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FOREST REVENUE SHARING--
HISTORY, ALTERNATIVES, AND ISSUES

by

Patrick H. Corts


B.A., Carroll College, 1970

Presented in Partial Fulfillment of the
Requirements for the Degree of
Master of Science in Forestry

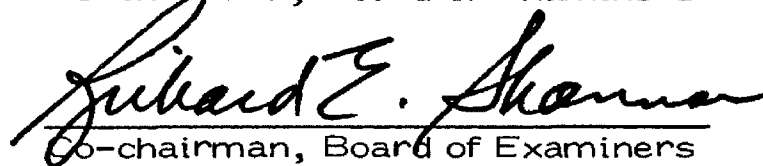
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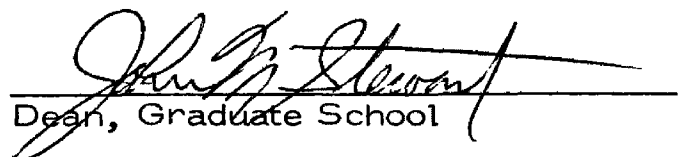
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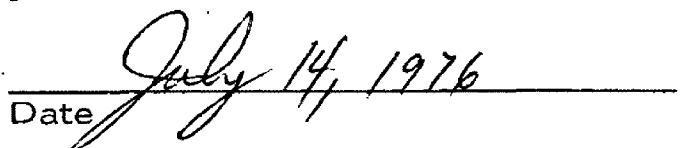
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ABSTRACT

Corts, Patrick H., M.S.F., August, 1976

Forestry

Forest Revenue Sharing--History, Alternatives, and Issues (147 pp.)

Director: Arnold W. Bolle and Richard E. Shannon

AB. Due to the sovereign immunity of the Federal government, states and local municipalities are not allowed to tax Federal real estate within their boundaries. At the time this legal decision was made no particular hardship was envisioned because the dominant Federal land policy of the day was one of disposal to private individuals and corporations. When this policy changed in the late 1800's, from disposal to land reservation, its impact on the local property tax system became a salient issue. *RS*

In an effort to resolve the perceived deleterious effects of this arrangement, Congress in 1907 established a system of forest revenue sharing with the various states. With the advent of this new statutory methodology--revenue sharing in lieu of tax payment by the Federal government--came the proliferation over time of many similarly patterned legislative acts. After almost seventy years of revenue sharing the methods of fund dispersal, agency administration, and earmarking for use remain essentially unchanged. Over the years certain problems and inconsistencies have emerged.

This paper reviews the history, issues, and alternatives that have encased the matter over the years. After reviewing the situation and rationale, a viable current alternative--the minimum payment per acre approach--is offered for analysis. This new proposal complements the old system and at the same time offers a means of transition. Criteria for legislative change are noted. These criteria in conjunction with other historically developed issues serve as the basis for the analysis of this new payment system.

It is concluded that the minimum payment per acre approach may offer an equitable means of transition from the current arrangement to a system that offers a possible solution to many of the problems that have traditionally surrounded the revenue sharing system.

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My parents.

To Karen Wilson for her typing and deciphering expertise.

TABLE OF CONTENTS

ABSTRACT ii

ACKNOWLEDGEMENTS iii

LIST OF TABLES vi

LIST OF FIGURES vii

CHAPTER

I INTRODUCTION 1

II LEGISLATIVE HISTORY AND A REVIEW
OF GOVERNMENTAL STUDY COMMISSIONS 4

Statutory History
Legislative Provisions
Study Commissions

III REVENUE SHARING--A SURVEY OF
ALTERNATIVES 30

Revenue Sharing Systems
Central Fund for Net Revenue Sharing
Increased Percentage Formula
Estimated Property Tax Loss
Moving Average Distribution Formula
Per Acre Minimum Payment Approach
Land and Water Conservation Fund Method
Gross Receipts Including Knutson-Vandenburg
Funds and Road Credits
Population Factors Approach

IV PAYMENTS IN LIEU OF TAXATION 48

Public Benefits Approach
Full Tax Equivalency--No Limitations

	Full Equivalency--Total Payment Limited to Net Revenues	
	Full Equivalency--Indirect Benefits Approach	
	Full Equivalency--Extraordinary Benefits and Burdens	
	Full Equivalency--Improvements	
	Full Equivalency--Tax Effort	
V	REVENUE SHARING AND PAYMENTS-IN-LIEU ASSOCIATED ISSUES	62
	Indirect Benefits and Payments-In-Kind	
	Inclusion of Knutson-Vandenberg Funds	
	Annual Fluctuations in the Revenue Sharing Payments	
	Pass-Through Considerations--What Level of Government Should Receive the Payment	
	Earmarked Revenues	
	Valuation of Federal Lands	
VI	OTHER CONSIDERATIONS AND AN ALTERNATIVE	83
	Statutory Longevity	
	Role of Interest Groups	
	Administrative Policies	
	Federal Budget--A Changing Base of Power	
	Congressional Committee System	
	Promise of Increased Revenue	
	Criteria for Change	
	A Viable Alternative--Minimum Payment Approach	
	Income Predictability for the Localities	
VII	CONCLUSION	110
	APPENDIX	113
	SOURCES CONSULTED	144

LIST OF TABLES

TABLE

1	Capsule History of The Changes in The Financing of Forest Service Roads 1967-1976	32
2	U.S. Forest Service State Per Acre Returns For Fiscal Year 1975 Under The Provisions of Three Separate Revenue Sharing Acts	39
3	Fiscal Year 1975 Payments to States--National Forest Twenty-Five Percent Fund	41
4	H.R. 9719--Example of the Proposed Population Weighting Methodology	45
5	1962 Evaluation of NFS Revenue Sharing	57

LIST OF FIGURES

Figure

- 1 Estimated Taxes, Twenty-Five Percent Fund Payments, and Specific Contributions In-Kind . . . 56

CHAPTER I

INTRODUCTION

As the result of an 1819 Supreme Court decision regarding the sovereignty of the United States, Federally owned property may not be taxed by states or localities. At the time this decision was made, no particular hardship to the states was envisioned, because the dominant Federal land policy at that time was one of disposal to private individuals or corporations. As a result of the projected disposals, the land would pass from Federal real property inventory to the local property tax roles and, thereby, afford the municipalities an equitable means of support.

Contrary to this original policy, the Federal Government in the 1890's began to retain ownership in forested lands. When it became evident that these millions of acres of forest reserves would never pass into private ownership, the impact on the taxability of state and local governments became a salient issue. In response to this perceived impropriety, the Congress in 1907 authorized the return of twenty-five percent of stumpage sale receipts to the counties in which the timber was cut to be used for public education

and roads. With the advent of this new statutory methodology, that is, revenue sharing in lieu of tax payment by Federal Government, came the proliferation over time of a whole raft of like-patterned legislation. After almost seventy years of revenue sharing, the methods of fund dispersal, agency administration, and earmarking for use remain essentially unchanged. It is understandable that in view of the longevity of the legislation, certain inequities and problems would develop.

In response to perceived shortcomings and inconsistencies, the whole matter of tax immunity of Federal lands has undergone varying degrees of study and recommendation. This paper reviews the history, issues, and alternatives that have encased the matter over the years. After reviewing the situation and rationale, a viable current alternative is offered for analysis.

While this paper mentions several methodologies and statutory alternatives, its main structural composition relies on the 1908 Forest Revenue Act for continuity. The immunity issue also serves as an additional thread woven throughout the historic fabric. It is this immunity issue that has resulted in the enactment of over forty related legislative statutes.

Past governmental study commission recommendations, even though customarily quite general, are noted in an effort to point up

the ongoing nature of the analysis. Also, by utilizing the work and insights of various interested individuals, students of local government and agency policy positional statements, the presentation has been expanded to include an assortment of past and present revenue sharing and payment in lieu of tax issues and alternatives. The final analysis, played on the background of the legislative history and associated issues, offers a viable transitional step that complements the old and at the same time may offer a solution to some past tax immunity problems.

CHAPTER II
LEGISLATIVE HISTORY AND A REVIEW OF
GOVERNMENTAL STUDY COMMISSIONS

Statutory History

It was estimated in 1909 that of the original domain in the United States, approximately forty percent had been disposed of to individuals and corporations, eleven percent had been granted to states for various purposes, twenty-three percent had been placed in reserve, and 26 percent remained unreserved and unappropriated (1).

Currently, however, Federal ownership of land in the United States is close to 756 million acres--about one-third of the Nation's total (2). The Federal Constitution, as interpreted by the courts (3), exempts this acreage from taxation except as Congress, by legislation, may permit. Thus, the methods authorized by Congress to provide in-lieu financial assistance to state and local governments because of the tax immunity of such lands is one of the major policy issues relating to their ownership and management.

Among the many types of such payments now in effect, the

ones pertaining to the national forests are of particular interest to those concerned with the problems of public finance. Perhaps the most salient reason for this is the fact that national forest revenue sharing contributions--originally established about seventy years ago--represent one of the oldest of these arrangements.

Legislative Provisions

During the greater part of the 19th Century, the Federal Government's policy toward its public lands was one of disposal--that is, transferring them to private ownership (4). Their tax immunity was of little consequence since it was assumed that the policy of land disposal would continue. Congress thus gave scant attention to the economic and fiscal impact of the public lands on state and local governments. Regarding this issue of public land disposal, Glen O. Robinson has stated:

"From the perspective of present political philosophy and knowledge of what has happened to much of the public land thus disposed, one might be tempted to question the overriding emphasis put upon disposal rather than public ownership and management. But considering the then prevalent philosophy that the Federal government would play a limited role in the political and economic affairs of the nation, it would have been incongruous to conceive of the Federal government as anything but a temporary custodian of the vast lands which were to become the public domain."
(5)

Toward the end of the 19th Century, however, the Federal

Government's attitude toward its landholdings did undergo a major change. Unrestricted entry and disposition were replaced by Federal retention as the dominant policy regarding the public domain. But it was the withdrawal of substantial acreages in the West for the initial creation of the national forests by Presidents Cleveland and Roosevelt that focused immediate attention on the fiscal impact of the new policy.

As a consequence, Congress in 1907, revoked the authority of the President to create new reserves in Oregon, Washington, Idaho, Montana, Colorado, and Wyoming without Congressional approval. Subsequent amendments extended this to California, New Mexico and Arizona, and reinstated the original authority as to Montana (6).

By the same act, Congress also adopted a revenue-sharing procedure which provided that 10 percent of Forest Service revenue derived from fees and lumber sales would be given to the states in which the reserves were located, to be used for roads and schools. This amount was raised to twenty-five percent in 1908 (7). Related to the revenue-sharing provisions is a further provision, added in 1913, which allocates ten percent of all receipts to a fund for roads and trails within the national forests in the states from which the receipts are derived (8). Thus, the above Act with corresponding amendments fused to create the basic national forest revenue sharing

program which exists today.

The purpose of this statute, as is clearly reflected in its legislative history, was to provide financial compensation to the states to offset, in some measure, the loss of revenues caused by the presence of tax-free national forest lands (9).

The Act itself is straight forward in its legislative mandate. As stated above, it provides that a payment amounting to twenty-five percent of gross receipts (10) from each national forest be made at the end of the fiscal year to the state or territory in which the forest is located. These payments are then expended to the counties in which they were generated to be used for public schools and public roads. In addition, ten percent of the gross receipts is expended by the Federal Government for construction and maintenance of roads and trails within the national forests.

As the multiplicity of Federal land acquisition programs began to expand in the early part of the 20th Century, the impact of Federal ownership became even more dramatically illustrated (11). As a result, many other in lieu financial assistance laws have been passed. See Appendix A for a listing of the more important in lieu statutes that have proliferated since 1907. Most were enacted as part of, or as an adjunct to: legislation authorizing the withdrawal of public lands from unrestricted entry under the public land disposal laws;

legislation providing for the regulated use of such lands or their resources; or, legislation authorizing Federal acquisition of lands for specific purposes.

Study Commissions

In recent years the contention has been heard more and more frequently that Federal monetary contributions to state and local governments in lieu of taxes have generally amounted to much less than the revenues that would have been collected if the lands were in private ownership and subject to taxation. This contention is not entirely new. Off and on since 1939 this matter has been studied, or referred to, by a number of government study commissions. These commissions have not, however, addressed the issue from a common starting point.

The 1939 and 1943 Federal Real Estate Boards conducted an inventory of Federal ownership of real estate and of its bearing on state and local taxation. The 1949 and 1955 Hoover Commissions looked at the functional organization of the executive branch. The 1955 Commission of Intergovernmental Relations reviewed Federal-State interrelations, and most recently, the 1970 Public Land Law Review Commission made recommendations concerning Federal lands policy. No matter what the genesis of the various studies,

each came up with a viewpoint or alternative that applied either directly or indirectly to the matter of payments in lieu or revenue sharing. The following then, is a brief listing of recommendations and findings presented by the above Study Commissions.

1939 Federal Real Estate Board

This Board, established January 14, 1939 by President Franklin D. Roosevelt, had a two-pronged goal. First, to make a comprehensive inventory of the Federal Government's investment in real estate and improvements, and second, to study and make recommendations regarding legislation that dealt with the subject of payments made by the Federal Government to states and their political subdivisions in lieu of taxes on the above inventories Federal Real Estate (12). A third smaller portion of the study briefly listed the recommendations.

The report included an extensive appendix supplement that ranged from strict real estate acreage figures to a tabular presentation of fair market value for the various agency holdings. Also included was a legal and legislative study that reviewed matters such as the legal basis of sovereign immunity and the laws that allowed for the taxation of real estate belonging to certain Federal agencies. This undertaking amounted to one of the first comprehensive

studies of the real estate inventory and the legal statutes that apply to Federal land holdings.

The 1939 report concluded by making the following recommendations:

1. In order to ascertain just what properties are surplus, an order is to be issued which will compel all branches of the service to declare their surplus land and improvements completely, accurately, and promptly. Only in this way will it be possible to find a prudent use for such properties or to offer them for sale.
2. A continuous record, based on the findings of the Board, should be maintained and updated periodically.
3. Another real estate study board should be established. The duty of the Board should be to study and make recommendations regarding the situation which exists in individual communities adversely affected by the purchase of substantial amounts of land, and the consequent removal of such land from the regular tax rolls of the county or other taxing district. . .(13).

The last recommendation then led to another Real Estate Board which was once again commissioned by President Franklin D. Roosevelt. The final Report of this Board was issued in 1943.

The 1943 Federal Real Estate Board

Rather than concentrating mainly on an inventory of Federal Real Estate, this Board sought to study, and made appropriate recommendations regarding the situation in different communities adversely affected by the loss of tax revenue on land purchased or

acquired by the Federal Government (14).

In carrying out the goals established by the President, the Board formulated eight general principles to be used in governing payments to states. These eight principles were couched in a division by class of Federal real estate. Thus, one principle dealt with the conservation and utilization of water resources--that is, rules applying to the Tennessee Valley Authority, Bureau of Reclamation, Bonneville Power Administration and Army Corps of Engineers. Another principle dealt with government office buildings and post offices. The principle of note here, in reference to the 1908 Revenue Act, falls under the heading of real estate used for land utilization and conservation projects. Consequently with respect to the Department of Agriculture lands under the above classification, the Board recommended:

" . . . a number of changes should be made in existing legislation (which provides for contributions based on receipts) in order to stabilize contributions, to apportion them on a more equitable basis and to provide for a maximum payment on lands acquired by purchase, donation, or exchange (as distinguished from those set aside from the public domain) in order to prevent local hardship during the period required to restore such lands to productive condition." (15)

Applying the above principles to the conservation lands the Board then set out to note the objections, as expressed by the agencies and interest groups, to the existing statutory act. The act here being

the 1908 Forest Revenue Act. Under the category of principle objections, the Board concluded that:

1. The revenue received by a county tended to fluctuate widely due to the variations in the timber sale business.
2. Distribution of revenues among the counties was inequitable in some cases.
3. The payments in general have not been wholly adequate to protect local tax payers from undue burdens.
4. Existing laws by which national forest stumpage is exchanged for private lands do not provide that they be covered into the Treasury as national forest revenues subject to the twenty-five percent payment.
5. Restricting the use of the contributions money to roads and schools may prevent the best use of the money in some cases.
6. There is some lack of consistency in the legislative provisions governing administrative details--calendar year as opposed to fiscal year basis (16).

In light of the above criticism, the Board sought by means of various recommendations, to stabilize contributions, to apportion them on a more equitable basis, and to put a floor under contributions with respect to acquired lands in order to prevent local hardship during the transition period.

In order to accomplish this the Board envisioned first a five year moving average of receipts. This was proposed so the payments could be predicted from one year to the next. Second, to answer the criticism of proper apportionment, the recommendations sought to

tie funds to the value of uncut timber remaining in a county. In other words, in each state, the timber twenty-five percent fund would be distributed to the counties (or equivalent units of government) in proportion to the value of the standing timber on reserved areas prior to any cutting which may have occurred during the last fiscal year. This proposal was simply a means to tie payments to the actual size of the area cut on a yearly basis. Further, the Board recommended that a minimum payment equal to a specified percentage of the purchase price of acquired forest land be paid to the county until the land reached full income yielding status.

Finally, the Board recommended that the revenue funds not be earmarked for roads and schools. The use of these contributions was to be for each state to determine in accordance with the needs of its own communities, subject only to the general restriction that the sum apportioned to each local unit be used in support of local government in that unit (17).

These recommendations concluded that portion of the report dealing with conservation lands under the Department of Agriculture. In sum there were eight separate policy groupings, dealing not only with the Department of Agriculture, but also with any agency, department, or military body that was mandated by Congress to make payments to states and localities.

It is interesting to note that Appendix 6 of the above study listed over forty separate pieces of legislation introduced in the Seventy-seventh Congress, 1941-1942, that related to revisions in taxation of or payment from, Federal real estate holdings.

