A STUDY COMMITTEE REPORT ON

JUNE 1955

Payments in Lieu of Taxes and Shared Revenues

SUBMITTED TO THE

COMMISSION ON INTERGOVERNMENTAL RELATIONS

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BY THE

STUDY COMMITTEE ON PAYMENTS IN LIEU OF TAXES AND SHARED REVENUES

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STUDY COMMITTEE ON PAYMENTS IN LIEU OF TAXES AND SHARED REVENUES

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LETTER OF TRANSMITTAL

COMMISSION ON INTERGOVERNMENTAL RELATIONS,
WASHINGTON, D. C., *June 20, 1955.*

DEAR MR. PRESIDENT:

The Commission on Intergovernmental Relations has submitted its report to you separately.

In carrying out its work, the Commission established a number of study and advisory committees to develop suggestions about specific programs. One of these was its Study Committee on Payments in Lieu of Taxes and Shared Revenues.

The study committees were made up of public spirited citizens selected with the idea of obtaining the benefit of varied experience and differing views on the subjects examined. The Commission is indebted to the committees for their willingness to undertake their difficult assignments within the limited time available to them.

The Commission has carefully considered the reports of the study committees, and has obtained valuable assistance from them. It has also had the benefit of recommendations and information from organizations interested in the respective programs, and from a wide variety of other sources.

The Commission, however, arrived at its own findings and recommendations which are confined to those appearing in its own report. The Commission's views do not in every case coincide with those of its study committees, although the study committee reports contain much valuable information and many detailed recommendations that deserve careful consideration.

Recognizing the great interest in the subjects of its inquiries, the Commission has brought together material ancillary to its own report. The report of the Study Committee on Payments in Lieu of Taxes and Shared Revenues, submitted herewith, is part of this material.

Respectfully,

MEYER KESTNBAUM,
Chairman.

THE PRESIDENT,
THE WHITE HOUSE.

LETTER OF SUBMISSION

COMMISSION ON INTERGOVERNMENTAL RELATIONS,
WASHINGTON 25, D. C., *November 15, 1954.*

The Honorable MEYER KESTNBAUM,
Chairman, Commission on Intergovernmental Relations.

DEAR MR. KESTNBAUM:

Your Study Committee on Payments in Lieu of Taxes and Shared Revenues has completed its studies and deliberations and has the honor to transmit herewith its report and recommendations for future Federal policy with respect to payments to States and local governments by reason of Federal property holdings within them.

The field studied by the Committee is one characterized by diverse and conflicting considerations with complications frequently difficult to appraise. Under such circumstances the members of the Committee derive considerable gratification from the fact that the Committee's report is a substantially unanimous one. This result, in contrast with the variety of prestudy viewpoints which the Committee members originally brought to their task, has been achieved only by hammering out such viewpoints on the anvil of full discussion in as exhaustive a study as the Committee was able to undertake. The Committee is thus able to present its recommendations with the confidence that they represent the best efforts which the Committee was able to muster.

The report represents the united views of all Committee members with the following qualifications: Mr. Conlon dissents from the Committee's recommendations concerning Federal payments on certain commercial and industrial properties, and his views are set forth in a separate statement attached to the report. Mr. Folsom dissents from the Committee's recommendations concerning the particular cutoff date for determining Federal properties subject to payment and concerning the particular formula for preventing possible unjust enrichment of States or local governments through Federal payments. His views are set forth in footnotes within the report keyed to the items of his dissent. In addition, Mr. Folsom has important reservations about recommending any changes in the percentage of revenues to be shared from the O and C lands and the wildlife refuges.

The Committee wishes to express its appreciation to the countless officials—Federal, State, and local—whose advice formed the background for the Committee's recommendations. We also wish to express our gratitude to I. M. Labovitz of the United States Bureau of the Budget for his valuable technical advice and especially for his

assistance in preparing estimates of Federal costs involved in the Committee's proposals and to Prof. Jewell J. Rasmussen of the University of Utah for his basic studies and advice in the field of shared revenues. Finally, to our Research Adviser, Leslie A. Grant, we gratefully acknowledge our indebtedness for his general counsel and advice and for his preparation of our report.

The members of the Committee have felt highly privileged to be able to share in the historic undertaking in which the Commission on Intergovernmental Relations is engaged. We have approached our particular task with a deep sense of responsibility and humility. We trust that our findings and recommendations will be helpful in easing certain troublesome areas of intergovernmental fiscal relationships.

Respectfully submitted,

ARTHUR E. B. TANNER,
Chairman,
ALBERT E. CHAMPNEY,
CHARLES F. CONLON,
MARION B. FOLSOM,
STEPHEN H. HART,
CHARLES P. HENDERSON,
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Part I

SUMMARY AND RECOMMENDATIONS

Chapter 1

PROPERTIES NOT ASSOCIATED WITH SHARED REVENUES

The Federal Government is the greatest property owner in the country with vast and varied holdings covering about one-fourth of the land area of the country and including personal property as well as real estate (see pp. 21–24). Under the intergovernmental tax immunities doctrine all Federal property is immune to ad valorem taxation by States and local governments. This Federal immunity has been the source of widespread complaints from local governments which generally rely on the property tax as their chief source of revenue (see pp. 24–26). These complaints have multiplied with the expansion of Federal property holdings and especially of those properties devoted to uses comparable to uses made of privately owned properties, such as commercial and industrial uses (see pp. 26–29).

The Committee has undertaken to review problems of State and local government arising from the Federal immunity to property taxation and to recommend a policy to be adopted by the Federal Government for best meeting those problems. This task has been directed at one of the most sensitive areas of intergovernmental fiscal relations, although it is only a single aspect of the entire problem of intergovernmental tax immunities (see p. 20). The basic objective of the Committee's study has been to secure substantial equity as between Federal and local taxpayers. As the Federal Real Estate Board said in its report (1943):

> The cost of national functions and programs should not impose an undue burden on local taxpayers through Federal tax exemptions; neither should the Federal taxpayer be required to support unjustified subsidies to the localities containing Federal lands.

Accordingly, the Committee was guided by the consideration, among others, that it was generally fair that the costs of local government allocable under the property tax system to an item of federally owned property should be borne by the Federal taxpayer if the property serves primarily a national or broad regional purpose and conversely, by the local taxpayer if the property serves primarily a local purpose. This general guide, while providing the touchstone for many of the recommendations made by the Committee, was not considered in isolation. Other considerations exerted a similarly important role in

molding the Committee's recommendations (see pp. 34–35). Federal properties devoted to uses comparable to those made of private properties appeared, in general, to deserve the same obligation of supporting local government and the same exemptions from this obligation as similar privately owned properties. Furthermore, practical considerations suggested both that property long in Federal ownership and immune from payment requirements should not now be obliged to contribute to the costs of local government and that existing arrangements for Federal payments which have been operating to general satisfaction should be left largely undisturbed.

The Committee observed that although for most Federal properties the Federal Government makes no contribution to the support of local governments, it does, under existing statutes, make payments for some of its properties. These payments variously take the form of tax payments, administratively determined payments in lieu of taxes, and a sharing of income receipts from operations on Federal properties (see pp. 29–31).

To find a policy concerning payments for Federal property holdings which would most appropriately balance the equities between Federal and local taxpayers, the Committee explored several alternative approaches (see pp. 39–51). It concluded that the solution to the problem could be found only within the framework of considerations germane to the property tax (see pp. 53–54). All the recommendations of the Committee rest upon this basic conclusion. The Committee was aware, however, that the property tax criterion as a measure of the amount of the Federal property owner's responsibility to contribute to local government support is subject to some limitations. These limitations spring from several factors: The diverse character of Federal properties and the variety of uses to which they may be put, some serving primarily national and others primarily local purposes; the varying service burdens of different Federal properties on State and local governments and, conversely, the varying service benefits which they confer on those governments to lighten the costs of supplying local public services; the similarity and contrasts in uses made of Federal properties to uses made of private properties, with some Federal properties resembling and others differing from properties comprising the property tax bases of most local governments; and the varying effects of Federal acquisition of different properties upon local tax bases, with some properties predating the Republic itself and others acquired intermittently during the intervening years with the consequence that different communities and the owners of taxable properties within their borders have had varying times to adjust, insofar as this is possible, to the presence of Federal properties.

During the course of its study, the Committee has paid special heed to the necessity for finding a solution to the problem which would

maintain and promote sound government at all levels of our Federal system. Since local governments have been primarily affected by the existing situation, the Committee proceeded from the compelling need to maintain robust local government. This is not merely in the sole interest of local communities. The States and the Nation share in the general interest to maintain financially sound local governments. On the other hand, the Committee deliberately sought solutions which would safeguard the Federal Treasury from unwarranted demands. The interest of the Federal Government in maintaining its financial strength mirrors the vital interest which citizens of local governments have in the same subject. The situation, in the Committee's view, is one calling for balanced judgment and reasonableness.

The goal of finding a solution which would help preserve financially healthy local governments is realized in the Committee's conclusions that the Federal Government should inaugurate a broader system of payments to local governments by reason of its property holdings and that these payments should be responsive to the property tax system as the system generally accepted for allocating among property holders the costs of supporting local government. The aim of safeguarding the financial interests of the Federal Government is achieved by the compounded results of several Committee recommendations. These inhere in the broad category of properties exempted from any payment requirement whatsoever, in the restrictive definitions of properties for which Federal consent to local taxation was proposed, and in the provisions suggested for limiting the amounts of payments in lieu of taxes. These latter provisions contemplate both Federal offsets to tax equivalent amounts and, of even greater significance, maximum limits or ceilings upon Federal payments in lieu to any individual tax jurisdiction. The safeguarding of the Federal financial interest may also be found in the narrow definition of personal property made subject to Federal payment requirements and in the recommendations for a cutoff date which would generally absolve the Federal Government from all payment obligations on properties acquired before that date.

The Committee has distilled its conclusions from a number of considerations frequently complicated and frequently conflicting. Its recommendations represent a blending of considerations of equity, logic, tradition, and practicality. The result is an integrated set of recommendations, with the terms of any particular recommendation frequently being determined by reference to or in relation to the terms of other recommendations. In the Committee's view, the composite set of recommendations balances equities as between Federal and local taxpayers on scales adjusted to give appropriate weight to special factors bearing upon intergovernmental fiscal relations in this field.

Accurate information on the amount of Federal payments which

would be made under the Committee's recommendations is not obtainable. A general estimate of the magnitudes involved may be derived from rough calculations based upon estimates for bills which were before the Eighty-third Congress. This indicates a range of annual payments under the Committee's recommendations in the neighborhood of $200–$260 million for Federal property holdings as of June 30, 1953.

