



# Rural Studies Program Working Paper Series

## **Federal Land Management and County Government: 1908-2008**

A Report of the “Changing Federal County Payments Policy  
and Rural Oregon Counties: Impacts and Options” Project

by

Vincent Adams  
Dawn Marie Gaid

October 2008



Working Paper Number  
RSP 0804

Rural Studies Program  
Oregon State University  
213 Ballard Extension Hall  
Corvallis, OR 97331  
(541) 737-1442  
<http://ruralstudies.oregonstate.edu>

Financial support for this project was provided by:  
Association of Oregon Counties  
The Ford Family Foundation  
Eastern Oregon Rural Alliance

## Table of Contents

Introduction.....	1
Historical relationship between the Federal government and local governments in Oregon .....	1
A. Ownership and use of land .....	1
B. History of harvest revenue, federal payments to counties and local property tax burdens ..	3
1. Federal payments to counties .....	3
2. Harvest Revenues .....	4
3. Local property tax burdens on 36 Oregon counties .....	6
“Sea change” in the relationship between the Federal government and local governments in Oregon .....	9
Reauthorization of Federal payments to Oregon counties .....	11
Conclusion .....	15
References.....	16
Appendix A: Legislation related to land ownership and use .....	21
Appendix B: Relevant environmental legislation .....	27
Appendix C: Legislation related to Federal Forest Payments .....	30
Appendix D: State Legislation affecting Property Taxes .....	32

## List of Figures

Figure 1: Federal Forest Ownership in Oregon .....	3
Figure 2: Oregon Timber Harvest by Ownership .....	5
Figure 3: Local Levies & Federal Timber Payments for Oregon Counties .....	7
Figure 4: Ratio of Oregon County Federal Timber Payments to Property Taxes for 1991 & 2007.....	7
Figure 5: Northern Spotted Owl in Oregon .....	9
Figure 6: Federal Timber Payments to Oregon.....	10

## List of Tables

Table 1: Ratio of Oregon County Federal Timber Payments to Property Taxes for 1991 & 2007 .....	8
--	---

## **Introduction**

A century ago in 1908, the Federal government recognized the financial impact of federal land ownership on local governments by putting in place policies that required Federal payments to county governments in which the Federal government owned land. During the last three decades, forest management practices and national policies have constrained the revenues that are generated by public lands. Beginning in 1993 Congress recognized that revenues were declining and devised a payments program not based on harvest. This plan was expressed first as the Omnibus Reconciliation Act of 1993 (OBRA) which was replaced by the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS). A one-year extension of the SRS expired in September 2007 and had not been renewed by Congress despite efforts by the Oregon delegation and others by July 1, 2008, the beginning of 2008-09 county fiscal year. On October 3, 2008, Congress passed and the President signed a four-year continuation and phase-out of the payments.

The following report represents part of a study being conducted by the Rural Studies Program at Oregon State University that will analyze the impacts of reduced Federal land payments to counties on the services provided by county government in Oregon, and on citizens, businesses and institutions such as schools. The study also examines several county government options for managing these impacts, and state and federal government options for reducing the negative impacts.

This report begins with a baseline description of the historical relationships between the Federal Government and local governments in Oregon – ownership and use of land and local revenues generated from public lands, including a review of the history of harvest revenue, federal payments to counties and local property tax burdens for the 36 Oregon counties. This is followed by a description of the “sea change” in the relationship associated with the restrictions on land use initiated in the 1980s on forest and rangeland leading to PL 106-393, and finishes with a summary of the current status of the reauthorization of federal payments.

## **Historical relationship between the Federal government and local governments in Oregon**

### ***A. Ownership and use of land***

The concept of a public domain was evident in the extensive territorial claims made by early American colonies, later manifested through the acquisition of approximately 1.8 billion acres of land (through cession, purchase or conquest) by the Federal government from 1780–1867 (BLM, 2006). The public domain included all lands that were subject to sale or transfer of ownership under the laws of the federal government and over which it had governmental jurisdiction. While

public land was initially viewed as a source of revenue, particularly as a means to make good on debts and promises accumulated during the Revolutionary War, it was later viewed as a means to secure and settle the nation (Alexander & Gorte, 2007; Hibbard, 1965).

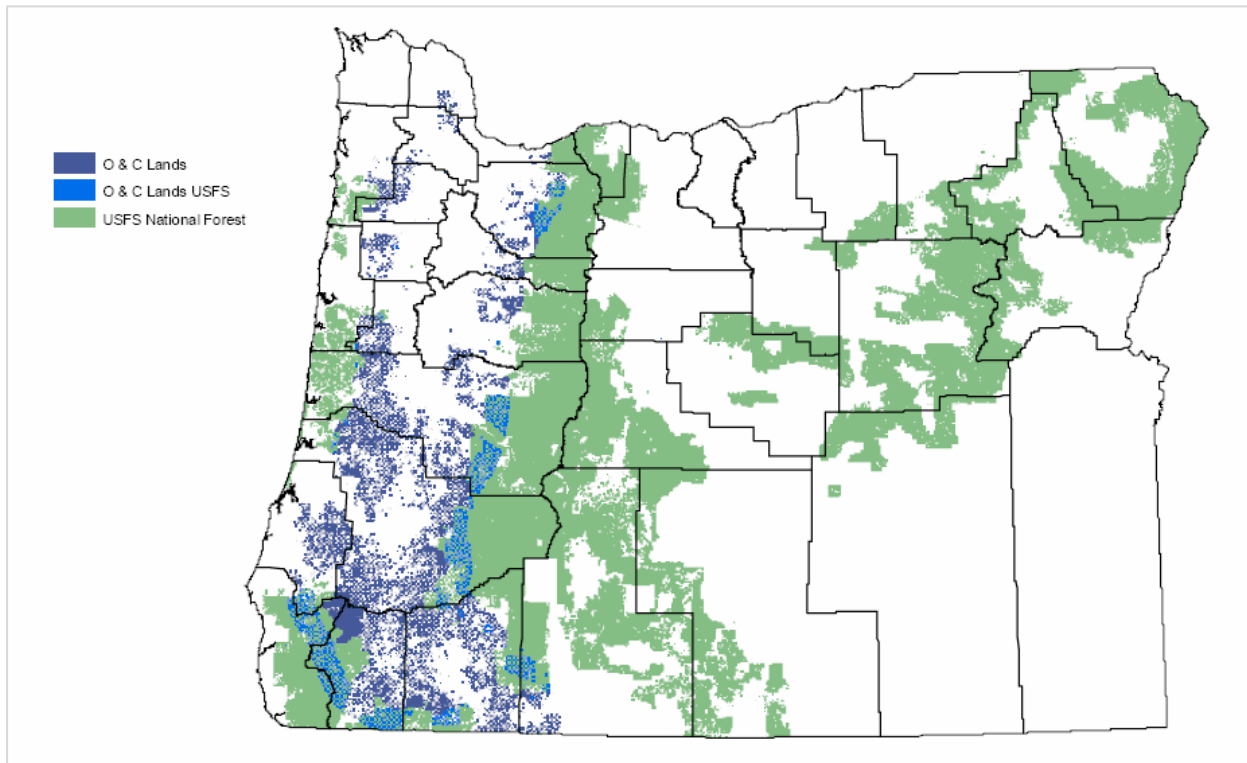
Disposal of public land occurred primarily through two mechanisms – sales and land grants. Early legislation, which targeted the sale of land to private citizens and companies, encouraged speculative behavior and was later replaced by legislation that emphasized sales to “actual settlers.” Land grants were awarded for a variety of purposes including land bounties as a reward for military service, internal improvements for roads, river/canals and railways, miscellaneous grants to states, and education (BLM, 2006; Hibbard, 1965). In total 1.275 billion acres of public land has transferred to state or private ownership (BLM, 2006; Alexander & Gorte, 2007).

With the public domain rapidly diminishing, the notion that public lands were worth preserving for aesthetic and scientific values, as well as the common good, began to emerge. In 1872, Congress started reserving or withdrawing public land for national parks, national forests, and wildlife refuges. The government also began to take a more active role in administering use of public land use for the common good, setting aside timber, mineral and grazing lands and regulating their use and development (Alexander & Gorte, 2007; Public Lands Information Center, n.d.). While surveying and classification of public lands began as early as 1796 to determine which lands had natural resources beneficial to the public and to establish private uses on public lands (Hibbard, 1965), the “four great surveys of the West” took place between 1867 and 1879 (U.S. Geological Survey, 2000).

Management of the current 653 million acres of federally-owned land falls predominantly under the jurisdiction of the Forest Service (USFS) in the U.S. Department of Agriculture (USDA) and the Bureau of the Land Management (BLM) in the U.S. Department of the Interior (DOI). Together the BLM and the USFS manage approximately 451 million acres, mainly in the West. The USFS, established in 1905, administers approximately 193 million acres, most designated as national forest, while the BLM, established in 1946, manages approximately 258 million acres (Alexander & Gorte, et al., 2007).

In Oregon, of the total land area (61.6 million acres), 53.1 percent (32.7 million acres) of the land base is federally-owned, excluding trust properties (U.S. Census Bureau, 2004). Approximately 30.47 million acres of Oregon is forestland (LRO, 2007) – 12,507,273 acres is managed by USFS, and 2,436,671 is managed by BLM (ODF, 2006). Of the forestlands that BLM manages, approximately 2,084,107 acres are lands that were revested in 1916 from the failed Oregon & California (O&C) railroad, along with 74,547 acres of revested Coos Bay Wagon Road lands. USFS manages another 492,399 acres of O&C lands (BLM, 2006). The remaining 391,346 acres are Public Domain lands which are managed under the Federal Land Policy and Management Act (Public Lands Foundation).

**Figure 1: Federal Forest Ownership in Oregon**



Source: Oregon Department of Forestry (2005)

In recent decades, the idea of managing lands for purposes other than natural resource extraction has become the dominant practice in federal agencies. While federal land is used for timber, range, and minerals it is now also managed for fish and wildlife, watershed health, and conservation. Additionally, the USFS and BLM are required to manage forest resources for sustained yield (Gorte, et al, 2007). However, O&C lands, unlike other federal lands, are required to be managed for production and economic benefit for the local communities as well as for environmental concerns (O&C Act, 1937).

For a list of legislative acts relevant to this discussion, see Appendix A at the end of this report.

## ***B. History of harvest revenue, federal payments to counties and local property tax burdens***

### **1. Federal payments to counties**

Recognizing the financial impact that ownership of tax-exempt federal lands would have on the local counties in which these lands were situated, the Federal government instituted policies that

shared revenues from these lands and/or provided funding to counties in lieu of the taxes they would have received if these lands were held in private ownership.

Beginning in 1908, Congress enacted and subsequently amended the Twenty-five Percent Fund Act (25% Fund). The Act requires 25 percent of the revenues derived from National Forest System lands be paid to States for use by eligible counties for the benefit of schools and roads (25% Fund, 1908).

In 1916, Congress passed the Chamberlain-Ferris Revestment Act, which revoked the title of the O&C Railroad to over 2 million acres of land for failure to comply with the conditions of the land grant, and directed that some of the revenues from timber sales off this land be shared with counties with O&C lands. In 1937, Congress enacted The O&C Revested Lands Sustained Yield Management Act (O&C Act) that amended the earlier O&C legislation to require 75 percent of the revenues derived from the revested and reconveyed grant lands, formerly held by the Oregon and California Railroad Company and currently managed by the Bureau of Land Management, be paid to eligible counties of which 50 percent are to be used as other county funds (O&C Act, 1937). "Twenty-five percent of the proceeds from timber production on the O&C lands were to be provided to the federal government to pay back the costs of buying back the tainted land and then given to the counties as a payment in lieu of property taxes that would have been assessed if the land was in private ownership. It took until 1952 before that debt was paid back. The counties later agreed to give up that 25 percent in exchange for management of the O&C lands (BLM). Thirty-three of Oregon's 36 counties have received some funding under the federal forest payments program, and 18 of 36 received funding from O&C lands.

