

## MEMORANDUM



**DATE:** January 30, 2013  
**TO:** All Interested Parties  
**FROM:** Ben Gielczyk, Senior Fiscal Analyst  
**RE:** Payments in Lieu of Taxes (PILT) Funding Changes

This memo provides information on recent changes in appropriations for payments in lieu of taxes (PILT) paid to local units of government for state-owned property in the Department of Treasury budget, including the budget impact of recent statutory changes related to PILT.

### **Background**

Payments in Lieu of Taxes (PILT) are payments statutorily required to be made by the state of Michigan to local units of government for land owned by the State and administered by the Department of Natural Resources (DNR) and privately owned land retained for long-term timber production. Specifically, PILT are made for purchased lands, swamp and tax reverted lands, and commercial forest reserve lands.

Payments are made through line-item appropriations in the Department of Treasury appropriations act. NOTE: The School Aid Appropriations Act includes PILT appropriations for local school districts, intermediate school districts (ISDs), and community colleges - excluding Michigan Natural Resources Trust Fund (MNRTF) Purchased Land PILT, which is now appropriated in the Department of Treasury budget.

#### *Purchased Lands*

Purchased Lands are defined to be state-owned public property purchased and controlled by the DNR. Under the General Property Tax Act, Public Act (PA) 206 of 1893, public property belonging to the state of Michigan is exempt from taxation. However, the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, requires the State to make PILT to local governments for lands purchased by the State after 1933. Prior to the enactment of PA 513 of 2004, payments were based on land values and set by the State Tax Commission. However, under PA 513 of 2004, land values were frozen at their 2004 level through 2008. Beginning in 2009, the valuation of the property could not increase annually by more than the increase in the immediately preceding year in the inflation or 5%, whichever was less.

In December 2012, the Legislature passed PAs 603 and 604 of 2012 which made changes to the funding structure and property valuation for Purchase Land PILT. The property valuation would be the greater of the valuation calculated under current statute (see above paragraph) or the taxable value of the property calculated under Section 27A of the General Property Tax Act.<sup>1</sup> Overall, the provision would create higher property valuations for Purchased Land PILT when compared to current statute, thereby increasing Purchased Land PILT payments.

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<sup>1</sup> Under Section 27A of the General Property Tax Act, the taxable value is the lesser of the following: (1) the property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions, or (2) The property's current State Equalized Valuation (SEV). When a property transfers ownership the taxable value for the following year is the property's SEV.

Additionally, PAs 603 and 604 of 2012 included language requiring the State to make payments in full. If the State fails to make full payments, the unpaid delinquent portion would be subject to penalty and interest as for delinquent taxes under the General Property Tax Act. However, the PILT as well as the penalty and interest payments would be subject to legislative appropriation. It should be noted that previous statutory requirements to make payments in full did not prevent reductions to Purchased Land PILT (see below).

If a local government failed to submit a statement of the assessment of state purchased lands by January 1, the amount payable to that local government would be reduced by 5% for each month or portion of a month after the statement was late.

Prior to PA 513 of 2004, Purchased Lands PILT was paid out of the fund source used to acquire each parcel.<sup>2</sup> With the passage of PA 513 of 2004 all Purchased Lands PILT were to be made with 50% General Fund and 50% restricted funds (Michigan Natural Resources Trust Fund, Game and Fish Protection Fund, and Michigan Waterways Fund). Beginning in FY 2011-12, under PAs 117 and 118 of 2011, MNRTF Purchased Land PILT was required to be paid in full (equal to the total amount due to the local unit of government) solely from the MNRTF. Purchased Land PILT for those lands purchased with funds from the Game and Fish Protection Fund and the Michigan State Waterways Fund maintain the 50/50 split.

#### *Swamp and Tax Reverted Land*

The DNR owns and controls certain properties that are deemed swampland or tax reverted properties. Most of the land under this PILT category was left unclaimed and remained in the State's name primarily due to it being considered swampland. Under statute (MCL 324.2150) the State is required to make a payment of \$2.00 per acre by December 1 each year to each local unit of government. Disbursements made for PILT on swamp and tax reverted land are distributed 50% to the county General Fund and 50% to the township General Fund. All swamp and tax reverted PILT are paid with state General Fund appropriations.