The Committee believes that its recommendations provide a reasonable and fair solution to the problem presented. Their adoption should serve effectively to remove a source of friction in sensitive intergovernmental relationships. Their adoption will promote the financial integrity and independence of local governments and at the same time safeguard Federal finances, thus strengthening our whole Federal system.[1]

Recommendations

1. Congress should not consent to payment of property taxes or any payments in lieu of property taxes on the categories of properties enumerated below. This immunity should not extend to special assessments (see *Recommendation 7*):

a. Property which, if privately owned or used, would by reason of its use be exempt from taxation under the laws of the State of situs.

b. Property used or held primarily for services to the local public, including but not limited to the following types of properties: Courthouses; post offices and properties incidental to local postal operations; weather stations and observation posts; assay offices; local irrigation projects; sanitation projects; federally owned airports maintained and operated by the Civil Aeronautics Administration; and properties used for experimental, testing or research purposes, such as a pilot plant, experimental farm, testing station, or laboratory, if the activities associated therewith serve primarily the local public.

c. Office buildings not associated with commercial or industrial activities and not included in *Recommendation 2*, customhouses, facilities for coining money and printing currency, bullion depositories, river and harbor improvements, prisons, reformatories, detention farms, hospitals, dispensaries, outpatient clinics, homes for

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[1] Mr. Folsom has added the following note at this point: "The impact of the Committee's recommendations on the Federal budget must be considered by the Commission. The cost of these recommendations would be roughly $250 million. The Committee was not asked to suggest possible ways to raise the $250 million but I believe that the Commission should do so. One possibility which I would suggest is an examination of those intergovernmental tax immunities which benefit State/local governments at the expense of the Federal Treasury. Adjustments in these areas could produce Federal revenues to offset in large part the cost of the Committee's recommendations."

the aged, sanitaria, quarantine and immigration stations, cemeteries, Coast Guard aids to navigation, Civil Aeronautics Administration aids to air navigation, beacons, facilities used in the police and regulatory functions of the Federal Government (other than those which are incidental to or an integral part of the properties included in *Recommendations 2* or *3*) and military and naval installations (but not those engaged in industrial or commercial activities) such as forts, camps, armories, observation posts, guard posts, proving grounds and airfields.

d. Property which under Federal law is subject to a payment to a State or local government of any portion of the revenue derived from its use or from the sale of such property or any of its products (revenue-sharing arrangements).

e. Stocks of strategic and critical materials and of agricultural commodities and other personal property which is not incidental to industrial or commercial activities.

2. The Federal Government should consent to nondiscriminatory State and local taxation of the following categories of properties in accordance with the laws of the State of situs:

a. Properties acquired by the Federal Government to protect its financial interest in connection with loans or contracts of insurance or guarantee, such payments to continue until the property has been disposed of or placed in permanent use by the Federal Government.

b. Properties sold by the Federal Government under conditional sales contract or leased to taxable persons.

3. The Federal Government should make payments in lieu of property taxes on the following categories of properties, other than those enumerated under *Recommendations 1* and *2:*

a. Commercial and industrial properties, including properties employed by private contractors or subcontractors in the performance of contracts with the Federal Government, title to which has passed to the Federal Government pursuant to any partial or advance payment contract clause.

b. Properties used or held for activities which serve primarily national or broad regional interests rather than those of the local public.

c. Rental housing other than low-rent housing.

The payments in lieu of taxes should be equivalent to the amount of taxes which would be assessable against the property if taxable, according to its value as determined by the established tax procedures of the taxing jurisdiction, including all provisions for administrative and/or judicial review of assessments, tax rates, or levies in accordance with applicable laws governing assessments and taxation, provided that Federal property is treated on the same basis and accorded the

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same safeguards as non-Federal properties. Payments thus established should be adjusted as follows:

(i) Reduced for the local cost of specific and customary State or local governmental services provided at Federal expense to the taxing jurisdiction or its residents, or the Federal property, or Federal employees and their families who reside within the taxing jurisdiction. The amount of this reduction should be based on the unit cost of the particular services to the taxing jurisdiction, or in the absence of such unit cost data should be based on the unit cost in comparable nearby taxing jurisdictions.

(ii) Increased by the amount of the expenditures incurred by the taxing jurisdiction in providing specific services to the Federal property which it does not customarily provide to non-Federal properties.

The amount of adjustments (i) and/or (ii), if any, should be determined by the Federal Review Board (see *Recommendation 8*) on application of either the taxing district or the Federal agency owning the property. Where properties of more than one Federal owning agency are located within the taxing district, the Federal Review Board should allocate any adjustments made under (i) and/or (ii) among the Federal properties involved.

Local property assessing jurisdictions containing Federal properties deemed to be subject to payments in lieu of taxes hereunder should be required to file, with the Federal owning agency, applications for such payments on forms prescribed by the Federal Review Board. The application should contain a statement by the legally constituted assessing authority showing the property values proposed as the basis for computing tax equivalents hereunder. Such application should also advise the Federal property-owning agency of the steps necessary to be taken to secure administrative and/or judicial review of the valuation of the property as fixed by the assessing authority under the laws of the State of situs applicable to assessments of property for taxation. The application should also contain a statement by an appropriate fiscal authority on behalf of the taxing jurisdictions involved showing the applicable tax rates and the statutory procedures to be followed to secure review of any objections to such rates.

Federal agencies owning properties subject to payments hereunder, if requested by the legally constituted assessing officer of the taxing jurisdiction in which the property is located, should supply such statements or reports with reference to the property as may under applicable laws be required of the owners of taxable property.

To prevent disproportionate Federal contributions to particular communities, the total amount of payments to any taxing district for those properties described in paragraphs (*a*) and (*b*) of this recom-

mendation which are located therein should be subject to the following limitation:

> If the total payment to any taxing district in any year, as computed hereunder, exceeds the total taxes levied against all non-Federal taxable property in the district, the Federal Review Board (see *Recommendation 8*) should determine whether or not the computed total payment would confer unwarranted benefits upon the taxing jurisdiction, contrary to the interests of the taxpayers of the United States, and should fix the total payment at such sum as it shall deem fair and reasonable, but in no event at a sum less than the total taxes levied against all non-Federal taxable properties within the taxing district. Where properties of more than one Federal owning agency are involved, any reduction in the total payment determined hereunder should be apportioned among the Federal properties in accordance with their respective values as otherwise determined under this recommendation.[2]

No payment should be made to a State or local government which declines to provide services to the Federal property or its residents or employees and their families upon the same terms as are accorded to other properties, residents, or persons, unless the Federal property-holding agency deems the provision of such services to be unnecessary or undesirable.

These payments should be made by the Federal agency charged with the administration of the particular property.

4. *Recommendations 2* and *3* should not apply to properties acquired by the Federal Government before September 8, 1939 unless the Congress has specifically authorized the payment of property taxes or payments in lieu of taxes on account of such properties.[3]

5. The Federal Government should make transitional payments in lieu on Federal properties described in category (*c*) of *Recommendation 1* which would not also fall within category (*a*), (*b*) or (*e*). These transitional payments should be made over a 10-year period in diminishing amounts. With respect to properties in Federal ownership at the time of the enactment of the legislation here proposed, transitional payments should be limited to properties acquired within the immediately preceding 10 years.

6. In all the foregoing *Recommendations*, the term "property" includes "real property" and "tangible personal property" according to the legal definitions of these terms in the State of situs.

7. The Federal Government should consent to the payment of special assessments to finance local improvements where both non-Federal

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[2] Mr. Folsom, while in general agreement with *Recommendation 3*, does not concur in the Committee's recommendations concerning payment limitations to prevent disproportionate Federal contributions. His alternative proposals are set forth in footnote 3, p. 66.

[3] Mr. Folsom does not concur in recommending the date of September 8, 1939. His views are set forth in footnote 4, p. 69.

and Federal properties are included in the benefited district and subjected to the assessment, provided that Federal property is treated on the same basis and accorded the same safeguards and exemptions as non-Federal properties.

8. Congress should authorize and direct the President to appoint an administrative Review Board, composed of three members who should have responsibility for:

a. Promulgating rules and regulations governing the payment program and assuring that all property-owning Federal agencies pursue uniform payment policies.

b. Determining the amount of adjusted payments in lieu of taxes under *Recommendation 3.*

c. Resolving, as an appellate body, Federal and State/local differences arising under this program.

d. Submitting annual reports to the President.

An advisory committee should be established to consult and advise the administrative Review Board with respect to the administration of the payment program. This Committee should consist of heads of Federal agencies and representatives of State and local governments, and of the public. This Committee should recommend to the President such changes in the payments legislation as it deems necessary.

Chapter 2

PROPERTIES ASSOCIATED WITH SHARED REVENUES

The Federal properties treated in this part of the report (chapters 10–14) differ significantly from those in the first part. In general, they consist of large tracts of land with few improvements lying in rural areas where the level of Government services is often considerably lower than in the more populous centers where the properties described in chapters 6–9 are frequently located. Furthermore, they are, by and large, part of the public domain and have never been on local property tax rolls. In addition, these properties have in most cases for a long period been operated by the Federal Government under arrangements whereby income receipts from the lands and their products have been shared in varying ratios with the States or local governments. Nestled in a different historical setting with a somewhat different impact upon the local governments concerned, the properties of the type generally associated with shared revenue arrangements or with the public domain must be viewed somewhat differently from the properties described in chapters 6–9. Property tax considerations, so important to the properties in chapters 6–9, do not apply with the same force to them. That does not, of course, mean to say that property tax considerations for all such properties are entirely irrelevant.

The most significant thing about the properties described in chapters 10–14 is that in general they are now the subject of Federal payment obligations to States or local governments. This is true even where the lands involved are part of the public domain. The rationale for shared-revenue payments is not altogether clear. Some of the payment arrangements appear imbued with the concept that the Federal holding is one for the beneficial interest of the residents of the locality, State, or region where the property is located. Some, on the other hand, appear designed to return to the States or local governments amounts fairly comparable with tax equivalents on the property were it in private ownership. There is no general agreement concerning the exact philosophy behind revenue-sharing arrangements generally, or behind any particular arrangement. What is clear is that the device of revenue sharing is generally accepted by local, State and

Federal officials as a suitable method for Federal payments to States and local governments because of the Federal property holdings involved. Furthermore, it is clear that the yardstick most commonly utilized to measure the adequacy of the State or local share of the income receipts is the amount which would be received in property taxes were the lands privately owned. This is especially true with respect to lands which are acquired by the Federal Government under circumstances which remove them from State or local property tax rolls. In such cases, the concept of a local beneficial interest in the properties under revenue-sharing arrangements and the concept of a State or local claim limited but fully equivalent to tax losses, as in the case of private property, may be found existing side by side with no apparent indication or realization that they may be inconsistent with each other.