In 1976, the Payment in Lieu of Taxes Act (PILT), Public Law 94-565, was passed by Congress. PILT directs payments to 'units of general local government' where 'entitlement lands' are located. Units of local government are cities and counties responsible for provision of governmental services. Entitlement lands are those lands that are owned by the federal government (national forests and grasslands, Bureau of Land Management lands, national park system lands, wilderness areas, Army Corps of Engineer projects, and Bureau of Reclamation lands). Payments are made directly to the local governments and are usable for any governmental purpose.

## **2. Harvest Revenues**

Lawful acquisition of timber from the public domain was established with the Timber Cutting Act of 1878 and Timber and Stone Act of 1878 (Hibbard, 1965).

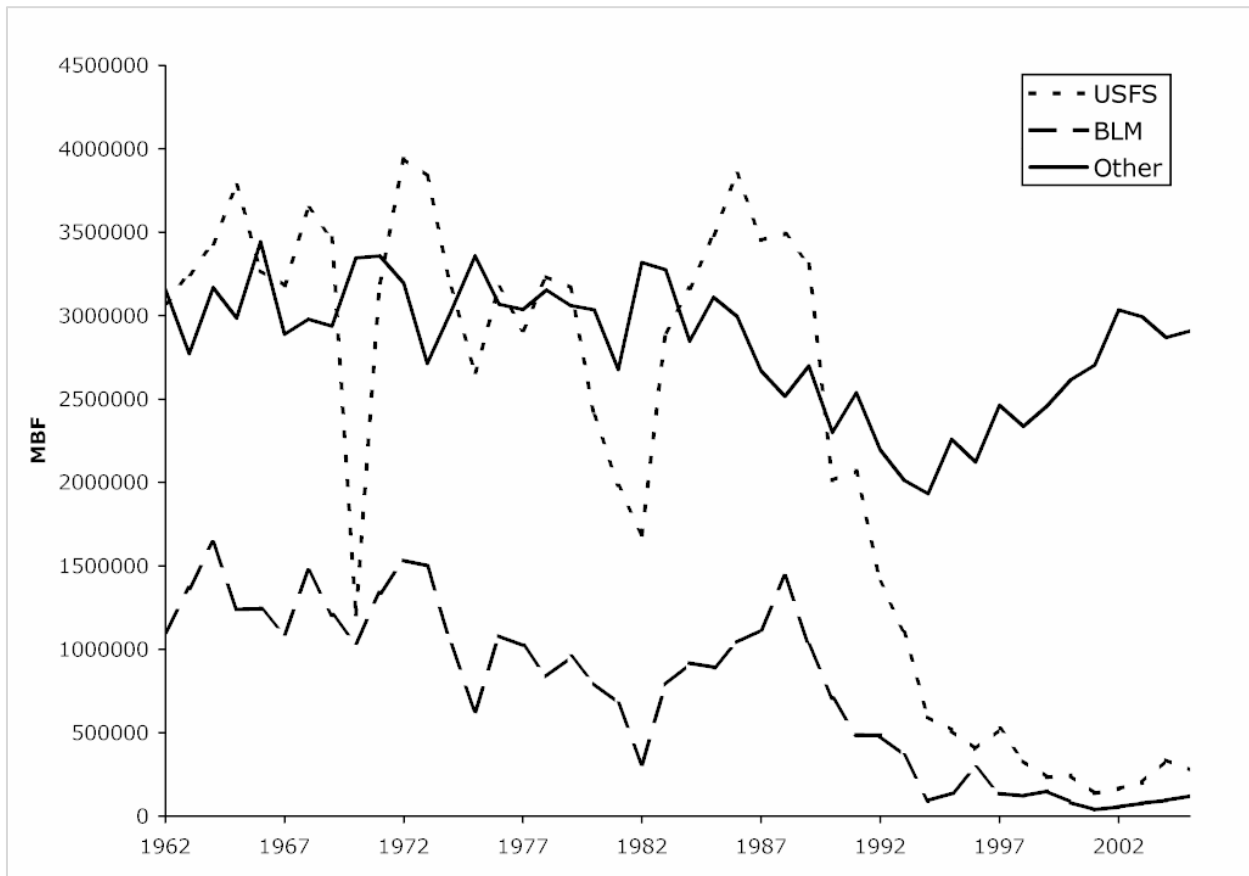
Revenue sharing legislation created a fixed fiscal relationship between the harvest of timber on federal lands and the revenue received by local governments. This situation resulted in funding

levels being directly linked to the amount of harvest that occurred on lands owned by the federal government.

Since the late 1960's harvests in Oregon have been trending downward. From the 1960's to the late 1980's, harvest levels on USFS lands in Oregon hovered around 3.25 million board feet (mbf) while harvest on BLM lands held at about 1.0 mbf. However the economic recession in the early 1980's resulted in a significant slump in harvest on both federal and private lands. With the implementation of the Northwest Forest Plan in the early 1990's harvest on federal lands in Oregon dropped precipitously to below 500,000 mbf annually. At the same time, harvest on private lands that had been declining since the recovery from the early 1980's recession, rebounded approximately 1.0 mbf.

The consequence of this harvest history is a gradual decline in local government funding from shared revenues until the 1990's where sharp reductions in federal harvest resulted in budget shortfalls. This loss of shared revenue was the impetus for the timber payment provisions in Secure Rural Schools and Self-Determination Act of 2000. (See Figure 2)

**Figure 2: Oregon Timber Harvest by Ownership**



Source: Oregon Department of Forestry



For a list of legislative acts relevant to this topic see Appendix B and C at the end of this report.

### **3. Local property tax burdens on 36 Oregon counties**

Property taxes represent the largest source of locally-generated general revenue for local governments, both nationally and in Oregon. Property taxes are collected by local governments to support schools, roads, police and fire protection, libraries, parks and other services. In 2006, Oregon property taxes provided 26 percent of all local general revenues and 33 percent of county revenues.

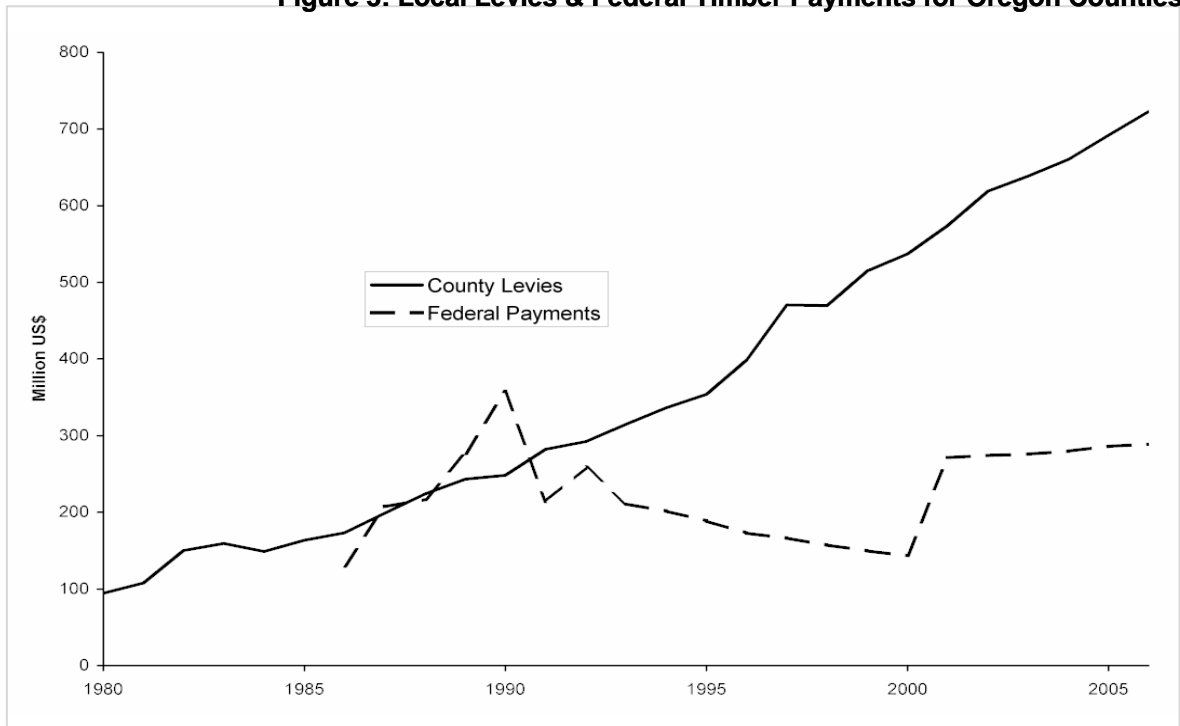
Oregon's property tax system is uniquely limited by two voter-passed constitutional amendments; Measures 5 and 50. Measure 5, approved by Oregon voters in 1990, created a permanent limitation on property taxes of \$10 per \$1,000 of real market value for general government services, and \$5 per \$1,000 of real market value for education services. If the tax extended exceeds Measure 5 limits then tax compression occurs. In 1997 Oregon voters approved Measure 50, which assigned a permanent rate to each taxing district that cannot be raised without statewide-voter approval. The assessed value of individual properties with no new construction can only increase by 3% annually under Measure 50. The measure required a roll back of the 1997-98 assessed value to the 1995-96 level minus 10%. Each subsequent year, this amendment allows the maximum assessed value to increase by 3% annually unless it exceeds the real market value of the property. Thus, for most properties, the assessed value increased by 3% each year. New construction or new additions to a property are specific types of "exceptions" for which increases larger than 3% of the assessed value are allowed. The real market value of these exceptions is reduced to give the owner tax savings similar to existing properties. General obligation bonds are not limited by Measure 5 limits, but local option levies, GAP bonds, and urban renewal levies are.

In the latter 1980's, federal payments were roughly equal to tax levies received by county governments in Oregon. After passage of SRS which fixed federal timber payments after the steady decline during the 1990's, property tax levies continued to climb under the control of Measures 5 and Measure 50 (see Figure 3).

In 1991, twenty-five of Oregon's 36 counties received federal timber payments that were half or greater their property taxes. By 2007, only six counties continued to rely on timber payments at this extent. The highest ratio of timber payments to property taxes in 2007 was 2.07 (in Grant County); in 1991 the highest ratio was 17.4 (Josephine County). Of all Oregon Counties the smallest reduction in the ratio of federal payments to permanent rate authority between 1991 and 2007 was 80% (Lake County). The greatest reduction in this ratio was 99% (Jackson County). (See Figure 4 and Table 1)

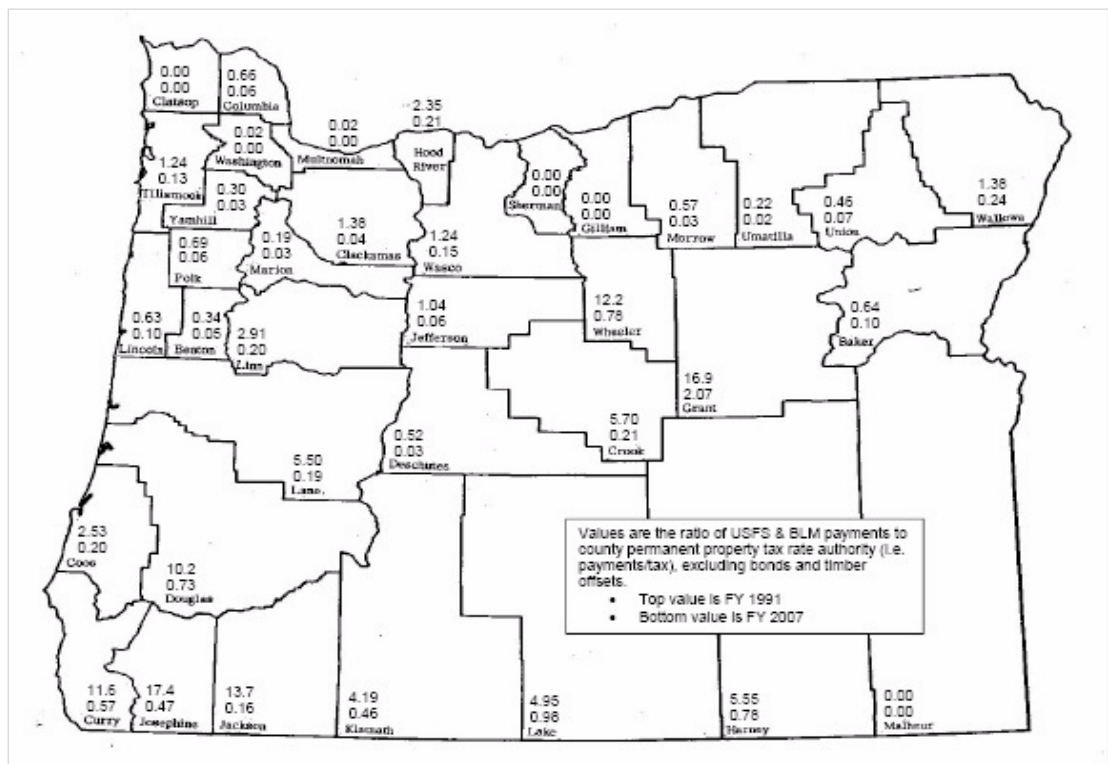
For a list of legislative acts relevant to this topic see Appendix D at the end of this report.

