequestration; however, the payments under SRS were not identified in the legislation as exempt.[53] Consequently, these payments were subject to sequestration as non-defense, direct spending. However, BLM and FS managed the sequestration of the FY2013 payments in different ways.

BLM Sequestration of SRS Funds

BLM issues SRS payments only for the O&C lands in Oregon. In February 2013, BLM distributed $36 million to the 18 O&C counties in Oregon for FY2012 SRS payments. However, DOI had held back 10% of the scheduled payments across all three titles in anticipation of the possibility of sequestration. The reduction to DOI's SRS program required by sequestration was

[43] P.L. 112-25, as amended by P.L. 112-240.

[44] 2 U.S.C. §901A. The sequester was originally supposed to be ordered on January 2, 2013, but was delayed by the American Taxpayer Relief Act of 2012, P.L. 112-240, until March 1, 2013. For more information on sequestration issues, see CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch.

[45] This amount was identified based on a formula set forth in Section 302 of the BCA.

[46] 2 U.S.C. §901A(4).

[47] 2 U.S.C. §901A(6).

[48] 2 U.S.C. §900(7).

[49] 2 U.S.C. §900(8). Budget authority is further defined as "the authority provided by Federal law to incur financial obligations." 2 U.S.C. §622.

[50] Although not relevant here, additional restrictions are placed on the degree by which Medicare payments in the direct spending category may be reduced. 2 U.S.C. §901a(8).

[51] 16 U.S.C. §7112(e).

[52] 2 U.S.C. §900(8).

[53] 2 U.S.C. §905.

5.1% of the total payment, or $2.0 million.[54] Since the sequestered amount was less than the amount withheld, DOI-BLM owed an additional SRS payment for the difference. In May 2013, BLM distributed the remaining 4.9% of the payment, resulting in a total of $38 million for the SRS payment to the O&C counties for FY2012.[55]

Forest Service Sequestration of SRS Funds

The Forest Service distributed the full FY2012 SRS payments in January and February 2013, without withholding any amount in preparation for the potential sequester order. On March 19, 2013, the Forest Service announced it would seek to recover from the states the 5.1% of the payments that were subject to sequestration.[56] In letters sent to each affected governor, the Forest Service outlined two repayment options and asked for the states to respond by April 19, 2013, with how they planned to repay. Invoices for repayment were not included. In addition to repaying the 5.1%, the FS offered the states the option of having the full sequestered amount taken out of Title II funds (for those states with enough Title II money). Three states—Alaska, Washington, and Wyoming—publicly indicated their intention not to repay the SRS funds.[57] In an April 16, 2013, hearing before the Senate Committee on Energy and Natural Resources, the FS indicated that invoices for the repayment would be sent in late April 2013.

On August 5, 2013, the Forest Service sent additional letters which included invoices for the repayment to the governors of the 18 states with insufficient Title II money to cover the sequestered amount.[58] The invoices outlined three options for the affected states to take within 30 days: pay the debt in full; agree to a payment plan; or petition for administrative review of the debt. The invoices also included a Notice of Indebtedness to the U.S. Forest Service and Intent to Collect by Administrative Offset, which describes the basis of the indebtedness and the Forest Service's intent to offset future payments—without assessing penalties—from future Forest Service and Department of Agriculture state payments. As of May 21, 2014, two states had remitted an SRS sequester-related payment—New Hampshire paid $27,884.17 and Maine paid $3,648—and no collection efforts have been initiated by the Forest Service or Treasury Department in the remaining 16 states.[59] On August 20, 2013, the Forest Service sent additional letters to the governors of the 22 states that had sufficient Title II money to cover the sequestered amount.[60] The letters informed the governors that the Title II allocations were reduced by the sequestered amount.

To date, the last congressional action on the issue was a House Committee on Natural Resources oversight hearing on January 14, 2014.

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[54] Testimony of DOI Deputy Assistant Secretary Pamela K. Haze, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Keeping the Commitment to Rural Communities*, hearing, 113th Cong., 1st sess., March 19, 2013.

[55] Personal communication with BLM Legislative Affairs office, June 19, 2013.

[56] Testimony of Forest Service Chief Thomas Tidwell, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Keeping the Commitment to Rural Communities*, hearing, 113th Cong., 1st sess., March 19, 2013. SRS payments are made from the Forest Service to the states, which then distribute the payment to the eligible counties.

[57] Phil Taylor, "Hastings probes Forest Service's withholding of timber payments," *E&E News*, May 21, 2013.

[58] The following states did not have sufficient Title II funds to cover the sequester and received invoices: AL, AR, GA, IL, IN, ME, MN, MO, NC, ND, NE, NH, NY, OH, PA, PR, TN, VT, and VA. WA received a letter and invoice to collect money from a special act payment, but the letter also indicated the total SRS Title II reduction.

[59] WA paid $317.15 to reimburse for the sequester-related overpayment of a special act payment. Personal communication with Katherine Armstrong, Legislative Affairs Specialist, Forest Service, November 13, 2013.

[60] The following states had the sequester withheld entirely from their Title II funds: AK, AZ, CA, CO, FL, ID, KY, LA, MI, MS, MT, NM, NV, OK, OR, SC, SD, TX, UT, WI, WV, and WY.

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