Under these circumstances the Committee has approached the problem of Federal payments on these properties from an entirely practical point of view. No attempt has been made to achieve conformity with sophisticated theoretical objectives. The Committee's aim, of course, has been to seek solutions to the problem of Federal payments which would balance equities as between Federal and local taxpayers, but it has observed that the revenue-sharing arrangements are widely accepted and approved and that criticisms of them are directed at their details rather than their basic substance. The Committee has, therefore, generally endorsed continuance of the present shared revenue programs and recommended relatively minor modifications which in the Committee's view will greatly improve their fairness and adequacy as well as remove sensitive problems in Federal-State-local relations.

Recommendations

National Forests

9. 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 25-percent fund should be based upon a centered moving 5-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 10 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.

MINERAL LEASES

10. The Committee recommends the continuation of the present arrangements for the distribution of the proceeds of mineral leases among the States with the following modifications:

a. The restriction upon the use of funds to expenditures for schools and roads should be eliminated.

OREGON AND CALIFORNIA REVESTED LANDS (O AND C LANDS)

11. The Committee recommends that the present arrangements pertaining to the sharing of revenues from the O and C lands with the counties in Oregon should be continued with the following modifications:

a. As a permanent policy

(i) Fifty percent of the gross receipts from O and C lands, including the controverted lands, should be paid annually to the State of Oregon with the proviso that sums fully equivalent to taxes on the O and C lands should be paid to each of the counties containing O and C lands. Any excess revenue above the total tax equivalent payments to the counties should be allocated as the State legislature may provide.

(ii) As much as necessary of the remaining 50 percent of the receipts, including those from the controverted lands, should be used by the Federal Government to achieve a maximum sustained yield from the forests. Any receipts not so used should be paid into the General Fund of the Treasury.

(iii) The effective date of the permanent plan should be the date of completion of the timber inventories on O and C lands and the reassessment project by the Oregon State Tax Commission now in progress, but not later than 1960.

b. In the interim period before the permanent plan is put into effect

(i) Fifty percent of the gross receipts should be paid directly to the State of Oregon with the proviso that all of the revenue should be paid to the counties containing O and C lands under the existing distribution formula.

(ii) The present temporary arrangement for providing access roads from O and C forest receipts should be continued.

Corps of (Army) Engineers Flood-Control Lands

12. The Committee recommends that the present arrangements whereby the Federal Government shares revenues from flood-control lands of the Corps of Engineers with States for the benefit of counties where those lands are located be continued with the following modifications:

a. The annual payments should be based upon a centered moving 5-year average of income receipts from such lands in each county.

b. Receipts from mineral leases upon the flood-control lands should be separated from other receipts and payments for the benefit of counties from such receipts limited to 25 percent.

c. For lands acquired since the cutoff date specified in *Recommendation 4*, the Federal payments to any county in any year should not be less than a payment in lieu of taxes calculated in accordance with the rules described in *Recommendation 3*.

Boulder Canyon Project

13. The Committee recommends that the present payments now being paid annually to Arizona and Nevada under the Boulder Canyon Project Adjustment Act of 1940 be continued within the framework of a system of payments in lieu of taxes proposed by the Committee in *Recommendation 3* for Federal power projects generally. The Committee therefore recommends:

a. As to power properties, Federal payments in lieu of taxes should be made in accordance with the rules described in *Recommendation 3*. All such payments made to the State or local governments of Arizona and Nevada should be deducted from the $300,000 now being paid annually to each of these States under the existing arrangements.

b. As to nonpower properties, these should be classified according to their use and the Federal payment obligation determined in accordance with the appropriate Committee recommendation for similar properties as set forth in chapter 8 of this report.

Wildlife Refuges Under Migratory Bird Conservation Act

14. The Committee recommends that the present revenue-sharing arrangements pertaining to wildlife refuges be continued with the following modifications:

a. Payments should be made to the States for the benefit of the counties in which such lands are located.

b. Payments should be increased from 25 percent of net receipts to 75 percent of total nonmineral gross receipts.

c. Payments from mineral lease receipts derived from such lands should be limited to 25 percent of such receipts.

d. Payments from both the 25-percent and 75-percent funds should be based on a centered moving 5-year average of income receipts.

e. For lands acquired since the cutoff date specified in *Recommendation 4*, the Federal payments for the benefit of any county in any year should not be less than a payment in lieu of taxes calculated in accordance with the rules described in *Recommendation 3*.

f. The restriction upon local use of Federal payments to roads and schools should be eliminated.

Submarginal Lands Held by the Forest Service

15. The Committee recommends that present revenue-sharing arrangements be replaced by those contained in *Recommendation 9* for national forests.

Taylor Grazing Act Public Lands

16. The Committee recommends that the present revenue-sharing arrangements pertaining to Taylor Grazing Act lands should be continued with the following modification:

a. Elimination of the present restriction to roads and schools now limiting local use of Federal payments from grazing districts on Indian lands ceded to the United States.

National Parks and Monuments

17. The Committee recommends that Federal properties in national parks and monuments remain generally exempt from taxation or any requirement of payments in lieu of taxes except as follows:

a. On lands acquired since the cutoff date specified in *Recommendation 4*, which were subject to local taxation at the time of acquisition, annual payments in lieu of taxes should be made for the benefit of the local taxing districts involved in accordance with the rules described in *Recommendation 3*.

b. Similar payments in lieu of taxes should be made on improvements such as federally owned lodges and hotels acquired or constructed since the cutoff date specified in *Recommendation 4*.

c. On lands dedicated to national park or monument purposes since the cutoff date specified in *Recommendation 4* which, at the time of such dedication, were subject to revenue-sharing arrangements, annual payments should be made for the benefit of the local taxing districts equivalent to the average shared-revenue payments received by such taxing districts from activities on the lands affected during the 10 years immediately preceding the dedication to national park and monument purposes.

d. All payments described herein should be made to the States for the benefit of the counties in which the lands are located.

Grand Teton National Park Acquired Lands

18. The Committee recommends that the present payment arrangements be replaced by those contained in *Recommendation 17* for national parks and monuments.

Sales of Public Lands and Timber; Federal Power Commission Licenses; Superior National Forest Lands; Reconveyed Coos Bay Wagon Road Grant Lands; Oil and Gas Lands, South Half of Red River, Okla.; Oil and Gas Lands Added to the Navajo Indian Reservation in Utah; Alaska Game Licenses

19. The Committee recommends that the present payment arrangements pertaining to these various lands and licenses should be continued with the following modification:

a. The restriction upon the State or local use of the Federal payments to roads and schools and other specific purposes should be eliminated from the following shared revenue arrangements:

(i) Sales of Public Lands and Timber.
(ii) Reconveyed Coos Bay Wagon Road Grant Lands.
(iii) Oil and Gas Lands, South Half of Red River, Okla.
(iv) Oil and Gas Lands Added to the Navajo Indian Reservation in Utah.
(v) Alaska Game Licenses.

Columbia Basin Project Lands

20. The Committee recommends that the payments in lieu of taxes provided for these lands by the Columbia Basin Project Act of March 10, 1943 (57 Stat. 19; 16 U. S. C. 835 (c–1)) be replaced by the payments in lieu of taxes as described in *Recommendation 3*.

Tennessee Valley Authority Properties

21. The Committee recommends that the existing revenue-sharing arrangements be continued as payments in lieu of taxes on power properties. For nonpower properties, the Committee recommends that they be classified according to their use and that payments with reference to them be determined in accordance with the applicable recommendations of chapter 8 of this report.

Indian Lands

The Committee considers that the problem of tax immunity pertaining to Indian lands is so closely related to the general Federal policy with respect to Indians that it is inappropriate to make a recommendation concerning the tax status of such lands apart from a reappraisal of the entire Federal policy respecting Indians. Such a comprehensive reappraisal has not been within the Committee's terms of reference.

Part II

GENERAL INTRODUCTION

Chapter 3

INTRODUCTION AND SCOPE OF REPORT

The Committee has been charged with the duty of studying fiscal problems of State and local governments arising from the immunity of federally owned property to State and local ad valorem taxation and of recommending a Federal policy for best meeting these problems. In the course of its study, the Committee has heard officials of local governments having Federal properties within their jurisdictions, representatives of local government associations, and officials of Federal property-holding agencies, including the Defense, Interior, and Agriculture Departments, the General Services Administration, the Atomic Energy Commission, the Reconstruction Finance Corporation, and the Tennessee Valley Authority. The opinions and recommendations of other Federal agencies have also been reviewed. In addition, the Committee acknowledges the valuable legacy of reports of previous groups which have examined the problem.[1] These reports together with all other pertinent literature concerning the problem have been carefully studied.

After full deliberation, the Committee has formulated its recommendations for future Federal policy in this field. These are set forth later in this report.

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[1] *Federal Ownership of Real Estate and its Bearing on State and Local Taxation*, Washington: U. S. Government Printing Office, 1939, 19 p. (76th Cong., 1st sess., H. Doc. 111); *Federal Contributions to States and Local Government Units with Respect to Federally Owned Real Estate*, Washington: U. S. Government Printing Office, 1943, 50 p. (78th Cong., 1st sess., H. Doc. 216). *Federal, State, and Local Government Relations*, a report to the Secretary of the Treasury by a Special Committee, Washington: U. S. Government Printing Office, 1943, 595 p. (78th Cong., 1st sess., S. Doc. 69), pp. 269–296; *Federal-State Relations by the Council of State Governments*. Report of the Commission on the Organization of the Executive Branch of the Government, Washington: U. S. Government Printing Office, 1949, 297 p. (81st Cong., 1st sess., S. Doc. 81), pp. 114–118; *Interim Report on Study of the Problems in Connection with Public Lands of the United States, etc.* Committee on the Public Lands (78th Cong., 2d sess., H. Rept. 1884), September 14, 1944. Attention should likewise be called to the following valuable reports: *Payments to State and Local Governments on Federally Owned Real Estate*, Statement, Division of Tax Research, Treasury Department, joint hearings before the Subcommittee on Intergovernmental Relations of the Senate and House Committee on Expenditures in the Executive Departments (81st Cong., 1st sess.), pp. 238–248; *Payments to Local Governments in Lieu of Taxes*, Mimeographed Memo, Joseph Guandolo (Associate General Counsel, Housing and Home Finance Agency); *Report on Taxes and Other In-Lieu Payments on Federal Property*, May 13, 1954, Prepared for House Committee on Interior and Insular Affairs by Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress), Committee Print No. 23 (83d Cong., 2d sess.).

The status of federally owned property under State and local property taxes is but one segment, albeit currently a very important segment, of the large problem of intergovernmental tax immunities. This, in turn, is but a part of the gamut of problems which comprise intergovernmental tax and fiscal relations in the United States.