The following are just two of the forty proposals:

S.3. Senator McCarran; January 6, 1941 (Committee on Agriculture and Forestry). To provide for the use of ten percent of the receipts from national forests for the making of range improvements within such forests.

S.257. Senator Hayden; January 8, 1941 (Committee on Public Lands and Surveys). To authorize the participation of states in certain revenues from national parks, national monuments, and other areas under the administrative jurisdiction of the National Park Service, and for other purposes. (18)

Proposals such as those above are noteworthy, in that slight variations on the same theme are still being presented in current Congressional sessions. In fact, S.9719, presently in the House of Representatives, includes a provision for payments to be made from National Park Service lands (see Appendix C).

The 1943 Federal Real Estate Board must have been content with the scope and exhaustiveness of its proposals, for contrary to form, it did not recommend further studies or the formation of a new Board to delve deeper into the problems. Nevertheless, the next Commission was not long in coming.

1949 Commission on Organization of Executive Branch of Government

The above Commission, better known as the First Hoover Commission, was legislated into existence by Public Law 162, approved July 7, 1947. Its prime purpose, as listed in the enacting legislation, was to review and make recommendations concerning the operation and organization of the executive functions and activities.

After a year and one-half of extensive study, the Commission issued its voluminous report. The report included a multitude of task force reports dealing with all aspects of executive branch reorganization. Of these many studies, two are of particular interest in this discussion. First, the task force report on natural resources, and second, the commission report on Federal-State relations.

Natural Resources Task Force Report. The report on natural resources had a primary recommendation that there should be established a Department of Natural Resources. This Department would then house the functions of the Bureau of Land Management, Forest Service, National Park Service, Water Development functions of the Army Corps of Engineers, and many other similarly related agencies (19).

As a further recommendation, the Committee proposed that the envisioned Forest and Range Service should take over and integrate

the programs and duties of the entire Forest Service, research functions in forest entomology and pathology in the Department of Agriculture, and all functions exercised by the Bureau of Land Management relating to land management (20).

If these alterations had taken place, then it seems likely that the vast array of revenue payment systems that were under the direction of the various agencies listed for consolidation would have received very close scrutiny. It would have been extremely difficult to consolidate the agencies and not the legislation.

An awareness of the payment in lieu legislative discrepancies between the BLM and the Forest Service was noted by the Commission:

The Forest Service and the Bureau of Land Management make different payments in lieu of taxes to state and local governments on forest lands. . . this has led local governments to be more favorable to the Bureau of Land Management and its administration. (21)

In studying executive reorganization, and agency consolidation, the commission was forced to address this problem of the diversity of the whole payment in lieu system. Of course, when a study is dealing with the restructuring of the whole executive branch of government, the problem of revenue payments and legislative discrepancies shrinks from an alternative to an issue.

In another recommendation the Commission rejected a proposal

to return public lands to state and private concerns. The Commission stated:

" . . . any proposal that these lands be relinquished to the states or to private owners directly or by way of the states should carry with it dependable assurance that they will receive coordinated and effective management in the public interest comparable to that the Federal Government is able to provide. In the view of the Committee this assurance is lacking." (22)

Thus, any hope of those who would have had the Federal lands returned to the local tax base was diminished by the above Commission statement.

The second report for consideration, offers only broad recommendations for the study of the problem of Federal tax immunity.

Commission Report on Federal-State Relations. This study report dealt primarily with matters of better Federal-State relations and the perceived importance of the grants-in-aid system. Grants-in-aid is a term used here to define a method of operation whereby funds derived from a tax levied and collected by one level of government are made available for expenditure and administration by another level, usually upon a matching basis, for some particular activity, and in accordance with definite and specific standards and requirements (23).

This preoccupation with grants-in-aids led the Commission,

in the final analysis, to issue broad recommendations. The system they reviewed was so fraught with inconsistencies and management overlaps, that the study group issued five recommendations. Two are of interest here and are presented as follows:

Recommendation Number 2:

We recommend that our tax systems--National, state and local--be generally revised and that, in this revision every possible effort be made to leave to the localities and the states adequate resources from which to raise revenue to meet the duties and responsibilities of local and state governments.

Recommendation Number 5:

We recommend, in order to accomplish all of these things in an adequate and orderly manner, that a continuing agency on Federal-State relations be created with primary responsibility for study, information, and guidance in the field of Federal-State relations. (24)

The Commission, realizing the whole problem of Federal grants-in-aids, and other forms of revenue return to the states and localities, recommended an ongoing agency to deal with such matters. In short, while the task force on natural resources was preaching a philosophy of consolidation and agency unification, the study group on Federal-State relations was espousing government proliferation--a new study agency. That agency or commission as it was called did materialize in the form of the Commission on Intergovernmental Relations. This brings up the next set of recommendations to be presented by a governmental study body.

1955 Commission on Intergovernmental Relations

This study commission was patterned after the First Hoover Commission and was created by Public Law 109 of July 10, 1953. Its scope of analysis was from issues of welfare and education to natural resources development and payments in lieu of taxes. It is these latter areas of study that are of concern here.

The Commission authorized one separate committee to study payments in lieu of taxes and shared revenues and another committee to study natural resources and conservation.

Committee Report on Payments in Lieu of Taxes and Shared Revenues. This committee of the Commission issued a fourteen chapter report that amounted to the most extensive analysis of revenue sharing and payments in lieu of its time. It analyzed each and every Federal agency that played any part in this matter. All major and minor revenue and payment programs were studied. This report was a most extensive and thorough presentation.

Under properties associated with shared revenues, this committee made the following recommendations for the National Forests.

"The Committee recommends that the present arrangements whereby the Federal Government shares revenues with states for the benefit of counties containing national forest lands be continued with the following modifications:

- a. The twenty-five percent fund should be based upon a centered moving five year average of income receipts from the particular national forest.
- b. Income receipts should include the value of national forest timber exchanged for private or state owned lands.
- c. The restriction upon local use of the Federal payments to expenditures for roads and schools should be eliminated.
- d. For national forest lands acquired hereafter or within the period of ten years immediately prior to the enactment of authorizing legislation, transitional payments in lieu of taxes on a declining basis should be paid to the states for the benefit of the counties where such lands are located." (25)

If these proposals seem familiar it is because they were previously presented by the 1943 Real Estate Board. This repetition of recommendations would seem to indicate the degree of viability of the programs. Even though at least five legislative proposals based on the 1943 recommendations were introduced that same year (see note 18), twelve years later the same offerings were being made. The alternatives had remained constant. Perhaps there was a need for further study. This seems to have been the feeling on the Inter-governmental Commission Study Committee on Natural Resources and Conservation, for they recommended:

"That the Congress establish a Federal lands commission charged with responsibility for studying the present situation and current trends with respect to Federal land ownership and administration of non-urban lands, and for recommending such legislation and other action as it finds

to be desirable in the interest of a constructive Federal land policy. Special attention should be given to the development of sound relations between the Federal and state governments in the matter of land ownership, including the important item of contributions to the support of local communities." (26)

This recommendation did eventually lead to the formation of a Federal Land Commission--the 1970 Public Land Law Review Commission. Before that time, however, other commissions and proposed legislative bills made pleas and recommendations for further study and reform.

1955 Commission on Organization of Executive Branch of Government

The Second Hoover Commission, as opposed to the first, dealt more extensively with the functional organization of the executive branch and with questions of policy than the first Commission.

The major difference between the method of operation of the two Commissions is that the first Commission concerned itself chiefly with reorganization of departments and agencies and their relations with each other. That Commission's proposals were directed to removing the roadblocks to more effective organization and the reduction of expenditures (27).

In short, the first Commission dealt with reorganization, inter-agency relationships, and reduction of expenditures. The second

Commission reported on policy.

Utilizing this new commentary on policy tool, the Committee on Real Property Management cut through the old issues and made a not-so-new recommendation.

Recommendation 11:

That the President appoint a committee from the Federal and state governments, and from forestry, agricultural, conservation, and mining interests, to make a study of Federal rural lands and laws affecting them, and to make recommendations for their improved management. That after a thorough study, a uniform policy for all agencies involved in control of Federal rural lands be developed.

(28)

If the recommendations for further study offered by the 1955 Commission on Intergovernmental Relations and the 1955 Second Hoover Commission were not sufficient to fill the nine year gap between them and the 1964 advent of the Public Land Law Review Commission, then proposed legislation was. For instance, one 1959, 86th Congress legislative proposal envisioned a Commission on Federal Contributions to State and Local Governments (29). The purpose of this Commission was to conduct a comprehensive study of the nature and effect of all previous enactments of the Congress providing for payment in lieu of taxes, revenue sharing, indirect benefits to counties, grants-in-aid, and finally to make recommendations for change. The bill was never reported out of the Senate. Such has been the fate of this type of legislation. Continuous study, formal

recommendations, draft legislation and further study. The latest attempt at this circuitous endeavor is no exception.

1970 Public Land Law Review Commission

This study was a far-reaching investigation, which began with the Commission's Organic Act of September 19, 1964 (30). The Commission's purpose was to review existing laws and make recommendations concerning public land legislation, agency policies, and future land use trends. In order to accomplish this Herculean task, the Commission spanned six years, spent \$7.4 million, and called upon the skills of various members of Congress, business and industry representatives, conservationists, university research and policy experts, and various consulting personnel. In all, the Commission produced thirty-three separate research manuscripts.

In the analysis of Federal revenue sharing and payments in lieu of taxes, the Review Commission contracted the background study and research to EBS Management Consultants. This firm in turn took the findings and methodology of the Commission on Intergovernmental Relations Study of 1955 and expanded it to four separate volumes. This four-volume study analyzed forty different Federal statutes providing for compensation to states and/or local governmental units through either revenue sharing or in lieu tax payments. Revenue

sharing ranged from five to ninety percent of the receipts received. This range included the flat twenty-five percent revenue sharing provision stipulated by the 1908 Forest Revenue Act. Also included in the analyses was a review of laws dealing with state-owned lands, as well as those of Canada and Australia. Intensive examination was also made of five states and fifty counties in nineteen states to assess the impact of Federal land ownership (31).

From this expansive compilation of baseline data and trend analysis, the PLLRC was able to generate three separate recommendations regarding the most desirable statutory orientation for Congressionally proposed revenue sharing or payment in lieu legislation. These advocations are briefly listed below:

Payments to Compensate for Tax Immunity

Recommendation 101: . . . therefore, the Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands.

Recommendation 102: . . . Payments in lieu of taxes should be made to state governments, . . . A public benefits discount of at least ten percent but not more than forty percent should be applied to payments made by the Government in order to give recognition to the intangible benefits that some public lands provide, while at the same time, recognizing the continuing burdens imposed on state and local governments through the increased use of public lands.

Recommendation 103: In a payments-in-lieu-of-taxes system a transition period should be provided for states and counties to adjust in changing from the existing system. (32)

The Commission felt that a payment in lieu system was more equitable than present revenue sharing arrangements, provided consideration was given for indirect benefits and perceived burdens.

Under the impetus generated by the six-year commission, a number of payment in lieu proposals were introduced in the Ninety-first, Ninety-second, and Ninety-third Congresses. At the present time no such proposals have reached the level of statutory recognition. As if on cue, the time-honored circular process is about to commence once again. That is, the Study Commission analysis-- recommendation generation--legislative proposal--study commission, orbital continuum, has come around for another review. The Forest Service has recently contracted with the Advisory Commission on Intergovernmental Relations to study the Federal payments to state and local governments stemming from the National Forest System (33). The only new wrinkle to be seen at first blush, appears to be the agency specific nature of the study. Hopefully, this approach will offer the needed "hard figures" that will translate the intangibles and indirect benefits into manageable concepts. Until that time, however, the old alternatives still remain.

Federal compensation for losses of local tax revenues due to the presence of public land holdings has been a long standing issue, as evidenced by the above discussion. The real issue is whether the

economic externalities of Federal landholdings bear greater costs than benefits for local government. The answers given to that question are often diametrically opposed, not unexpectedly divided by the different perspectives of Federal or local officials.

The following chapters are based on the findings, alternatives, and issues that have been spawned from the amalgamated endeavors of the various study commissions, interest groups, Congressional proposals, and expressed administrative and agency policy interpretations. The analysis will give dimension to the complexity of the problem and afford the basis for a discussion of a more recent alternative that may offer a means to break the seventy year circular pattern of inquiry.

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CHAPTER III
REVENUE SHARING--
A SURVEY OF ALTERNATIVES

Over the years, and in particular since 1940, many attempts have been made to rectify the payments-in-lieu and revenue sharing problem. Of the many policy issues involved in the proposals and attempts to make the Federal system of contributions in lieu of taxes a more viable instrument of public administration, the basic--if not the principle ones--are the question of the appropriate level of payments and the related question of the source of funds. What offsets, if any, should be used to compensate for direct and possible indirect benefits or burdens other than foregone taxes? And should the funds used by the Federal Government for payments be derived entirely from the receipts of the various resource programs or should payments also be made from the General Fund of the Treasury?

At the present time there is little or no reliance on the General Fund for Federal in lieu contributions. For that matter, some Forest Service activities, such as road construction on Federal land, that were traditionally funded by appropriated money are now increasingly financed through timber purchaser road credits. Table

1 on page 32 shows that new directions have been adopted by the Federal Government that encourage the financing of forest roads through money or credit, generated by on site activities.

As Table 1 shows, the emphasis on the source of "funding" and the way roads are constructed has drastically shifted. Virtually no roads are built now by road builders using direct contracts and appropriated funds (1).

Revenue sharing programs by definition are tied to revenues originating in the resource activities of land management agencies. Even under payments in lieu of taxes programs, the tendency, as is the case with forest roads, is to limit payments to the revenues or "credits" generated by resource activities on such lands. In light of the problems of the level of payments and the source of funds as mentioned at the beginning of this chapter, what are a few of the alternatives to the present program of revenue sharing?

Many alternatives to the present system have been proposed. Generally, the alternatives may be divided into the two broad categories of revenue sharing and payments in lieu of taxes. A number of these alternatives were developed by the Public Land Law Review Commission and its consultant on the matter, EBS Management Consultants. Others have been voiced over the years by interested parties in public hearings, in the literature, through the recommen-

TABLE 1

CAPSULE HISTORY OF THE CHANGES IN THE FINANCING
OF FOREST SERVICE ROADS 1967-1976

Program	1967	1972 millions \$	1976	% Change (greatest year)
Govt. Construction Approp. funds	\$52.5	\$110.5	\$11.9	- 91%
Timber Purchaser Credits (TBR. REV. RED.)	59.4	116.8	210.0	+ 253%
Supl. with approp. funds to secure higher stds. TBR. Purch. road	4.5	7.8	6.8	+ 51%
Total Timber Purch. Credit + Supl. (2+3)	63.9	124.6	216.8	+ 239%
Total Constr. Approp. and TBR. REV. RED. (1+4)	116.9	235.1	228.7	+ 95%
Percent of Road Cost by Approp. fund constr. (1+5)	44%	47%	5%	
Approp. funds used to design, engineer & supervise constr. of TBR. purch. roads	20.4	23.4	93.4	+ 357%
Total road constr. + Eng. program	136.8	258.5	322.1	+ 135%

Source: Robert E. Wolf, s.364 Timber Purchaser Credits, Forest Service Roads Built by Timber Purchasers (Congressional Research Service, 1975), pp. 2-3.

dations of various study commissions, and also through agency and departmental proposals. Still others have been expressed by students of state and local government finance. It is noted that these two divisions are not at once separate and distinct. Select legislative proposals (2) have suggested an option system whereby a state or local government may elect to receive a sum of money computed under the terms of either a program of payments in lieu--a flat sum per acre, or the traditional revenue sharing method. At any rate, the current discussion focuses primarily on the broad alternatives offered by revenue sharing and the next chapter addresses the alternatives offered by the payment in lieu system.

Revenue Sharing Systems

From the standpoint of the national forest system, revenue sharing has certain advantages as contrasted with payments in lieu of taxes. The first two are from an administrative position and the third deals with the passage of time. The three principal ones are simplicity of administration, low cost, and the anchorage of the method in time. Insofar as administration is concerned, revenue sharing payments may be calculated more or less automatically subject to the percentage rate factor and the proportion of forest land within the county. There is little cost associated with most

revenue sharing proposals because in many instances, no appraisal of national forest land is involved. Also by applying the multiplication factor and acreage data to already existent, computerized data, the results are readily enumerated: the time factor is not easily overlooked. With the passage of time more elements append themselves to the framework. New programs are patterned after past legislation (3), long-term interests are promulgated, and avenues of access are nurtured.

A Central Fund for Net Revenue Sharing

This system would distribute, from a central fund, net revenues from market oriented resource programs--such as timber, grazing, and minerals--to state and/or local governments after the costs of such programs were covered (4). Distribution would be based on the proportionate relationship that the market values of national forest acreage in a particular state bore to the market value of all national forest acreage. This system is dependant on a distinction between market and non-market programs on Federal lands and thus would tend to apply cost and revenue controls to the management of market programs to the extent that this is not now done. From 1966 data developed by the Public Land Law Review Commission consultant, it appears that this system's primary impact would be on the South and

West--substantial payment increased to many of the western states (Wyoming and New Mexico would suffer large decreases, however.) and substantial losses to most of the southern states. The consultant estimated that this system would nearly triple the volume of payments nationwide (5).

Slight Alteration of the Current Revenue Sharing System

This method uses the present revenue sharing system but increases the percentage of gross receipts that are distributed to fifty percent or some higher proportion of gross revenue (6). From available evidence, it appears that the original decision to distribute twenty-five percent of gross national forest program receipts was essentially arbitrary--probably because of the absence of relevant economic data at that time upon which to base more precise determinations of the financial loss occasioned by tax exempt Federal lands. The shortcoming of this proposal is that the individual payments would still not be tied to any measure of foregone tax revenue.

