

106TH CONGRESS
1ST SESSION

S. 1608

To provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominantly by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of public schools, roads, emergency, and other public purposes; to encourage and provide new mechanisms for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 1999

Mr. WYDEN (for himself, Mr. CRAIG, and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominantly by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of public schools, roads, emergency, and other public purposes; to encourage and provide new mechanisms for cooperation between counties and the

Forest Service and the Bureau of Land Management to make necessary investments in Federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure Rural Schools
5 and Community Self-Determination Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) the National Forest System, managed by
9 the Forest Service, was established in 1907 and has
10 grown to include 192 million acres of Federal
11 Lands;

12 (2) the revested Oregon and California Railroad
13 and reconveyed Coos Bay Wagon Road grant lands,
14 managed predominantly by the Bureau of Land
15 Management, were returned to Federal ownership in
16 1916 and 1919, and added to thereafter, and com-
17 prise approximately 2.6 million acres of Federal
18 Lands;

19 (3) Congress recognized that, by its decision to
20 secure these lands in Federal ownership, counties in
21 which the lands are situated are denied revenues
22 they would otherwise receive if the lands were sold

1 or transferred into, or the revested and reconveyed
2 grant lands had remained in, private ownership;

3 (4) counties expend public funds to provide edu-
4 cation, road construction and maintenance, search
5 and rescue, law enforcement, solid waste, fire protec-
6 tion, and other services based upon an artificially re-
7 duced tax base;

8 (5) to provide compensation to the affected
9 counties for their loss of tax revenues used for the
10 critical services they provide to both county citizens
11 and visitors to Federal Lands, Congress determined
12 that the Federal Government should share with
13 those jurisdictions the revenues received from the
14 Federal Lands;

15 (6) Congress enacted in 1908, and subsequently
16 amended, a law that requires 25 percent of the reve-
17 nues from National Forest lands be paid to States
18 for use by the counties in which those lands are situ-
19 ated for the benefit of public schools and roads;

20 (7) Congress enacted in 1937, and subsequently
21 amended, a law that requires 50 percent of the reve-
22 nues from the revested and reconveyed grant lands
23 be paid to the counties in which those lands are situ-
24 ated to be used in the same manner as are other
25 county funds;

1 (8) in recent years, as the volume of timber sold
2 annually from most of the Federal Lands has de-
3 creased precipitously, so too have the revenues
4 shared with the affected counties;

5 (9) this decline in shared revenues has severely
6 curtailed the quality of education in the affected
7 counties, as well as other county services;

8 (10) Congress recognized this trend as it re-
9 lated to protection of the Northern Spotted Owl and
10 moved to ameliorate its adverse consequences when,
11 in 1993, it enacted a law—soon to expire—that pro-
12 vided an alternative annual “safety net” payment to
13 72 counties in Oregon, Washington, and northern
14 California in which Federal timber sales had been
15 restricted or prohibited by administrative and judi-
16 cial decisions;

17 (11) no comparable authority has ever been
18 granted for alternative payments to counties else-
19 where that have suffered similar shared revenue
20 losses resulting from the general decreases in timber
21 harvests on Federal Lands;

22 (12) changes in Federal Land management, in
23 addition to having curtailed timber sales, have al-
24 tered the historic, cooperative relationship between

1 counties and the Forest Service and the Bureau of
2 Land Management;

3 (13) both the Forest Service and the Bureau of
4 Land Management face significant backlogs in infra-
5 structure maintenance and ecosystem restoration
6 which are not likely to be addressed through annual
7 appropriations; and

8 (14) new relationships between Federal Lands
9 counties and Federal Land managers need to be
10 formed to benefit our natural resources and our
11 rural communities as we enter the 21st century.

12 (b) PURPOSES.—The purposes of this Act are—

13 (1) to assist local governments dependent on
14 Federal Lands to restore funding for education and
15 other public services that the counties must provide
16 to their citizens;

17 (2) to provide this funding in a form that is en-
18 vironmentally sound and consistent with applicable
19 resource management plans;

20 (3) to facilitate the development, by the Federal
21 Government and the counties which benefit from the
22 shared revenues from the Federal Lands, of a new
23 cooperative relationship in Federal Land manage-
24 ment;

1 (4) to help develop local consensus in imple-
2 menting applicable plans for the Federal Lands;

3 (5) to identify and implement projects on the
4 Federal Lands that enjoy broad-based local support;
5 and

6 (6) to make additional investments in infra-
7 structure maintenance and ecosystem restoration on
8 the Federal Lands.