The twin doctrines that the Federal Government may not tax State and local governments and that State and local governments may not tax the Federal Government and its instrumentalities, developed in the wake of Chief Justice Marshall's opinion in *McCulloch* v. *Maryland*,[2] have had far-reaching implications for all phases of Federal-State fiscal relations. The problems in this area of major importance today may conveniently be grouped into several categories:

1. The status of Federal property under State and local property tax laws;

2. The status of Federal contractors under State and local tax laws;

3. The status of private persons and activities in Federal areas under State and local tax laws;

4. The status of State and local activities under Federal tax laws; and,

5. The status of State and local securities under Federal tax laws and of Federal securities under State and local tax laws.

This report is confined to the first of these, the tax status of Federal property. Despite this restriction to a relatively narrow segment of the problem of Federal-State fiscal relations, the Committee recognizes that its recommendations concerning the amenability of Federal property to contribute to the support of State and local governments may have policy implications for other problems in the area of Federal-State fiscal relations.

[2] *McCulloch* v. *Maryland* (1819), 4 Wheat. 315, 17 U. S. 315.

Chapter 4

BACKGROUND OF PROBLEM

Dependence of Local Governments on Property Tax

The property tax has traditionally been the chief source of revenue for most local governments in the United States. Recent years have witnessed a concerted effort in State legislatures and local governing bodies to free local governments of exclusive dependence upon this single source of revenue. In some parts of the country considerable progress has been made in this direction. Substantial increases in State aid to local governments have also contributed to relieve the property tax from carrying the entire burden of supporting local governments. Nevertheless, it remains the mainstay of most local revenue systems.

Diminution of the property tax base by accretions to the category of tax-exempt properties poses a serious problem to the public finance capabilities of many communities. Resulting tax losses aggravate the already strained fiscal positions of local governments which generally have no alternate major tax sources. These losses have inspired suggestions for reevaluating the propriety of maintaining tax exemption for many types of properties. While the total value of federally owned property is only a portion of the value of all tax-exempt property, it is important in amount. Increases in Federal property holdings by expanding the general category of tax-exempt properties intensify existing difficulties.

Nature of Federal Properties

The types of real and tangible personal property owned by the Federal Government are so many and varied as to defy complete listing. The real estate includes parks, factories, forests, grazing lands, forts, post offices, weather and radio stations, office buildings, housing projects, schools, shipyards, hospitals, prisons, camps, power projects, arsenals, dams, wildlife refuges, lighthouses, atomic energy plants, docks, and a great array of other properties. Federal properties are both rural and urban, agricultural and industrial, residential and

commercial, governmental and proprietary. Some are valuable, others are of little value. Some produce revenue; others are maintained at public expense. Some profoundly affect the economic life of their communities; others have little or no effect. Some are in Federal custody; others are leased to public or private persons. Some serve primarily national or regional interests; others primarily the local public. Some have been removed from local tax rolls by Federal acquisitions; others have never been taxed. Some are temporary holdings; others permanent.

The general uses to which Federal real property is put are also many and varied. The Federal Real Estate Board in 1939 classified such uses to include, among others, the general administration of government, services to the local public, care of wards of the government, national defense, development and protection of commerce, land utilization and conservation, low-rent and defense housing, Indian welfare, conservation and utilization of water resources, and research and experimental work. To these may be added the production and utilization of atomic energy and other uses reflecting activities in which the Federal Government was not engaged when the Board made its report.

Federally owned tangible personalty includes articles of almost every type. It includes all the articles necessary to administer the Federal Government and carry out its purposes and operations. Under the control of the Defense Department alone, Federal personalty includes almost every conceivable item from baby food to battleships. Federal holdings are not limited to consumers' goods but include inventories of raw materials, semifinished goods and finished products, as well as industrial machinery and equipment. No Federal personal property has ever been subjected to State or local property taxation.

Lack of Inventory

There is no inventory of Federal properties. Without an inventory or State and local data on the value of tax-immune Federal properties, it is not possible to estimate with reasonable accuracy either the extent or the value of Federal properties. All groups which have grappled with the problem under study by this Committee have been handicapped by the lack of a reasonably accurate inventory, and over 10 years ago both the Federal Real Estate Board and the Special Committee of the Treasury Department on Intergovernmental Fiscal Relations urged the compilation of a record of Federal realty holdings and its maintenance on a continuing basis. Recently the compilation of such an inventory has been started; [1] and another survey of

[1] GSA Circ. No. 80, December 18, 1953, and Sup. No. 1, March 3, 1954.

certain Federal realty (excluding the public domain, national forests, national parks, and reservoir areas related to land reclamation, power and similar projects) to determine surpluses available for sale has been initiated.[2] Neither inventory, however, will include the important category of tangible personal property, or any property outside the continental United States.

Area and Value of Federal Property

Although the lack of an inventory obscures the extent of personal property holdings, the Federal land acreage is known. The Federal Government owns nearly 456 million acres, or almost one-quarter of the total land in the country. (See appendix A, p. 177.) These lands vary enormously in physical characteristics, value, utilization and importance to the community. They range from large areas with relatively worthless desert expanses and mountain peaks to small tracts containing highly developed and valuable industrial and atomic energy plants.

While the value of neither realty nor personalty owned by the Federal Government is known, one study estimated the value of Federal real property in 1937 at 2.89 percent of the assessed value of all privately owned assessed property.[3] A 1948 estimate for the 11 Western States placed the ratio for those States at 12.83 percent,[4] a figure admittedly too low since much Federal property in those States was omitted. This figure provides little aid in gaging the importance of Federal property in the country as a whole, however, since on the one hand, the States concerned contain almost 90 percent of the area of all Federal rural holdings and, on the other, probably contain fewer Federal urban properties of high value than many other States.

Estimates by the Bureau of the Budget on the value of "defense production facilities" owned by the Federal Government which would be subject to taxation and payments in lieu of taxes in fiscal year 1954 under the Knowland bill (S. 2473, 83d Cong., 1st sess.) indicate realty of $2,381,991,000 and personalty of $9,081,852,000, a total of $11,463,-843,000.[5] The property included is a very restricted, although an important part of all Federal property. It is limited to property acquired, owned, or used for industrial or commercial purposes con-

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[2] Joint release of General Services Administration and Bureau of the Budget dated December 30, 1953.

[3] *Federal Ownership of Real Estate and Its Bearing on State and Local Taxation*, appendix A. A message from the President of the United States (76th Cong., 1st sess.), H. Doc. 111.

[4] National Education Association, *Status and Fiscal Significance of Federal Lands in the Eleven Western States*, 1950, p. 144.

[5] *Hearings*, Subcommittee on Legislative Program, Committee on Government Operations (83d Cong., 2d sess.), on S. 2473 and H. R. 5605, June 2–3, 1954.

nected with national defense. From this category are excluded Atomic Energy Commission properties and the stockpile of strategic and critical materials. This restricted category of Federal property is further limited, with certain exceptions, to property acquired after June 30, 1950. The Federal realty consists of land and improvements; the personalty is made up of machinery, equipment, and inventories of raw materials, goods in process, products, and components.

Distribution of Federal Holdings

Overall statistics, as valuable as they would be, would not in any event indicate the full measure of the problem. It is the distribution of Federal holdings rather than the mere totality which creates the problem. If Federal properties represented a reasonably uniform proportion of taxable property in each of the thousands of local taxing units throughout the country, no urgent problem would arise out of the immunity of Federal property to local taxation. To be sure, payment of the costs of local government fairly allocable under the property tax system to the Federal property would be borne by local taxpayers rather than by Federal taxpayers. But the equality of Federal load on all communities and the general distribution of Federal taxpayers would presumably mute local dissatisfaction and agitation for change in the tax status of Federal property.

Actually, however, Federal holdings are very unevenly distributed. Areawise, 11 States have within their boundaries more than four-fifths of the federally owned lands; each of 5 States has less than 1 percent. The distribution is shown in appendix A. Within the States distribution of Federal property among taxing districts is probably even more disparate. Distribution statistics reflecting values of Federal properties do not exist. However, the effects of the uneven distribution of Federal properties are, no doubt, compounded when consideration is given to the scattered locations among local government areas of highly developed Federal industrial plants with their valuable machinery, equipment, and inventories of goods.

Fiscal Impact of Tax-Immune Federal Properties Upon Individual Communities

The Committee has not been able to obtain comparable data concerning the fiscal impact of Federal property ownership on individual local governments. In the absence of such data some appreciation of the impact may be derived from descriptions by local government spokesmen of conditions in particular communities. These descrip-

tions have been set forth at length in various congressional reports.[6] Illustrative cases are presented in appendix B (p. 178).

Potential Revenue From Tax on Federal Property

Although information regarding the total revenues which States and localities would receive by taxing all Federal property is not an accurate gage of the problems involved in the immunity of Federal property to taxation inasmuch as it does not show the impact of Federal holdings upon individual communities, it would nevertheless be helpful. But even for this type of information reliable estimates are lacking. It would require on a nationwide basis an inventory of Federal property, comparable data on the relationship of assessed to true value for tax purposes, and data on tax rates—none of which exists. However, computations based upon an incomplete estimate of Federal realty holdings in 1937 indicated that Federal properties would have yielded $91 million yearly in taxes.[7] Federal realty holdings have vastly increased since then, and a later study indicates that the tax yield on Federal realty excluding river dam projects, would in 1948 have been $93.5 million annually in the 11 Western States alone.[8] Very general estimates have placed theoretical property taxes on all Federal property between $200 million to $300 million per year.[9]

The latest estimates of potential taxes or tax equivalent payments on Federal property, presented by the Bureau of the Budget in hearings on the Knowland bill (S. 2473, 83d Cong., 1st sess.) amounted to $115–127 million for fiscal 1954.[10] These estimates, however, are confined to that highly restricted although extremely valuable category of Federal property covered by the bill, namely, "defense production facilities." For 65 Federal industrial plants covered by the provisions of H. R. 5605, the Bureau of the Budget estimated that annual local taxes would amount to $3–3½ million.[11]

[6] *Interim Report on Study of the Problems in Connection With Public Lands of the United States, etc.*, Committee on the Public Lands (78th Cong., 2d sess., H. Rept. 1884), September 14, 1944; *Hearings*, Special Subcommittee of Committee on Government Operations, House (83d Cong., 1st sess.) on H. R. 5605, July 20–21, 1953; *Hearings*, Committee on Government Operations, Senate (83d Cong., 1st sess.) on S. 2473, July 29, 1953; *Hearings*, Subcommittee on Legislative Program, Committee on Government Operations (83d Cong., 2d sess.), on S. 2473 and H. R. 5605, June 2–3, 1954.