**Figure 3: Local Levies & Federal Timber Payments for Oregon Counties**



Source: Oregon Department of Forestry, Oregon Department of Revenue

**Figure 4: Ratio of Oregon County Federal Timber Payments to Property Taxes<sup>1</sup> for 1991 & 2007**



Source: Oregon Department of Forestry, Oregon Department of Revenue

**Table 1: Ratio of Oregon County Federal Timber Payments to Property Taxes for 1991 & 2007**

Shaded cells are those with a ratio of 0.5 or greater	1991			2007		
	Property Taxes Imposed (million \$)	Federal Timber Pmts. (million \$)	FTP/PRA	Permanent Rate Authority (million \$)	Federal Timber Pmts. (million \$)	FTP/PRA
Baker	1.84	1.18	0.64	13.54	1.29	0.10
Benton	6.94	2.35	0.34	69.64	3.66	0.05
Clackamas	7.09	9.78	1.38	363.15	13.32	0.04
Clatsop	3.43	0.00	0.00	43.73	0.00	0.00
Columbia	2.14	1.42	0.66	39.48	2.27	0.06
Coos	2.06	5.20	2.53	43.27	8.50	0.20
Crook	0.91	5.17	5.70	17.65	3.67	0.21
Curry	0.63	7.32	11.64	16.98	9.62	0.57
Deschutes	6.26	3.28	0.52	158.10	4.80	0.03
Douglas	3.56	36.34	10.21	66.94	48.95	0.73
Gilliam	0.62	0.00	0.00	3.38	0.00	0.00
Grant	0.64	10.75	16.86	4.97	10.31	2.07
Harney	0.92	5.09	5.55	5.40	4.23	0.78
Hood	1.05	2.47	2.35	13.92	2.97	0.21
Jackson	1.16	15.79	13.67	153.76	24.57	0.16
Jefferson	0.57	0.60	1.04	14.23	0.86	0.06
Josephine	0.63	10.95	17.42	36.58	17.05	0.47
Klamath	3.57	14.93	4.19	43.50	19.80	0.46
Lake	0.86	4.28	4.95	5.82	5.67	0.98
Lane	7.05	38.74	5.50	266.95	50.86	0.19
Lincoln	7.11	4.51	0.63	57.23	5.70	0.10
Linn	3.87	11.24	2.91	72.32	14.20	0.20
Malheur	1.90	0.01	0.00	16.42	0.01	0.00
Marion	23.90	4.54	0.19	213.27	5.90	0.03
Morrow	0.66	0.38	0.57	14.19	0.38	0.03
Multnomah	76.42	1.64	0.02	708.99	2.31	0.00
Polk	2.17	1.50	0.69	44.31	2.46	0.06
Sherman	0.68	0.00	0.00	3.55	0.00	0.00
Tillamook	2.17	2.68	1.24	27.15	3.41	0.13
Umatilla	4.70	1.02	0.22	48.19	1.04	0.02
Union	2.05	0.94	0.46	15.00	1.06	0.07
Wallowa	0.81	1.12	1.38	5.80	1.41	0.24
Wasco	1.99	2.45	1.24	20.02	2.98	0.15
Washington	19.23	0.44	0.02	455.98	0.73	0.00
Wheeler	0.13	1.64	12.16	1.53	1.20	0.78
Yamhill	3.80	1.13	0.30	63.40	1.62	0.03

Source: Oregon Department of Forestry, Oregon Department of Revenue

## “Sea change” in the relationship between the Federal government and local governments in Oregon

Historically, counties with extensive federal lands received a large share of their revenues from National Forest System and O&C lands. In recent years, Federal timber sales have been dramatically reduced due to market conditions, legislation, and legal decisions reducing the share of revenues to counties.

The revenue sharing arrangement between local governments and federal agencies functioned as intended from 1908 into the 1980’s when economic recession significantly altered softwood timber markets. Because of the high proportion of lumber that is used in homebuilding, the lumber and wood products industry was weakened by decreased demand for new housing during the 1980 and 1981-82 recessions (Scaggs, 1983). “Between 1985 and 1989, a significant drop in uncut volume under contract was largely the result of timber buy-back legislation, where the government bought back uncut sales from timber purchasers who had paid prices that could not be recovered at current market conditions of that time” (Tuchmann, 1998).

In the 1990s, the continued cutting of old growth began to conflict with the Clean Water Act, the National Environmental Policy Act, and most importantly, the Endangered Species Act (ESA). Prior to this, projections of timber availability were already declining according to a comprehensive report (Sessions et al, 1991), and in 1990 the northern spotted owl was listed as threatened under the ESA, and received critical habitat designation two years later. Northern spotted owls can be found in most of western Oregon (see Figure 5), and the critical habitat designation affected counties throughout the region. Litigation at the time defending the owl (and other species) had created an impasse that effectively stopped timber harvests on federal lands.

The Northwest Forest Plan (NWFP) was the culmination of a nearly decade of forest management policies aimed at sustainable management of late successional forests, but resulted in large declines in harvest on federal land. Adopted by the Clinton Administration in 1994, it was intended to not only preserve the northern spotted owl, but also be a “comprehensive design for managing federal forests; providing economic assistance to hard-pressed workers, businesses, and communities; and coordinating the activities and responsibilities of federal agencies and state, local, and tribal governments in western Oregon, western Washington, and northern California” (Tuchman, 1996). The Northern Spotted Owl can be found in Benton, Clackamas,

Figure 5: Northern Spotted Owl in Oregon

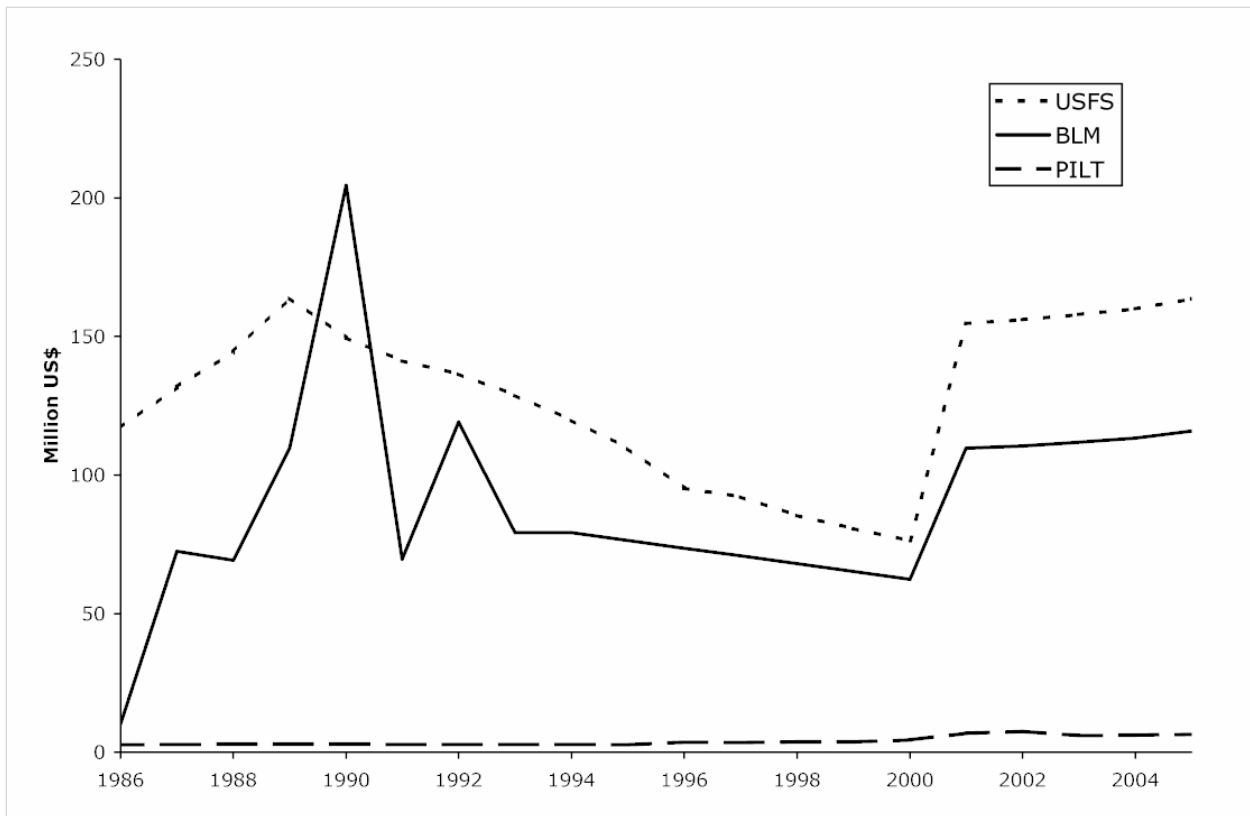


Source: Oregon Department of Fish & Wildlife

Clatsop, Columbia, Coos, Curry, Deschutes, Douglas, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill counties (ODFW).

The reduction in federal harvest in the 1990's greatly reduced the shared revenues received by local governments (See Figure 6). The long-standing nature of these revenue sharing arrangements and the steady loss of federal timber revenues caused counties dependent on the natural resource economy to experience significant budget shortfalls.

**Figure 6: Federal Timber Payments to Oregon**



Source: Oregon Department of Forestry

Recognizing this trend, Congress enacted provisions in the Omnibus Budget Reconciliation Act of 1993 (OBRA), providing an alternative annual safety net payment (payment-in-lieu-of-taxes) to counties in which Federal timber sales had been restricted or prohibited by administrative or judicial decision to protect the northern spotted owl (United States Congress, 1993). The OBRA modified the 25% Fund Act such that local governments would receive in 1994 85% of the 25% payment they would have received based on the annual averages of the harvest years 1986 through 1990 national forest lands. In the fiscal years of 1995 through 2003 the amount of payment to the local governments would be reduced by 3% annually. An identical schedule was

applied to the 50% payments from the Bureau of Land Management to local governments that had O & C timberlands in their districts.

The OBRA was repealed by the passage of the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS), which provides counties with payment-in-lieu-of-taxes equal to the average of the three highest harvest years between 1986 and 1990. The legislation was coauthored by Rep. Allen Boyd (D-FL), Rep. Nathan Deal (R-GA), Senator Larry Craig (R-ID) and Senator Ron Wyden (D-OR). It passed by unanimous consent in both the House and Senate before being signed by President Clinton.

SRS was designed to stabilize payments to national forest counties, providing a 6-year temporary safety-net payment at 85 percent of the average of their three highest receipt years under the 25% Fund Act from 1986-1990 (Title I). It also focused on creating new cooperative partnerships between citizens in forest counties and federal land management agencies to develop forest health improvement projects on public lands, and simultaneously stimulate job development and community economic stability, by providing an additional 15 percent to support projects on federal lands (Title II) or on specified county-based projects (Title III). The bill also authorized the establishment of a diverse 15-member resource advisory committee (RAC) to recommend projects on national forests and O&C lands using Title II funds. Counties had the option of staying with the status quo, or accepting the safety-net payments. All of Oregon's 33 counties receiving federal payments opted for the safety-net payments. The Act effectively decouples federal payments from timber harvests .