Estimated Property Tax Loss

This approach is a variation on the above alternative. Distribution of available funds would be made to the counties in the same proportions that exist between their individual foregone taxes and the

total of foregone taxes. The Public Land Law Review Commission consultant estimated effects of such a system (7). Most southern states, and Wyoming and New Mexico, would appear to suffer large decreases in payments and most western states large increases. Based on an increased distribution to fifty percent of gross receipts, total national payments would double.

Moving Average Distribution Formula

This is a revenue sharing system from gross national forest receipts based on a moving average distribution formula instead of current revenue distribution. At the county level, government officials are concerned about fluctuations in payments and the corresponding difficulties imposed on financial planning. The Public Land Law Review Commission consultant found a number of instances where a fluctuation in forest fund receipts between two consecutive years represented a large percentage of the previous year's receipts (8). A moving average payments system would reduce the current year's receipts from their full potential in those programs with an upward trend and initially increase them for declining programs. In the past, various positional statements have been offered in support of this method (9).

Per Acre or Minimum Payment Approach

Under this approach fixed, across-the-board, annual payments are made to each county of so much per acre for public land acreage in that county. Payments range from ten cents to seventy-five cents per acre (10). Appendix B summarizes the draft legislation of H.R. 9719 as reported by the House Interior Subcommittee on Energy and Environment. At ten cents per acre, most states would experience a decrease in payments, with larger declines in most western states. Table 2 shows the 1975 fiscal year per acre return to counties under provisions of the 1908 Revenue Sharing Act, the 1910 New Mexico and Arizona Enabling Act, and the 1948 Act establishing the Boundary Waters Canoe Area within the Superior National Forest of Minnesota.

On the other hand, utilizing the seventy-five cent per acre option offered by H.R. 9719, the National Association of Counties projects substantial increases for virtually every county in the United States. Appendix D has been extracted from the NACo county by county analysis for the United States. As this example shows, only two of the fifty-six Montana counties would experience no increase. The total Federal outlay for this type of revenue sharing would amount to roughly \$125 million per year (11). For the purpose of comparison, Table 3 shows the amounts for 1975 being received by each state under the 1908 Revenue Sharing Act. The payment

difference between the twenty-five percent fund and the seventy-five cents per acre proposal amounts to an increased expenditure of approximately \$130 million per year at current revenue levels.

Land and Water Conservation Fund Method

This proposal would substitute the Land and Water Conservation Fund (12) distribution formula for the existing revenue sharing program, using fifty percent of gross revenues. Under the present system counties receive twenty-five percent of net proceeds from timber sales or about twelve percent of the gross, according to NACo (13).

This system and a similar variation offered by Seastone (14) would distribute a proportion of the gross revenues as follows:

- a. forty percent to all states,
- b. forty percent prorated to states on the basis of population,
- c. ten percent prorated to states on the basis of Federal resources and programs,
- d. five percent prorated state-reported figures for out-of-state visitor use,
- e. five percent to a reserve fund to meet unforeseen needs of the states.

The Public Land Law Review Commission consultant estimated that eight states (all in the West) would lose revenues, most of them substantial amounts. The southern states would experience significant

TABLE 2

U.S. FOREST SERVICE STATE PER ACRE RETURNS
FOR FISCAL YEAR 1975 UNDER THE PROVISIONS OF
THREE SEPARATE REVENUE SHARING ACTS

	Act of 5/23/08	Act of 6/20/10	Act of 6/22/48
Alabama	.35		
Alaska	.05		
Arizona	.12	.01	
Arkansas	.38		
California	.85		
Colorado	.06		
Florida	.65		
Georgia	.30		
Idaho	.19		
Illinois	.09		
Indiana	.15		
Kentucky	.16		
Louisiana	2.10		
Maine	.18		
Michigan	.10		
Minnesota	.23		.18
Mississippi	1.37		
Missouri	1.21		
Montana	.16		
Nebraska	.11		
Nevada	.03		
New Hampshire	.19		
New Mexico	.07	.00	
North Carolina	.20		
North Dakota	(756 acres--no receipts)		
Ohio	.20		
Oklahoma	.49		
Oregon	2.27		
Pennsylvania	.66		
South Carolina	1.60		
South Dakota	.04		
Tennessee	.15		
Texas	.83		

TABLE 2 (Continued)

	Act of 5/23/08	Act of 6/20/10	Act of 6/22/48
Utah	.04		
Vermont	.19		
Virginia	.06		
Washington	1.42		
West Virginia	.12		
Wisconsin	.10		
Wyoming	.04		
Puerto Rico	.08		

Source: U.S. Department of Agriculture, Forest Service, Informational Release, 1975.

gains--North Carolina, for instance, as estimated by the consultant, would have received in 1966 a twelve-fold increase, from approximately \$300 thousand dollars to more than \$3.6 million dollars.

Gross Receipts Including Knutson-Vandenberg
Funds and Road Credits

This proposed alternative would distribute receipts in the national forest fund on the basis of full timber value--including Knutson-Vandenberg collections, and timber access road and slash removal costs (15). Distribution could be made as at present, or under one of the other allocation formulas previously discussed. Although gross receipts are, in fact, presently used for the purpose

TABLE 3

FISCAL YEAR 1975 PAYMENTS TO STATES --
 NATIONAL FOREST TWENTY-FIVE PERCENT FUND

State	Amount of Check	State	Amount of Check
Alabama	\$ 226,597.07	New Mexico	\$ 668,960.00
Alaska	1,046,078.10	North Carolina	233,104.21
Arizona	1,368,786.80	Ohio	32,274.14
Arkansas	944,255.30	Oklahoma	120,068.72
California	17,194,565.20	Oregon	34,091,369.64
Colorado	858,806.16	Pennsylvania	333,728.82
Florida	705,411.65	Puerto Rico	2,227.85
Georgia	255,100.78	South Carolina	972,924.86
Idaho	3,872,893.57	South Dakota	50,448.23
Illinois	24,151.68	Tennessee	94,353.48
Indiana	26,613.64	Texas	551,401.60
Kentucky	102,977.42	Utah	322,816.50
Louisiana	1,198,608.05	Vermont	48,244.02
Maine	8,805.14	Virginia	90,994.32
Michigan	271,640.21	Washington	15,114,511.72
Minnesota	466,640.81	West Virginia	111,039.68
Mississippi	1,553,809.91	Wisconsin	144,806.86
Missouri	1,737,592.96	Wyoming	367,508.05
Montana	2,617,658.23		
Nebraska	29,290.73		
Nevada	137,696.82		
New Hampshire	131,010.11		

Source: U. S. Department of Agriculture, Forest Service,
 Informational Release USDA 2565-75.

of calculating the amount of revenue to be shared, there are several administrative practices that affect the actual amount of receipts available for distribution. Some purchasers of national forest timber incur expenses for road building and slash removal as a condition of purchase. The costs associated with meeting these conditions, reduce the minimum acceptable sale price of the timber as well as actual bid prices, and hence the cash receipts collected (16). Likewise, the funds collected from timber purchasers for capital improvements on the national forests, under the terms of the Knutson-Vandenberg Act, are set aside in a special fund and not shared with the states and counties. During the ten years ending in 1963, Knutson-Vandenberg collections amounted to 10.5 percent of the revenue sharing payments. Knutson-Vandenberg collections tripled during the 1954-63 decade. According to George Tourtillott's 1964 Forest Service Analysis (17), it appeared at that time that the counties that would have gained the most from the addition of Knutson-Vandenberg funds into gross receipts needed it the least. Regions 1, 5, 6 and 8 of the Forest Service were already making heavy per acre payments in their respective states. He concluded that many states in the other regions would not be materially aided by the addition of twenty-five percent of the Knutson-Vandenberg collections to their payments. The situation appears to be much the same today.

Simply adding the earned Knutson-Vandenberg collections into gross receipts does not seem to be an equitable solution. Such reductions could lead to deteriorated stands, or reduction in future productivity which, in effect, would accumulate social costs, an action which again is difficult to view as being in the public interest (18).

Such inclusion could mean a reduction in the total Knutson-Vandenberg program--with reforestation and timber stand improvement on the national forest lands becoming even more dependent on appropriated funds (as mentioned in Table 1), select appropriated funds for resource activities seem to be on the decline.

Population Factors Approach

Under the terms of this formula distribution of shared revenues would be on the basis of state population. Appendix C shows an example of what recent legislation has proposed in this regard (19). H.R. 9719 incorporates a per capita limitation that prevents any county with a low population and large acreage from receiving a "windfall" payment that would exceed property tax equivalency. This is not to infer that the legislation is a strict revenue sharing proposal, it is not. On the contrary, it offers elements of both revenue sharing and payments in lieu and is mentioned here only to

point out the means whereby population may be used to weight the payment. Table 4 gives an example of how this system would be employed in order to compute the payment for a hypothetical county using the provisions of H.R. 9719, Section 2(b)(2).

This chapter is by no means an exhaustive survey of the various revenue sharing alternatives. An attempt has been made to point up the array of possibilities in a generalized manner. The next chapter seeks to cover the matter of the payments in lieu using the same method of presentation.

TABLE 4

H.R. 9719--EXAMPLE OF THE PROPOSED
POPULATION WEIGHTING METHODOLOGY

No local government entity would receive credit for more than 100,000 population, thereby establishing an upper limit for new payments under this Act of two million dollars.

Example

An example of how this formula would work is best illustrated by using a hypothetical county with the following statistics:

National Forest	3,200,000 acres
Population	50,000
Present payments to county	\$1,600,000

First Alternative: The number of acres of entitlement land is multiplied by 75¢. $75¢ \times 3,200,000 \text{ acres} = \$2,400,000$.

This amount, however, is subject to a ceiling based on per capita population (see above table).

$$\text{\$20 per capita} \times 50,000 \text{ population} = \text{\$1,000,000}$$

(So 75¢ per acre is subject to a ceiling of \$1,000,000.)

Next, existing payments are subtracted from the above computed figure:

	\$1,000,000
- (existing payments)	<u>1,600,000</u>
	0

Since the payment determined by the alternative is less than the second alternative of 10¢ per acre, the county would receive 10¢ per acre (also subject to the population ceiling):

$$10¢ \times 3,200,000 \text{ acres} = \text{\$320,000}$$

The \$320,000 figure is less than \$1 million limit set by the population ceiling and is therefore, the amount the county would receive.

Source: National Association of Counties, Informational Release, 1976.

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CHAPTER IV

PAYMENTS IN LIEU OF TAXATION

Before examining the alternatives afforded by various in lieu systems, it is well to note the more recent attention which this matter has received. At this time, Congressional committees (1) and the Forest Service (2) are giving their nearly perennial consideration to recommendations that county governments be compensated annually in lieu of taxes in an amount fairly equivalent to the assessed taxes if the lands were privately owned. Most recent Congressional proposals have sought to provide for cooperative appraisal of the values of Federal lands and return to each county (by distribution through the states) a sum equal to the amount of taxes due from the public lands located within the county (3). However, in view of past national concern, the likelihood of reform legislation emerging from the House Intergovernmental Relations Subcommittee for Enactment is minimal (4).

The roots of these in lieu of tax payment proposals are from recommendations made in 1970 by the Public Land Law Review Commission (5). That legislative study body rejected earlier notions that

the secondary economic returns, the in-kind services, and national forest revenue shares of twenty-five percent of their receipts to local governments reimbursed counties for tax losses (6). As awareness dawned of the discrepancy between local needs and Federal returns, more observers in the 1950's and 1960's began to suggest local losses of potential tax receipts were largely offset by Federal payments-in-kind such as fire protection, law enforcement and continuous commercial revenues (8).

The Public Land Law Review Commission recommended (9) that in fairness to localities where national interest dictates that lands be retained in Federal ownership, it is the obligation of the Federal government to spread the burden of cost among all the public rather than to allow it to be borne heaviest by the local governments in whose area the public lands are located. To compensate state and local governments for the tax immunity of Federal lands, the PLLRC advised a system of payments in lieu of taxes instead of a program of revenue sharing. Revenue shares--as implemented by the Forest Service--have no certain relationship to the burdens placed on the local governments by the Federal lands. Payments in lieu of taxes, however, would ideally provide compensation in relation to the actual burden borne by the local government.

Public Benefits Approach

Recognizing that public lands do provide certain benefits to localities, the commission advised that payments not attempt to provide full equivalency to the total appraised property tax values, as if the land was in private ownership. Rather, a public benefit discount of from ten to forty percent on the full tax equivalency should be applied to the Federal payments in order to deduct for the direct and indirect benefits received by local governments from the public lands. This compensatory program would cover all Federal lands--including those such as national parks now without any form of local revenue sharing system. This program is not hinged on any "threshold" size of public landholdings in a particular locality, any prescribed uniform treatment, recognition of extraordinary burdens and benefits, and no restrictions are placed on local use of Federal payments (unlike the current restrictions on national forest revenue shares for use on education or roads). Total Federal costs for the payments were considered uncertain but likely upwards from \$190 million annually (in comparison to \$93 million paid in 1966 in revenue sharing from public lands) (10).

The PLLRC chose the in lieu of tax payment system over the alternatives of revenue sharing or a combined system where payments

in lieu of taxes are based on revenues derived from resource activities. The commission also rejected contentions that unique benefits accrue to affected local governments because of Federal land ownership and the associated argument that these benefits obviate the need for any compensatory payment (11).

Full Tax Equivalency--No Limitations

This method would provide full tax equivalency payments, based on locally assessed values of national forest lands and prevailing local millage rates. This is essentially the substance of S.1285 (12). S.1285 (see Appendix E) is a representative example of a current full tax equivalency proposal. Under this system it would be extremely difficult to determine with any degree of accuracy the cost of such a program, on a nationwide basis, in advance (13). This is because in most instances, only rough, imprecise valuations are available for national forest acreage--accurate, locally appraised values are few. It is very likely that the cost would markedly exceed that of the present revenue sharing program. There are also other cost considerations involved with tax equivalent payments. Public lands would have to be initially appraised and then periodically reappraised at subsequent intervals. Federal employees would doubtless need to devote substantial effort to furnishing basic data and giving testimony before

valuation boards and boards of appeal.

The following alternatives discuss various modifications to the basic premise of direct, full tax equivalent payments as outlined above. In many instances, two or more of these modifications could be combined into a single program. In essence, it should be remembered that these options are all based on full tax equivalency.

Full Equivalency--Total Payment Limited to Net Revenues

Utilizing this system full equivalency payments would be made but with the total limited to the national total of net revenues from national forest resource programs. If total net revenues are not sufficient for full reimbursement of foregone taxes, counties would receive payments based on the proportionate relationship of their national forest assessed value to the total of all national forest assessed values.

Full Equivalency--Payment Based On
A Percentage of the Total Land Acreage

Full equivalency payments using the threshold concept: payments would be made only if national forest land represents more than some stated percentage of the total land acreage in a particular county or other local jurisdiction. It would be extremely difficult to

equitably implement this concept for two reasons: 1) the extremely variable conditions of local finance that exist among the various counties, making it virtually impossible to arrive at a logical, uniform basis for establishing a minimum percentage of land; and 2) the pattern of concentration of national forest land.

Another variation on this theme has been espoused by some in public hearings. This proposal would establish an upper limit to the percentage of Federal lands within a state (14). In this particular instance thirty-three percent was cited as an equitable figure, with any land in excess of this allowance being relinquished by the Federal government to the state.

Full Equivalency--Indirect Benefits Approach

Full equivalency payments under this system are reduced for either measurable or immeasurable public benefits, which may accrue to local communities. A number of direct and indirect benefits are theoretically received by local governments from the national forests. Among others these include fire protection; use of roads, lands, and other facilities and resources; and the availability of Federal employees to provide expertise in certain instances (15).

In short, the Forest Service contends that any consideration of local compensation should account for Federal capital investments

in roads, trails, recreation areas and structures, and the costs of providing fire protection, law enforcement, public hunting, fishing and other recreation. Credit is given for the employment generated by the Forest Service. Some would also include summer homes and subdivisions attracted along the boundaries of public lands as a benefit, but this assumption is highly dubious because of the secondary nature of the Federal influence and the doubt of the long-range benefit to the localities. The Forest Service contends that while some counties may suffer economic hardships from total Federal land ownership, local officials do not appreciate the full range of Federal benefits. In their view, Federal supplemental funding to counties with Federal land ownership is perhaps justified, but only after complete study of local conditions on a case-by-case basis.

The Forest Service has had formal analyses made of the revenue sharing in lieu of tax issue in 1952 (16), 1962 (17) and 1975 to 1976 (18) (results from the latest study are unavailable). The Williams study (1962) concluded, after evaluating sample counties, that estimated taxes on equivalent lands in private ownership exceeded the twenty-five percent fund payments in all regions except the South where potential taxes were seventy-four percent of NFS payments. And for all regions, contributions in kind (i.e., fire control, roads, trails, building construction and maintenance) in combination with the

twenty-five percent payments far exceed equivalent property tax values. Figure 1 (19) illustrates William's values for 1952 and 1962. Further, Williams credited (but did not quantify) the national forests with other economic, social and recreational benefits to local governments.

If we accept William's valuations as accurate and factual, the question becomes whether equivalent local taxes for lands in the intervening years outstrips the compensatory Federal payments plus these contributions-in-kind. Such benefits cannot be calculated with any degree of precision, and their availability differs widely from one locality to another. Also if the benefits argument is accepted then the concomitant discounts would vary from tract to tract with big differentials resulting--particularly if the ten to forty percent range recommended by the Public Land Law Review Commission were to be adopted. Such a broad range could well encourage widespread use of appeals procedures, requiring considerable time and effort on the part of all concerned.