[7] *Federal Ownership of Real Estate and Its Bearing on State and Local Taxation*, 76th Cong., 1st sess., January 1939. H. Doc. 111. Appendix A.

[8] National Education Association, *Status and Fiscal Significance of Federal Lands in the Eleven Western States*, 1950, p. 146.

[9] Keith L. Seegmiller (Secretary-Treasurer, National Association of County Officials), *Hearings* (unpublished) before the House Committee on Public Lands on H. R. 1356, March 2, 1949, p. 15; Joseph Guandolo (Associate General Counsel, Housing and Home Finance Agency), Memo prepared for section on Municipal Law of American Bar Association, September 1952.

[10] *Hearings*, Subcommittee on Legislative Program, Committee on Government Operations (83d Cong., 2d sess.) on S. 2473 and H. R. 5605, June 2–3, 1954.

[11] A fuller discussion of this subject appears in ch. 9 of this report entitled "Costs to Federal Government," pp. 75–79.

It may be observed in passing that the highest estimates of the potential yield to localities from taxing Federal properties indicate sums which are only a fraction of the total financial grants and other payments now being made by the Federal Government to States and localities. Federal grants-in-aid alone totaled $2,732,446,000 for the continental United States during 1953.[12] These payments, of course, are not made as substitutes for property taxes. They rest upon a national interest in promoting or facilitating specific types of activities by States throughout the Nation rather than upon Federal responsibility as a local property owner. Indeed, in most cases the Federal grants-in-aid are distributed to States and communities without reference to the location of Federal property, and the financial assistance is available to communities where Federal property may be negligible or nonexistent.

Growth of Federal Properties and Local Dissatisfaction

Historically, the problem of whether the Federal Government should contribute to the support of local or State governments because of its property holdings arose primarily in the Western States containing most of the public domain. Most of these lands, however, had never been part of the local taxing jurisdiction, and communities, along with their land values and public financing arrangements, had grown up around the fact that the Federal lands were not subject to taxation. The fires of agitation for a change in the tax status of Federal property rarely flared but smoldered away partially quenched by Federal arrangements for sharing income receipts from Federal lands with States and localities and by Federal financial grants to the States based in part upon Federal lands contained in the States. The problem of Federal immunity acquired a new aspect, however, through the enormous growth of Federal property ownership in the past 20 years out of programs involving housing and resettlement, expansion of national parks and forests, and vast land acquisitions for irrigation, flood control, reclamation and power developments. Much of this growth enveloped lands previously on local tax rolls. Realty acquisitions under the conservation programs as well as the withdrawal of public lands from entry were opposed because of their depleting effect upon the property tax base. In the areas affected, demands were and still are voiced that the public lands be ceded to the States, transferred to private taxable ownership, be subjected to taxation, or form the basis for tax equivalent payments in lieu of direct taxation.

[12] Based on data from Annual Report, Secretary of the Treasury, on the State of the Finances for Fiscal Year ended June 30, 1953.

Finally, the national defense program, starting in 1939, greatly increased the value of Federal property holdings through new acquisitions for military camps, training areas, forts, airfields, and especially for industrial plants and facilities. A new and wider geographical concern with the tax-immune status of Federal property developed. Even more significantly the problem assumed an urban as well as a rural complexion. Industrial plant acquisitions were concentrated in urban areas and often reduced the local property tax base. Urban communities became the chief complainants against the immunity of Federal property to local taxation as a growing number of communities began to consider such acquisitions as adverse to their local public finances.[13]

The expansion in Federal ownership of industrial plants, including both realty and tangible personalty, has become the chief stimulus to local efforts to secure consideration by the Federal Government of a policy of making contributions to local governments by reason of Federal property holdings. Local dissatisfaction with the lack of an adequate Federal contribution has been most pronounced in instances where the Federal acquisition has removed property from the tax rolls. But it has existed even where the Federal Government has constructed new industrial plants and facilities. The attitude of local communities is predicated largely upon the fact that industrial installations constitute a type of property traditionally subject to local taxation. They are, in fact, a vital part of the property tax base in most communities since the revenues derived from taxation of industrial plants greatly exceed the costs of providing local public services to them as compared with taxes upon and services rendered to residential property. The difficulty in distinguishing genuine differences between federally owned and privately owned industrial plants, either in the nature of their operations or in their economic effects upon local communities, has reinforced the attitude of local officials that Federal as well as private industrial plants should pay taxes or tax equivalents.

With respect to plants producing goods for the Federal Government, a variety of situations may exist in any community. (1) A privately owned and operated plant might be producing such goods; or (2) the Reconstruction Finance Corporation[14] or one of its sub-

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[13] A spokesman for local governments maintained that "the rapidly growing amount of federally owned real estate has reached the point in some instances, where it threatens the financial integrity, if not the very existence of local government units." Statement of Director, Washington Office, American Municipal Association; *Hearings,* Special Subcommittee, Committee on Government Operations (83d Cong., 1st sess.), on H. R. 5605, July 20–21, 1953.

[14] The RFC Liquidation Act (act of July 30, 1953, ch. 282, title I, sec. 102 (c) (d), 67 Stat. 230) has terminated the Reconstruction Finance Corporation lending operations which have given rise to RFC property acquisitions. However, properties are still being acquired by RFC on past loans. A tin smelter and certain synthetic rubber plants have been transferred as of June 30, 1954, from the RFC to the Federal Facilities Corporation by Executive order pursuant to sec. 7 of the Rubber Act of 1948. The payment of taxes on

sidiaries might own a plant which it leases to a private operator who produces goods for the Government; or (3) the Federal Government might own a plant which, under the control of the Defense Department, is leased to a private operator who produces goods for the Government; or (4) a federally owned plant operated directly by the Federal Government or its contractor-agent might be producing goods for the Government. All of these plants could be physically and valuewise identical, all producing the same goods in the same general way and for the same ultimate use. They could all employ laborers residing in the same community. All the plants and all the laborers working in each plant could receive the same public services provided by the local government. Plants of the first three types could be in competition with each other in producing goods for the normal civilian market, as well as for the Federal Government. Yet despite similarities in operations and economic effects, the tax liabilities of these plants would be completely diverse. Under present law the first plant would be subject to full property taxation; the second plant would be subject to taxation of its real property, but not of its personal property (machinery, equipment, and inventories); the third plant would be subject to taxation only to the extent of the lessee's interest (where this is taxed); and the fourth plan would be completely tax immune.

Lack of uniform tax requirements respecting all these plants has seemed to local tax officials to strain both logic and fairness. This attitude has been reinforced by the fact that in some of these plants there are both private and Federal realty, as well as an intermingling of privately owned and federally owned machinery and equipment, all engaged in a single, integrated production process. Here taxation of some of the property and exemption of the rest has not only seemed illogical to local officials, but in the case of intermingled tangible personalty, operation of the Federal tax immunity has imposed the onerous obligation upon local tax assessors of separating the taxable goods from the nontaxable and has increased opportunities for private owners to escape taxation of some of their tangible personalty. Under such circumstances apprehension of local government officials has grown with the growth of federally owned industrial properties until many of them regard the existence of such tax-immune Federal properties in their communities as an encroachment upon local fiscal integrity and even local self-government, despite the fact that the general immunity of Federal property to local ad valorem taxation has long been a settled doctrine.

Local governments have felt especially aggrieved in those cases where a transfer of property from one agency of the Federal Govern-

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these former RFC properties by the Federal Facilities Corporation is apparently contemplated by Public Law 663 appropriating funds for fiscal 1955.

ment to another has resulted in removing valuable industrial property from the tax rolls. Plants owned by the Reconstruction Finance Corporation or its subsidiaries have, by congressional consent, been subject to local real property taxes (but not to taxes upon personalty). When these plants were transferred to the control of other agencies of the Federal Government, they became tax immune. Under operation of law, of course, the shift from a taxable to a nontaxable status was instantaneous and its impact immediately transmitted to the local public treasury.[15] Such transfers in smaller communities have in several cases effected a severe and sudden depletion of the property tax base.[16] The consequent increased burden imposed upon all other taxable property in the locality has aroused citizens and officials of those communities [17] to seek relief through Federal legislation.

Present Federal Contributions

Although the immunity of Federal property to State and local ad valorem taxation has long been firmly settled as a matter of constitutional law, the Federal Government by statutory provision has in many cases recognized some financial responsibility by reason of its property holdings to localities containing them. The voluntary assumption by the Federal Government of responsibility for making some financial contribution in such cases has taken three general forms—revenue sharing, payments in lieu of taxes, and tax liability.

1. *Revenue Sharing.*—This is an arrangement under which a specified percentage of income received from operations on certain Federal properties is paid to States or localities. Historically, it is the oldest type of Federal payment on account of real property. As early

[15] Actually the Federal Government apparently followed a policy of maintaining the taxable character of such properties as long as the law would permit. When plants became surplus to the Reconstruction Finance Corporation or its subsidiaries and administrative control over them was transferred to other Federal agencies, such as War Assets Corporation and General Services Administration (which had no statutory authority to pay local property taxes), legal title was retained in the Reconstruction Finance Corporation or its subsidiaries apparently for the sole purpose of preserving the tax liability. Such a purpose was upset by the Court of Claims in the Sedgwick County case (1952), 123 C. Cls. R. 304, which ruled that retention of naked legal title in the RFC or its subsidiary would not suffice to maintain tax liability, but that "the cloak of immunity descended upon the property" when responsibility for administering the property passed to another instrumentality of the Federal Government.

[16] Examples are Burlington, N. J., with a loss of 18.9 percent of its property tax base and Adrian, Mich., with a loss of 8 percent. In larger cities the relative effect would be less severe. In Detroit, for example, the value of all federally owned industrial property is only about 1 percent of the property tax base, although the absolute amount is large.

[17] Some witnesses appearing before congressional committee hearings went so far as to characterize the transfer of property from one Federal instrumentality to another as a "calculated deliberate abuse of (the) Federal tax exemption", a "deliberate tax evasion", a "tax-dodging practice", or that it "sponged off the (local) taxpayers", or resulted in a "revenue squeeze", or a "serious inequity." See *Hearings,* Special Subcommittee of Committee on Government Operations, House (83d Cong., 1st sess.) on H. R. 5605, July 20–21, 1953. Cf. footnote 13.

as 1803 the act admitting Ohio to the Union provided that the State would receive 3 percent of the proceeds from the sale of public lands within it. This provision became a common one in subsequent statutes admitting other States. Revenue sharing has been applied to national forests, grazing lands, mineral lands, wildlife refuges, certain oil and gas lands, certain flood-control lands, power operations of the Tennessee Valley Authority, and other properties. Authorizations to share revenues are derived from numerous individual statutes and percentages paid range from 5 percent to 50 percent (and possibly 75 percent). A description of the statutory provisions appears at appendix C (p. 180).