The impending expiration of SRS on September 30, 2006 prompted a number of bills to be introduced in both the Senate and the House in 2005, and again in 2007 following a one year extension of the program. Efforts included multiyear and single year extensions – some in the form of standalone bills, others as attachments to other legislative vehicles.

## **Reauthorization of Federal payments to Oregon counties**

The Secure Rural Schools and Community Self-Determination Reauthorization Act of 2005 was introduced in both the House (H.R. 517) and Senate (S. 267) on February 2, 2005. It would have amended the Secure Rural Schools and Community Self-Determination Act of 2000 to extend the Act through FY 2013, and for other purposes. In the Senate it was sponsored by Larry Craig (R-ID) with 30 co-sponsors. The bill was referred to the Senate Energy and Natural Resources committee; and, the Senate Energy and Natural Resources, Subcommittee on Public Lands and Forests. The last action on the bill occurred December 8, 2006, never making it beyond the introduction phase (GovTrack.us. S.267--109th Congress, 2005).

In the House it was sponsored by Greg Walden (R-OR) with 139 co-sponsors. The bill was referred to the following committees: House Agriculture; House Agriculture, Subcommittee on

Department Operations, Oversight, Dairy, Nutrition, and Forestry; House Resources; House Resources, Subcommittee on Forests and Forest Health. On June 6, 2005 the Congressional Budget Office submitted a budget report that estimated that enacting H.R. 517 would increase direct spending by \$3.2 billion over the 2008-2014 period. The proposed offset would come from a portion of federal taxes withheld from payments by the federal Government to government contractors. The last action on the bill occurred on June 9, 2005 when it was reported by the House Resources committee (GovTrack.us. H.R.517--109th Congress, 2005). .

Both reauthorization bills never became law because they were proposed in a previous session of Congress. Sessions of Congress last two years, and at the end of each session all proposed bills and resolutions that haven't passed are cleared from the books. The original SRS expired on September 30, 2006 with no action taken by Congress, and with funds scheduled to run out at the county level on June 30, 2007.

On January 4, 2007, Secure Rural Schools and Community Self-Determination Reauthorization Act of 2007 (H.R. 17) was introduced in the House by Rep. Peter DeFazio (D-OR) with 140 cosponsors. It would have amended the Secure Rural Schools and Community Self-Determination Act of 2000 to extend the Act through FY2013, and for other purposes. The bill was referred to the House Agriculture committee (Chair Rep. Collin Peterson [D-MN]); House Agriculture, Subcommittee on Department Operations, Oversight, Nutrition and Forestry (Chair Rep. Joe Baca [D-CA]); the House Natural Resources committee (Rep. Nick Rahall [D-WV]); and the House Natural Resources, Subcommittee on National Parks, Forests, and Public Lands (Rep. Raul Grijalva [D-AZ]). The last action on the bill occurred on February 12, 2007, never making it out of committee (GovTrack.us. H.R.17--110th Congress, 2007). An identical bill (S. 380) was introduced in the Senate on January 24, 2007 by Ron Wyden (D-OR) with 17 co-sponsors. The bill was referred to the Senate Energy and Natural Resources committee (Chair, Sen. Jeff Bingaman [D-NM]); the Senate Energy and Natural Resources, Subcommittee on Public Lands and Forests (Chair, Ron Wyden [D-OR]). The last action on the bill was a March, 1, 2007 hearing of the Subcommittee on Public Lands and Forests (GovTrack.us. S.380--110th Congress, 2007).

On March 6, 2007 another bill of the same name (S. 779) was introduced in the Senate by Larry Craig (R-ID) with 4 co-sponsors. The bill would have amended the Secure Rural Schools and Community Self-Determination Act of 2000 to extend the Act through FY 2007. Basically, this was a one year emergency extension. The bill was referred to the Senate Energy and Natural Resources Committee. The last action on the bill occurred on March 15, 2007, never making it out of the introduction phase (GovTrack.us. S.779--110th Congress, 2007). An identical bill (H.R. 1635) was introduced in the House on March 31, 2007 by Rep. Bill Sali (R-ID) with no cosponsors. The last action on the bill occurred on May 4, 2007 when it was referred by the House Agriculture Committee to the Subcommittee on Department Operations, Oversight, Nutrition and Forestry (GovTrack.us. H.R.1635--110th Congress, 2007).

Though the two multiyear bills (H.R. 17 and S. 380) were not resolved, a one year extension of SRS was successfully attached to The Iraq Accountability Appropriations Act of 2007. It passed in the House on May 10, 2007, the Senate on May 17, 2007 and was signed into law on May 27, 2007. It provided continued funding to counties through September of 2007, with funds scheduled to run out at the county level on June 30, 2008 (IAA, 2007). Final payments were issued by the BLM in November, 2007 and USFS in December, 2007 (Boudreau, 2007; Williams, 2007)

On July 17, 2007, Rep. Peter DeFazio (D-OR) introduced the Public Land Communities Transition Assistance Act of 2007 (HR 3058) which sought to amend the Secure Rural Schools and Community Self-Determination Act of 2000 to extend transitional payments for FY 2008-FY 2012 to states and counties previously entitled to payments under SRS, and for other purposes. The bill was referred to the House Natural Resources Committee; House Natural Resources, Subcommittee on National Parks, Forests, and Public Lands; and, the House Agriculture Committee. The Congressional Budget Office (CBO) cost estimate, ordered by the House Natural Resources Committee on September 26, 2007, was delivered December 3, 2007. CBO estimated that enacting H.R. 3058 would increase net direct spending by \$409 million over the 2008-2012 period, but reduce such spending by about \$4.2 billion over the 2008-2017 period. Enacting the bill would not affect revenues but could result in savings in discretionary spending by reducing the need for annual appropriations for payments in lieu of taxes (PILT). Assuming that appropriations are reduced accordingly, CBO estimates that discretionary spending would fall by \$975 million through 2012. The bill was amended in December 2007, closing a loophole in oil and gas leases to fully fund the four-year reauthorization by setting forth provisions for the establishment of conservation of resources fees for producing and nonproducing federal oil and gas leases in the Gulf of Mexico. The last action on this bill occurred on June 5, 2008 when a motion was made to suspend the rules and pass the bill, as amended. It failed to be passed in the House and no further action was taken (GovTrack.us. H.R.3058--110th Congress, 2007).

With little success at passing a multiyear extension as a standalone bill and with extension funds scheduled to run out at the state/county level in June, 2008, multiple attempts were made to attach funding to other legislative bills up for consideration.

The first attempt was made in the House by Rep. Peter DeFazio who attached a renewal to the Energy Independence and Security Act of 2007 (H.R. 6) which was up for consideration December, 2007. The House bill would have authorized \$1.863 billion for county payments through 2011 and full funding of the PILT program for 2009. President Bush, however, threatened to veto the energy bill because it would have paid for conservation programs by rescinding tax breaks for oil and gas industries (Kosseff, 2007). The bill passed the House but stalled in the Senate, where not enough votes could be found to end a threatened filibuster by Republicans. In the end the provision was stripped out in final negotiations by Senate Democrats in order to get enough votes for the bill to pass. It was signed into law December, 19, 2007.



A second attempt was made to attach it to the Consolidated Appropriations Act of 2008 (H.R. 2764), an omnibus spending bill which was under consideration by Congress before they recessed for the winter break (GovTrack.us. H.R. 2764--110th Congress, 2007). This attempt was equally unsuccessful as President George W. Bush threatened to veto the bill, unless it stayed below a \$933 billion cap he set in his budget message (The News Review, 2007). It was signed into law December 26, 2007 without the extension provision.

On February 13, 2008, President Bush signed into law the Economic Stimulus Act of 2008 which provided for several kinds of economic stimuli intended to boost the U.S. economy and to avert or ameliorate a recession (GovTrack.us, H.R. 5140--110th Congress, 2008). Though the SRS issue was raised in the Senate by Ron Wyden (D-OR) and Gordon Smith (R-OR) no formal amendment to the bill was offered and it passed without a provision for county payments (Chu & Corley, 2008).

Some hoped that SRS would be incorporated into the farm bill – The Food, Conservation and Energy Act of 2008 – which passed in the House, July 27, 2007 and the Senate on December 14, 2007, becoming law by veto override on May 22, 2008. (GovTrack.us. H.R.2419--110th Congress, 2007; GovTrack.us. S.2302--110th Congress, 2007). Efforts to include a provision for county payments was not successful since the farm lobby was concerned about funding because of PAYGO issues that would reduce the amount of funding they would receive (Jorgensen, 2008).

The Energy Improvement and Extension Act of 2008 (GovTrack.us, H.R.6049--110th Congress, 2008) provided another possible vehicle for long-term reauthorization of SRS. Senator Ron Wyden (D-OR) successfully amended the Senate version of the bill on September 23, 2008 to include 4-years of county payment funding, which was rejected by the House the following day, September 24, 2008 (Wyden, 2008).

While the House and Senate worked to resolve their differences on the Energy Improvement and Extension Act of 2008, President Bush requested Congress work on a bailout bill for Wall Street. The Emergency Economic Stabilization Act of 2008, originally introduced in March 2007, was co-opted as the so-called "vehicle" to pass the relief bill with an amendment that rewrites the whole bill. The House failed to pass the original amendment co-opting the bill on September 29, 2008, but passed the Senate version on October 3, 2008 for \$700 billion (GovTrack.us, H.R. 1424--110<sup>th</sup> Congress, 2007). The final bill included a number of revisions and additions, including four-years of funding for county payment. Though he did not vote for the bailout bill, Senator Ron Wyden was responsible for attaching his version of the county payments language to the Senate's bill (Wyden, 2008).

At the State level, in November 2007, Oregon governor Ted Kulongoski appointed the Governor's Task Force on Federal Forest Payments and County Services to explore ways to keep counties solvent (State of Oregon, Office of the Governor, 2007). The panel joined state agency

and county officials to get a clearer picture of which services are in jeopardy, and to propose potential solutions to the 2009 State Legislature (Schmidt & Cleland, 2007; Sinks, 2007; Steves, 2007). Subcommittees met over the winter and brought suggestions back to the task force March 27, 2008, made initial recommendations May 29, 2008 and final recommendations June 12, 2008 (State of Oregon, Governor, 2008a).

On June 23, 2008 Governor Ted Kulongoski received a series of recommendations from the task force on ways that county governments and the state can work together to save critical services threatened by the loss of federal forest payments. The first and most critical recommendation was to urge Congress to reauthorize federal forest payments for at least four years (State of Oregon, Governor, 2008b). Other recommendations include long-term solutions, covering dozens of local, state and federal actions that can be implemented over the next four years.

Termination of federal payments to counties, if and when this occurs, will return counties to the traditional revenue-sharing programs, which are not likely to produce the revenues necessary to keep county services at levels of the late 1980s because harvests have not changed from their very low levels of the recent past. This has the potential to change, however, if hazardous fuel reduction programs meet with success. Though not fully funded at the levels mandated, PILT is being looked to as a viable option for some counties that have not relied heavily on National Forest System funds or O&C funds. Some efforts have been made to improve the PILT funding levels and appropriations.

## **Conclusion**

Over the past century, the Federal government has affirmed its obligation to compensate states and counties with tax-exempt Federal lands within their boundaries in recognition of the financial impact that its tax-exempt status has on the ability of these governments to raise revenues. With the reauthorization of the Secure Rural Schools Act in October 2008, counties and the state of Oregon have until 2011 to develop a transition plan for adequately funding county services. Understanding the historical context of the relationship between the Federal government and local governments in Oregon provides the basis for moving forward to develop alternative funding strategies.