9 **SEC. 3. DEFINITIONS.**

10 As used in this Act—

11 (a) The term “Federal Lands” means—

12 (1) lands within the National Forest System, as
13 defined in section 11(a) of the Forest and Range-
14 land Renewable Resource Planning Act of 1974 (16
15 U.S.C. 1609(a)) and managed by the Forest Service,
16 Department of Agriculture; and

17 (2) revested Oregon and California Railroad
18 and reconveyed Coos Bay Wagon Road grant lands,
19 managed in part by the Bureau of Land Manage-
20 ment, Department of the Interior, and in part by the
21 Forest Service, Department of Agriculture.

22 (b) The term “eligible States” means each State that
23 received one or more 25 percent payments as defined in,
24 and during the period described in, subsection (d).

1 (c) The term “eligible counties” means each county
2 that received one or more 50 percent payments as defined
3 in, and during the period described in, subsection (e).

4 (d) The term “25 percent payments” means the pay-
5 ments to States authorized by the sixth paragraph under
6 the heading of “FOREST SERVICE” of the Act of May
7 23, 1908, as amended, or section 13 of the Act of March
8 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as
9 amended; 16 U.S.C. 500).

10 (e) The term “50 percent payments” means the pay-
11 ments that are the sum of the 50 percent share otherwise
12 paid to a county pursuant to title II of the Act of August
13 28, 1937 (50 Stat. 875, chapter 876; 43 U.S.C. 1181f),
14 and the payment made to a county pursuant to the Act
15 of May 24, 1939 (53 Stat. 753, chapter 144; 43 U.S.C.
16 1181f–1, et seq.).

17 (f) The term “full payment amount” means the
18 amount determined by calculating the average of the three
19 highest 25 percent payments, 50 percent payments, or
20 payments pursuant to section 13982 of the Omnibus
21 Budget Reconciliation Act of 1993 (16 U.S.C. 500 note)
22 made to the eligible State or eligible county during the
23 period beginning on October 1, 1985, and concluding on
24 September 30 of the last full fiscal year prior to the date
25 of enactment of this Act, adjusted each fiscal year in

1 which payments are required pursuant to subsection 4(a)
2 and subsection 5(a) to reflect changes in the consumer
3 price index for rural areas (as published in the Bureau
4 of Labor Statistics) that occur after publication of that
5 index for the fiscal year prior to the full fiscal year after
6 the date of enactment of this Act.

7 (g) The term “resource management plans” means
8 land use plans prepared by the Bureau of Land Manage-
9 ment for units of the Federal Lands described in sub-
10 section (a)(2) of this section pursuant to section 202 of
11 the Federal Land Policy Act of 1976 (43 U.S.C. § 1712);
12 and land and resource management plans prepared by the
13 Forest Service for units of the lands described in sub-
14 section (a)(1) of this section pursuant to section 6 of the
15 Forest and Rangeland Renewable Resources Planning Act
16 of 1974 (16 U.S.C. § 1604).

17 (h) The term “Secretaries” or “Secretary” means the
18 Secretary of the Interior with respect to the Federal
19 Lands described in subsection (a)(2) and/or the Secretary
20 of Agriculture with respect to Federal Lands described in
21 subsection (a)(1).

22 (i) The term “eligible projects” means any project or
23 projects conducted on Federal Lands paid for, in whole
24 or in part, by an eligible county which meets the require-
25 ments of subsection 6(b).

1 (j) The term “associated environmental analysis”
2 means any evaluation required by the National Environ-
3 mental Policy Act of 1969 (42 U.S.C. § 4321, et seq.) ac-
4 companying an eligible project, or any biological opinion
5 for a project required by the Endangered Species Act of
6 1973 (16 U.S.C. Sec. 1531, et seq.).

7 (k) The term “infrastructure maintenance” means
8 any road or facility maintenance, reconstruction, or sta-
9 bilization activity approved by the appropriate Secretary
10 and consistent with the applicable resource management
11 plan.

12 (l) The term “ecosystem restoration” means any wa-
13 tershed restoration, wildlife habitat improvement or res-
14 toration, or forest health treatment activity approved by
15 the appropriate Secretary and consistent with the applica-
16 ble resource management plan.

17 (m) The term “Committee” means an Investment
18 Project Advisory Committee established pursuant to sec-
19 tion 7.

20 (n) The term “best value stewardship contracting”
21 means using contracts which secure, for the best price,
22 the best quality service as determined by the Secretary
23 based upon: the technical demands and complexity of the
24 work to be done; the ecological sensitivity of the resources
25 being treated; past experience by the contractor with the

1 type of work being done, using the type of equipment pro-
2 posed for the project, and meeting or exceeding desired
3 ecological conditions; utilization of low value species and
4 byproducts; commitment to hiring highly qualified work-
5 ers; and commitment to hiring local people.