2. *Payments in Lieu of Taxes.*—In some cases statutes authorize payments to States or local units based on the value of the Federal property or the cost of local public services rendered to it or to persons occupying it. In others, they are based on tax equivalents with adjustments for burdens and benefits conferred on the community by the Federal property, the amount of such services supplied by the property to the community, and other factors. Specific statutory provisions are variable. (See appendix D, p. 183.) Some require payments; some merely permit payments. Generally, the amounts paid are established by negotiation and agreement between the Federal property-owning agency and the State or local government, but the final authority is the Federal agency. This type of Federal payment has been utilized especially for housing properties of the Housing and Home Finance Agency, but has also been employed for certain national forests, Atomic Energy Commission properties, surplus properties, and certain reclamation properties.

3. *Consent to Ad Valorem Tax Liability.*—Congress has shown little disposition to consent to the taxation of Federal property. The consent given has been largely limited to the property of Federal banking or credit institutions.[18] The properties affected have been principally those acquired by foreclosure or other processes to protect the Federal financial interest in them arising out of Federal lending operations. Such property is generally intended to be held by the Federal agencies temporarily pending disposition to private persons. The Federal ownership is usually a mere interlude between ownership of the property by private persons. The Federal consent to taxation of this property recognizes the undesirability of a temporary removal of the property from the tax rolls.

The most important instance of Federal consent to taxation has been that applicable to the properties of the Reconstruction Finance Corporation and its subsidiaries, such as the Defense Plants Corporation. These Government corporations became owners of valuable

[18] See appendix E, p. 186.

industrial plants which were generally leased to private contractors. The real property in these industrial installations, like all other real property of these Government corporations has been subject to taxation within the broad terms of the Federal statutory consent. The tangible personalty, such as machinery and equipment as well as inventories of raw materials and finished goods, has not been subject to taxation.

Federal Property Upon Which No Payment Is Made

Remaining outside the corpus of Federal property requiring some local payment is a huge category of properties most of which are largely devoted to traditional governmental functions or primarily serving local purposes. These noncontributing properties include office buildings for general government administration, courthouses, post offices, weather stations, customhouses, mints, hospitals, cemeteries, immigration stations, penal institutions, lighthouses, radio stations, most reclamation projects, national parks, river and harbor works, and flood control projects, most of the public domain, and national defense properties such as forts, camps, navy yards, military airfields, arsenals and industrial plants.

Summary Evaluation of Existing Payment Arrangements

The present arrangements for Federal payments have developed in a more or less unrelated way out of the provisions of fifty or more separate statutes. The individual laws represent the results of compromise and expediency growing out of the diverse character of the Federal properties, their variable uses and effects upon their communities, and their different means and times of acquisition. This piecemeal development of heterogeneous provisions lacking a common principle has been widely criticized as imposing unequal burdens on different local governments. Dissatisfaction has mounted with the growth of properties in Federal ownership.

Past Studies of Problem

The quest for a system of more satisfactory and less discriminatory payments has gone on for years. In 1935 a Presidential Committee (Secretary of the Treasury, Attorney General, and Acting Director of the Bureau of the Budget) was appointed to study the problem. In 1939 the Federal Real Estate Board was established to investigate the situation. And in 1941, a special committee of the Treasury De-

partment examined the question. All these groups filed reports with recommendations for action.[19] In a 1949 Conference of Federal, State, and Local Officials concerned with Intergovernmental Fiscal Relations it was agreed that the Bureau of the Budget should develop comprehensive recommendations for dealing with the problem. The result was a draft bill designed to establish a more uniform treatment of similar Federal properties according to certain basic principles.[20] Meanwhile, Congress at every recent session has been bombarded with bills on the subject, many of which have been framed to meet local situations. In the Eighty-third Congress, at least 23 bills of varying comprehensiveness were pending.[21] In general, no action has been taken either on the recommendations of the specific study groups or on the proposed legislation.

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[19] See footnote 1, ch. 3.

[20] S. 788, H. R. 327; H. R. 2092; H. R. 2103 (83d Cong., 1st sess.); Executive Communication No. 722, Regarding Payments in Lieu of Taxes, August 16, 1951.

[21] S. 788, S. 990, S. 1706, S. 2473, H. R. 206, H. R. 276, H. R. 327, H. R. 2092, H. R. 2103, H. R. 368, H. R. 466, H. R. 508, H. R. 552, H. R. 1002, H. R. 1863, H. R. 2572, H. R. 4460, H. R. 5605, H. R. 5937, H. R. 6534, H. R. 7401, H. R. 7782, H. R. 9065.

Chapter 5

GUIDING CONSIDERATIONS

The Committee has searched in vain for a universal principle or set of principles capable of resolving the extent to which the Federal Government as the owner of property should contribute to the support of State and local governments. Generally accepted principles which would authoritatively indicate an answer as well as provide an appropriate frame for its philosophical justification do not exist. Instead there exists only the settled principle which creates the problem, namely, the intergovernmental tax immunities doctrine.

If the Federal system of government were being created anew today, the desirability of this doctrine might be debated. It certainly has raised vexing problems, has limited the tax bases of Federal, State, and local governments and has been used to nullify or frustrate acts by one level of government which pose little real threat to the existence or independence of the others. The course of Supreme Court decisions defining the scope of the doctrine, sometimes expanding, sometimes contracting the immunity privileges, alone, reveals the perplexing problems which have arisen under it. At the same time it must be conceded that preoccupation with problems arising from the doctrine may obscure others which would have developed in its absence. In any event, the general desirability of intergovernmental tax immunities is not an issue before this Committee. Nor need the Committee review the propriety of the immunity doctrine's continued application to exclude Federal property from State or local ad valorem taxation in the absence of congressional consent. The issue is not the validity or propriety of the doctrine but simply whether Congress should consent to make a contribution of some type to the costs of State and local government because of the presence of Federal property. This consent can be given and withdrawn at will without disputing the doctrine itself. It has been the Committee's mission to find a solution to the financial difficulties experienced by local governments arising out of the tax-immune character of Federal properties which would be both appropriate to all the diverse situations in existence and compatible with basic concepts which have been part of our constitutional fabric for a century and a half.

In the absence of authoritative general principles to shape logically required or theoretically harmonious rules defining the extent to which the Federal property owner should share in the support of local government, the Committee has concluded that the problem must be approached primarily from considerations of practicality and essential fairness. The basic objective should be to secure substantial equity as between Federal and local taxpayers. The Federal Real Estate Board emphasized this aim in its report and said:

> The cost of national functions and programs should not impose an undue burden on local taxpayers through Federal tax exemptions; neither should the Federal taxpayer be required to support unjustified subsidies to the localities containing Federal lands.

This objective is consonant with another of prime importance in the field of intergovernmental relations, namely, the maintenance of sound governments at all levels of our Federal system. Cognizant that it is primarily the local governments which have protested the existing situation, the Committee proceeds from the compelling need to maintain robust local governments. This is not merely in the sole interest of local communities. The States and the Nation share in the general interest to maintain financially sound local governments. The Committee recognizes at the same time, of course, that the citizens of local governments have a vital interest in preservation of the financial strength of their Federal Government. The situation is one calling for balanced judgment and reasonableness.

After weighing the conflicting considerations which inhere in the problem, the Committee has concluded that the following considerations provide the best guides to a reasonable and fair solution of the problem. They are neither immutable nor dogmatic. All of them should be considered in their general context and relationship with each other:

1. The diverse characteristics and contrasting uses of Federal properties and their varying burdens on local governments preclude a single uniform rule for determining the extent to which Federal property should contribute to the support of local government. It appears that for some types of properties payment is desirable; for others payment is inappropriate.

2. The principal basis for distinguishing between Federal properties which should contribute to the costs of local government and those which should not is the use made of the property.

3. It is generally fair that the costs of local government allocable under the property tax system to an item of federally owned property should be borne by the Federal taxpayer if the property serves primarily a national or broad regional purpose and conversely by the local taxpayer if the property serves primarily a local purpose.

4. Federal properties devoted to purposes which are of a type customarily the subject of private activity or concern should pay their fair share of local government costs without reference to whether they serve a national, regional or local purpose.

5. Practical considerations suggest that property long in Federal ownership and immune from payment should not now be required to contribute to the costs of local government. Some general cutoff date is appropriate.

6. Practical considerations suggest also that existing arrangements for Federal payments which have been operating to general satisfaction should not be disturbed.

7. Property used or held primarily for purposes for which property is generally exempt from taxation under the laws applicable in the taxing jurisdiction should likewise be exempt from any payment obligation in Federal ownership.

8. With respect to special assessments to finance improvements for the benefit of adjoining Federal and private property, Federal property should be treated on the same basis as private property and accorded the same safeguards and exemptions.

9. Generally, the foregoing considerations contemplate no distinction between real and tangible personal property.

10. Federal property and persons either living or working thereon should receive local public services on the same basis as those generally provided to other properties and persons in the community.

Part III

PROPERTIES NOT ASSOCIATED WITH SHARED REVENUES

Chapter 6

GENERAL APPROACHES TO SOLUTION OF PROBLEM

With the foregoing considerations in mind, the Committee has examined various methods by which the Federal Government might, on account of its property holdings,[1] contribute to the support of local government. These include:

1. Payment of taxes on Federal property as determined by local tax officials according to local tax laws.
2. Payments in lieu of taxes based upon tax equivalents with or without offsets or other payment limiting factors.
3. Payment of taxes or tax equivalents on that portion of Federal properties in a community exceeding a specified percentage of all property in the community.
4. Service payments, or payments for local public services received by the Federal property or persons living or employed on it.
5. Per capita payments, or payments of a fixed or calculable sum for each person living or working on the Federal property within the area of the local government.

All approaches not involving submission of Federal property to direct local taxation may be considered as payments in substitution of or in place of taxes. However, only the second of the above-enumerated possibilities is designated in this report as a "payment-in-lieu" of taxes. Warrant for this may be found in the fact that more than any of the other tax substitution payments, it approximates the tax method by being based primarily upon tax equivalents for each item of Federal property. These general approaches will be briefly discussed.

Tax Approach

A direct approach to the problem is to select those types of federally owned properties which should share in the costs of supporting local

[1] Chs. 10–14 deal with properties subject to "shared revenue" arrangements and other similar properties. Most of these are associated with the public domain and have never been part of local tax rolls. Chs. 6–9 deal with all other properties.

government and consent to their taxation by local governments in accordance with the tax laws of each community. The property would be assessed by local officials either on the basis of inspection or from information supplied by the Federal Government. The resulting valuation would be taxed at the rates applicable to other similar property in the community. In common with other taxpayers, the Federal owner would have recourse to administrative and judicial review.