Full Equivalency--Extraordinary Benefits and Burdens

Full equivalency payments under this alternative would be adjusted for extraordinary benefits and burdens. From time to time certain noncontinuing extraordinary benefits may be obtained, or burdens imposed, as a result of Federal ownership of public lands.

Figure 1. Estimated Taxes, Twenty-Five Percent Fund Payments, and Specific Contributions In-kind. (19)

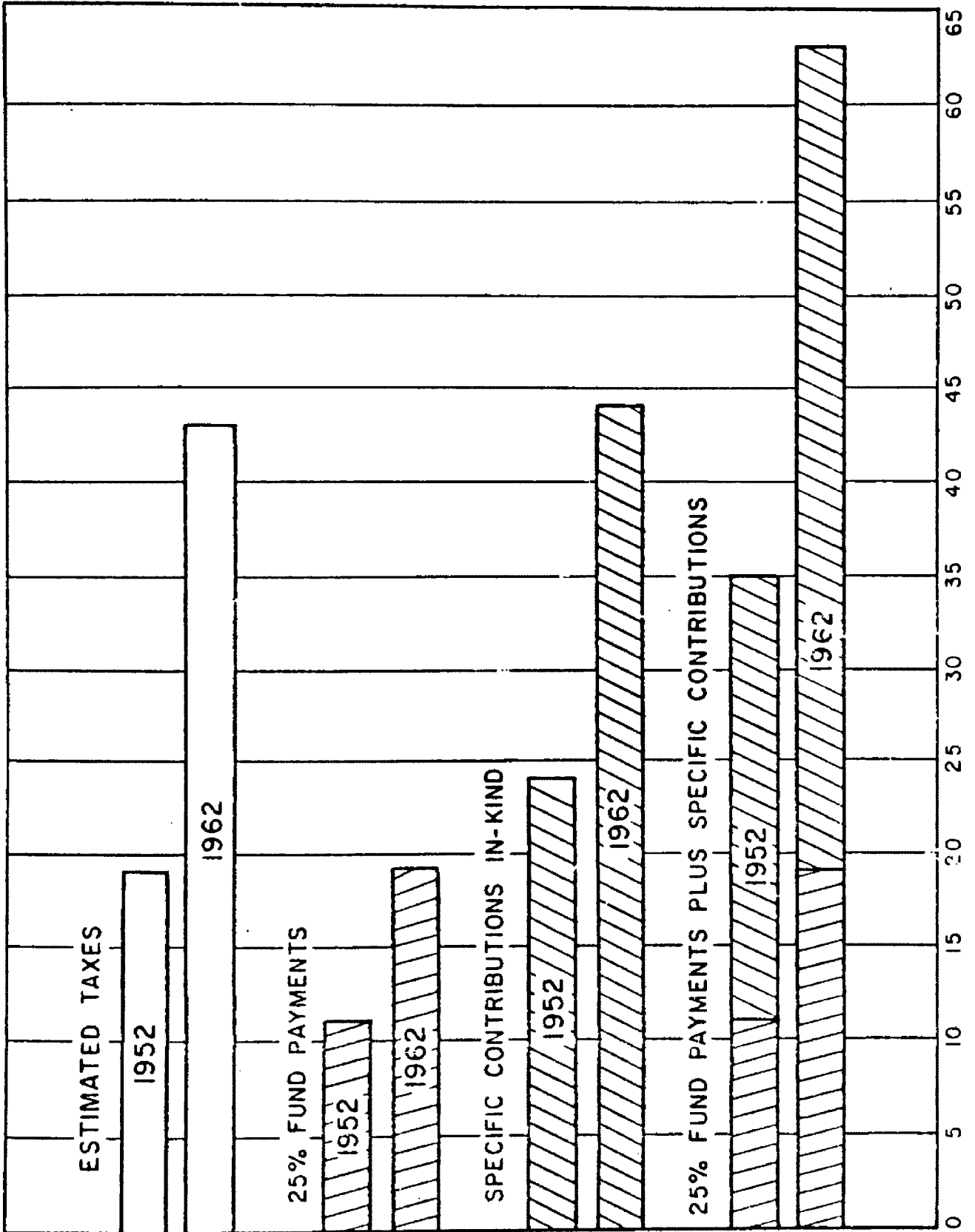


TABLE 5

1962 EVALUATION OF NFS REVENUE SHARING (20)

Nationwide	Dollars (million)	Cents per Acre	
	1962	1952	1962
Estimated Property Tax (calendar year)	68.8	19	43
25 Percent Fund payment (fiscal year)	30.3	11	19
Contributions in-kind (fiscal year)	70.0	24	44

The costs of these would be agreed on by separate negotiation and separate payments or discounts would be arranged. Such payments and discounts would appear to be a necessary part of an in lieu payment system. Again, this arrangement could require considerable expenditure of time and effort and could also very easily cause local dissatisfaction and controversy.

Full Equivalency--Improvements

This variation of equivalency payments is based on valuations which include the assessment of improvements on Federal lands. Improvements may be of two types--those made or held by private users (possessory interests) and those made or held by the Federal government (21). There is nothing in Federal Law to preclude the

taxation of possessory interests in Federal lands. Thus, in the absence of state law to the contrary, state and local governments can and do tax such interests as mining improvements, grazing permits, and recreational and commercial leases on Federal lands. On the other hand, improvements made by the Federal government are usually for the purpose of furnishing services to the area. For these reasons it would not seem warranted to include improvements in the tax base for payments in lieu of taxes.

Full Equivalency--Tax Effort

Full equivalency payments are again made here but reduced in proportion to the amounts that state and/or local governments fall below the national average as respects to "tax effort." The tax effort criterion is one that has been developed by the Advisory Commission (22). Tax effort is based on a calculation of per capita state and local taxes from all sources expressed as a percentage of state per capita personal income. The percentage is then compared with the national average. This limitation would protect the Federal government from efforts by state and local governments to shift the tax burden disproportionately to Federal taxpayers. However, there would undoubtedly be many practical problems in implementing such a proposal due to the diversity of the state income tax plans and

provisions such as the sales tax in many states .

This concludes the generalized discussion of some of the revenue sharing and payment in lieu of taxes alternatives . There have been many such proposals and those mentioned only serve to vaguely construct parameters for the following presentation of those issues that permeate and diffuse through many of the alternatives .

The next chapter looks at some of the more salient issues that have attached themselves to the effort of establishing an equitable program of revenue sharing or payment in lieu of taxes by the Federal government .

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CHAPTER V
REVENUE SHARING AND PAYMENTS IN LIEU--
ASSOCIATED ISSUES

It is difficult to determine whether various revenue sharing and payment in lieu of tax alternatives generate of themselves, associated issues, or if an amalgamation of issues produces the array of alternatives. At any rate, the discussion now turns to a sampling of the more salient questions that relate to the problem of a diminished county tax base resulting from Federal land ownership.

Indirect Benefits and Contributions In Kind

The indirect benefits approach which has been championed by the Forest Service over the years, contends that secondary benefits accrue to the local and state governments as a result of Federal land holdings. The position espoused here is that such activities as range revegetation and maintenance of a permanent grass cover on formerly depleted, drought stricken and misused land represents a significant benefit not only to stockmen but also to local economies.

It is also held that economic gains result from hunting, fishing

and other recreational uses upon lands which may represent the only available local areas open to the public for such purposes. Social values can accrue from recreational use by residents of the region and by visitors from a distance including the heavily populated eastern states. In addition, the assurance of a permanent raw material supply for the timber based industries in local areas represents another benefit. Finally reforestation, protection of the forest resource from fire and pests, and timber management, including regulation of cut, are defended in conjunction with social benefits of the national forests, related primarily to watershed and recreational values (1).

The crux of this issue, then, becomes whether or not the Federal payments to state and local governments should fully compensate these units of government for the tax immunity of the Federal lands in light of this indirect benefit argument. The Public Land Law Review Commission recommended a public benefit plan whereby a deduction of not less than ten percent, nor more than forty percent of the full tax equivalency was to be made (2).

This plan does consider the secondary benefits but it leads to other problems that may further cloud the issue. These problems, to be discussed later, concern the methods used to place a valuation on the Federal lands and the associated costs of implementing an

assessment of these lands .

In addition, some have attacked the primary argument behind a few Federal indirect benefits . This counter viewpoint contends that giving consideration to benefits is not objectionable when this is interpreted as meaning direct benefits, such as payment of all delinquent taxes as a prerequisite to vesting title in the Federal government, benefits to a given region from soil and water conservation practices, and maintenance of roads and trails . The objection is to include as offsetting benefits to Federal ownership and use of real estate, general Federal grants-in-aid or such factors as increased employment, larger payrolls, and larger collections from sales and income taxes . On the basis of the latter arguments, any businessman who opens up a new store or factory or mine should also be entitled to claim offsetting benefits against his tax bills . The indirect-benefits argument is valid as far as any unit of government, particularly a state, uses sales and personal income taxes to finance its services, but it breaks down with reference to property taxes and business taxes, based on franchise values and corporate income (3).

This argument is limited in that only some indirect benefits such as increased employment, larger revenue production, more income, and grants-in-aid are mentioned . Nevertheless, it does

point up the two-sided nature of the public benefits approach, both the public and private sectors may generate benefits. Quantification and equitable assessment of these benefits clearly is the major challenge of this issue.

Inclusion of Knutson-Vandenberg Funds

The Knutson-Vandenberg Act (4) provided the Forest Service with a means to intensify its ever expanding forest management program. This Act authorized the Secretary of Agriculture first to establish forest tree nurseries, and second to appropriate money to operate these nurseries, to collect or to purchase tree seed or young trees and to seed cutover National Forest areas. As a third point, the legislation required any purchaser of National Forest timber to make deposits to cover the cost of planting, seeding, or other timber stand improvement treatments in order to improve the future stand of timber.

Very little use of the authority under the K-V act was made during the thirties. However, during World War II the tempo of fund collections increased but little work was done because of manpower shortages. In contrast, the post war years showed a marked increase in collections and expenditures of K-V funds. The collection for the five year period of 1946-1950 showed more than a threefold

increase over the entire preceding fifteen year period. Expenditures were nearly eight-fold and have increased ever since (5).

The increase in timber sales following World War II coupled with the ever increasing costs of local and state government operations brought the K-V fund into closer scrutiny. Two opposing forces produced a dilemma. The Forest Service under pressure from the General Accounting Office, was encouraged to elevate the K-V collections to a high enough level to satisfactorily maintain the timber stand improvement program. On the other hand, county officials sought to minimize the K-V deductions in order to establish a larger monetary base upon which to calculate the twenty-five percent payment.

Many of the Forest Service Regions are very much aware of these pressures. Increased cut over acreage, higher costs, high priority reforestation work, and depressed lumber prices all tend to overshadow the increased collections being taken by virtue of larger volumes and higher percentiles (6).

There is little argument, on either side, that forests, once cut should be regenerated to optimum silvicultural, aesthetic, and economic capacity as soon as possible. Also, over the years, the K-V fund has proved to be a satisfactory vehicle for achieving these goals. The questions that emerge from this consensus are whether

or not the counties generally would benefit more from the inclusion of the K-V collections in the gross receipts, and if so would such a policy endanger the effectiveness of the present reforestation system. According to Tourtillatt's in-service 1964 analysis (7) it appeared that the counties that would have gained the most from the addition of the K-V funds into gross receipts needed it the least. He concluded that many states in the other regions would not be materially aided by the addition of twenty-five percent of K-V collections to their payments.

Looking at this matter from the Federal Treasury's viewpoint, it is open to question whether a reduction in payment to the general fund of the Treasury by twenty-five percent of the K-V collections would cause the Office of Management and Budget to recommend a like reduction in the total K-V Fund. Nevertheless, it seems likely that this monetary differential would have to be made up somewhere, most probably through appropriated funds. This latter alternative is open to considerable speculation. Furthermore, if counties are really this hard up for revenue, why not tax post offices, highways, schools, hospitals, and even county courthouses (8).

In sum, there may be more worthwhile ways to boost the revenue sharing or payment in lieu contributions than by seeking to derive funds from K-V monies. After all, these are improvement

investments, "in-out" calculations of appraisals; and a reduction in these items would reduce the investment in public services (9).

Annual Fluctuations in the Revenue Sharing Payments

Due to the inherent nature of revenue sharing, the resultant percentage contributions to state and local governments may fluctuate from one year to the next. This oscillating income source has been somewhat disconcerting to the recipients. Long-range planning, employment ceilings, and non-essential or reserve programs such as the remodeling of administrative buildings, city-county park development and select transportation system planning must remain as contingency options.

In an effort to rectify this situation, the Advisory Commission on Intergovernmental Relations offered a program which was designed to stabilize the payment (10). This time honored approach is espoused as strongly today as it was twenty years ago even though the concept was never implemented.

This particular plan recommended that the twenty-five percent fund be computed on a five year average of income receipts instead of upon the present annual basis. More specifically, the plan called for a five year "centered" moving average which included a provisional payment and an adjustment two years later.

For example, as a provisional payment each county would receive twenty-five percent of gross receipts averaged over the years 1971, 1972, 1973, 1974 and 1975. This average is called the provisional average for 1975. Two years later this provisional average may be altered to reflect a five year average of gross receipts centered around 1975. To illustrate, the year 1975 then becomes, after two years, the midpoint of the time span 1973, 1974, 1975, 1976 and 1977. Comparison of the centered average and the provisional average for 1975 will then indicate whether an additional payment is due the county for that year or whether there has been an overpayment.

Such a program as outlined above is good in that it complements and is easily incorporated into the existing system of revenue sharing. It also equitably solves the problem of a predictable source of income for the state and local governments. Nevertheless, as if frequently happens with many fine incremental improvements to existent legislation, the good alternative becomes incorporated in some larger body of proposals. The complete package is then drafted in the form of new legislative recommendations and the whole bill is subject to acceptance or denial. Legislative amendments are one possible avenue of approach for some degree of legislative change, but usually the situation must be grave before the lawmakers will expend their limited time in consideration of the alternative. Stability of income

for local government has never reached the level of a grave consideration. Therefore, it still remains one of the complementary issues, that in conjunction with other issues, unite to serve as a means to focus in on the larger consideration of Federal tax immunity. It becomes one piece of an additive puzzle that has been taking shape for seventy years.

The Pass Through Consideration--
What Level of Government Should Receive the Payment

The 1908 Revenue Act directs that the twenty-five percent revenue payments are to be made "to the state in which such national forest is situated, to be expended as the state legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated."

The 1908 Act, in other words, declares that the state must function as the pass through mechanism for the funds. This element of law allows the state, then, to establish the education/road system payment ratio and the use of the funds within each of these categories. The proviso is that the revenue producing county be the recipient of the benefits.

By way of contrast, other revenue sharing acts which are loosely based on the 1908 Revenue Act, provide for differing means of distribution. Of the major statutes on the books, some of them,

such as the Mineral Leasing Act, give thirty-seven and one-half percent of the revenues directly to the state. The state can do what it wishes. In the Bankhead-Jones Act, twenty-five percent of the revenues go to the counties in which the land is located. In the Mineral Leasing Act, under acquired land, is a provision that says it goes to state or counties, depending upon applicable state statutes (11).

This differing method of distribution only serves to confuse the matter. As is the case, with the other issues, efforts have been made to unify the various provisions. If payment systems are to be changed, a decision must be made regarding the "pass through," irrespective of the kinds of programs used or the level of payments made. In the Public Land Law Review Commission study, all states examined were found to have an additional burden--in the form of payments to counties in which public lands played a less important role. This is due largely to state equalization programs. The 1908 Revenue Act provisions, mentioned above, direct that the revenue benefits return to the county generating the revenues, or in the case of payments in lieu to the counties where the Federal land is located. This procedure tends to produce an uneven distribution of payments, not necessarily related to the loss of taxes experienced by specific states and counties. A few counties in the Public Land Law Review

Commission study even appeared to be compensated in an amount greater than they would receive if the lands were subject to property taxation.

In view of the recent attempts at the state level regarding reapportionment, property tax reappraisal and equalization it seems that the county and state governments are forming equitable checks on one another. In sum, it would seem that a recommendation that all payments be made to state governments for distribution to those local units of government, where Federal lands are located, for the use by the county for general purposes, would have merit. In this way, the various counties that provide the law enforcement, road maintenance, hospitals and social services would receive a source of unobligated funds and at the same time receive payment for the lost property tax revenue.

State governments, the prime recipients of the sales and income taxes, would have their mode of revenue generation left intact. Also by means of the above system, the counties achieve a measure of self support because their local programs have an insured revenue base. Especially if the funds are not earmarked for special uses such as roads and education. The only foregone conclusion is that responsible forms of government must be operational at all levels.

Earmarked Revenues

This issue involves both the states and counties. State and local government officials often object to the fact that shared revenues from the national forests are specifically earmarked--primarily for roads and schools. The complaint is made that earmarking tends to reduce the amounts of grants-in-aid available for similar purposes and that the exercise of judgment by state and county officials is limited by such restrictions. The argument that earmarking--whether it be of revenue sharing funds or in lieu tax payments--should be ended would seem to be well founded. The rationale for such a position has been well stated--the elimination of the present restriction upon the local use of the Federal payments to expenditures for schools and roads would free local government to spend their receipts to meet locally determined needs. The result would not only facilitate better fiscal management by local governments but would return to them the powers of local self government which they should possess (12). The Office of Management and Budget has developed a similar policy position:

- a. The central coordinating role of heads of state and local governments, including their role in initiating and developing state and local programs, will be supported and strengthened.
- b. Federal regulations should not encumber the heads of state and local governments in providing effective or-

ganizational and administrative arrangements and in developing planning, budgetary and fiscal procedures responsive to needs (13).

Valuation of Federal Lands

In the process of seeking an equitable alternative to the present system of revenue sharing, some legislative proposals have suggested a nationwide appraisal process for public lands. This methodology would emphasize a transition from the current revenue sharing to a payment in lieu of tax program based on local land assessments. The primary question, then, involves how the lands are to be initially valued and subsequently revalued while maintaining protection against discriminatory practices.