PAs 603 and 604 of 2012 included changes to how Swamp and Tax Reverted PILT payments are made, including the implementation of a phased in per acre payment increase. Specifically, for tax year 2014 the per acre payment would increase from \$2.00 to \$3.00 and for tax year 2015 the per acre payment would increase from \$3.00 to \$4.00. Beginning in tax year 2016, the per acre payment will increase by the lesser of 5% or the rate of inflation. Fiscal year appropriations are made based on the previous tax year's calculation due to the payments being made on December 1 of each year. For example, the 2014 tax year change will impact the FY 2014-15 Purchased Land PILT payments.

The provisions of the bill included a statement requiring the State to make payments in full. However, payments would be subject to legislative appropriation. Previous statutory requirements to make payments in full did not prevent reductions to Swamp and Tax Reverted PILT (see below).

#### *Commercial Forest Reserve*

Commercial Forest Reserve PILT covers those private lands enrolled in the Commercial Forest Program (CFP) under Part 511 of PA 451 of 1994. The CFP is a tax incentive program for private

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<sup>2</sup> Purchased Land PILT is acquired using funds from the Game and Fish Protection Fund, the Michigan State Waterways Fund, and the Michigan Natural Resources Trust Fund. However, prior to FY 2001-02, PILT on land purchased with Game and Fish Protection Fund of Federal Pittman Robertson funds were paid 50% from the Game and Fish Protection Fund and 50% from the General Fund.

landowners which provides an incentive for retaining and managing forest land for long-term timber production. Currently, there are approximately 2.2 million acres listed under this program.

Under the CFP, private land owners are subject to an annual specific tax of \$1.20 per acre as opposed to ad valorem property taxes. In addition, statute states that the state of Michigan will pay an additional \$1.20 per acre annually on behalf of the landowner to the county. In tax year 2012 (for FY 2012-13), the tax per acre, as well as the State payment per acre, increased by five cents. Commercial Forest Reserve PILT is paid with state General Fund appropriations.

PAs 603 and 604 of 2012 included a statement requiring the State to make payments in full. However, the payments would be subject to legislative appropriation. As with Purchased Lands and Swamp and Tax Reverted, previous statutory requirements to make payments in full did not prevent reductions to Commercial Forest Reserve PILT (see below).

**Funding**

Prior to FY 2009-10, payments were paid in full according to a statutory formula for each type of PILT (detailed above). However, due to budgetary constraints, beginning in FY 2009-10 all PILT were reduced and prorated due to General Fund reductions in the Department of Treasury's PILT appropriation levels. The following tables highlight the appropriation changes for each PILT category. The tables are supplemented with a more detailed narrative below.

Purchased Lands PILT

<u>Year</u>	<u>Gross Appropriation</u>	<u>Amount Due (est.)</u>	<u>Difference</u>
FY 2008-09	\$4,450,000	\$4,292,100	\$157,900
FY 2009-10*	4,386,000	4,557,500	(171,500)
FY 2010-11*	4,386,000	4,533,200	(147,200)
FY 2011-12**	4,926,300	5,130,700	(204,400)
FY 2012-13***	5,387,300	5,387,300	0

\*Gross appropriation includes inflated restricted fund authorization (see below). Total payments totaled \$3,872,000 in FY 2009-10 and \$3,789,700 in 2010-11. Restricted fund authorizations were properly adjusted in FY 2011-12.

\*\*FY 2011-12 includes PILT for MNRTF Purchased Land assessments for school districts, ISDs, and community colleges.

\*\*\*PA 200 of 2012 appropriation was supplemented with PA 518 of 2012 to fully fund Purchased Land PILT. A 5.0% increase was built into the figure to accommodate changes in eligible property and changes in taxable value. FY 2012-13 includes PILT for MNRTF Purchased Land assessments for school districts, ISDs, and community colleges. Amount due is estimate based on previous year billings.

Swamp and Tax Reverted PILT

<u>Year</u>	<u>Gross Appropriation</u>	<u>Amount Due (est.)</u>	<u>Difference</u>
FY 2008-09	\$7,071,200	\$7,071,200	\$0
FY 2009-10	6,227,300	7,076,400	(849,100)
FY 2010-11	6,227,300	7,075,800	(848,500)
FY 2011-12*	6,730,600	7,075,400	(344,800)
FY 2012-13**	7,429,100	7,429,100	0

\*FY 2011-12 amount due is an estimate based on FY 2010-11 figures.