Advocates of this approach maintain that wherever fairness requires the Federal Government to share in the costs of local government because of its status as a property owner, it should share in the same way and in the same amount as a private owner of similar property. Equal payments for equal property is a cardinal objective of these advocates and requires in their view a common system for determining the contributions of both private and Federal property owners. Since the property tax system is the general system for determining the payments of private property owners, the Federal Government, they contend, should submit its property to that system.

These advocates maintain that if the payment obligation of private property owners is determined on the basis of the property tax theory and that of the Federal property holder on some other basis, similar private and Federal properties will scarcely have equal payment responsibilities. Furthermore, runs the argument, equality of payment on similar properties cannot be achieved without the rules for determining the proper contribution from both Federal and private property owners being applied by the same officials. The diversity in assessment practices throughout local tax units subject to the same laws including variations both in the method of assessment and in the ratios of assessed to true value are pointed to as indicative of the variations in the amounts which would inevitably result if different sets of officials determined the payments of the Federal and private property owners even though they applied the same theory and rules.

Critics of the tax approach challenge the need and desirability of securing equal payments from identical Federal and private properties. They assert that there are important differences between federally owned and privately owned properties stemming from the character of their ownership, the purposes for which they are held, and the nature of their present tax liability. The basis and process for determining the payment by the Federal property owner, they say, should provide for a recognition of these differences. This means, among other things, the possibility of offsetting any tax equivalent payment with credits for various items. Critics further assert that in any event the argument of the tax approach advocates is somewhat strained since the taxing process results in only theoretically equal payments on similar properties and that inevitable imperfections in property tax administration actually result in widespread differences.

Economy of administration is urged as another ground for supporting the tax approach. Utilization of existing local tax machinery, it is stated, will obviate establishing elaborate Federal machinery for ascertaining the Federal contribution. On the other side, however, it is maintained that Federal personnel would be required to check all local tax demands on Federal property in order to safeguard the Federal interest and ascertain when a protest or an appeal should be made. Since Federal properties are located in thousands of local tax units throughout the country, this would, it is contended, impose a more onerous administrative burden requiring a larger staff than the establishment of Federal machinery to determine the amount of a Federal contribution in the first instance.

Advocates of the tax approach point out that an incidental effect of subjecting Federal property to taxation would be to assist local governments to expand their debt limits. Under many State laws the debt limitations on local governments are fixed in terms of assessed valuations and inclusion of Federal property would increase borrowing capacity.

In summary, advocates of the tax approach assert that since the basic problem arises out of the fact that the Federal Government does not pay property taxes, the direct and most apt solution is for the Federal Government to pay such taxes. The tax system has been tried and tested. New schemes determining the Federal property owner's share of local government costs by reference to factors outside the property tax system, it is said, place the Federal responsibility on an unfamiliar and untried basis, confuse theories for allocating government costs among property owners, complicate tax administration especially as regards tangible personalty, and result in a payment suggesting a gratuity. In rejecting other approaches to the problem, they argue that what the citizens have accepted as a proper basis for ascertaining their share of local government costs in their individual private capacities should be equally valid for determining their share of local government costs in their collective Federal capacities. To advocates of the tax approach, the more that other proposals depart from the property tax frame the more they are objectionable as unresponsive to the problem.

Payments-in-Lieu

This approach is a modified tax approach. It concedes the propriety of determining the Federal share of local government costs by reference to the value of the Federal property in the locality but would employ machinery other than the local taxing authority for fixing the Federal share. Under most proposals a Federal agency would have the final authority for determining the payment to be

made to any locality on account of any particular item of Federal property. This could be a central Federal agency with authority to determine payments for all Federal properties, but most past proposals would vest this responsibility in each Federal property-holding agency for its properties. The statutory direction to make payments according to the statutory formula could be either mandatory or permissive. If payments were mandatory, the determination of the Federal agency could be made subject to appeal to new or existing administrative or judicial bodies.

Most proposals for payments in lieu of taxes fall into either of two categories: (1) Payments of amounts equivalent to taxes and, (2) payment of tax equivalents reduced by certain offsets and/or the operation of certain formulas.

The tax equivalent payment closely resembles payment of taxes. The local tax unit would advise the Federal Government of what the local taxes on the Federal property would be if it were subject to taxes. It would ascertain this amount either by assessing the Federal property or by relying upon information furnished by the Federal Government. It would then apply to the Federal Government for a payment equivalent to taxes. The Federal Government would either pay this amount, or if it seemed improper, would enter into negotiation with the local government. Such payments in lieu of taxes would define the amount of the Federal property owner's contribution according to the same standards and rules used for defining the amount of taxes on private property. However, unlike direct taxation, most payments in lieu proposals would reserve to the Federal Government final authority on the amount of the contribution to be made. Advocates of payments-in-lieu argue that this reservation is necessary to alleviate widespread apprehension that Federal property would otherwise be a likely subject of discrimination by many local tax authorities. The combination of absentee ownership together with the lack of private self-interest, it is asserted, would militate against fair tax treatment of Federal properties at solely local hands.

It is claimed that administrators of Federal properties would literally comply with statutes requiring property to be reported to local tax officials at true or market value even though private owners following local practice might report property values at a mere percentage of this.

Advocates of the tax approach deny that Federal property would be generally discriminated against by local taxing officials and contend that in any instance where discrimination existed, the Federal Government could protect its interest by protest or appeal according to law in the same way as any other taxpayer. They further maintain that in any negotiations with the Federal Government concerning the amount of payment, the local governments would not have equal

bargaining power. Furthermore, they say, any resulting payment would appear more like a gratuity than a payment earned by the local government for providing the Federal property with public services which give it an atmosphere in which it can thrive.

Many payments-in-lieu proposals would reduce the tax equivalent payment by amounts representing desired offsets or amounts derived from proposed limitations or formulas to prevent unjust enrichment of local communities. Proposed offsets include: (1) Those representing the value of specific customary local public services which the Federal Government supplies either to its own property and residents or employees upon it, or in some cases to the community at large; and, (2) general economic benefits conferred upon communities by the Federal property and its operations.

Regarding the first kind of proposed offsets it is pointed out that some Federal installations supply their own water or sanitation facilities, their own police or fire protection, or perhaps even build roadways. In particular cases, the Federal installation may provide some customary local government services not only to itself but to the community at large. Some persons maintain that the value of these services should be deducted from any tax equivalent amount payable by the Federal Government. They say that local taxes are based upon the cost of local public services and where the provision of services by the Federal property owner reduces the need for services by the local government, tax burdens upon all local property owners are reduced. Unless the Federal property owner is given a corresponding credit, other property owners in the tax unit are unjustly enriched. Advocates of direct taxation concede the general logic of this argument but contend that Federal provision of a local type service to its own property frequently represents only a small saving to local governments since they must often maintain facilities to furnish the service to community residents not receiving the Federal service and must be prepared to serve the entire community if the Federal services are withdrawn or become inadequate. They point out that some privately owned industrial properties also furnish their own local type services but pay taxes nevertheless. Finally, they argue, the value of such Federal services could and generally would be informally considered by local tax officials in determining the tax on local property.

Another type of proposed offset is one reflecting the general economic benefits which Federal property confers upon the community. Increased employment, payrolls, and general economic activity are pointed to as benefits far outweighing any burdens imposed upon communities by the lack of local taxes on Federal properties. The eager competition among communities to secure Federal industrial plants and other installations is cited as evidence that in balancing

benefits and burdens conferred upon a community by Federal property the preponderance is clearly on the benefit side for most types of Federal property. Advocates of offsets for general economic benefits would reduct any tax equivalent payment by the value of such benefits. Some persons consider them so valuable, especially in the case of Federal industrial installations, as to justify denial of any Federal payment on account of such property. Many persons, however, reject general economic benefits as an appropriate offset, including some persons who favor payments-in-lieu with offsets for customary local services not received by the Federal property owner as the best device for defining the contribution of the Federal property owner. They reason that general economic benefits have no relevance under the property tax system to obligations arising from the ownership of property. Increases in employment and payrolls, though undoubtedly highly important to the business interests of the community, are alleged to have no direct bearing on increased property tax receipts. Insofar as local governments depend upon property tax receipts for support, they secure little benefit from increased employment and payrolls. Even the benefits to public finance which may come from increased employment and business activity through increased revenue from income, sales, and turnover taxes flow generally to State, not local treasuries. While a few cities do collect such taxes for themselves, and some local governments share directly in State revenues from such souces, nevertheless, critics of offsets for general economic benefits reject them as improper in any case. Approval of such offsets for the Federal property owner would logically require a similar concession to private industrial property owners since all industrial property generates general economic benefits to the community. Such a result would be intolerable, it is said, because industrial properties provide a vital part of any property tax base and their general or partial exemption from taxation would not only revolutionize the property tax system, but require a reorientation of all local taxation to secure revenue from other sources.

Some advocates of payments-in-lieu would reduce the tax equivalent payment by an amount necessary to prevent what they consider an unjust enrichment of communities. Where valuable Federal property lies in a small or sparsely settled community, its subjection to taxation or payment of tax equivalents might provide the local tax unit with more revenue than it ever expected or needed to support a reasonable level of customary government local services. Such communities, it is said, may be fairly entitled to some contribution to local government costs on account of the Federal property, but the Federal taxpayers should not be asked to enrich local taxpayers by making tax equivalent payments. The same situation, it is explained, exists in "tax havens" where communities with a small resident population

have a concentration of valuable industrial properties. Here the tax base is large and the need for public services small. The resultant tax rate is already low as compared with other communities, and some argue that there is no valid reason for requiring local taxpayers of other communities in their capacities as Federal taxpayers to make payments enhancing the tax haven for the benefit of residents already favored. Payment of taxes or tax equivalents on the Federal property under such circumstances would, it is claimed, confer a "windfall" or an unjustly enriching payment upon the community. It is argued that such payments would not be justified from a balancing of equities between Federal and local taxpayers and therefore do not meet the basic objective in any reappraisal of the need or desirability of inaugurating Federal payments on account of Federal property holdings.

Opponents of limitations on Federal payments to prevent unjust enrichments of local governments maintain that the objective of these limitations is basically irrelevant and that no solicitude is required to prevent alleged windfalls. They contend that the phenomenon described as a "windfall" is a normal consequence of the property tax system and occurs just as much where privately owned property of a valuable nature is added to the tax base as where similar federally owned property is so added. They are not disturbed by Federal payments of taxes or tax equivalents to governments of "tax havens" because in those cases the Federal Government, as a property owner, is getting a better bargain in the form of lower tax rates than it would get if its property were in a tax district with more average rates. They assert that the windfall character of any tax income tends rapidly to dissipate itself since the property tax concept contains its own correctives for excessive public income in tax rate reduction possibilities. Any limitations upon Federal payments to eliminate windfalls, it is maintained, involve both theoretical confusions and practical administrative complications disproportionate to any net gain.