During the First Session of the 94th Congress, 1975, a number of bills were introduced that were intended primarily to establish a payment in lieu system by establishing an initial appraisal, state board of appraisal appeal for arbitration, and an election clause whereby the county, after completion of the appraisal, could choose to continue receiving payments under existing revenue acts instead of under the new appraisal values. For an example of this type of legislation, see S.1285 in Appendix E.

As suggested by the Public Land Law Review Commission, the particular sample bill mentioned above, recommends periodic

valuations by, or under the direction of, the General Services Administration. The alternatives would presumably be valuation carried out by the states or by local tax districts. The implications of local valuations will be discussed shortly, but first it may be worthwhile to note that by using the basic structure of bills such as S.1285 and others from the First Session of the 94th Congress, many slight variations have evolved. Some bills incorporate the public benefit percentage parameters suggested by the Public Land Law Review Commission (13). That is, appraisal valuations are to be discounted ten to forty percent depending on the weight of "all tangible and intangible, direct and indirect benefits, including but not limited to economic, recreational, and natural resource benefits." Some bills ignore the benefits and emphasize the real properties to be excluded from appraisal (14), and yet another bill writes in an "escape clause" whereby any county electing to receive payments under one system, may by giving written notice one year prior to the date of requested termination, switch back to an earlier and presumably more beneficial act. Given the host of variations generated by these individual bills, it is not difficult to envision the possibility of an attempt to draft an inclusive bill that incorporates all of the incremental variations. Such a bill would in all likelihood be longer but not necessarily clearer, nor more functional than existing laws, nor the

the definitive answer.

In order to reach the realm of functional reality, a payment in lieu system as outlined by the illustrative bills above must be capable of answering three salient questions. First, how will the valuations best maintain objectivity of assessment. Next, are there in existence, either through theory or practice, methods whereby non-market values such as watershed, aesthetic, and recreational values may be valued in dollar terms? Finally, what would be ultimate nationwide costs to the Federal government in view of the diverse nature of the various individual county tax appraisal systems and millage rates.

Objectivity of Assessment. Most of the current payment in lieu proposals are hazy as to exactly how valuations are to be made. They merely state that the Administrator of General Services Administration and each county electing the program shall jointly arrange to have the Federal land in the county appraised and that the county will pay the costs. If values were to be determined on a contract basis, then the administrative agencies that make the payments would in all probability maintain that an impartial appraisal would be difficult to achieve. In other terms, disinterested third party appraisers might be difficult to find since they would need to be familiar with local conditions and thus would tend to be locally oriented and have local biases. On the other side of the coin, county

officials could maintain that an appraisal effort conducted by the Federal government might be similarly biased, only in the opposite direction (16).

It would seem that the best approach would be to at least have valuations established by a board that includes both interests. Unfortunately, such boards historically have had more difficulty in reaching a consensus of opinion. Even so, the method presently used in the valuation of revested Coos Bay-Wagon Road Grant Lands in Oregon (17) seems to work quite well. Values are established by a three member board--consisting of a Federal representative, a local representative, and a disinterested third party.

Appraisal Valuations. Regardless of the specific appraisal device adopted, however, the establishment of Federal land and timber values could very well lead to dissatisfaction, controversy, and political pressures exceeding those which exist under the present revenue sharing system. Certain difficult valuation questions may arise, such as the valuation of subsurface minerals, recreational and watershed values, and the discounting of timber values for deferment of harvest. Even assuming that the standard would be "fair market value," would it be for "the highest and best use" or for "present use." Also, what evaluation, if any, would be made of site productivity, quality, and timber income potential. This is currently a very

difficult consideration for states in the process of assessing private forest and other rural lands (18). Nevertheless, innovative inroads are being explored and given time and the proper methodology the valuation question may become manageable and hopefully nationally, or at least regionally, consistent.

Given the underlying assumption of honesty, and an equitable system of local-federal checks and balances, the valuation objectivity issue may not present an insurmountable obstacle. In contrast, the matter of workable valuation techniques does present more of a challenge. These techniques must first be able to quantify and assess non-market values, and second, they must function as a means to estimate the total cost of the program. The payment in lieu program has been faced with this double faceted dilemma since it was first offered as an alternative to the tax immunity issue.

Cost on a Nationwide Basis. Now, in order for a payment in lieu program to pass through the United States Congress, it must answer each element of the dilemma. Initially, there must be an acceptable methodology for valuation. A valuation system that is broad enough in scope to cover diverse taxing situation. Until such a valuation program is developed, no accurate estimate of the total cost of the program can be determined. Thus, without a total cost estimate to be used in comparison with existing revenue sharing

outlays, the Congress is reluctant to act (19).

The issues and alternatives that have resulted since the enactment of the original revenue sharing acts are varied and complex. Recent economic and political issues such as coal and subsurface mineral development, outer continental shelf petroleum exploration, and rising costs of local and state government all bring their own set of complicating influences.

Over the years, such comments as the following have been applied to the current system of tax immunity relief:

To say the least, the present situation of federally owned real estate in the eleven western states, particularly with reference to taxation and "in lieu" payment provisions, is confused and ambiguous (20).

So we would phase in a new kind of a system over a period of years and gradually phase out the old system. This, as Mr. Aspinall knows, is an incredible hodgepodge of programs that really makes no sense (21).

Judging by these comments, made twenty-five years apart, it is evident that the problems are not new. Also with the continued emergence of additional factors, including ever present increases in the cost of local government, the promise of increased revenue sharing from oil and other petroleum leases, and the seeming inability to arrive at in lieu cost estimates on a broad national basis, the picture will continue to cloud. Local and state governments would like increased revenues on a predictable basis. The Federal

government in turn, seeks equity in the appraisal process, ease of administration, and equalization of the benefits nationwide based on a determination of the burdens. This, then is a Herculean task!

At the present time in the legislative arena, there may be an alternative that at least offers simplicity, cost predictiveness, and perhaps a means of transition. This approach, known as a minimum payment system, is embodied in H.R. 9719.

Appendix C presents the bill as it now appears in the U.S. House of Representatives.

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CHAPTER VI

OTHER CONSIDERATIONS AND AN ALTERNATIVE

A legislative concept, such as that embodied in the original 1908 Revenue Act, having been in existence for almost seventy years will be highly resistant to anything more than elemental change. This reluctance to change is based on five prominent factors--the sheer longevity of the law, entrenchment of interest groups, time honored administrative policy, political power, and the promise of increased revenue to the local governments. A discussion of these issues follows.

Statutory Longevity

The statutory longevity of the revenue sharing system has not only served to anchor the methodology in time, but also in practice. This temporal factor has laid the foundation from which the other rudiments have been nurtured.

Role of Interest Groups

Various groups, such as the National Association of Counties, the National Education Association, the Chamber of Commerce,

and others have championed their numerous individual causes. These groups have established elaborate administrative and legal structures, in Washington, D.C. and throughout the country in order to readily offer their positional statements. These statements may oscillate from time to time depending on the substance and implications of various legislative proposals, but the welfare of the groups' interests are always brought to the forefront. Thus, through this process of the interest group activity and the ongoing influence of administrative policy, it is held that equitable legislation is enacted and preserved.

According to ex-Congressman Emanuel Celler, pressure groups are an indispensable part of lawmaking. The legislator is a message center through which pressure groups, as part of the electorate, make their views known. Congressman Celler has stated:

"We may define lobbying as the total of all communicated influences upon legislators with respect to legislation . . . after thirty-six years as a target of such messages I still regard them as the bloodstream of the democratic process and a sine quo non of effective legislation." (1)

Administrative Policies

In conjunction with the perseverance of this type of legislation and the continued interplay of the interested groups over time, there is also the matter of well established administrative policies. The

existing legislative mandates have their appeal to the agencies involved principally because of the simplicity of administration, the low cost of the computation based on already available data, and the ready application of the resultant information to computerized analysis. Insofar as the administration is concerned, revenue sharing payments may be calculated more or less automatically subject to allocations among counties comprising a given national forest, for instance. There is little cost associated with most revenue sharing proposals because in many instances no appraisals of Federal land are involved. Thus, any proposal offered to displace the existing system, and which would necessitate the allocation of scarce time and manpower for administration, would in all likelihood be opposed by the affected agencies. Opposition, from the agency standpoint, may be mellowed if the alternative offers an approximate relationship to the current statute in terms of ease of administration, expenditure of time and manpower, and smoothness of transition.

Just as the interest groups concerned with this type of legislation will seek to increase their benefits in terms of greater revenue income, the administrative agency will seek facility of implementation and some degree of discretion. The agencies then will attempt to influence the legislation in view of their own perceived interests. As Lewis C. Mainzer maintains, much policy originates in the

bureaucracy, for legislators cannot hope to know the detailed problems and possible solutions over the whole range of matters for which they are responsible (2). Further, Mainzer states that the legislators "actively seek agency advice upon courses of action--entrust major decisions to the administering officials--and grant agencies license in accord with "the public interest." The legislators leave it to the commissioners and career officials to give the term real meaning (3). In sum, the interest groups and administrative agencies will be active participants in any new legislative proposal or alternative.

Federal Budget--A Changing Base of Power

There is another element to be addressed. That factor is cost and is one of traditional import to the Executive Branch of government. Although in light of the new "Congressional Budget Control Act" (Stat. 31 USC 1301), the Congress will play a more active role in budget and finance. The influence of the Office of Management and Budget within the Executive Office must not be overlooked. The OMB is still a viable force, although some analysts such as Harold Seidman have pointed out that the office has become an executive tool rather than a management conscience.

If a President recognizes his own shortcomings, he can offset them to some degree by astute use of his institution staff, including the Bureau of the Budget, and his department

heads. . . Presidents Kennedy and Johnson had no less capable Budget Directors, but their expertise was in fiscal and economic policy and program analysis and development not administration. The Bureau of the Budget has lost much of its influence as the President's "management conscience" and organization strategist." (4)

The above quote indicates that the emphasis within the Executive Branch is on the use of the OMB as both a program promotional tool and economic policy formulator rather than a statutory facilitator. In short, the OMB has become an Executive Office policy vehicle rather than an unbiased controller or "management conscience" to the President. Perhaps this is one reason why the Congress, by passing the Congressional Budget Control Act of 1974, bolstered its budgetary powers.

No matter how time fashions the future, budgetary power balance between the Congressional Budget Office and the OMB, the consideration of program cost will be a basic consideration for new legislative enactment, or for existant legislation continuance. As presented here, the primary consideration is not one of the power base but of the role of cost analysis and prediction. As Arnold Rose points out in reference to a political power base:

The political elites--the two major parties, the President the factions in the houses of Congress, the executives and legislatures of the states and large cities--are not unified of course, and they check-and-balance each other to a considerable extent (5).

As Seidman further states in a review of the Congressional-Executive Branch relationship:

Congressional organization and executive branch organization are interrelated and constitute two halves of a single system. . . Organization or reorganization of executive agencies may influence committee jurisdictions, increase or decrease the "accessibility" of executive branch officials to members of the Congress, and otherwise determine who shall exercise ultimate power in the decision-making process. (6)

The conclusion to be drawn from the above quotes is that even though the political power base is under a system of checks and balances, the Congress, through a demonstration of group unification, passed a broad piece of reform legislation--the Congressional Budget Control Act. By doing so, the Congress significantly altered the avenues of access and power tools traditionally utilized by the Executive Branch, as Seidman pointed out. Since Congressional Budget Office will deal directly with revenue spending measures it is not difficult to see that revenue sharing expenditures of payment in lieu systems may be viewed under a new light in terms of possible legislative enactment or revision. Revenue sharing alternatives may receive broader, regional debate and perhaps succeed where they have failed due to past Executive Branch pressures. Program cost will still receive close scrutiny, but Congress with its diverse base of representation will exercise greater control over not only the revenue

outlay but also the ultimate statutory methodology of dispersal.

Congressional Committee System

Congressional power is divided among sixteen major fiefdoms (standing committees) and ninety-seven petty fiefdoms in the House (7). The Legislative Reorganization Act of 1946 more than cut in half the number of standing committees, but this reduction has been offset by the proliferation of subcommittees.

Regarding the individual distinctiveness of each congressional committee Seidman states:

Each committee has its own culture, mode of operations, and set of relationships to executive agencies subject to its oversight, depending upon its constituency, its own peculiar tradition, the nature of its legislative jurisdiction, its administrative and legislative process, and the role and attitude of its chairman (8).

It is no mean consideration for proponents of a particular piece of legislation to consider where in Congress the bill will be reviewed. Many bills have heard the death knell once the Rules Committee has announced to which committee the bill will be referred. Thus, if newly proposed legislation is handed over to a committee that has traditionally favored similar matters in the past then the chance for passage is markedly enhanced. Revenue sharing legislation is no exception.

Promise of Increased Revenue

As mentioned earlier, Chapter II and elsewhere, the Revenue Sharing Act of 1908 has been very resistant to change or modification. This factor may be attributable, as much to historical timing and economics, as to the Congressional Committee structure and budgetary considerations.

It seems that historically just as the revenue sharing system has come under close scrutiny or criticism, extraneous events have tended to arbitrate the matter. These events are usually national involvements such as the Depression, World War II or the Ecology Movement or a marked increase in revenue programs.

From its enactment in 1908 through the early 1950's, the Revenue Act has served as the basis for at least nine other statutes (9) that involve forest lands although only two of them--the 1910 Arizona and New Mexico Enabling Act and the 1948 Superior National Forest Act--pertain exclusively to the Forest Service. This footnote shows that in 1937 three acts were implemented. This helped to ease the effects of the Depression years of the 1930's and also served to lessen criticism of the revenue sharing system. During the Depression many tracts of privately owned land were taken off the tax roles and reverted to the Federal government. If the additional laws of

1937 had not been enacted it would have led to greater pressure for change in the system. Thanks to these new revenue sources, the fiscal impacts on the counties were diminished.

The advent of the war effort of the 1940's decreased the manpower base, diverted resources into military endeavors, and served to bring national attention to a common focus. After the war, the military impact grants to communities, GI benefit programs, a post-war boom economy, and geographic mobility again took up the local revenue generation slack. As a result, there was little pressure for change in the legislation.

The study commissions of the Hoover Era, the Advisory Commission of Intergovernmental Relations studies, and the Public Land Law Review Commission Study served to assure the critics of the 1950's and 1960's that all aspects of government, including local revenue programs, were under constant surveillance. If there was to be a change, these bodies of government review could be used, as both the vehicle for change and the recipient of various proposals.

The most constructive arenas for critical analysis were to be the commissions of the 1950's and 1960's. This factor, in conjunction with reclamation activities, mineral and petroleum developments, and ecological concerns, served to divert and absorb the pressures for revenue sharing legislative change. Principally because all these

activities promised increased sources of funding for the local governmental bodies. If there was a promise of more money then there was no need to complain. If there was a complaint then there always seemed to be an ongoing study group that could state that the matter was currently under intense investigation.

Today, true to form, the same elements exist. The Forest Service is sponsoring a study of Federal payments to state and local governments stemming from the National Forest system. The study is to be completed by late 1976 or 1977. Also, the promise of increased revenue payments resulting from coal exploration in the national grasslands of the Forest Service, and the public lands of the Bureau of Land Management is in the wings along with offshore oil leases and increased forest utilization. As in the past, this current study program may then mollify critics, and the indication of increasing revenue payments will encourage proponents to push for a continuance of the existing program.

The Criteria for Change

It would seem that any new alternative to the current payment system would have to address the above outlined issues and group characteristics.

An encapsulation of the above mentioned considerations follows:

--Longevity of the present revenue sharing system has anchored the method in time and in its mode of implementation. Alternative legislative proposals must counter seventy years of statutory solidarity.

--Interest groups must see benefits in the new system over the old.

--Administrative agencies will seek a system that is easy to administer. One that is non-threatening to their present positions in terms of agency autonomy. That is, one that ensures their continued existence as an agency. Also, a new system must fit into existing agency budgetary and manpower limitations.

--Some aspects of the national political power base may be altered in light of the new Congressional Budgetary Control Act and the role of the Congressional Committee structures. Under the new Budget Control Act, Congress will not only write the legislation but also insure that the funding will be appropriated. This is of importance to statutory proposals such as revenue sharing and payments in lieu of tax. Congress will analyze program costs and benefits in comparison to existing programs. This may

mean that revenue sharing legislation would receive broad regional consideration in terms of both legislative debate and cost analysis. Further, the fate of new bills may rest with the Rules Committee. If a bill is referred to a favorable committee or subcommittee it would have a better chance for passage. Current legislative bills, placed in the new light of the Congressional Budgetary Act, may receive novel treatment. At this point it is difficult to predict what that treatment will be.

--The current revenue sharing programs will be operating at specific payment levels when a new alternative is considered. If the new program does not offer equal or greater monetary benefits to the counties then they will push for defeat. On the other hand, the political process will seek equity. A much more difficult value to define. Equity for both the recipient and the contributor. A new alternative that offers a payment level that roughly approximates current levels of expenditure would be an adequate starting point. Thus, the chance for passage would be enhanced if outlay levels and receipts were comparable to those afforded under the existing system. The prime considerations here are cost analysis for

Congress and benefit projection on the part of the counties.

The above characteristics of the revenue sharing law and those of the active participants, in conjunction with the issues discussed in Chapter V, serve to establish the parameters within which a viable alternative must fall. Chapter V mentioned contributions in kind, Knutson-Vandenburg funds, income predictability, pass through of the funds from Federal to state or local governments, earmarked revenues, and the valuation of Federal lands.

A Viable Alternative--Minimum Payment Approach

This approach was briefly summarized as the fifth alternative in Chapter II. The minimum payment, or per acre approach, is currently embodied in the legislative proposal H.R. 9719 (Appendix C).