## References

- Alexander, K., & Gorte, R. W. (2007). *Federal Land Ownership: Constitutional Authority and the History of Acquisition, Disposal, and Retention* (CRS Report No. RL34267). American Law Division / Resources, Science, and Industry Division, Congressional Research Service, Library of Congress. Retrieved December 20, 2007, from [http://assets.opencrs.com/rpts/RL34267\\_20071203.pdf](http://assets.opencrs.com/rpts/RL34267_20071203.pdf)
- Bureau of Land Management. *General History of the O&C Lands*. Accessed November 15, 2007 at <http://www.blm.gov/or/plans/wopr/files/OChistory.htm>
- Cooper, M. (2007, December 14). County timber payments dropped. *The Register-Guard*. Retrieved December 20, 2007, from <http://www.registerguard.com/csp/cms/sites/dt.cms.support.viewStory.cls?cid=36009&sid=4&fid=1>
- Corn, M. L. (1998). *PILT (Payments in Lieu of Taxes): Somewhat Simplified* (CRS Report No. 98-574). Environment and Natural Resources Policy Division, Congressional Research Service, Library of Congress. Retrieved December 20, 2007, from <http://www.nceonline.org/nle/crsreports/risk/rsk-20.cfm>
- Gorte, R. W. (2007). *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties* (CRS Report No. RL33822). Resources, Science, and Industry Division, Congressional Research Service, Library of Congress. Retrieved December 20, 2007, from [http://assets.opencrs.com/rpts/RL33822\\_20070124.pdf](http://assets.opencrs.com/rpts/RL33822_20070124.pdf)
- Gorte, R. W., Vincent, C. H., Humphries, M., & Alexander, K (2007). *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service (FS): Issues for the 110th Congress* (CRS Report No. RL33792). Resources, Science, and Industry Division / American Law Division, Congressional Research Service, Library of Congress. Retrieved December 20, 2007, from <http://www.nationalaglawcenter.org/assets/crs/RL33792.pdf>
- GovTrack.us. H.R. 6--110th Congress (2007): Energy Independence and Security Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-6>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 17--110th Congress (2007): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-17>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 517--109th Congress (2005): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2005, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h109-517>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 1424--110th Congress (2007): Emergency Economic Stabilization Act of 2008, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-1424&tab=amendments>> (accessed Nov 30, 2008)

- GovTrack.us. H.R. 1635--110th Congress (2007): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-1635>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 2419--110th Congress (2007): Food and Energy Security Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-2419>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 2764--110th Congress (2007): Consolidated Appropriations Act, 2008, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-2764>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 3058--110th Congress (2007): Public Land Communities Transition Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-3058>> (accessed Mar 17, 2008)
- GovTrack.us. S. 267--109th Congress (2005): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2005, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=s109-267>> (accessed Mar 15, 2008)
- GovTrack.us. S. 380--110th Congress (2007): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=s110-380>> (accessed Mar 17, 2008)
- GovTrack.us. S. 779--110th Congress (2007): Secure Rural Schools and Community Self-Determination Reauthorization Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=s110-779>> (accessed Mar 17, 2008)
- GovTrack.us. S. 2302--110th Congress (2007): Food and Energy Security Act of 2007, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=s110-2302>> (accessed Mar 17, 2008)
- GovTrack.us. H.R. 5140--110th Congress (2008): Economic Stimulus Act of 2008, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-5140>> (accessed Nov 30, 2008)
- GovTrack.us. H.R. 6049--110th Congress (2008): Energy Improvement and Extension Act of 2008, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-6049&tab=summary>> (accessed Nov 30, 2008)
- Healthy Forests Restoration Act of 2003. Pub L. 108-148. 117 Stat. 1877 (2003). Retrieved December 20, 2007, from Lexis/Nexis Congressional.
- Hibbard, B.H. (1965). *History of the Public Land Policies*. Madison, WI: University of Wisconsin Press.
- Iraq Accountability Appropriations Act of 2007. Pub. L. 110-28. 121 Stat. 112, Sec. 5401 (2007). Retrieved November 29, 2007, from Lexis/Nexis Congressional.

- O&C Revested Lands Sustained Yield Management Act of 1937. Pub. L. 75-405. 50 Stat. 874 (1937) Retrieved November 9, 2007, from <http://www.blm.gov/or/plans/wopr/files/OCAAct.pdf>
- Omnibus Budget Reconciliation Act of 1993. Pub L. 103-66. 107 Stat. 312, Sec. 13982 and 13983 (1993). Retrieved November 29, 2007, from Lexis/Nexis Congressional
- Oregon Department of Fish and Wildlife. *Species fact sheet: Northern spotted owl (Occidentalis caurina)*. Accessed September 11, 2008 from <http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/>
- Oregon Department of Forestry. 2006. Map. Forest Ownership in Oregon. Retrieved October 5, 2008 from [http://www.odf.state.or.us/gis/sap/OR\\_SAP\\_Map8\\_tabloid\\_20060614.pdf](http://www.odf.state.or.us/gis/sap/OR_SAP_Map8_tabloid_20060614.pdf)
- Oregon Department of Forestry [ODF]. (2007). *Timber-related returns to government*. Retrieved November 7, 2007, from [http://www.oregon.gov/ODF/STATE\\_FORESTS/FRP/CountyRevenue.shtml](http://www.oregon.gov/ODF/STATE_FORESTS/FRP/CountyRevenue.shtml).
- Oregon Historical Society. (n.d.). *Oregon History Project*. Retrieved November 14, 2007, from <http://www.ohs.org/education/oregonhistory/historicviewer/OregonBoundary/index.cfm>
- Oregon Legislative Revenue Office [LRO]. (2000). *Federal Forest Revenues for Schools* (Research Brief #11-00). Retrieved November 29, 2007, from <http://www.leg.state.or.us/comm/lro/report%2011-00.pdf>
- Oregon Legislative Revenue Office. *2007 Public Finance: Basic Facts (research report #1-07)*. Retrieved November 12, 2007 from [http://www.leg.state.or.us/comm/lro/2007 final basic facts.pdf](http://www.leg.state.or.us/comm/lro/2007%20final%20basic%20facts.pdf)
- Oregon Legislative Revenue Office [LRO]. (2007b). *Oregon's Forestland Revenue – Impacts on State and Local Public Service* (Research Report #5-07) Retrieved December 28, 2007, from [http://www.leg.state.or.us/comm/lro/rr\\_5\\_07\\_forestland\\_revenue.pdf](http://www.leg.state.or.us/comm/lro/rr_5_07_forestland_revenue.pdf)
- Payments in Lieu of Taxes Act of 1976. Pub. L. 94-565. 90 Stat. 2662, as amended, 31 U.S.C. §6901-6907 (1976). Retrieved November 9, 2007, from <http://www.doi.gov/pilt/chapter69.html>
- Public Land Foundation. *Forest plan revisions and a future for O&C Forests*. Accessed November 9, 2007 from <http://www.publicland.org/forestPlansRevised.htm>
- Ruhl, J. B., S. E. Kraft, & C. L. Lant. (2007). *The Law and Policy of Ecosystem Services*. Washington, DC: Island Press.
- Scaggs, M.W. (1983). Recent employment trends in the lumber and wood products industry. *Monthly Labor Review*, 106(8), 20-24.
- Schmidt, E., & Cleland, L. (2007, November 13). Counties welcome Governor's Task Force [Press Release]. Salem, OR: Association of Oregon Counties. Retrieved November 14, 2007, from [http://www.aocweb.org/aoc/Portals/0/Content\\_Managers/Gov%20Task%20Force.pdf](http://www.aocweb.org/aoc/Portals/0/Content_Managers/Gov%20Task%20Force.pdf)

- Secure Rural Schools and Community Self-Determination Act of 2000. Pub L. 106-393. 114 Stat. 1607 (2000). Retrieved November 29, 2007, from Lexis/Nexis Congressional.
- Sessions, J., D.N. Johnson, J. Beuter, B. Greber, and G. Lettman. 1991. *Timber for Oregon's Tomorrow: The 1989 Update*. Oregon State University Forest Research Lab, Corvallis, OR.
- Sowell, J. (2007, December 16). State of the Safety Net. *The News-Review*. Retrieved December 20, 2007, from <http://www.oregonnews.com/article/20071216/NEWS/569210433>
- State of Oregon, Office of the Governor. (2007). *Executive Order 07-21: Governor's Task Force on Federal Forest Payments and County Services*. Retrieved November 30, 2008, from <http://governor.oregon.gov/Gov/pdf/eo0721a.pdf>
- State of Oregon, Office of the Governor. (2008a). *Task Force on Federal Forest Payments: Agenda and Minutes*. Retrieved November 30, 2008, from [http://governor.oregon.gov/Gov/tf\\_fed\\_forest\\_pmts/tffop\\_agendas.shtml](http://governor.oregon.gov/Gov/tf_fed_forest_pmts/tffop_agendas.shtml)
- State of Oregon, Office of the Governor. (2008b). *Initial Report: Task Force of Federal Forest Payments*. Retrieved November 30, 2008, from [http://governor.oregon.gov/Gov/docs/federal\\_forest\\_payments\\_062008.pdf](http://governor.oregon.gov/Gov/docs/federal_forest_payments_062008.pdf)
- Sinks, J. (2007, December 20). State looks at ways to compensate for timber payments. *The Bend Bulletin*. Retrieved December 20, 2007, from [http://www.bendbulletin.com/apps/pbcs.dll/article?AID=/20071220/NEWS0107/712200428/1006&nav\\_category=](http://www.bendbulletin.com/apps/pbcs.dll/article?AID=/20071220/NEWS0107/712200428/1006&nav_category=)
- Steves, D. (2007, December 20). Task force tackles county payments. *The Register-Guard*. Retrieved December 29, 2007, from <http://www.registerguard.com/csp/cms/sites/dt.cms.support.viewStory.cls?cid=38523&sid=4&fid=1>
- Tuchmann, E.T. (1998). *The Northwest Forest Plan: A Report to the President and Congress*. Darby, PA: Diane Publishing.
- Tuchman, E. Thomas, et al. *The Northwest Forest Plan: A report to the President and Congress*. U.S. Department of Agriculture, Office of Forestry and Economic Assistance. December, 1996.
- Twenty-Five Percent Fund Act of 1908. Pub.L. 60-136, Ch. 192, 35 Stat. 260, as amended; 16 U.S.C. §500, 553, 556d (1908).
- U.S. Census Bureau. (2004). Total and Federally Owned Land by State: 2004. In *The National Data Book: 2008 Statistical Abstract – Geography & Environment: Land and Land Use*. Retrieved December 20, 2007, from <http://www.census.gov/compendia/statab/tables/08s0349.pdf>
- U.S. Department of Agriculture, Forest Service [USFS]. (2007). Table 4 – Areas by State. In *Land Areas of the National Forest System, as of Sept. 30, 2007*. Retrieved December 29, 2007, from [http://www.fs.fed.us/land/staff/lar/2007/TABLE\\_4.htm](http://www.fs.fed.us/land/staff/lar/2007/TABLE_4.htm)

- U.S. Department of Interior, Bureau of Land Management [BLM]. (n.d. a). O&C History. In *O&C Counties Historical Information*. Retrieved from December 17, 2007, from <http://www.blm.gov/or/plans/wopr/files/OChistory.htm>
- U.S. Department of Interior, Bureau of Land Management [BLM]. (n.d. b). Official Payments made to counties. In *O&C Counties Historical Information*. Retrieved from December 17, 2007, <http://www.blm.gov/or/rac/ctypaypayments.php>
- U.S. Department of Interior, Bureau of Land Management [BLM]. (2006). Part 1 – Land Resources and Information. In *Public Land Statistics 2006*. Retrieved November 29, 2007, from [http://www.blm.gov/content/etc/medialib/blm/wo/Business\\_and\\_Fiscal\\_Resources/2006\\_pls.Par.66250.File.dat/Complete\\_PLS2006.pdf](http://www.blm.gov/content/etc/medialib/blm/wo/Business_and_Fiscal_Resources/2006_pls.Par.66250.File.dat/Complete_PLS2006.pdf)
- U.S. Geological Survey [USGS]. (2000). *The Four Great Surveys of the West*. Retrieved December 30, 2007, from <http://pubs.usgs.gov/circ/c1050/surveys.htm>
- Williams, K. (2007, December 21). USDA announces \$389 million in funding for schools, roads: Final Year of Payments Under the Secure Rural Schools Act [Press Release No. 0384.07]. Washington, DC: United States Department of Agriculture. Retrieved December 21, 2007, from [http://www.usda.gov/wps/portal/!ut/p/\\_s.7\\_0\\_A/7\\_0\\_1OB?contentidonly=true&contentid=2007/12/0384.xml](http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1OB?contentidonly=true&contentid=2007/12/0384.xml)
- Wyden, R (2008, November 12). Personal letter to Oregon County Commissioners on federal forest payment policy actions. Retrieved from [http://www.aocweb.org/aoc/Portals/0/Content\\_Managers/Letter%20to%20Commissioners-Nov%2012.pdf](http://www.aocweb.org/aoc/Portals/0/Content_Managers/Letter%20to%20Commissioners-Nov%2012.pdf)