\*\*PA 200 of 2012 appropriation was supplemented with PA 518 of 2012 to fully fund Swamp and Tax Reverted PILT. A 5.0% increase was built into the figure to accommodate changes in eligible property. Amount due is estimate based on previous year billings.

Commercial Forest Reserve PILT

<u>Year</u>	<u>Gross Appropriation</u>	<u>Amount Due (est.)</u>	<u>Difference</u>
FY 2008-09	\$2,645,700	\$2,645,700	\$0
FY 2009-10	2,343,100	2,647,400	(304,300)
FY 2010-11	2,343,100	2,656,400	(222,300)
FY 2011-12*	2,529,400	2,663,100	(133,700)
FY 2012-13**	2,796,200	2,796,200	0

\*FY 2011-12 amount due is an estimate based on FY 2010-11 figures.

\*\*PA 200 of 2012 appropriation was supplemented with PA 518 of 2012 to fully fund Commercial Forest PILT. The supplemental included a statutorily required \$.05 per acre increase in state payments. Additionally, a 5.0% increase was built into the figure to accommodate changes in eligible property. Amount due is estimate based on previous year billings.

**FY 2009-10**

In an effort to balance the FY 2009-10 General Fund budget, PILT appropriations were effectively reduced by 12.0%.<sup>3</sup> This amounted to a \$1.3 million GF/GP reduction from FY 2008-09 PILT. The Department of Treasury issued prorated payments to local units of government due to the reduced appropriations. While statute at the time of budget passage allowed for short-term proration of Purchased Land PILT payments (MCL 324.2154), prorated payments could not satisfy the State's payment obligation. In order to remedy the situation, Public Act (PA) 31 of 2010 was enacted which allowed prorated payments to satisfy the State's Purchased Land PILT obligation in FY 2009-10 only.

While Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT were reduced by 12.0%, it was determined that no corresponding statutory change was needed to authorize prorated payments. The Department of Treasury determined that without the prohibiting language that was present in the Purchased Lands PILT statute (MCL 324.2154), proration was effectively implied in the Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT statutes (MCLs 324.2150 and 324.51106, respectively). Therefore, prorated payments on Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT would satisfy the State's obligation under the statute.

**FY 2010-11**

In FY 2010-11 the 12.0% reductions made in FY 2009-10 were maintained to, once again, assist in balancing the General Fund budget. As was the case in FY 2009-10, the Department of Treasury issued prorated payments to local units of government. Prorating PILT in FY 2010-11 required another statutory change due to the one-year sunset in PA 31 of 2010. To address the lack of statutory authority for prorated payments to satisfy the State's PILT obligation, PAs 117 and 118 of 2011 that implemented the following changes:

- Required PILT on Michigan Natural Resources Trust Fund (MNRTF) purchased land to be paid in full (calculated amount due to local government under statute) from the MNRTF beginning in 2012. Statute previously specified that no more than 50.0% of the PILT on MNRTF purchased lands may be paid from the MNRTF. Purchased Land PILT for those lands purchased with funds from the Game and Fish Protection Fund and Michigan State Waterways Fund maintains the 50/50 split.

<sup>3</sup> General Fund appropriations were reduced by 12.0% in all three PILT categories. According to statute, 50.0% of Purchased Land PILT shall be paid from the revenue source used to acquire the land. In the FY 2009-10 budget, restricted fund authorizations were not correspondingly reduced which meant Gross PILT appropriations only showed a 8.7% reduction. Due to a statutory cap on all Purchased Lands PILT payments from restricted fund sources at 50.0% the actual Gross reduction did total 12.0%.

- Amended statute to permit the annual proration (no sunset) of all Purchased Land PILT beginning in FY 2010-11. However, as was noted above, MNRTF Purchased Land PILT was not subject to proration beginning in FY 2011-12.<sup>4</sup> The prorated payments satisfied the State obligations.