Briefly, this legislation would provide minimum payments to counties and other local governments to compensate them for the tax immunity of national lands, including: national forest, national parks, wilderness areas, BLM lands, and water resource lands such as Army Corps of Engineers projects. Payments would be based on the amount of acreage within a county and limited by a per capita population factor.

A county would receive the greater amount of either: a) 75¢ per acre of entitlement lands, or b) .10¢ per acre in addition to current

payments. These payments would be limited to \$50 per capita for counties under 5,000 population with a sliding scale to \$20 per capita at 100,000 population. Appendix B gives a section-by-section analysis of the bill as reported by the subcommittee on Energy and the Environment.

How does this proposal stack up against the issues and considerations presented above?

Indirect Benefits

The minimum per acre payment approach does not include a public benefits deduction as envisioned by the Public Land Law Review Commission. This is because there is no generally agreed upon set of criteria to evaluate the supposed intangibles. From the viewpoint of the counties for instance, there are no benefits to the local economy if the gain is attributed to something like tourist related activities. Tourist activities adjacent to the natural resource lands do not accrue to the local governments. Income and sales tax usually are state sources of funds. County governments which do not receive the resultant funds directly, must provide the law enforcement, road maintenance, hospital, clean-up and social services due to the activity on these lands.

On the other hand, the Forest Service has stated its benefits

argument in the form of various in service studies conducted by Ellis Williams (10). The Forest Service concluded that the relationship of the National Forest system to state and local economies is complex and requires analysis not only of revenue sharing payments but also of contributions-in-kind and "other benefits" if a realistic understanding of the situation is to be achieved. Presumably this is why the Service has contracted with the Advisory Commission on Intergovernmental Relations for a study to be completed in 1976 or 1977.

The minimum payment approach has elected to avoid involvement in this complex issue. Simplicity of presentation, compatibility with existing programs, and cost predictability are the hallmarks of this legislation. The benefits argument, with its raft of uncertainties has been avoided. Hopefully the 1976 ACIR Study will offer a new basis for analysis, but until that time, this proposed legislation seeks to offer a hard, regionally applicable, and cost predictive alternative that is not tied to local valuation assessments or vague, abstract benefits or burdens.

Knutson-Vandenburg Funds

These forest land improvement and reforestation funds are not altered. They are to remain as revenues derived from the timber sale activities of the various Forest Regions. The need to have the

commercial forest lands producing timber products at an optimum level cannot be discounted. The K-V fund appears to be the most efficient way to do the necessary work. If the K-V fund is included with gross receipts, as proposed by a recent legislative amendment (11), then the net effect may well mean a reduction in the total effort. Should the Office of Management and Budget find less money coming into the Treasury, an optimum K-V Program would become even more dependant on appropriated funds. This latter alternative is open to considerable speculation. The minimum per acre payment system would leave existing programs such as the K-V fund untouched. The K-V program has proved its effectiveness through over 46 years of implementation. Financial alterations may hinder the future performance of the reforestation methods on the national forests. Therefore any supposed loss of funds brought about by the K-V program are compensated for by the flat per acre payment and proven forest management tools are not compromised by legislative fiat.

Income Predictability for the Localities

The minimum payment approach, based on acreage rather than diverse appraisal valuation techniques or fluctuating revenue sources, offers annual income predictability. The counties, if they so elect,

may establish their yearly budgets with full knowledge of the amount of money available to them from the in lieu fund. This provision is beneficial to those local government systems that are faced with large income fluctuations due to uneven revenue generation on surrounding Federal lands. This element of the legislation also may serve to lessen the pressure some counties place on the Federal governmental agencies to maximize revenues. Since the local payments would not of necessity be tied to revenue production, the drive to constantly increase these funds may diminish and offer more management flexibility to the land managers. This aspect, of predictability in conjunction with the payment method choice offered to the counties, makes this a desirable feature of this legislative proposal.

Earmarked Revenues

Current revenue sharing payments go to schools and roads only. General local government functions are then left to be supported by property taxes and certain other use taxes. The minimum per acre approach does not earmark funds for a particular use. This offers the localities an opportunity to map their own destiny. Presumably local government is as responsible and honest as other levels of government. With the advent of city-county reorganization, reapportionment, and selective personnel recruitment, the municipalities

have encouraged responsive governmental reform. It is time to allow these levels of government to individually allocate their own funds. In recognition of this need for a source of unobligated funds, H.R. 9719 states that "in lieu funds may be used by the local governmental units for any governmental purpose." A worthwhile recommendation that rewards responsible governmental functioning.

Valuation of Federal Lands

Since payments are based on acreage, there is no need to appraise and value Federal lands. The appraisal methods, millage rates, and assessment procedures, on a nationwide basis, are so diverse that cost estimates and broad implementation methodologies such as state boards of appraisal appeal and arbitration councils are very involved and not conducive to general, let alone regional, application. For this reason a national program cost projection is very tenuous. The minimum payment approach by-passes this involved and at times subjective issue. Costs and payments are based on land area not land value.

The minimum payment approach would seem to have appeal for the local interests for it increases the amount of funds available. Revenue increases are desirable when viewed from the perspective of the recipient. Regarding this point, the National Association of

Counties has stated that the current payment levels fall far short of projected full property tax equivalency that would be generated if the lands were taxed as privately owned lands (12).

The Bureau of Land Management, in the House of Representatives hearings on H.R. 9719, has raised three considerations that view the proposed increases with less enthusiasm, the BLM has 1) questioned the cost of the program, 2) the economic rationale for the 75 cent per acre figure, and 3) the Agency supports a proposal for more study (13). The following briefly discusses these issues.

Cost of Program

The cost of the per acre payment program has been estimated at \$130 million by the National Association of Counties (see note 11, Chapter 3). To place this figure in perspective, the Public Land Law Review Commission estimated that public benefits, payment in lieu system would cost the Federal government approximately \$190 million per year (14). Another recent legislative proposal, an amendment to the Forest and Rangeland Renewable Resources Planning Act of 1974, has envisioned a revenue sharing system that modifies the 1908 Revenue Act. Under this proposal the revenue payments would be based on gross receipts. That is, the twenty-five percent calculation would include those monies currently being

deducted for road construction and Knutson-Vandenberg funds. The cost of this type of program has been estimated at \$62 million per year (15).

In view of these figures, the \$130 million value falls somewhere between the cost figures of these two viable alternative payment systems. The two above mentioned systems are by no means ceiling or baseline figures. They serve only to establish workable parameters. At any rate, this agency preoccupation with the program costs may be of minor concern. Regarding this matter, the PLLRC has stated:

"It (the Commission) believes, however, that the total cost is irrelevant if fairness requires the compensating of state and local governments for protecting the national interest in lands considered to warrant retention in Federal ownership. It is a proper cost to be borne by all Federal taxpayers." (16)

Seventy-Five Cents per Acre Rationale

The BLM has criticized this minimum payment figure as being arbitrary and with no justification for this rate, as opposed to any other. Perhaps this position is valid, but it should be remembered that there is no justifiable rationale behind the twenty-five percent figure either. To counter this statement, the BLM would most likely say that the twenty-five percent is arbitrary and the same mistake should not be made twice.

This question is indeed an arguable point that will probably never be settled to any real degree of satisfaction. It may be helpful to mention that Federal revenue from the entitlement land proposed in this legislation brings in approximately \$750 million per year (17). Total BLM, Forest Service, and National Park Service acreage is in the neighborhood of 650 million acres (18). Utilizing a rough translation, this would indicate that these Federal lands are bringing in slightly more than one dollar per acre on the average. By the Forest Service's estimates for 1962, the twenty-five percent fund payments in addition to contributions in kind, amounted to 63 cents per acre (19).

Utilizing these figures, 75 cents per acre is within the range of feasibility. The above remuneration level may be partially ameliorated on either side by the fact that just about any per acre rate may be justified or berated by the method of figure manipulation used. Appendix F illustrates that by using the average National Forest per acre payment as computed by the Forest Service, any figure between one cent and \$6.68 per acre may be up for analysis, although 75 cents seems to be near the middle ground in terms of revenue production from Federal lands viewed on a nationwide basis.

Need for More Study

As evidenced by Chapter II, this matter has been under study

for a number of years. Now there is an agency specific study being conducted by the Advisory Commission on Intergovernmental Relations for the Forest Service. This study may delay or on the other hand, direct action. Time will judge. Yet in view of past endeavors, the outlook is not bright.

H.R. 9719 may offer a means of transition. While various groups are waiting for the ACIR Study results, the minimum payment approach could be used on a two-year or five-year trial basis. If the program is inefficient, inequitable, and unwieldy it could be sloughed off. Whereas, if the ACIR has a new system to offer at that time, then a switch could be made. Study and restudy has been the hallmark of this ongoing effort to overcome tax immunity. The time has arrived for a gradual change not through continued study and recommendation, but through legislation that complements the old and offers a possible avenue to the new.

As a final analysis, mention should be made of those criteria presented earlier in this Chapter. It was felt that new legislation, from a Congressional standpoint may have a better chance for passage: 1) if the costs were comparable to existing programs, 2) if the costs were predictable, 3) if the legislation was heard in a favorable committee, and, 4) if the new Congressional Budget Control Act could influence legislation that required the appropriation

of funds. H.R. 9719 may fair well in light of these criteria:

Cost. The cost of this legislation is more than under existing legislation, but well within the parameters of various proposed alternatives.

Cost Predictive. The program costs are easily predicted by multiplying acreage figures by the base rate. No ambiguous assessment and valuation procedure that may be very locally specific is required.

Committee. H.R. 9719 was heard and "marked up" in the Interior and Insular Affairs Committee of the House of Representatives. In the recent past, such bills have been referred to in the government Operations Committee. As a result few bills of this nature have been reported out of Committee. As Representative Don H. Clausen of California stated in hearings:

"First of all, as you know, because of reorganization recommendations that have affected committees of the Congress, we now have legislation wherein, for example, a committee has clear cut jurisdiction over the Bureau of Land Management. The Agriculture Committee has jurisdiction over the Forest Service. . . All of these areas that do, in fact, have an impact on the tax base. Before we get through with this, as you know, we are going to have to deal with the question of jurisdiction because every bill except ours has been referred to the Government Operations Committee. Because of the ingenuity of some of us working with this task force, we were able to draft a bill that got to this committee so that we could hold this kind of hearing." (20)

Thus, committee referral has worked against certain tax immunity payment systems. Perhaps in the case of H.R. 9719, this new committee exposure will help advance the bill.

Budget Act

It is still too early to predict what role the new budget making process developed by Congress will play in the fate of bills such as H.R. 9719. The Congressional Budget and Impoundment Control Act of 1974 (31 USC 1301) will definitely diminish the influence of both the President and the Office of Management and Budget. This development may indeed increase the chances of this type of policy legislation. Regarding the role and power of the OMB over forest policy, Marion Clawson has stated:

"It might equally be argued that the Office of Management and Budget is the dominant agency in forming forest policy for the United States. It clearly has the power to direct and to override the Forest Service and other Federal land managing agencies. However, its role in forest policy is largely negative, is incidental to its many other duties, and is not accessible to the public." (21)

This positional statement by Clawson and his following statement may have to be altered in terms of the powers and implications afforded by the Congressional Budget Act. Clawson states regarding the powers of Congress:

"Congress plays a significant role in authorizing legislation

or appropriations for Federal programs, including programs for cooperation with states and with private landowners. Its capacity to legislate and to appropriate is severely hedged by the role of the Executive Branch but is nonetheless real." (22)

Congress now has the power to allocate funds without fear of presidential impoundment. Thus, Congress with its broad regional influence, may alter the traditional fate of new appropriations and considerations of tax immunity alternatives. H.R. 9719 may benefit and so may those localities that are in need of predictable and unobligated funds.

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CHAPTER VII

CONCLUSION

The tax immunity of Federal lands in conjunction with the extensive reservation and conservation practices of Presidents Cleveland and Roosevelt led to the original enactment of the 1908 Forest Revenue Act. The problem of a diminished local tax base was answered by a very simple and easily administered legislative mandate--revenue sharing. From these early days the program has expanded from a "stop-gap" piece of legislative compromise to a proliferation of over forty separate revenue sharing and payment-in-lieu systems designed to compensate for the losses.

Throughout the legislative history of the original Revenue Act, various legislative bodies, interest groups, and study commissions have sought to refine and improve the system. During this process, inequities have been illustrated, solutions proposed, and legislation drafted, but in the end the result has been the same--the revenue sharing system remains unchanged.

The fact that the system, as originally proposed, is so simple and uncomplicated has served to maintain it as a solid and unchanging

statute. Contrary to this original simplicity, various historic legislative proposals have become very complex and enmeshed in interest group entrenchment and agency policy rationalization.

In order for a new legislative proposal to stand a chance of improving on the original act, it must be just as beneficial to concerned interests and similarly unconstraining and non-threatening to the administrative agencies. Further, it must offer a means of transition--it must readily conform to the historic pattern or at least complement it. Further, the costs must be predictable and generally within the scope of feasibility. That is, the cost must be consistent in terms of the other viable alternatives being offered.

Further, historically developed issues must be addressed and realistic solutions must be offered. Issues couched in the longevity of tradition and use, must not overshadow the modern forces that also impinge and call for consideration. Among these modern forces there are budgetary policy considerations, the legislative-administrative bureaucratic framework, and economic and land use trend analysis.

It is within this jungle of current concerns and historic perspectives that an alternative has surfaced. It addresses questions and offers solutions, but it does not completely change the system. It complements the entrenchments of the past but offers a means of

transition too.

The time has come to slip the traditional mold of continued recommendation and study and replace it with a complementary system. A system could be enacted that is not irreversible in light of the old methodologies, substantial concerns, and interests that have encased themselves around the issue for many, many years.

The minimum payment approach may not be the whole answer, but it may be an intermediate step--a step that has not been taken before. If it proves to be better than the old, then it is a simple matter to slough off the old and implement the new. If the step is not taken, then the circular continuum of study--recommendation--draft legislation--and more study will continue.

In the meantime, only time will confirm or deny the worthiness of the candidate, and only a continued mixing of the perspective and the environment will lead to the one optimum solution.

APPENDIX A

Proceedings from H.R. 9719 Hearings

FEDERAL REVENUE SHARING AND PAYMENTS IN LIEU OF TAXES STATUTES

Statute and date enacted	Type and acreage of and or program affected by statute ¹	Type of statute (RS or PILT (percent))	Deductions made before compilation of payments	Political subdivision receiving payments	Date of payments according to statute	Restrictions placed on the use of payments	Administering agency
Statutes providing for admission of new States into Union. (Digest LA).—1802-1958.	Public domain land (241,773).	3 percent of net proceeds from sale of public lands shared with States in which land located.	20 percent of price received deducted for administrative costs.	States.....	None given (end of fiscal year).	Generally for public schools and roads.	Dept. of the Interior (Bureau of Reclamation, BLM).
35 Stat. 251; 16 U.S.C. § 500, National Forest Revenues Act (Digest LB).—1908.	National Forest lands (both public domain and acquired) (151, 139,900).	20 to 25 percent of all monies realized from National Forests.	None ²	States for distribution to the counties.	End of fiscal year.	Benefit of schools and roads of county within which forest is located.	Dept. of Agriculture (Forest Service).
36 Stat. 557; Arizona and New Mexico Enabling Act (Digest LC).—1910.	Designated school section lands located in National Forests in Arizona and New Mexico.	3 percent—calculated percent of National Forest revenues is placed in school fund.	Arizona and New Mexico.	do.....	Proceeds go into common school funds of Arizona and New Mexico.	Department of the Interior (BLM).
39 Stat. 219; 43 U.S.C. §§ 1181f-1181j; Revested Oregon and California RR Grant Lands (Digest LD).—1916. ³	Revested Oregon and California Railroad Grant Lands (2,363,700).	25-50 percent—counties, 25 percent—access roads and improvements 25 percent—administration.	Cost of access roads up to the 1st 25 percent received by the county.	The 15 counties in which the DSC lands are located.	do.....	25 percent is used for access roads and improvements; residue is returned to the counties.	do.....
40 Stat. 1179; Reconveyed Coos Bay Wagon Road Grant Land (Digest LE).—1919. ⁴	Reconveyed Coos Bay Wagon Road Grant Lands (74,500).	FIL—Current taxes are paid out of 1st 75 percent of receipts ⁵	Cost of appraisal.....	The 2 counties in which the Coos Bay lands are located.	do.....	Must be used for schools, roads, highways, bridges and port districts.	do.....
61 Stat. 437, 30 U.S.C. § 191, Mineral Leasing Act (Digest 27).—1920.	Public domain land including National Forests but excluding National Parks (62,184,000).	32½ percent Reclamation Fund; 37½ percent States; 10 percent U.S. Treasury; Alaska—70 percent to State 10 percent to Treasury for expenses of administration.	None.....	States.....	Biannually, after Dec. 31 and June 30.	Construction and maintenance of public schools. Support of schools as directed by legislature. These restrictions do not apply to 52½ percent of Alaska's 90 percent.	do.....
See footnotes at end of table.							
41 Stat. 1061, 16 U.S.C. § 810, Federal Power Act (Digest LG).—1920.	Public lands used for power purposes (70,600).	25-37½ percent States; 50 percent reclamation fund, 12½ percent—U.S.	Administrative costs, designated to individual lease.	do.....	End of fiscal year.	None.....	Federal Power commission.
43 Stat. 1057, 40 U.S.C. § 517 Boulder Canyon Project (Digest LS).—1928.	Boulder Canyon Project (811,500).	PILT—Arizona and Nevada each receives \$300,000 annually.	Any payments made for taxes on the project, the electrical energy, or the privilege of operating are deducted before PILT is paid.	Arizona and Nevada each receive \$300,000 annually.	On or before July 31 1974.	do.....	Department of the Interior for (Reclamation Bureau).
46 Stat. 56, § 6 U.S.C. § 631 Tennessee Valley Authority (Digest LI).—1933.	Land acquired by TVA (727,100).	PILT—0 percent of gross revenues—not less than \$10,000 to each State, or the 2 year average of State and local taxes last assessed prior to acquisition by TVA. Payments to counties equal 2-year average of towns assessed before acquisition by TVA and deducted before making payments to States.	Payments to counties are deducted before payments to States are made. Proceeds from sale of power to town or agency of U.S. not included in gross receipts.	States and counties.	Monthly.....	do.....	Tennessee Valley Authority.
49 stat. 1269, 43 U.S.C. § 315 Taylor Grazing Act (Digest LL).—1936.	Vacant unappropriated and unreserved lands of the public domain (except Alaska) excluding National Parks.	RS—Grazing districts—11½ percent replaced tracks—50% Indian—33½ percent (ceded).	None.....	States for the benefit of the in which the land is located.	End of fiscal year.	Money from the ceded Indian lands must be used for the schools and roads of the county. Others—None.	Dept. of the Interior (BLM)