6 **SEC. 4. PAYMENTS TO STATES FROM FOREST SERVICE**
7 **LANDS FOR AFFECTED COUNTIES TO USE**
8 **FOR THE BENEFIT OF PUBLIC EDUCATION**
9 **AND TRANSPORTATION.**

10 (a) **REQUIREMENT FOR PAYMENTS TO ELIGIBLE**
11 **STATES.**—The Secretary of the Treasury shall make pay-
12 ments in accordance with subsection (b) as early as prac-
13 ticable in each fiscal year from the first full fiscal year
14 after the date of enactment of this Act to eligible States
15 as defined in subsection 3(b).

16 (b) **PAYMENT AMOUNTS.**—Each payment to a State
17 pursuant to subsection (a) shall include the amount of the
18 25 percent payments as defined in subsection 3(d) that
19 is applicable to that State and, if such amount is less than
20 the full payment amount for that State as defined in, and
21 calculated pursuant to, subsection 3(f), such additional
22 funds as are necessary to provide a total payment equal
23 to the full payment amount as provided in subsection (d).

24 (c) **EXPENDITURE OF PAYMENTS.**—(1) Seventy-five
25 percent of the funds paid to the States pursuant to sub-

1 section (a) shall be distributed and expended in the same
2 manner in which the 25 percent payments are required
3 to be distributed and expended.

4 (2) Twenty-five percent of the funds paid to the
5 States pursuant to subsection (a) shall be distributed in
6 the same manner in which the 25 percent payments are
7 required to be distributed and expended in accordance
8 with section 6.

9 (d) SOURCE OF SPECIAL PAYMENTS.—Any funds
10 paid to the States in addition to the 25 percent payments
11 pursuant to this section and section 6 shall be derived first
12 from any revenues, fees, penalties, or miscellaneous re-
13 ceipts, exclusive of deposits to any relevant trust fund, re-
14 ceived by the Federal Government from activities by the
15 Forest Service on the Federal Lands described in sub-
16 section 3(a)(1) and/or secondly, as determined by the Sec-
17 retary of the Treasury, from any funds in the Treasury
18 not otherwise appropriated.

19 **SEC. 5. PAYMENTS TO COUNTIES FROM BUREAU OF LAND**
20 **MANAGEMENT LANDS TO USE FOR THE BEN-**
21 **EFIT OF PUBLIC SAFETY, LAW ENFORCE-**
22 **MENT, EDUCATION AND OTHER PUBLIC PUR-**
23 **POSES.**

24 (a) REQUIREMENT FOR PAYMENTS TO ELIGIBLE
25 COUNTIES.—The Secretary of the Treasury shall make

1 payments in accordance with subsection (b) as early as
2 practicable in each fiscal year from the first full fiscal year
3 after the date of enactment of this Act to eligible counties
4 as defined in subsection 3(e).

5 (b) PAYMENT AMOUNTS.—Each payment to a county
6 pursuant to subsection (a) shall include the amount of the
7 50 percent payments as defined in subsection 3(e) that
8 is applicable to that county and, if such amount is less
9 than the full payment amount for that county as defined
10 in, and calculated pursuant to, subsection 3(f), such addi-
11 tional funds as are necessary to provide a total payment
12 equal to the full payment amount as provided in sub-
13 section (d).

14 (c) EXPENDITURE OF PAYMENTS.—(1) Seventy-five
15 percent of the funds paid to the counties pursuant to sub-
16 section (a) shall be distributed and expended in the same
17 manner in which the 50 percent payments are required
18 to be distributed and expended.

19 (2) Twenty-five percent of the funds paid to the coun-
20 ties pursuant to subsection (a) shall be distributed in the
21 same manner in which the 50 percent payments are re-
22 quired to be distributed, and expended in accordance with
23 section 6.

24 (d) SOURCE OF SPECIAL PAYMENTS.—Any funds
25 paid to the counties in addition to the 50 percent pay-

1 ments pursuant to this section and section 6 shall be de-
 2 rived first from any revenues, fees, penalties, or miscella-
 3 neous receipts, exclusive of deposits to any relevant trust
 4 funds, received by the Federal Government from activities
 5 by the Bureau of Land Management on the Federal Lands
 6 described in subsection 3(a)(2) and/or secondly, as deter-
 7 mined by the Secretary of the Treasury, from any funds
 8 in the Treasury not otherwise appropriated.