## Appendix A: Legislation related to land ownership and use

The following is not intended to be a complete listing of legislation related to land ownership and use. Legislation is listed chronologically. For a more comprehensive list of laws about public lands, visit <http://www.publiclands.org/museum/story/story08.htm>; [http://en.wikipedia.org/wiki/Category:United States federal public land legislation](http://en.wikipedia.org/wiki/Category:United_States_federal_public_land_legislation) or <http://www.nplnews.com/toolbox/history/publiclandhistory.htm>

### 1. *Cession of lands to federal government: 1781 – 1802*

Beginning in 1781, in conjunction with ratification of the Articles of Confederation, the original colonies ceded their "western" lands (those between the Appalachian Mountains and the Mississippi River) to the federal government amidst a period of great argument and bitterness. (<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-1009:1>; [http://en.wikipedia.org/wiki/Articles\\_of\\_Confederation#Ratification](http://en.wikipedia.org/wiki/Articles_of_Confederation#Ratification))

### 2. *The Paris Peace Treaty of 1783*

The treaty, signed on September 3, 1783 between the American colonies and Great Britain, ended the American Revolution, formally recognized the United States as an independent nation, and relinquished the Ohio Country to America. However, the government formed by the Articles of Confederation faced numerous problems gaining control of the land, as many Native Americans and a number of states disagreed with the claim that the land belonged to the United States. (<http://www.ourdocuments.gov/doc.php?flash=true&doc=6>; <http://www.law.ou.edu/ushistory/paris.shtml>; [http://en.wikipedia.org/wiki/Treaty\\_of\\_Paris\\_\(1783\)](http://en.wikipedia.org/wiki/Treaty_of_Paris_(1783)))

### 3. *Land Ordinance of 1784*

This ordinance was an early effort by the newly formed government to manage territory north and west of the Ohio River. Thomas Jefferson proposed that all state claims to territory west of the Appalachians be surrendered and divided into new states of the Union. The ordinance established the process by which new lands would be divided into states (setting precedent to prohibit any attempts to colonize newly ceded lands), the process for surveying and sale, and the qualifications of new states to enter into the Confederation. (<http://www.ohiohistorycentral.org/entry.php?rec=1447>; <http://www.u-s-history.com/pages/h1158.html>; [http://en.wikipedia.org/wiki/Northwest\\_Ordinance](http://en.wikipedia.org/wiki/Northwest_Ordinance))

### 4. *Land Ordinance of 1785*

The Land Ordinance of 1785 replaced the Ordinance of 1784, which failed to establish how the government would distribute the land west of the Appalachians ceded by states, or how the territory would be settled. It set forth a systematic approach to survey, measure, divide and distribute the land. (<http://www.ohiohistorycentral.org/entry.php?rec=1472>; <http://www.u-s-history.com/pages/h1158.html>; <http://www.ohiohistorycentral.org/entry.php?rec=1447>)



5. *Northwest Ordinance of 1787*

The Northwest Ordinance of 1787 created the Northwest Territory out of the region south of the Great Lakes, north and west of the Ohio River, and east of the Mississippi River. It chartered a government, becoming the first organized territory of the United States. The ordinance revised the Ordinance of 1784 by providing a method for admitting new areas to the Confederation, and listing a bill of rights guaranteed in the territory. It established the precedent for westward expansion through the admission of new states, rather than expansion of existing states. (<http://www.ourdocuments.gov/doc.php?doc=8>; <http://www.law.ou.edu/ushistory/ordinanc.shtml>; <http://www.u-s-history.com/pages/h1158.html>; [http://en.wikipedia.org/wiki/Northwest\\_Ordinance](http://en.wikipedia.org/wiki/Northwest_Ordinance))

6. *Public Land Act of 1796, 1800 and 1804*

The Public Land Act of 1796 authorized federal land sales to the public in minimum 640-acre plots at \$2 per acre of credit. This law was later revised to authorize land sales in 320-acres (Land Act of 1800), then 160-acre tracts (Land Act of 1804). (<http://publications.ohiohistory.org/ohstemplate.cfm?action=detail&Page=007257.html&StartPage=51&EndPage=60&volume=72&newtitle=Volume%2072%20Page%2051>)

7. *The Preemption Act of 1841*

The Preemption Act of 1841 gave squatters – who settled on public land before it was surveyed and auctioned – a path to legal ownership of their claim before it was offered up for public sale. Congress repealed the Act in 1891. (<http://www.bartleby.com/65/pr/Preempti.html>; [http://en.wikipedia.org/wiki/Preemption\\_Act\\_of\\_1841](http://en.wikipedia.org/wiki/Preemption_Act_of_1841))

8. *Oregon Organic Act of 1843, 1845 and 1848*

In 1843, settlers of the Oregon country formed a provisional government in response to struggles over land claims, courts and governance, until the authority of the United States extended to the region. British claims to Oregon country were ceded to the United States in 1846 with the signing of the Oregon Treaty. A burgeoning population earned the region territorial status in 1848, which became officially known as the Oregon Territory – the current states of Oregon, Washington, Idaho and western Montana. In 1853 the region north of the Columbia River was split off, creating the Washington Territory. It was under the provisional and territorial governments that the county was established as the unit of local government. ([http://en.wikipedia.org/wiki/Oregon\\_Country](http://en.wikipedia.org/wiki/Oregon_Country); <http://www.sos.state.or.us/archives/county/cpctygov.html>)

9. *The Donation Land Claim Act of 1850*

The provisional government's land ordinances remained in force until the passage of the Donation Land Act of 1850. The Act, a precursor to the Homestead Act intended to promote homestead settlement in the Oregon Territory, brought thousands of settlers into the new territory by way of the Oregon Trail. The Act called for the orderly and legal ownership of property in Oregon Territory. Between 1850 and 1854, claimants were required to live on the land and cultivate it for four years to own it outright. After 1854, land was no longer free in Oregon. ([http://en.wikipedia.org/wiki/Donation\\_Land\\_Claim\\_Act](http://en.wikipedia.org/wiki/Donation_Land_Claim_Act))

#### *10. Oregon Statehood 1859*

In 1859, Oregon was admitted as the 33<sup>rd</sup> state to the Union with the same boundaries it now possesses. (<http://bluebook.state.or.us/cultural/history/history15.htm>)

#### *11. Pacific Railroad Act of 1862*

The Pacific Railroad Act of 1862 authorized extensive land grants in the Western United States, and the issuance of U.S. government bonds to the Union Pacific Railroad and Central Pacific Railroad companies for the purpose of constructing a transcontinental railroad. The transferred public lands created a checkerboard pattern of land on alternating sides of the constructed tracks. In 1866, the Oregon & California (O&C) Railroad Company received grants to about 4 million acres of forestland in western Oregon in exchange for the construction of a railroad from Portland to the California border on the grounds its development was in the public interest. By 1916 the federal government took back 2.4 million acres following a major land scandal, removing it from private control (see Appendix A.21 and C.2).

([http://cpr.org/Museum/Pacific\\_Railroad\\_Acts.html](http://cpr.org/Museum/Pacific_Railroad_Acts.html); [http://cpr.org/Museum/Pacific\\_Railroad\\_Acts.html#1866](http://cpr.org/Museum/Pacific_Railroad_Acts.html#1866); [http://en.wikipedia.org/wiki/Pacific\\_Railway\\_Acts](http://en.wikipedia.org/wiki/Pacific_Railway_Acts); [http://en.wikipedia.org/wiki/Oregon\\_and\\_California\\_Railroad](http://en.wikipedia.org/wiki/Oregon_and_California_Railroad))

#### *12. The Homestead Act of 1862*

The Homestead Act of 1862 has been heralded as one the most important pieces of legislation in the history of the United States. Signed into law by President Abraham Lincoln following the secession of southern states, the Homestead Act turned over vast amounts of the undeveloped public land in the American west – 270 million acres, roughly 10% of the U.S. land area – to private citizens, giving freehold title to 160 acres. The act relaxed the homesteading requirements of the Preemption Act of 1841 (see Appendix A.7). The Federal Land Policy and Management Act of 1976 effectively ended homesteading (see Appendix A.24). (<http://www.loc.gov/rr/program/bib/ourdocs/Homestead.html>;

<http://www.archives.gov/education/lessons/homestead-act/>; [http://en.wikipedia.org/wiki/Homestead\\_Act](http://en.wikipedia.org/wiki/Homestead_Act))

#### *13. Morrill Act of 1862*

The Morrill Act of 1862, also known as the College Land Grant Act, granted each state 30,000 acres of federal land, either within or contiguous to its boundaries, for each member of congress the state had as of the census of 1860. This land, or the proceeds from its sale, was to be used toward establishing and funding public colleges offering instruction in agriculture and the mechanic arts. (<http://www.loc.gov/rr/program/bib/ourdocs/Morrill.html>;

[http://en.wikipedia.org/wiki/Morrill\\_Land-Grant\\_Colleges\\_Act](http://en.wikipedia.org/wiki/Morrill_Land-Grant_Colleges_Act))

#### *14. The Timber Culture Act of 1873*

The Timber Culture Act of 1873 was intended to encourage the timber cultivation on Western Prairies. It allowed homesteaders to get another 160 acres of land if they planted trees on one-fourth of the land. ([http://en.wikipedia.org/wiki/Timber\\_Culture\\_Act](http://en.wikipedia.org/wiki/Timber_Culture_Act))

### 15. *The Timber Cutting Act of 1878*

The Timber Cutting Act of 1878 was aimed at curbing theft by meeting public timber needs. It granted free-use permits to cut timber on unoccupied and unreserved mineral lands and non-mineral public lands. Only mature trees could be taken in a way that minimized waste, and had to be utilized for some beneficial domestic purpose.

([http://edocket.access.gpo.gov/cfr\\_2007/octqtr/pdf/43cfr5511.1-1.pdf](http://edocket.access.gpo.gov/cfr_2007/octqtr/pdf/43cfr5511.1-1.pdf))

### 16. *The Timber and Stone Act of 1878*

The Timber and Stone Act of 1878 was designed to encourage private ownership of timber lands. Land deemed unfit for farming was sold to those who might be want to log or mine the land. The act was designed to give individuals ownership of 160-acre timber tracts, but often resulted in fraudulent corporate ownership of large blocks of forest land.