FEDERAL REVENUE SHARING AND PAYMENTS IN LIEU OF TAXES STATUTES

Statute and date enacted	Type and acreage of and or program affected by statute	Type of statute (RS or PILT (percent))	Deductions made before computation of payments	Political subdivision receiving payments	Date of payments according to statute	Restrictions placed on the use of payments	Administering agency
57 Stat. 12 14 U.S.C. § 835 §-1(s) Columbia River Basin Project (Digest LL)—1937.	Land acquired for the Columbia Basin Project (58,900).	F113—to be negotiated by Secretary of the Interior.	-----do-----	State or political subdivision with whom Sec. of the Interior has negotiated agreements.	Annually, no specific date.	None-----	Dept. of the Interior (Reclamation Bureau).
50 Stat. 522, 7 U.S.C. § 1012 Bankhead James Vess Truant Act (Digest LM)—1937.	Submarginal land acquired under title III of the Act.	20-25 percent of set revenue.	Gross receipts less applicable refunds adjustments.	Counties in which the land is located.	End of calendar year.	Shared revenue must be used for school and road purposes.	Dept. of Agriculture (Forest Service) and BLM.
55 Stat. 650, 35 U.S.C. § 761 t-1 Ting Corps of Engineers (Digest LM)—1961.	Land acquired for flood control purposes (6,734,800).	25-75 percent of gross revenues.	None-----	State (to be expended for benefit of counties).	-----do-----	State must pay the money to the county having the land for its schools and roads.	Dept. of the Army (Corps of Engineers).
50 Stat. 927, 11 designated Watersheds under the Dept. of Agriculture (Digest LM)—1954.	Land acquired for runoff and waterflow retardation by the Dept. of Agriculture	PILT—1 percent of purchase price or 1 percent of value when acquired.	No payments have ever been made under this legislation.	County-----	Annually-----	None-----	Dept. of Agriculture (Forest Service).
60 Stat. 745, 42 U.S.C. § 2202 Atomic Energy Commission Act (Digest LP)—1946.	Land acquired by the Atomic Energy Commission (48,500).	PILT-----	None-----	State and local governments.	Discretion of the Commission.	-----do-----	Atomic Energy Commission.
61 Stat. 691, 30 U.S.C. § 601-03 sale of Materials from Federal lands (Digest LQ)—1947.	All public lands under control of Departments of Agriculture and Interior excluding National Parks and Monuments, and Indian lands.	RS—Interior—acres percent as sale of public lands. Agriculture—percent will depend on statutes under which land is administered. USC statutes applies to OMB lands. Coos Bay statute applies to Coos Bay Lands.	Depends upon Acts admitting States to Union or particular statute under which other payments from the affected land are made.	States or counties depending on the applicable law.	Depends upon applicable law.	Restrictions vary depending upon applicable statutes.	Dept. of the Interior (BLM), Department of Agriculture.
61 Stat. 913, 30 U.S.C. § 355 Mineral Leasing on Acquired Lands (Digest LX)—1947.	All acquired land not covered by existing "mineral leasing laws" but excluding lands required for National Parks and Monuments (3,193,421).	RS—percent shared varies in the same manner as prescribed for other receipts from lands affected by the lease.	Varies depending on applicable status.	States or counties depending on applicable statutes.	End of fiscal or calendar year depending on applicable statutes.	Varies depending on applicable statutes.	Dept. of the Interior (BLM).
62 Stat. 000, 14 U.S.C. § 577g Superior National Forest ("DRA") (Digest LQ)—1948.	The Foundry Waters Canoe Area of Superior National Forest (763,700).	PILT— $\frac{3}{4}$ of 1 percent of the appraised value.	None-----	Minnesota for distribution to Cook, St. Louis and Lake Counties. Not specified in statute.	End of fiscal year.	None-----	Dept. of Agriculture (Forest Service).
63 Stat. 377, 40 U.S.C. § 490 General Services Administration (Digest LT)—1949.	Real property declared surplus by Government Corporations under surplus Property Act, 1964.	PILT-----	No payments ever made under this legislation.	Not specified in statute.	Not given-----	-----do-----	General Services Administration.
64 Stat. 849, 15 U.S.C. § 406d-1 Grand Teton National Park (Digest LO)—1950.	Land acquired for Grand Teton National Park in Teton County, Wyo. after March 15, 1963 (37,000).	PILT—year of acquisition and next 7 years full taxes paid; next 20 years declining 3 percent each year. May not exceed 23 percent of receipts of Park in any one year.	Any items paid or newly acquired land are deducted from the FILT before payment.	Wyoming for further distribution to Teton County.	End of fiscal year.	-----do-----	Dept. of the Interior (Park Service).
78 Stat. 701, 16 U.S.C. § 725a Migratory Bird Conservation Act (Digest LAB)—1964.	Migratory Bird Sanctuaries on both public domain and acquired land (7,865,000).	U.S.-PILT. Public domain 25 percent of revenue. Acquired land 25 percent revenue or $\frac{3}{4}$ of 1 percent of appraised value.	Necessary expenses are deducted by each sanctuary.	Counties-----	End of fiscal year.	Solely for the benefit of schools and roads of the county.	Dept. of the Interior (Bureau of Sport Fisheries and Wildlife).
78 Stat. 983, 43 C.S.C. § 1471 Public Sale Act as applied to Alaska (Digest LA)—1964.	Vacant, unreserved lands located in Alaska, required for orderly growth of the community.	SS—90 percent of proceeds from the sale of certain land in Alaska until Dec. 31, 1970.	Price paid to publish notice of sale paid by purchaser, and is not considered part of sale price.	Alaska-----	As soon as practicable after June 30.	None-----	Dept. of the Interior (BLM).

FEDERAL REVENUE SHARING AND PAYMENTS IN LIEU OF TAXES STATUTES

Statute and date enacted	Type and acreage of and or program affected by statute ¹	Type of statute (RS or PILT (percent))	Deductions made before computation of payments	Political subdivision receiving payments	Date of payments according to statute	Restrictions placed on the use of payments	Administering agency
Klamath Wildlife Refuge Act (70 Stat. 857; 16 U.S.C. § 693 (Digest LAC)—1964.	Lands in Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge (172,000).	18-25 percent of net revenues received from leasing of lands not to exceed 50 percent of taxes levied on similar private lands.	Cost of collection....	Three counties in which Refuges located.	Annually (after close of fiscal year).	Must be used for public schools and roads.	Dept. of the Interior (Bureau of Reclamation).
64 Stat. 1101 20 U.S.C. § 237 Educational Impact Grants (Public Law 374) (Digest LY)—1930.	Property acquired after 1938.	PILT.....	Other financial compensation received.	School districts..	Annually... ²	None.....	Office of Education.
69 Stat. 93, 33 U.S.C. § 933 St. Lawrence Seaway Act (Digest LY)—1934.	Land acquired by the St. Lawrence Seaway Development Corporation (3,900).	PILT—in discretion of Corp.	None.....	St. Lawrence County, Mississippi—village and school district.	None (Local tax due dates).	...do.....	Dept. of Transportation.
69 Stat. 719 Trinity River Basin Project (Digest LY)—1933.	Lands acquired for construction of the Trinity River project (19,800).	PILT.....	...do.....	Trinity County..	Annually (Local tax due dates).	...do.....	Dept. of the Interior (Reclamation Bureau).
69 Stat. 721, 40 U.S.C. §§ 321-24 Payments on RFC Property (Digest LY)—1933.	Property formally held by RFC (800).	PILT.....	Any other PILT made with respect to the same lands.	State and local taxing units.	Date local taxes due.	...do.....	GSA and other "holding" agencies.
74 Stat. 1024, 63 U.S.C. § 823 Mineral leasing on State selected indemnity lands (Digest LAA)—1960.	Mineral bearing lands selected by the States as indemnity for school section lands.	RS—19% ³ of rents and royalties on the selected lands.	None.....	States.....	After Dec. 31 and June 30.	...do.....	Dept. of the Interior (BLM).

¹ Acreage figures are those supplied by appropriate Federal agencies for 1966 and used in the resource data bank of this study. Acreages are shown in parentheses. It should be remembered that with respect to revenue-sharing statutes, the number of acres subject to a particular statute is not determinative of the amount of revenue shared. Rather, it is the amount of revenue produced which determines the shared amounts. In the case of payment in lieu of tax statutes, the amount of the payment is more closely related to the amount of the acreage involved.

² K-V charges are a separate account and, as such, are not considered in the determination of gross revenues. 16 U.S.C. § 576(b) (1964).

³ Date of original enactment. Present provisions enacted in 1937, 50 Stat. 874.

⁴ Date of original enactment. Present provisions enacted in 1939, 93 Stat. 953.

⁵ 25 percent is used for administrative costs and any balance is paid into the General Fund of the U.S. Treasury.

⁶ Sold by CRA only.

⁷ 57 1/2 percent of remainder is to pay administration costs.

⁸ In 1948, agreements were concluded with four counties in Washington which provide for the small payments to each of the counties of the lesser of (1) the taxes which would have been levied on the land had it remained in private ownership, or (2) 50 percent of the revenues derived from the leasing of such lands.

⁹ The remaining 10 percent is retained by the Federal Government essentially to cover the costs of administering the outstanding leasehold interests in which the selected lands may be subject.

¹⁰ Date of amendment, original enactment 1935, 49 Stat. 383.

APPENDIX B

Summary of H.R. 9719

H.R. 9719

(as reported by the Subcommittee on Energy and the Environment)

PURPOSE

H.R. 9791, as reported by the Subcommittee on Energy and the Environment with an amendment, would provide payments in lieu of taxes to general purpose local governments for Federally owned lands including national forests, national parks and wilderness areas, public domain and certain water resource lands.

SECTION-BY-SECTION ANALYSIS

Section 1

Beginning October 1, 1976, the Secretary of Interior shall make payments, on a fiscal year basis, to each unit of local government in which entitlement lands (as defined in Section 4) are located. These payments may be used for any governmental purpose.

Section 2

This section establishes the payment formula. Payment to the jurisdiction shall be equal to the greater amount arrived at under the following two alternatives:

(1) Alternative A: Multiply 75¢ times the number of entitlement acres not to exceed a limitation based on population as set forth in subsection (b), less the amount of entitlement payments received under the Federal statutes set forth in Sec. 4.

(2) Alternative B: Multiply the number of entitlement acres by 10 cents, again subject to the limitation for population.

The population limit is based on the following per capita formula:

For Example if the population equals (truncated range): 5,000 (or less) 10,000	Payment shall not exceed the amount computed by multiplying such population by: -----\$50.00 ----- 35.00
--	--

15,000	-----	\$30.00
20,000	-----	27.50
25,000	-----	26.00
30,000	-----	25.00
50,000 (or more)	-----	20.00

Section 3

This section provides for an additional payment of 1% of the fair market value of lands added to the National Park and Wilderness System after December 31, 1970. This payment would only apply for the first 5 years following the acquisition of such lands or five years after enactment of the Act for Lands acquired prior to enactment, but after December 31, 1970.

Section 4

This section sets forth the current public laws under which local governments would not be affected by this Act. However, the payments made under Section 2 would be reduced by the amount of payments now received under these laws.

Section 5

This section exempts certain lands which receive payments under the Act of August 28, 1937 (50 Stat. 875) and the Act of May 24, 1939 (53 Stat. 753) from receiving payments under this Act and also exempts the State of Alaska from receiving payments under this act.

Section 6

Defines "entitlement lands" eligible for payments as follows:

1. National Park System
2. National Wilderness Preservation System
3. National Forest System
4. Lands administered by the BLM
5. Water Resource Projects (Army Corps of Engineers and Bureau of Reclamation).

EFFECT ON EXISTING LAW

This bill would not affect existing law.

APPENDIX C

Bill H.R. 9719

91ST CONGRESS
2^D SESSION

H. R. 9719

[Report No. 94-]

A BILL

To provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality.

By Mr. EVANS of Colorado, Mr. SANTINI, Mr. DON H. CLAUSEN, Mr. WEAVER, Mr. SIMON, Mr. MCKAY, Mr. HOWE, Mr. MELCHER, and Mr. HAMILTON

SEPTEMBER 10, 1975

Referred to the Committee on Interior and Insular Affairs

MARCH , 1976

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

5 *SECTION 1. Effective for fiscal years beginning on and*
6 *after October 1, 1976, the Secretary is authorized and*
7 *directed to make payments on a fiscal year basis to each unit*
8 *of local government in which entitlement lands (as defined*
9 *in section 6) are located. Such payments may be used by*
10 *such unit for any governmental purpose. The amount of such*
11 *payments shall be computed as provided in section 2.*

12 *SEC. 2. (a) The amount of any payment made for any*
13 *fiscal year to a unit of local government under section 1 shall*
14 *be equal to the greater of the following amounts—*

15 *(1) 75 cents for each acre of entitlement land*
16 *located within the boundaries of such unit of local gov-*
17 *ernment (but not in excess of the population limitation*
18 *determined under subsection (b)), reduced (but not*
19 *below 0) by the aggregate amount of payments, if any,*
20 *received by such unit of local government during the*

1 *preceding fiscal year under all of the provisions specified*
2 *in section 4, or*

3 (2) *10 cents for each acre of entitlement land*
4 *located within the boundaries of such unit of local gov-*
5 *ernment (but not in excess of the population limitation*
6 *determined under subsection (b)).*

7 *In the case of any payment under a provision specified in*
8 *section 4 which is received by a State, the Governor (or his*
9 *delegate) shall submit to the Secretary a statement respecting*
10 *the amount of such payment which is transferred to each*
11 *unit of local government within the State.*

12 (b)(1) *In the case of any unit of local government*
13 *having a population of less than five thousand, the popula-*
14 *tion limitation applicable to such unit of local government*
15 *shall not exceed an amount equal to \$50 multiplied by the*
16 *population within the jurisdiction of such unit of local gov-*
17 *ernment.*

18 (2) *In the case of any unit of local government having*
19 *a population of five thousand or more, the population limita-*
20 *tion applicable to such unit of local government shall not*

- 1 exceed the amount computed under the following table (using
 2 a population figure rounded off to the nearest thousand):

<i>If population equals—</i>	<i>Payment shall not exceed the amount computed by multiplying such population by—</i>
6,000	50.00
6,000	47.00
7,000	44.00
8,000	41.00
9,000	38.00
10,000	35.00
11,000	34.00
12,000	33.00
13,000	32.00
14,000	31.00
15,000	30.00
16,000	29.50
17,000	29.00
18,000	28.50
19,000	28.00
20,000	27.50
21,000	27.20
22,000	26.90
23,000	26.60
24,000	26.30
25,000	26.00
26,000	25.80
27,000	25.60
28,000	25.40
29,000	25.20
30,000	25.00
31,000	24.75
32,000	24.50
33,000	24.25
34,000	24.00
35,000	23.75
36,000	23.50
37,000	23.25
38,000	23.00
39,000	22.75
40,000	22.50
41,000	22.25
42,000	22.00
43,000	21.75
44,000	21.50
45,000	21.25
46,000	21.00
47,000	20.75
48,000	20.50
49,000	20.25
50,000	20.00

1 *For the purpose of this computation no unit of local govern-*
2 *ment shall be credited with a population greater than fifty*
3 *thousand.*

4 *(c) For purposes of this section, "population" shall be*
5 *determined on the same basis as resident population is deter-*
6 *mined by the Bureau of the Census for general statistical*
7 *purposes.*

8 *(d) In the case of a smaller unit of local government all*
9 *or part of which is located within another unit of local gov-*
10 *ernment, entitlement lands which are within the jurisdiction*
11 *of both such units shall be treated for purposes of this section*
12 *as only within the jurisdiction of such smaller unit.*

13 *SEC. 3. (a) In the case of any land or interest therein,*
14 *acquired by the United States (i) for the Redwood National*
15 *Park pursuant to the Act of October 2, 1968 (82 Stat 931)*
16 *or (ii) acquired for addition to the National Park System or*
17 *National Wilderness Preservation System after December*
18 *31, 1970, which was subject to local real property taxes*
19 *within the five years preceding such acquisition, the Secretary*
20 *is authorized and directed to make payments to counties with-*
21 *in the jurisdiction of which such lands or interests therein*
22 *are located. in addition to payments under section 1. The*
23 *counties, under guidelines established by the Secretary, shall*
24 *distribute the payments on a proportional basis to those units*
25 *of local government which have incurred losses of real prop-*

1 *erty taxes due to the acquisition of lands or interests therein*
2 *for addition to either such system. In those cases in which*
3 *another unit of local government other than the county acts*
4 *as the collecting and distributing agency for real property*
5 *taxes, the payments shall be made to such unit of local gov-*
6 *ernment, which shall distribute such payments as provided*
7 *in this subsection. The Secretary may prescribe regulations*
8 *under which payments may be made to units of local govern-*
9 *ment in any case in which the preceding provisions will not*
10 *carry out the purposes of this subsection.*