9 **SEC. 6. PAYMENTS TO STATES AND COUNTIES FROM FOR-**
 10 **EST SERVICE AND BUREAU OF LAND MAN-**
 11 **AGEMENT LANDS FOR COMMUNITY SELF-DE-**
 12 **TERMINATION, RESOURCE INVESTMENT, AND**
 13 **AGENCY ACCOUNTABILITY.**

14 (a) PAYMENTS TO STATES AND COUNTIES FOR RE-
 15 SOURCE INVESTMENTS.—(1) To promote investments in
 16 resource management and restoration, and an ongoing re-
 17 lationship between eligible states and eligible counties and
 18 the Federal Lands, eligible states and counties shall be
 19 provided twenty-five percent of the funds paid pursuant
 20 to subsection 4(a) and subsection 5(a) to support invest-
 21 ments in resource management and restoration on Federal
 22 Lands.

23 (2) Investments referred to in paragraph (1) may
 24 support eligible projects or groups of eligible projects
 25 meeting the requirements of subsection (b), including both

1 commercial and noncommercial activities, involving re-
2 source management, stewardship, restoration, or develop-
3 ment.

4 (b) ELIGIBLE PROJECTS.—To be an eligible project
5 or projects for the purposes of receipt of funds under sub-
6 section (a)(1), the project or group of projects must—

7 (1) be nominated and paid for, in whole or in
8 part, by the eligible county;

9 (2) be in compliance with the applicable re-
10 source management plan, or with any watershed or
11 subsequent plan developed pursuant to the resource
12 management plan and approved by the appropriate
13 Secretary;

14 (3) be recommended by the appropriate invest-
15 ment project advisory committee formed pursuant to
16 section 7;

17 (4) be in compliance with all applicable environ-
18 mental laws;

19 (5) be approved by the appropriate Secretary
20 with whom the final project authority lies;

21 (6) assure that the sale of any commodity,
22 asset, lease, or right to use the Federal Lands shall
23 be on a competitive bid basis to receive at least fair
24 market value. For any eligible project not subject to
25 competitive bidding or involving ecosystem restora-

1 tion, infrastructure maintenance, or other resource
2 stewardship work, the appropriate Secretary shall, to
3 the maximum extent feasible, use best value stew-
4 ardship contracting; and

5 (7) be governed by a Memorandum of Under-
6 standing between the eligible county and the appro-
7 priate Secretary which specifies—

8 (A) a schedule with deadlines for comple-
9 tion;

10 (B) an agreed-upon level of overhead to be
11 assessed against each eligible project or group
12 of eligible projects by the appropriate Secretary;
13 and

14 (C) (i) the circumstances in which the ap-
15 propriate Secretary shall, at the eligible coun-
16 ty's request, reimburse the county the full
17 amount paid by the county pursuant to sub-
18 section (c) with interest if the Secretary fails to
19 carry out an approved project within the time
20 frame established pursuant to subparagraph
21 (A).

22 (ii) Any reimbursement pursuant to clause
23 (i) shall not include repayment of any funds al-
24 ready expended for projects enjoined or prohib-
25 ited by action of a Federal court.

1 (c) FUNDING OF PROJECTS.—Upon approval by the
2 appropriate Secretary of an eligible project or group of
3 eligible projects that meet the requirements of subsection
4 (b), the eligible county will convey the necessary funding
5 to the appropriate Secretary to undertake single-year or
6 multi-year projects or groups of projects.

7 (d) RETURN OF UNUSED FUNDS.—(1) If an eligible
8 county and the Secretary fail to agree on a sufficient num-
9 ber of eligible projects to fully obligate the funds provided
10 under subsection (a)(1) by the end of the fiscal year in
11 which the funds were provided, any remaining funds shall
12 be returned to the Secretary of the Treasury and redistrib-
13 uted in the following fiscal year to those eligible states
14 and counties that did fully expend such funds available
15 to them pursuant to subsection (a)(1) in the same propor-
16 tion as, and in addition to, funds distributed annually to
17 eligible states and counties under this section.

18 (2) Any funds returned to an eligible county by the
19 Secretary under subsection (b)(7)(B) shall be used by that
20 county to fund eligible projects meeting the requirements
21 of subsection (b) within one year from the date of reim-
22 bursement by the Secretary.

23 (e) FUNDS GENERATED BY ELIGIBLE PROJECTS.—

24 (1) DIVISION OF FUNDS.—Any fees, receipts, or
25 payments resulting from any revenue-generating

1 project receiving funds pursuant to subsection (a)(1)
2 shall be, after deposits to any relevant trust funds,
3 divided equally between the eligible county and the
4 Secretary.