**FY 2011-12**

The Governor's recommendation, ultimately enacted by the legislature, reduced all PILT by 15.0% from FY 2010-11 levels. Under the reforms of PAs 117 and 118 of 2011, the Department of Treasury had the statutory authority to prorate payments for all PILT, with the exception of MNRTF Purchased Land PILT, which was required to be paid in full from the MNRTF. In order to satisfy the current requirements of PAs 117 and 118 of 2011, a supplemental appropriation from the MNRTF was required which replaced General Fund appropriations supporting MNRTF Purchased Land PILT and increased gross funding to equal the total amount due to local units of government. A second supplemental was enacted that restored additional PILT funding to municipal governments.

*PA 89 of 2012*

Public Act 89 of 2012 made certain adjustments to FY 2011-12 PILT appropriations. The adjustments are as follows:

- As required under PAs 117 and 118 of 2011, the supplemental act fully funded MNRTF Purchased Land PILT with MNRTF funds for municipal governments, school districts, ISDs, and community colleges MNRTF Purchased Land PILT.<sup>5</sup>
- Restored the 15.0% reduction enacted in the FY 2011-12 budget act. Overall PILT funding (excluding fully funded MNRTF Purchased Land PILT) was restored to FY 2010-11 levels.

At the time of passage it was estimated that the MNRTF funding shift saved the General Fund approximately \$350,400 in FY 2011-12. School Aid Fund savings were estimated to be \$774,500 for FY 2011-12.

*PA 236 of 2012*

Public Act 236 of 2012 included additional funding for Department of Treasury PILT. Specifically, PA 236 of 2012 included \$1.3 million Gross and \$1.0 million GF/GP for all PILT payments (excluding fully funded MNRTF Purchased Land PILT) in the Department of Treasury budget. With the additional funding, FY 2011-12 PILT payments were funded at the following levels:

<b><u>PILT Category</u></b>	<b><u>% of Full Funding</u></b>
Purchased Land	96.0
Swamp and Tax Reverted	95.1
Commercial Forest	95.0

<sup>4</sup> The acts did authorize the proration of MNRTF Purchased Land PILT for FY 2010-11.

<sup>5</sup> School district, ISD, and community college MNRTF Purchased Land PILT was formerly included in the School Aid budget. Since the MNRTF Purchased Land PILT is now required to be paid 100% from the MNRTF, funds will be appropriated in the Department of Treasury budget for both municipal governments and school districts, ISD, and community colleges.

## **FY 2012-13**

The FY 2012-13 appropriation act, PA 200 of 2012, funded all PILT, with the exception of MNRTF Purchased Land, at FY 2010-11 levels.<sup>6</sup> MNRTF Purchased Land PILT was fully funded with MNRTF funds as required by statute.

At the close of the 2012 legislative session, PA 518 of 2012, a FY 2012-13 supplemental appropriations act, was enacted which included \$1.4 million Gross and \$2.2 million GF/GP for PILT. Overall, PA 518 of 2012 included four adjustments to FY 2012-13 PILT:

- The supplemental fully funded FY 2012-13 PILT to municipal governments. NOTE: The \$158,500 needed to fully fund PILT (excluding MNRTF Purchased Land PILT) to local school districts, ISDs, and community colleges was included in PA 465 of 2012.
- Reduced MNRTF spending authorization by \$1.3 million to align with actual expected MNRTF expenditures.
- Included additional funding to support the statutorily required increase for Commercial Forest Reserve program from \$1.20 to \$1.25 per acre that was not included in FY 2012-13 appropriation act.
- Adjusted full funding level up by 5% from FY 2011-12 billings to accommodate fluctuations in eligible property and potential increases in taxable value. Unexpended funds lapse to the General Fund.

As this memo shows, PILT was reduced in recent years as a way to help balance the State General Fund budget. However, a more stable budget outlook has enabled the passage of subsequent supplemental appropriations acts that restored much of the reduced PILT funding to local units of government. Looking forward, future State PILT obligations will increase under recently passed legislation (PAs 603 and 604 of 2012) due to the increased reimbursement rates and taxable value calculations.

### Attachment

c: Mary Ann Cleary, Director  
Kyle Jen, Deputy Director

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<sup>6</sup> FY 2010-11 funding was 12.0% below full-funding.

**Table 1**  
 Ten Year PILT Funding History