11 *(b) Payments authorized under this section shall be made*
12 *on a fiscal year basis beginning with the later of—*

13 *(1) the fiscal year beginning October 1, 1976, or*

14 *(2) the first full fiscal year beginning after the fiscal*
15 *year in which such lands or interests therein are acquired*
16 *by the United States.*

17 *Such payments may be used by the unit or other affected*
18 *local governmental unit for any governmental purpose.*

19 *(c)(1) The amount of any payment made for any fiscal*
20 *year to any unit of local government under subsection (a)*
21 *shall be an amount equal to 1 per centum of the fair market*
22 *value of such lands and interests therein on the date on which*
23 *acquired by the United States. If, after the authorization*
24 *of any unit of either system under subsection (a), rezoning*
25 *increases the value of the land or any interest therein, the*

1 *fair market value for the purpose of such payments shall*
2 *be computed as if such land had not been rezoned.*

3 *(2) Notwithstanding paragraph (1), the payment made*
4 *for any fiscal year to a unit of local government under sub-*
5 *section (a) shall not exceed the amount of real property taxes*
6 *assessed and levied on such property during the last full fiscal*
7 *year before the fiscal year in which such land or interest was*
8 *acquired for addition to the National Park System or Na-*
9 *tional Wilderness Preservation System.*

10 *(d) No payment shall be made under this section with*
11 *respect to any land or interest therein after the fifth full fiscal*
12 *year beginning after the first fiscal year in which such a pay-*
13 *ment was made with respect to such land or interest therein.*

14 *SEC. 4. The provisions of law referred to in section 2*
15 *are as follows:*

16 *(1) the Act of May 23, 1908, entitled "An Act*
17 *making appropriations for the Department of Agricul-*
18 *ture for the fiscal year ending June thirtieth, nineteen*
19 *hundred and nine" (35 Stat. 251; 16 U.S.C. 500);*

20 *(2) the Act of June 20, 1910, entitled "An Act*
21 *to enable the people of New Mexico to form a con-*
22 *stitution and State government and be admitted into*
23 *the Union on an equal footing with the original States,*
24 *and to enable the people of Arizona to form a con-*
25 *stitution and State government and be admitted into the*

1 *Union on an equal footing with the original States*" (36
2 *Stat. 557);*

3 (3) *section 35 of the Act of February 25, 1920,*
4 *entitled "An Act to promote the mining of coal, phos-*
5 *phate, oil, oil shale, gas, and sodium on the public*
6 *domain", commonly known as the "Mineral Lands*
7 *Leasing Act" (41 Stat. 450; 30 U.S.C. 191);*

8 (4) *section 17 of the Federal Power Act (41 Stat.*
9 *1072; 16 U.S.C. 810);*

10 (5) *section 10 of the Taylor Grazing Act (48 Stat.*
11 *1273; 43 U.S.C. 315i);*

12 (6) *section 33 of the Bankhead-Jones Farm Tenant*
13 *Act (50 Stat. 526; 7 U.S.C. 1012);*

14 (7) *section 5 of the Act entitled "To safeguard and*
15 *consolidate certain areas of exceptional public value*
16 *within the Superior National Forest, State of Minnesota,*
17 *and for other purposes", approved June 22, 1948 (62*
18 *Stat. 570; 16 U.S.C. 577g);*

19 (8) *section 5 of the Act entitled "An Act to amend*
20 *the Act of June 22, 1948 (62 Stat. 568) and for other*
21 *purposes" approved June 22, 1956 (70 Stat. 366; 16*
22 *U.S.C. 577g-1);*

23 (9) *section 6 of the Mineral Leasing Act for Ac-*
24 *quired Lands (61 Stat. 915; 30 U.S.C. 355); and*

1 (10) section 3 of the Materials Disposal Act (61
2 Stat. 681; 30 U.S.C. 603).

3 SEC. 5. (a) No unit of local government which receives
4 any payment with respect to any land under the Act of
5 August 28, 1937 (50 Stat. 875), or the Act of May 24,
6 1939 (53 Stat. 753), during any fiscal year shall be eligible
7 to receive any payment under this Act for such fiscal year
8 with respect to such land. Nothing in this Act shall be con-
9 strued to apply to the Act of August 28, 1937 (50 Stat. 875),
10 or the Act of May 24, 1939 (53 Stat. 753).

11 (b) If the total payment by the Secretary to any county
12 or unit of local government under this Act would be less than
13 \$100, such payment shall not be made.

14 SEC. 6. As used in this Act, the term—

15 (a) "entitlement lands" means lands owned by the
16 United States that are—

17 (1) within the National Park System, the Na-
18 tional Wilderness Preservation System, or the Na-
19 tional Forest System, or any combination thereof,
20 including, but not limited to, lands described in
21 section 2 of the Act referred to in paragraph (7)
22 of section 4 of this Act (16 U.S.C. 577d) and the
23 first section of the Act referred to in paragraph (8)
24 of this Act (16 U.S.C. 577d-1);

1 (2) administered by the Secretary of the
2 Interior through the Bureau of Land Management;
3 or

4 (3) dedicated to the use of water resource de-
5 velopment projects of the United States;

6 (b) "Secretary" means the Secretary of the Interior;
7 and

8 (c) "unit of local government" means a county,
9 parish, township, municipality, borough existing in the
10 State of Alaska on the date of enactment of this Act, or
11 other unit of government below the State which is a unit
12 of general government as determined by the Secretary
13 (on the basis of the same principles as are used by the
14 Bureau of the Census for general statistical purposes).
15 Such term also includes the Commonwealth of Puerto
16 Rico, Guam, and the Virgin Islands.

17 SEC. 7. There are authorized to be appropriated
18 for carrying out the provisions of this Act such sums as
19 may be necessary: Provided, That, notwithstanding any
20 other provision of this Act no funds may be made avail-
21 able except to the extent provided in advance in appropri-
22 ation Acts.

Amend the title so as to read: "A bill to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality."

APPENDIX D

Increased Revenue Under the
Terms of H.R. 9719 Using the
State of Montana As An Example

Source: National Association of Counties Informational Release.

Montana	1970 Population	Acres		FY 1975		Approximate Increase
		NFS	BLM*	NFS Payment	Proposed Payment	
<u>District 1</u>						
Beaverhead	8,187	1,367,187		\$47,786.34	\$ 310,000	\$262,000
		662,191*				
Broadwater	2,526	178,008		12,825.41	150,000	112,000
		66,883*				
Deer Lodge	15,652	155,592		8,229.81	122,000	114,000
		5,846*				
Flathead	39,460	1,795,848		888,558.88	1,068,000	179,000
Gallatin	32,505	589,670		14,959.31	449,000	435,000
		8,611*				
Glacier	10,783	25,304		662.28	20,000	19,000
		1,083*				
Golden Valley	931	23,644		618.83	24,000	23,000
		8,275*				
Granite	2,737	660,610		154,111.88	225,000	71,000
		47,283*				
Jefferson	5,238	464,085		38,058.65	250,000	212,000
		96,147*				
Lake	14,445	162,999		80,152.51	122,000	42,000
Lewis & Clark	33,281	995,069		104,428.09	780,000	676,000
		63,617*				
Liberty	2,359	7,046		--	5,000	5,000
Lincoln	18,063	1,749,700		1,018,188.63	1,193,000	175,000
		1*				
Madison	5,014	799,616		30,739.74	250,000	220,000
		257,291*				

Montana	1970 Population	Acres NFS BLM*	FY 1975 NFS Payment	Proposed Payment	Approximate Increase
<u>District 1--Continued</u>					
Meagher	2,122	442,040 10,461*	\$14,338.12	\$ 100,000	\$ 86,000
Mineral	2,958	646,890	347,371.64	1,012,000	65,000
Missoula	58,263	676,900 25,923*	351,428.88	597,000	176,000
Park	11,197	800,920 13,376*	21,272.61	370,000	349,000
Pondera	6,611	106,637 1,328*	2,790.97	81,000	78,000
Powell	6,660	643,513 78,168*	221,081.56	290,000	69,000
Ravalli	14,409	1,109,516 40*	158,756.31	430,000	271,000
Sanders	7,093	912,189	619,979.46	711,000	91,000
Silver Bow	41,981	192,407 45,186*	14,386.21	178,000	164,000
Toole	<u>5,839</u>	<u>28,023*</u>	<u>--</u>	<u>21,000</u>	<u>21,000</u>
Total	348,314	15,925,123	\$4,150,746.11	\$8,758,000	\$3,915,000

Montana	1970 Population	Acres NFS BLM*	FY 1975 NFS Payment	Proposed Payment	Approximate Increase
<u>District 2</u>					
Big Horn	10,057	27,208*	\$ ---	\$ 28,000	\$ 20,000
Blaine	6,727	459,298*	---	290,000	290,000
Carbon	7,080	320,253 207,005*	15,829.72	290,000	274,000
Carter	1,956	89,400 512,693*	4,691.62	100,000	95,000
Cascade	81,804	177,262 25,537*	4,639.41	152,000	147,000
Chouteau	6,473	31,979 111,999*	836.97	108,000	107,000
Custer	12,174	341,995*	---	257,000	257,000
Daniels	3,083	200*	---	---	---
Dawson	11,269	67,171*	---	50,000	50,000
Fallon	4,050	121,906*	---	92,000	92,000
Fergus	12,611	92,704 360,564*	2,426.31	341,000	339,000
Garfield	1,796	516,574*	---	100,000	100,000
Hill	17,358	14,370*	---	11,000	11,000
Judith Basin	2,667	292,841 14,111*	7,664.42	150,000	142,000
McCone	2,875	202,696*	---	150,000	150,000
Musselshell	3,734	104,686*	---	79,000	79,000
Petroleum	675	337,652	---	50,000	50,000
Phillips	5,386	1,100,895*	---	250,000	250,000

Montana	1970 Population	Acres NFS BLM*	FY 1975 NFS Payment	Proposed Payment	Approximate Increase
<u>District 2--Continued</u>					
Powder River	2,862	341,911 258,388*	\$17,943.15	\$ 150,000	\$132,000
Prairie	1,752	450,735*	---	100,000	100,000
Richland	9,837	52,902*	---	40,000	40,000
Roosevelt	10,365	4,635*	---	3,000	3,000
Rosebud	6,032	95,827 233,650*	5,028.91	248,000	243,000
Sheridan	5,779	300*	---	---	---
Stillwater	4,632	186,320 5,716*	9,777.89	144,000	134,000
Sweetgrass	2,980	282,063 16,566*	9,375.29	150,000	141,000
Teton	6,116	235,264 19,956*	6,157.48	191,000	185,000
Treasure	1,069	11,884*	---	9,000	9,000
Valley	11,471	1,017,235*	---	370,000	370,000
Wheatland	2,529	66,116 2,195*	1,730.43	51,000	49,000
Wilboux	1,465	25,882*	---	20,000	20,000
Yellowstone	<u>87,367</u>	<u>85,801*</u>	<u>---</u>	<u>65,000</u>	<u>65,000</u>
Total	346,031	8,924,345	\$86,101.60	\$4,051,000	\$3,944,000
TOTAL, 1 & 2	694,345	24,849,468	\$4,236,847.71	\$12,809,000	\$7,859,000

APPENDIX E

BILL S. 1285

94TH CONGRESS
1ST SESSION

S. 1285

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, MARCH 12), 1975

Mr. HUMPHREY (for himself, Mr. MCGEE, and Mr. MONDALE) introduced the following bill; which was read twice and, by unanimous consent, referred to the Committees on Agriculture and Forestry and Interior and Insular Affairs

A BILL

To provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "Payments in Lieu of
 4 Taxes Act of 1975".

5 SEC. 2. As used in this Act—

6 (a) The term "public lands" means all lands, and nat-
 7 ural resources thereon, or interests in lands, owned by the
 8 United States which are administered for natural resources
 9 purposes, except lands or interests therein held by the
 10 United States in trust for any group, band, or tribe of In-

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1 dians, Aleuts, or Eskimos, lands used exclusively for national
2 defense purposes, and the Outer Continental Shelf.

3 (b) The term "Administrator" means the Administra-
4 tor of General Services Administration.

5 (c) The term "board" means a State Board of Ap-
6 praisal Appeals established under section 4.

7 (d) The term "regular taxpayers" means taxpayers sub-
8 ject to State and local real property taxes who do not enjoy
9 the benefits of tax immunity.

10 (e) The term "county" includes a parish or borough.

11 SEC. 3. (a) Within two years after the date of enact-
12 ment of this Act, each county shall elect whether it wishes
13 to proceed under the terms of this Act to receive payments
14 from the Federal Government equal to the real property
15 taxes otherwise due from public land within such county, or
16 continue to receive whatever payments such county is entitled
17 to receive under any existing applicable Federal law pro-
18 viding for Federal payments for such county similar to those
19 available under this Act or for payment to such county of
20 part of the revenue derived from such public land.

21 (b) The Administrator and each county electing to
22 proceed under this Act shall jointly arrange to have the
23 public land in such county appraised and such appraisal shall
24 be completed within two years after the date such county
25 made such election. If the Administrator and the county

1 agree that the appraisal may require longer than two years
2 to complete they may either divide the area and complete a
3 portion in two years or provide a period of not to exceed
4 four years to complete such appraisal, However, before such
5 appraisal is finally adopted by the county, the county, upon
6 due notice and payment of actual costs for such appraisal to
7 date, may elect to remain under such existing applicable
8 Federal law.

9 (c) In making appraisals under this section the follow-
10 ing criteria shall be met:

11 (1) The appraisal of public land shall be consistent
12 with the appraisal for real property tax purposes of pri-
13 vately owned lands in the county.

14 (2) There shall be no discrimination against the
15 Federal Government in relating payments to the real
16 property tax rates applicable to similar private land.

17 (3) Appraisals shall be completely and thoroughly
18 reviewed at least every ten years. In the intervening
19 years, appraisals shall be updated annually in accord-
20 ance with procedures to be established by the Admin-
21 istrator. However, upon the request of any county, at
22 no less than five-year intervals, a reappraisal may be
23 conducted in the same manner as the original appraisal.

24 (d) Appraisals shall, when made, conform to standards
25 for the State and counties involved, and only their actual

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1 cost shall be deducted from payments to be made to a county
2 under this Act.

3 SEC. 4. (a) When any county within a State has
4 elected to proceed under the terms of this Act, there shall be
5 established for that State a State board of appraisal appeal
6 which shall consist of three members, one member to be
7 appointed by the Administrator and two members to be
8 appointed by the Governor of the State for which such board
9 is established. Of the members appointed by the Governor,
10 one shall be appointed from among persons who are citizens
11 of the State and representative of the interests of the counties
12 in the State in which are located public land. Members shall
13 serve terms of five years and may be reappointed.

14 (b) Members of each board shall serve without com-
15 pensation but, while away from their homes or regular
16 places of business in performance of services for the board,
17 shall be allowed travel expenses, including per diem in lieu
18 of subsistence, in the same manner as persons employed
19 intermittently in the Government service are allowed ex-
20 penses under section 5703 (b) of title 5 of the United
21 States Code.

22 (c) Two members of a board shall constitute a quorum.

23 (d) Each board shall select a chairman who shall call
24 meetings of that board.

25 (e) Each board shall consider and decide any appeal

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1 from a county within the State relating to the appraisal of
2 public land within such county either with regard to the
3 cost or procedure of the appraisal or to the appraisal findings.
4 Decisions of the board shall be final and shall not be subject
5 to judicial review unless arbitrary or capricious.

6 SEC. 5. (a) Beginning in the first complete fiscal year
7 after the acceptance of such appraisal by both the county
8 involved and the Administrator, the Secretary of the Treas-
9 ury is authorized to pay annually to the State in which such
10 county is located an amount equivalent to the State, county,
11 and local real property taxes on public lands within such
12 county, based on the tax rate applicable to similar private
13 lands at the value arrived at under the appraisal conducted
14 under this Act.

15 (b) The payment made to a State shall be distributed
16 by the State to those counties electing to proceed under the
17 terms of this Act in which the public lands are located to be
18 used by such counties for any public purpose. Each such
19 county shall receive an amount equal to the total amount of
20 taxes due from the public lands located within such county.

21 (c) Notwithstanding any other provisions of this Act,
22 or of any other law, the Administrator is authorized to
23 discontinue payments to such county of part of the revenue
24 derived from such public land on a gradually decreasing
25 basis over a period of five years and to program implementa-

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1 tion of this Act on a similar time basis, for any county where
2 immediate implementation of this Act will result in hard-
3 ships because of a substantial reduction in the amount of
4 payments.

5 **SEC. 6.** Nothing in this Act shall interfere with the
6 right of State or local governments to levy possessory
7 interests taxes on private owners of improvements made
8 by private users on public lands.

9 **SEC. 7.** There are hereby authorized to be appropriated
10 such sums as may be necessary to administer this Act and to
11 make the payments authorized by it.

APPENDIX F

Selected Rate Per Acre Return by National Forest

NATIONAL FOREST FUND--FY 1975

SELECTED RATE PER ACRE RETURN BY NATIONAL FOREST

HIGH		
Siuslaw National Forest	Oregon	\$6.68
Willamette National Forest	Oregon	5.95
Gifford Pinchot National Forest	Washington	5.63
Mt. Hood National Forest	Oregon	3.86
Lassen National Forest	California	2.78
Homochitto National Forest	Mississippi	3.43
Clark National Forest	Missouri	2.07
LOW		
Chugach National Forest	Alaska	.01
Challis National Forest	Idaho	.01
San Isabel National Forest	Colorado	.02
Pike National Forest	Colorado	.02
Mark Twain National Forest	Missouri	.11

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