5 (2) USE OF FUNDS.—

6 (A) The portion of the funds referred to in
7 paragraph (1) that is paid to the eligible county
8 shall be used by the county for the same pur-
9 poses as provided in subsection 4(c)(1) and sub-
10 section 5(c)(1) of this Act.

11 (B) The portion of funds referred to in
12 paragraph (1) that is received by the Secretary
13 shall be used by the National Forest or Bureau
14 of Land Management District from which the
15 funds originated for infrastructure maintenance
16 or ecosystem restoration.

17 (f) RELATION OF FUNDS TO ANNUAL APPROPRIA-
18 TIONS.—Any funds provided to the Secretaries under this
19 section shall be in addition to the annual appropriations
20 for the Forest Service and the Bureau of Land Manage-
21 ment.

22 **SEC. 7. INVESTMENT PROJECT ADVISORY COMMITTEES.**

23 (a) ESTABLISHMENT AND PURPOSE OF INVESTMENT
24 PROJECT ADVISORY COMMITTEES.—(1) For each Na-
25 tional Forest and Bureau of Land Management District

1 managing Federal Lands, the appropriate Secretary shall
2 establish and maintain an Investment Project Advisory
3 Committee to recommend eligible projects or groups of eli-
4 gible projects pursuant to subsection 6(b)(3) for funds
5 provided pursuant to subsection 6(a)(1).

6 (2) No eligible project or groups of eligible projects
7 may be funded under subsection 6(a)(1) without the rec-
8 ommendation of the appropriate Committee.

9 (3) For the purposes of establishing Committees pur-
10 suant to this section, the appropriate Secretary may, at
11 his sole discretion, combine or divide National Forests or
12 Bureau of Land Management Districts.

13 (b) COMMITTEE MEMBERS.—

14 (1) APPOINTMENT.—Each Committee shall be
15 comprised of 15 members broadly representative of
16 local resource users, environmental interests, forest
17 workers and organized labor representatives, county
18 elected officials, school administrators, teachers, and
19 other local interests as determined by the Secretary.

20 (2) CHAIR.—The Chair of each Committee shall
21 be selected by a majority of the members.

22 (3) VACANCIES.—

23 (A) A vacancy in the membership of any
24 Committee shall be filled by the Secretary in a

1 fashion which maintains the breadth of inter-
2 ests on the Committee.

3 (B) A vacancy in the membership of any
4 Committee shall not impair the right of the re-
5 maining members to fulfill the purposes of the
6 Committee provided in subsection (a).

7 (4) TERM.—Each Committee member shall
8 serve a term of two years from appointment. A Com-
9 mittee member shall be eligible for reappointment at
10 the sole discretion of the Secretary.

11 (c) COMMITTEE STAFF.—At the request of a Com-
12 mittee Chair, the appropriate Secretary may assign Fed-
13 eral employees to assist a Committee in fulfilling the pur-
14 poses pursuant to subsection (a).

15 (d) COMMITTEE RULES.—Each Committee is author-
16 ized to establish such procedural and administrative rules
17 as are necessary to achieve the purpose of the Committee
18 pursuant to subsection (a).

19 (e) COMMITTEE MEETINGS.—

20 (1) Each Secretary shall develop procedures for
21 the publication, public attendance, and development
22 of a record for the meetings of the Committees.

23 (2) All Committee meetings shall be announced
24 one week in advance of the meeting in a local news-
25 paper of record, and shall be open to the public.

1 (f) FEDERAL ADVISORY COMMITTEE ACT REQUIRE-
2 MENTS.—Except as may be provided by this section, the
3 provisions of the Federal Advisory Committee Act (86
4 Stat. 770; 5 U.S.C. App. 1) shall not apply to the Commit-
5 tees.

6 **SEC. 8. APPROPRIATIONS AUTHORIZATION.**

7 There are hereby authorized to be appropriated such
8 sums as are necessary to carry out the provisions of this
9 Act.

10 **SEC. 9. CONFORMING AMENDMENTS.**

11 (a) Section 13982 of the Omnibus Budget Reconcili-
12 ation Act of 1993 (16 U.S.C. 500 note) is repealed. Sec-
13 tions 13982 and 13983 of the Omnibus Budget Reconcili-
14 ation Act of 1993 (Public Law 103–66; 16 U.S.C. 500
15 note; 43 U.S.C. 1181f note) is repealed.

16 (b) Section 6903(a)(1) of title 31, United States
17 Code, is amended by—

18 (1) re-designating subparagraphs (D) through
19 (J) as (E) through (K), respectively; and

20 (2) inserting after subparagraph (C) the fol-
21 lowing new subparagraph:

22 “(D) the Secure Rural Schools and Com-
23 munity Self-Determination Act of 1999;”.

○