(<http://www.archive.org/details/regulationsunder00unit>; [http://en.wikipedia.org/wiki/Timber\\_and\\_Stone\\_Act](http://en.wikipedia.org/wiki/Timber_and_Stone_Act)  
[http://memory.loc.gov/cgi-bin/query/D?consvrbib:5:/temp/~ammem\\_h9os::@@@mdb=consvrbib,aep,fmuever,cmns,gmd](http://memory.loc.gov/cgi-bin/query/D?consvrbib:5:/temp/~ammem_h9os::@@@mdb=consvrbib,aep,fmuever,cmns,gmd))

### 17. *Dawes Act of 1887*

The Dawes Act of 1887 gave the president the authority to break up reservation land, held in common by tribal members, into small allotments parceled out to individuals, for the purpose of assimilation. The land distribution process required tribal members to enroll with the Bureau of Indian Affairs in order to receive the allotted land. After twenty-five years of residence, the allottee would receive fee simple title and could sell the land. The Dawes Act opened thousands of acres of reservation lands to settlement and homestead claims. Land deemed to be "surplus" beyond what was needed for allotment was opened to white settlers, with profits invested in programs intended to aid the American Indians. The Wheeler-Howard Act repealed the Dawes Act in 1934. (<http://www.archives.gov/education/lessons/fed-indian-policy/>;  
[http://www.ohs.org/education/oregonhistory/narratives/subtopic.cfm?subtopic\\_ID=379](http://www.ohs.org/education/oregonhistory/narratives/subtopic.cfm?subtopic_ID=379);  
[http://en.wikipedia.org/wiki/Dawes\\_Act](http://en.wikipedia.org/wiki/Dawes_Act))

### 18. *Forest Reserve Act of 1891*

The Forest Reserve Act of 1891, also known as the Land Revision Act and Creative Act, gave the president the authority to create forest reserves "wholly or in part covered with timber or undergrowth, whether of commercial value or not...", establishing the foundation of the future National Forest system. Forest reserves were called national forests after March, 1907. The act did not explicitly authorize the use or development of resources on the reserved lands. Future legislation addressed the development and maintenance of these lands. ([http://memory.loc.gov/cgi-bin/query/D?consvrbib:6:/temp/~ammem\\_RxcC::@@@mdb=consvrbib,aep,fmuever,cmns,gmd](http://memory.loc.gov/cgi-bin/query/D?consvrbib:6:/temp/~ammem_RxcC::@@@mdb=consvrbib,aep,fmuever,cmns,gmd))

### 19. *The Organic Act of 1897*

The Organic Act of 1897 established the primary statutory basis for the management of the forest reserves. It specifies that the purpose of forest reservations is "to improve and protect the forest within the reservation, or for... securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States," and stipulates that the regulated harvesting of timber, mining of mineral resources, and use of water on forest reservations may be permitted by the Secretary of the Interior. It established the U.S. Geological Survey to classify the public lands and examine the geological structure, mineral resources, and products within and outside the national domain.

The act was superseded in 1976 with the National Forest Management Act (see Appendix A.23). ([http://lcweb2.loc.gov/cgi-bin/query/r?ammem/consrvbib:@FIELD\(NUMBER\(v1009\)\)](http://lcweb2.loc.gov/cgi-bin/query/r?ammem/consrvbib:@FIELD(NUMBER(v1009)))); [http://en.wikipedia.org/wiki/Organic\\_Act\\_of\\_1897](http://en.wikipedia.org/wiki/Organic_Act_of_1897))

#### 20. *Forest Homestead Act of 1906*

The Forest Homestead Act of 1906 authorized, but did not require, opening up agricultural lands in forest reserves to homesteading. When the forest reserves were created, homesteading was blocked on these lands. This act required the U.S. Forest Service (USFS) to classify land within the reserves as suitable or unsuitable for farming and to make a determination on whether allowing the homestead would cause injury to the forest before individuals could take up land within the reserve. Approximately 2 million acres were classified as agricultural and open to entry.

(<http://www.fs.fed.us/r5/stanislaus/heritage/voices/voices37.shtml>; [http://memory.loc.gov/cgi-bin/ampage?collId=amrvl&fileName=v1089/amrvl1089.db&recNum=0&itemLink=D?consrvbib:1./temp/~ammem\\_OVkJ::@@@mdb=consrvbib&linkText=0](http://memory.loc.gov/cgi-bin/ampage?collId=amrvl&fileName=v1089/amrvl1089.db&recNum=0&itemLink=D?consrvbib:1./temp/~ammem_OVkJ::@@@mdb=consrvbib&linkText=0); <http://www.fs.fed.us/r5/stanislaus/heritage/voices/voices06.shtml>)

#### 21. *Chamberlain-Ferris Revestment Act of 1916*

In 1916, Congress passed the Chamberlain-Ferris Revestment Act, revoking title to more than 2 million acres of land previously granted to the O&C Railroad for failure to comply with conditions of the grant (see Appendix A.11). In 1919, another 93,000 acres were reclaimed from the Coos Bay Wagon Road Grant. The revested lands were put under the control of the General Land Office which was directed to dispose of the lands and timber through sales. Timber sale revenues were distributed to the O&C Railroad, the federal treasury, and the O&C Counties. The act later proved to be a failure. Future legislation overhauled the timber management and revenue distribution scheme (see Appendix C.2)

([http://caselaw.lp.findlaw.com/casecode/uscodes/43/chapters/28/subchapters/v/sections/section\\_1181a\\_notes.html](http://caselaw.lp.findlaw.com/casecode/uscodes/43/chapters/28/subchapters/v/sections/section_1181a_notes.html); <http://americanfrontiers.net/timeline/>; <http://www.co.polk.or.us/OC/History.asp>)

#### 22. *Multiple Use and Sustained Yield Act of 1960*

The Multiple Use and Sustained Yield Act of 1960 (MUSY) established a policy of multiple-use, sustained-yield management for renewable resources of the National Forest System. It expanded the purposes of national forest management from water flows and timber supply to include recreation, range, and wildlife. The act requires the five multiple uses be treated as coequal and managed with consideration being given to the relative values of the various resources. The proper mix of uses within any given area is left to the discretion and expertise of the USFS with no meaningful legislative/judicial check on the path chosen.

([http://caselaw.lp.findlaw.com/casecode/uscodes/16/chapters/2/subchapters/i/sections/section\\_528\\_notes.html](http://caselaw.lp.findlaw.com/casecode/uscodes/16/chapters/2/subchapters/i/sections/section_528_notes.html); [http://en.wikipedia.org/wiki/Multiple\\_Use\\_-\\_Sustained\\_Yield\\_Act\\_of\\_1960](http://en.wikipedia.org/wiki/Multiple_Use_-_Sustained_Yield_Act_of_1960))

#### 23. *National Forest Management Act of 1976*

The National Forest Management Act of 1976 (NFMA) is the primary statute governing the administration of national forests. It was enacted in response to sharp criticisms that USFS land management practices overemphasized timber production, undermining the multiple-use mandate (see Appendix A.22). The act provides more explicit direction, prescribing a set of substantive standards and planning requirements for the agency. It restricts timber harvest to only those national forest lands where “soil, slope or other watershed conditions will not be irreversibly damaged” and could “be adequately restocked within five years after harvest”

and requires the Forest Service to “provide for diversity of plant and animal species” through land and resource management plans. The NFMA superseded the Organic Act of 1897 (see Appendix A.19). (<http://caselaw.lp.findlaw.com/cascode/uscodes/16/chapters/36/subchapters/i/toc.html>  
[http://www.fs.fed.us/emc/nfma/includes/amended\\_nfma.pdf](http://www.fs.fed.us/emc/nfma/includes/amended_nfma.pdf);  
[http://en.wikipedia.org/wiki/National\\_Forest\\_Management\\_Act\\_of\\_1976](http://en.wikipedia.org/wiki/National_Forest_Management_Act_of_1976))

#### *24. Federal Land Policy and Management Act of 1976*

The Federal Land Policy and Management Act of 1976 (FLMPA) recognized the value of the public lands. The government believed that the best use of public lands was for them to remain in government control unless disposal of a particular parcel will serve the national interest. The act effectively ended homesteading everywhere but Alaska, where it ended in 1986, abolishing all remaining traces of the Homestead Act of 1862 (see Appendix A. 12). The FLMPA established the way public lands are administered and managed by the Bureau of Land Management (BLM), whose main duty is "the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people."

(<http://caselaw.lp.findlaw.com/cascode/uscodes/43/chapters/35/notes.html>;  
<http://straylight.law.cornell.edu/uscode/43/1701.html>; <http://usgovinfo.about.com/library/weekly/aa030702a.htm>;  
[http://en.wikipedia.org/wiki/Federal\\_Land\\_Policy\\_and\\_Management\\_Act](http://en.wikipedia.org/wiki/Federal_Land_Policy_and_Management_Act))

## Appendix B: Relevant environmental legislation

The following is not intended to be a complete listing of environmental legislation. Legislation is listed chronologically. For a more comprehensive list of environmental laws, visit [http://en.wikipedia.org/wiki/Category:United\\_States\\_federal\\_environmental\\_legislation](http://en.wikipedia.org/wiki/Category:United_States_federal_environmental_legislation) or <http://www.gpoaccess.gov/topics/environment.html>

### 1. *National Environmental Policy Act of 1969*

The National Environmental Policy Act of 1969 (NEPA) made the protection of the environment a national priority. NEPA establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment, and provides a process for goal implementation within the federal agencies. Before USFS or BLM managers can implement timber harvesting projects, NEPA mandates that environmental impacts be assessed, adequately documented, and presented to the public for comment.

(<http://www.epa.gov/oecaerth/basics/nepa.html>; <http://www.nepa.gov/nepa/regs/nepa/nepaeqia.htm>;  
[http://straylight.law.cornell.edu/uscode/42/usc\\_sup\\_01\\_42\\_10\\_55.html](http://straylight.law.cornell.edu/uscode/42/usc_sup_01_42_10_55.html);

### 2. *National Clean Water Act of 1972*

The National Clean Water Act of 1972 (CWA), also known as the Federal Water Pollution Control Act, is the primary federal law governing water pollution in the United States. The responsible agency is the Environmental Protection Agency (EPA). The stated objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters”. The act establishes specific national goals concerning the health of surface waters in the U.S, including a complete elimination of pollutant discharge into navigable waters by 1985, the complete prohibition of toxic pollutants in toxic amounts, and the establishment of programs to control both point and nonpoint pollution. The CWA received major amendments in 1977 and 1987, and was reauthorized in 1987. Timber-harvesting operations must protect water quality.

(<http://www.epa.gov/oecaagct/lcwa.html>; <http://www.epa.gov/lawsregs/laws/cwa.html>;  
<http://www.fws.gov/laws/lawsdigest/fwatrpo.html>; [http://en.wikipedia.org/wiki/Clean\\_Water\\_Act](http://en.wikipedia.org/wiki/Clean_Water_Act))

### 3. *Endangered Species Act of 1973*

The Endangered Species Act of 1973 (ESA) was enacted by Congress to provide for the conservation of ecosystems which threatened and endangered species of fish, wildlife, and plants depend on, and to provide a program for the conservation of threatened and endangered species. The ESA directs all federal agencies to utilize their authorities and programs to further the purpose of the act. The act authorizes the determination and listing of species as endangered and threatened; prohibits unauthorized taking, possession, sale, and transport of endangered species; provides authority to acquire land for the conservation of listed species; authorizes establishment of cooperative agreements and grants-in-aid to States that establish/maintain active programs for threatened and endangered species; authorizes the assessment of civil/criminal penalties for violating the act; and authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violations.

([http://straylight.law.cornell.edu/uscode/html/uscode16/usc\\_sup\\_01\\_16\\_10\\_35.html](http://straylight.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_35.html)  
<http://www.fws.gov/laws/lawsdigest/ESACT.html>; <http://www.fws.gov/endangered/pdfs/esaall.pdf>;

[http://en.wikipedia.org/wiki/Endangered\\_Species\\_Act](http://en.wikipedia.org/wiki/Endangered_Species_Act))

#### 4. *Northwest Forest Plan 1994*

The Northwest Forest Plan (NWFP) came about as a result of the impasse over management of federal forest lands in the Pacific Northwest within the range of the Northern spotted owl, a species listed as endangered in 1993. The vision of the NWFP is to produce timber products in the Pacific Northwest while also protecting and managing impacted species. The enactment of the NWFP established a framework and system of standards and guidelines using a new ecosystem approach to address resource management. The NWFP focuses on five key principles: 1) never forget human and economic dimensions of issues; 2) protect long-term health of forests, wildlife and waterways; 3) focus on scientifically sound, ecologically credible and legally responsible strategies and implementation; 4) produce a predictable and sustainable level of timber sales and non-timber resources; and, 5) ensure that federal agencies work together. The USFS and BLM are tasked with adopting coordinated management plans for the lands under their administration, to meet the dual needs of forest habitat and forest products, and to adopt complimentary approaches by other federal agencies within the range of the spotted owl. (<http://www.fs.fed.us/r6/nwfp.htm>; <http://www.reo.gov/general/aboutNWFP.htm>; [http://en.wikipedia.org/wiki/Northwest\\_Forest\\_Plan](http://en.wikipedia.org/wiki/Northwest_Forest_Plan))

#### 5. *Healthy Forests Restoration Act of 2003*

The Healthy Forests Restoration Act of 2003 (HFRA) was enacted to improve the capacity of the Department of Agriculture (DOA) and Department of the Interior (DOI) to reduce the threat of destructive wildfires on lands administered by the USFS and BLM while upholding environmental standards and encouraging early public participation. It aims to reduce risk to firefighters, communities and citizens, and to protect critical natural resources and threatened/endangered species. The HFRA strengthens public participation in developing high priority forest health projects and provides a more effective appeals process; reduces the complexity of environmental analysis allowing federal land agencies to use the best science available to manage lands under their protection; streamlines the process for approving high-priority hazardous fuels reduction and restoration projects, and issues clear guidance for court action against forest health projects.

([http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108\\_cong\\_bills&docid=f:h1904enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1904enr.txt.pdf)  
<http://www.whitehouse.gov/infocus/healthyforests/>; <http://www.forestsandrangelands.gov/>;  
[http://en.wikipedia.org/wiki/Healthy\\_Forests](http://en.wikipedia.org/wiki/Healthy_Forests))

#### 6. *Stewardship End Result Contracting*

Stewardship End Result Contracting is authorized under the Omnibus Appropriations Bill of 2003, which amended the Appropriations Bill of 1999, expanding the stewardship contracting authority of the USFS and BLM. It allows the agencies until September 30, 2013 to enter into long-term contracts with private persons or public/private entities to reduce wildfire risk and improve forest health. The contracts permit trading goods for services; i.e., it allows allow private companies, communities and others to remove forest products in exchange for the service of thinning trees and brush and removing dead wood. All stewardship projects must comply with applicable environmental laws and regulations, and land use plans. The USFS may enter into agreements or contracts under the NFMA (Appendix A. 23) and the BLM under the FLPMA (Appendix A. 24).

([http://www.blm.gov/nhp/spotlight/forest\\_initiative/stewardship\\_contracting/Stewardship\\_Contracting\\_Guidance\\_2-0.pdf](http://www.blm.gov/nhp/spotlight/forest_initiative/stewardship_contracting/Stewardship_Contracting_Guidance_2-0.pdf))

[http://www.forestsandrangelands.gov/Healthy\\_Forests/overview.shtml](http://www.forestsandrangelands.gov/Healthy_Forests/overview.shtml); <http://www.doi.gov/news/040115a.htm>  
<http://www.fs.fed.us/forestmanagement/projects/stewardship/aboutus/16usc2104note.shtml>)



## Appendix C: Legislation related to Federal Forest Payments

### 1. *Twenty-five Percent Fund Act of 1908*

The Twenty-five Percent Fund Act of 1908 (25% Fund Act), also known as the National Forest Revenue Act, was enacted to ensure that counties with national forestlands within their boundaries would receive a share of national forest revenues to compensate for the reduction in taxable land that resulted from the tax-exempt status of federal lands. Sale of timber from national forest lands began in 1897 with the Organic Act (see Appendix A.19), which was superseded in 1976 by the National Forest Management Act (see Appendix A.23). In 1907, counties with national forestlands began receiving 10 percent of gross receipts, designated for use on roads and schools. In 1908, passage of the 25% Fund Act increased the authorization for payments up to 25 percent, based on total National Forest logging receipts and national forest acreage. The act directs that twenty-five percent of revenues received from the harvest of timber from national forestlands be remitted by the Secretary of the Treasury back to the states to be distributed as they see fit for benefit of schools and public roads in counties in which the harvested federal forests reside. In Oregon, the funds are distributed 25% to schools and 75% to roads. These payments are made in lieu of taxes. ([http://www2.law.cornell.edu/uscode/uscode16/usc\\_sec\\_16\\_00000500----000-notes.html](http://www2.law.cornell.edu/uscode/uscode16/usc_sec_16_00000500----000-notes.html); <http://straylight.law.cornell.edu/uscode/16/500.html>; <http://www.american.edu/TED/uswood.htm>)

### 2. *O&C Revested Lands Sustained Yield Management Act of 1937*

The O&C Revested Lands Sustained Yield Management Act of 1937 (O&C Act), put the revested grant lands under the jurisdiction of the Department of the Interior (see Appendix A.21). The act directed that the land be managed for permanent forest production under sustained yield and multiple use principles, and allowed the federal government to pay fifty percent of gross timber revenues directly to the 18 O&C counties, plus twenty five percent for unpaid Railroad property taxes to O&C lands. In 1953, the counties offered to return a third of that to the government in a plowback fund to pay for development and management of O&C land, leaving 50% paid to counties. The O&C Act modified the Stanfield Act of 1926, which had modified the Chamberlain-Ferris Revestment Act of 1916 stipulating the initial financial terms on the former O&C lands. The O&C Act is also known as the O&C Revested Railroad Lands Act of 1937 or the O&C Sustained Yield Act of 1937. (<http://www.blm.gov/or/plans/wopr/files/OCAct.pdf>; <http://www.blm.gov/or/rac/files/Oregon%20Flyer.pdf>; <http://www.oandccounties.com/>; <http://www.grantspassnow.com/history-of-the-oc-by-jack-swift/>)

### 3. *Payment in Lieu of Taxes Act of 1976*

The Payment in Lieu of Taxes Act of 1976 (PILT) was established to offset losses in property taxes in counties with large amounts of tax-exempt federal land that do not generate timber receipts. The program covers national forests, national parks, national wildlife refuges, BLM and other federally managed lands. The BLM is responsible for administering the program. Congress appropriates PILT funds annually, though the program is not usually fully funded. Payments are based on population, receipt sharing payments, and the amount of Federal land within an affected county. PILT payments are reduced by other federal payments, such as the USFS 25% Fund payments and BLM O&C payments (see Appendix

C.1 and C.2). Payments are made directly to local governments and are usable for any governmental purpose.

(<http://www.doi.gov/pilt/>; <http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-6017:1>;  
<http://www.american.edu/TED/uswood.htm>; [http://en.wikipedia.org/wiki/Payment\\_in\\_lieu\\_of\\_taxes](http://en.wikipedia.org/wiki/Payment_in_lieu_of_taxes))

#### 4. *Omnibus Budget Reconciliation Act of 1993*

The Omnibus Budget Reconciliation Act of 1993 (OBRA) was enacted to address regional economic problems resulting from efforts to protect the Northern spotted owl that had reduced federal timber harvests in parts of California, Oregon, and Washington. These "spotted owl" payments began in 1994 at 85% of the average 1986-1990 payments, declining by 3 percent annually, to 58% in 2003. The payments applied to the 17 national forests that contain northern spotted owl habitat. Counties with spotted owl habitat would receive either a payment based on this formula or the standard 25% payment (see Appendix C.1), whichever is higher. An identical schedule was applied to the 50% payments from the O&C lands managed by the BLM (see Appendix C.2). The OBRA was repealed in 2000 by the passage of the Secure Rural Schools and Community Self-Determination Act.

(<http://www.gao.gov/archive/1998/rc98261.pdf>; <http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-6017:1>;  
<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-1085:1>; <http://www.fs.fed.us/news/2000/02/02162000.shtml>)

#### 5. *Secure Rural Schools and Community Self-Determination Act of 2000*

The Secure Rural Schools and Community Self-Determination Act of 2000 (SRS) was enacted to stabilize payments to counties with national forest and public domain lands. The act provided five years of transitional assistance to counties affected by a decline in timber harvest revenues on federal lands. The act established an alternative payment system for federal FY2001 through FY2006. Counties elect to receive the regular receipt sharing payments or 100% of the average of the three highest payments for federal FY1986 through FY1999. If receiving over \$100,000, participating counties must expend between 15 and 20 percent of their funding on Title II or Title III projects. Title II funds special projects on federal lands, such as restoration projects, and Title III funds county projects related to federal lands, such as search and rescue. (<http://www.fs.fed.us/ipnf/eco/manage/rac/pl106-393.pdf>;

[http://straylight.law.cornell.edu/usc-cgi/get\\_external.cgi?type=pubL&target=106-393](http://straylight.law.cornell.edu/usc-cgi/get_external.cgi?type=pubL&target=106-393) <http://www.fs.fed.us/srs/>  
[http://assets.opencrs.com/rpts/RL33822\\_20070124.pdf](http://assets.opencrs.com/rpts/RL33822_20070124.pdf); <http://landru.leg.state.or.us/comm/lro/report%2011-00.pdf>)

#### 6. *Iraq Accountability Appropriations Act of 2007*

The Iraq Accountability Appropriations Act of 2007 extended the Secure Rural Schools and Community Self-Determination Act for 1 year, until September of 2007, and extended provisions of Title II and Title III of the act. (<http://www.govtrack.us/congress/billtext.xpd?bill=h110-2206>)

#### 7. *Secure Rural Schools And Community Self-Determination Act Of 2008*

The Secure Rural Schools and Community Self-Determination Act of 2008 (SRS 2008) reauthorized and amended the Secure Rural Schools and Community Self-Determination Act of 2000. The amended act establishes a new formula for calculation of state payments based on several factors, including acreage of Federal land, previous payments, and per capita personal income. Each year's State payments are calculated based upon a "full funding amount" that will decline each succeeding year through 2011. The full funding amount is used to calculate the State payments. (<http://www.govtrack.us/congress/billtext.xpd?bill=h110-1424>  
<http://www.fs.fed.us/srs/>; [http://www.aocweb.org/aoc/Portals/0/Content\\_Managers/Memo%2010-7.pdf](http://www.aocweb.org/aoc/Portals/0/Content_Managers/Memo%2010-7.pdf))

## Appendix D: State Legislation affecting Property Taxes

### 1. Measure 5

Ballot Measure 5, approved by Oregon voters in November 1990, amended the Oregon Constitution by setting limits on the amount of property taxes that could be collected from each property tax account. Property taxes were reduced across the state over a five year phase-in period. Measure 5 limits are calculated using Real Market Value (RMV), the price at which a house will sell within a reasonable period of time. Measure 5 tax rate limits are \$5 per \$1000 of RMV for Education districts and \$10 per \$1,000 of RMV for General Government districts. The measure required the state's general fund to make up the resulting shortfalls in primary and secondary public school funding.

<http://www.oregon.gov/DOR/PTD/property.shtml>; <http://bluebook.state.or.us/education/educationintro.htm>  
[http://en.wikipedia.org/wiki/Oregon\\_Ballot\\_Measure\\_5\\_\(1990\)](http://en.wikipedia.org/wiki/Oregon_Ballot_Measure_5_(1990))

### 2. Measure 50

Measure 50 was passed by the voters in May 1997 as an amendment to Measure 47, an initiative approved by voters in November 1996 affecting the assessment of property taxes. Measure 50 added another limit to the Measure 5 limits. The rate limits created by Measure 50 replaced Oregon's traditional levy system, which used the real market value to assess individual properties. Now each property has a real market value (RMV) and an assessed value (AV). Each taxing district has a fixed, permanent tax rate for operations. Districts cannot increase this rate. Voters can approve local option levies for up to five years for operations and up to 10 years or the useful life of capital projects, whichever is less. However, local option levies require a 'double majority' for approval – that is, at least 50 percent of registered voters must vote in the election and, of those, more than 50 percent must vote in favor of the local option levy for it to pass. Measure 50 established the 1997–98 maximum assessed value (MAV) as 90 percent of a property's 1995–96 real market value. In subsequent tax years, the assessed value is limited to 3.0 percent annual growth until it reaches real market value. The assessed value can never exceed real market value. New property is assessed at the average county ratio of assessed to real market value of existing property of the same class. The Measure 50 property tax limit is usually stricter than the Measure 5 limit. Each year the MAV and RMV for each property are figured, with property taxed on the lesser value of the two - known as the taxable assessed value. The difference is generally referred to as the tax "gap". Measure 50 allows use of this gap with various restrictions.

<http://bluebook.state.or.us/state/govtfinance/govtfinance03.htm>; <http://www.oregon.gov/DOR/PTD/property.shtml>  
<http://www.co.columbia.or.us/assessor/ballotmeasure50.php>; <http://landru.leg.state.or.us/comm/lro/report%205-99.pdf>;  
[http://en.wikipedia.org/wiki/Oregon\\_Ballot\\_Measure\\_47\\_\(1996\)](http://en.wikipedia.org/wiki/Oregon_Ballot_Measure_47_(1996))