Proponents of limitations on Federal payments to prevent windfalls or unjustly enriching payments to communities recognize that windfalls flow naturally from operation of the property tax system, but for that very reason oppose direct taxation as the system for defining the contribution requirement of the Federal property owner. They say that Federal consent to make a contribution to local government costs by reason of Federal property should not trail in its wake consequences of the tax system which are not justified by a balancing of equities between Federal and local taxpayers and which can be avoided by statutory limitations upon the Federal payment.

Specific proposals for such limitations include restrictions upon the value by reference to which the Federal payment is calculated as well as direct limitations upon the amount of the payment itself. The

value assigned for payment calculation purposes to expensive machinery and equipment or to inventories in Federal industrial installations, for example, may be arbitrarily limited so as not to exceed either a fixed proportion of the value of the Federal realty in the installation or that proportion of the Federal realty determined by the average ratio of similar personalty to realty in private industrial plants in the tax district. Or the value of Federal improvements to realty may be arbitrarily limited to a proportion of the value of the original Federal acquisition. Or the Federal payment may be limited to an amount which does not raise the per capita property tax receipts in the tax district more than a fixed percentage of per capita receipts in the tax year before Federal payments began. Or it may be provided that no Federal payment shall exceed an amount necessary to support a reasonable level of local government services. This would require some Federal review of local budgets, a result generally disfavored by both Federal and local governments. These and other proposals and any combination of them are available to limit the Federal payment to any extent deemed desirable.

Payments on Excess Federal Properties

The central idea of this approach is that a system of Federal payments should be coupled with recognition that every local community should bear without claims on other communities (via a Federal payment) the costs of local government attributable under the property tax system to that amount of Federal property in the community which is equal to the average amount of Federal property contained in all communities throughout the Nation. The system thus avoids what might appear as the mere transfer of funds among communities. Federal payments would be made only on Federal property valuations exceeding the average community load.

This approach is best illustrated by the method used in Canada. There all national property (with certain exclusions) exceeding in value 4 percent of the total property valuation in any municipality is subject to a payment-in-lieu at the discretion of the National Minister of Finance not to exceed roughly three-fourths of what the local tax on the properties would be. The specifics of this plan could be altered. The system could be coupled with tax liability on the excess property or with a payment-in-lieu obligation. If a payment-in-lieu technique were designated, it could be made either mandatory or permissive, either subject to offset or not, and subject to appeal just as any other payment-in-lieu.

A difficulty in adopting the Canadian approach for the United States exists in the lack of statistics to indicate the average ratio of Federal property values to total property values in the local tax units

throughout this country. A nationwide survey to provide such information would be a prerequisite if arbitarary assumptions were to be avoided. Such a survey would obviously entail considerable time and expense.

Proponents of the Canadian approach argue that its simplicity warrants its adoption. But this very simplicity has been attacked. Critics contend that the Canadian approach does not allow for offsets, glosses over the diverse character of different types of Federal properties and the burdens which they impose on local governments, and fails to prevent windfalls or unjustly enriching payments to some communities. Proponents of the Canadian system assert, on the other hand, that the very avoidance of need to consider these complicated matters is an advantage rather than a disadvantage. In any event, they contend that were it desired, most of the alleged deficiencies in the approach represented by the Canadian law could be removed by engrafting special provisions to the system. For example, if a cutoff date is desired to exclude Federal properties whose nontaxable status has already been accommodated by adjustments in local tax rates and practices as well as in local land values, such a date could be incorporated in the definition of Federal properties subject to payment obligations. Provisions could also be made for offsets or to guard against unjustly enriching payments. The addition of such provisions would, however, in nearly everyone's view destroy the simplicity which is the chief merit of the Canadian approach compared with other approaches.

Unless, for example, under the Canadian plan as applied in the United States the Federal property were subject to either straight taxation or general and easily calculable payments-in-lieu without considering offsets and peculiarities of each piece of Federal property and the effect of payments upon fiscal affairs of individual local governments, the simplicity of the Canadian approach would be lost and the whole scheme would become a straight tax or payments-in-lieu system with a certain percentage of otherwise obligated Federal property free from the contribution requirement.

Some, who would otherwise favor the Canadian approach, consider it undesirable insofar as it vests the responsibility for making payments on all Federal properties in a single central Federal agency. In their view each property-owning agency should be charged with responsibility for making payments on its properties and for justifying its budget requests to Congress for this purpose. They believe that individual agency responsibility would act as a wholesome brake on further Federal acquisitions. To combine individual agency payment responsibility with the Canadian approach entails difficult problems, however. If each Federal agency were responsible for making payments on its properties, questions would arise concerning the appropriate basis for apportioning the benefits of the exemption allow-

ances among Federal agencies having property in the local taxing unit. It is argued there is little equity or logic in apportionment on a time of acquisition basis allowing full exemption for the property of some agencies and no exemption for the property of others. But proportionate sharing would involve administrative complications. Changes in the assessed value of the property of one agency in a local taxing district would impose administrative burdens of recalculating payments not merely on that agency but on all Federal agencies having property there.

Adoption of the Canadian approach would probably terminate some Federal payments now being made. Some say this result is impracticable; others reply that this is a consequence of any establishment of uniform rules for Federal payments unless the rules be deliberately framed to accommodate all present payments. If the latter were desired, the Canadian approach could be adapted to this end.

Payments for Specific Services

This approach would identify certain services to the Federal property or to persons living or working on it and make corresponding payments to local governments. The basic purpose of proponents of this approach is to avoid Federal responsibility for payments within the framework of the property tax system and to concentrate upon Federal support of services, which merit Federal encouragement or have a special value or relevance to the Federal property and its operation. They point to the direct Federal gain in promoting those services having a special Federal interest instead of making a general contribution whose expenditure would be spread among many purposes in several of which a direct benefit to the Federal Government might be difficult to identify.

Critics of the service payment approach contend that by avoiding property tax considerations it simply avoids the basic problem which has arisen out of the tax-immune character of Federal properties. They contend that if the purpose is to pay for all the local public services, customarily supported by the property tax, there is no need to calculate payments for specific services. In such cases the property tax, itself, is the measure of the costs of supplying all the services to the property. Because service payments are unnecessary if the intent is to pay for all services allocable to the property under the property tax system, critics of the service payment approach assume that its advocates intend that an item of Federal property, no matter what its use, purpose, or time of acquisition, should defray a smaller amount of local government costs than identical private property.[2]

[2] Actually service payments in any particular case could exceed property tax payments, especially in those tax jurisdictions relying substantially on nonproperty tax revenues.

This they object to. But, they further contend that even if there were merit in Federal payments for only selected local public service, the choice of those services deserving compensation involves theoretical absurdities and practical complexities. Their view is that no rational basis for selection exists because all local government services combine to produce an environment in which the Federal property, its residents and employees can thrive, and that since this environment arises as surely from expenses for general government administration or debt service as for fire protection or educational facilities, payment by the Federal property owner of less than a ratable share for all local government services simply produces an inadequate result and fails to meet the basic problem.

Proponents of the service payment approach have not made it clear whether they would compensate only for services rendered to the Federal property itself or include services rendered to employees and residents of the Federal property. Critics insist that payment should be required for services to both Federal property and federally connected persons, especially in the case of Federal industrial property, since the common experience of local governments is that industrial property must bear a considerable portion of the expense of services rendered to local residents. They further point to the absence of criteria for determining the size of the payment as well as uncertainty regarding the person who would make the determination as thorny problems which would remain even if the specific services to be compensated could be satisfactorily identified. Proponents of service payments have not worked out detailed answers to these criticisms.

The service payment approach could be adapted to the solution of a problem which the taxation or payments-in-lieu approach does not solve. This is the problem arising where the property forming the basis for the Federal payment under these approaches lies in a tax district other than that in which the employees on the Federal property live. The service payment approach could provide funds to local governments where the Federal employees live as well as to those having the Federal property. The per capita payment approach discussed later herein, is perhaps even more adaptable to this purpose. Advocates of the tax and payments-in-lieu approach concede the adaptability of service payments or per capita payments to meet this particular problem. However, they do not consider it necessary to solve this problem in any review of the responsibility of the Federal property owner to contribute to the costs of local government since the property tax system, itself, does not solve this particular problem. It is noted, further, that in many cases there may be some balancing of burdens between communities by each having residents who work in the other community. In conclusion, they say that if after conforming its responsibilities to the requirements of the property tax system, the

Federal property owner wishes to make special payments to communities to meet special burdens upon them which the property tax system does not equitably discharge, it may do so. But this is a secondary not a primary objective in any review of problems which arise because the Federal property owner does not pay local taxes.

A type of service payment may be found in the provisions of Public Laws 815 and 874 where Federal aid is granted to some communities for construction and operation of schools on the basis of the number of federally connected children receiving school services in the community. These payments, neither received nor proffered as a complete substitute for general payments to support local government on account of the presence of Federal property, have been facilitated by the relative ease in identifying the Federal benefit and local burden. The cost of educating a school child represents a convenient index for approximating Federal benefits received from local educational services or conversely of the cost burden imposed by the Federal activity upon the local educational system. Difficulties are encountered, however, in finding other types of services whose values could be so neatly measured. The benefits conferred, for example, by expenses for general administration or for traffic regulation or for control of communicable diseases, do not have so convenient a measure for allocating their value to any particular property holder including the Federal Government.

Payments of a Sum for Each Person Connected by Residence or Employment With Federal Property

The per capita payment approach, like that of service payments, has not been fully developed by its proponents. Different schemes suggest themselves. A plan could award every local government having Federal property within it a fixed or calculable sum for every person working or living on the Federal property. It might include all or merely selected types of Federal properties. It might authorize payments merely to local governments containing Federal property; or it might additionally provide for payments to local governments having no Federal property but housing Federal employees. In general, like the service payment approach, it would seem to offer administrative simplicity and avoid some of the problems inherent in the property tax system. Its advocates might say, for example, that the payment formula could be so devised both as to avoid unjustly enriching communities and as to award payments greater than local taxation would yield where more generous Federal contribution is warranted for any reason.

Proponents of per capita payments emphasize their adaptability to solve problems not solved by the property tax—especially in the

case of "bedroom communities" whose residents work on commercial or industrial properties located in neighboring local governments. These residential communities suffer under the property tax system because they lack a supporting industrial property tax base. A per capita payment by funneling funds to such a community would relieve the burden where it is most heavily imposed. Critics of per capita payments concede this but declare that payment to the community of residence would hardly obviate some payment to the community of employment because the latter would still be under the obligation of supplying services to the Federal property itself. This general subject has already been discussed in conjunction with service payments.

Critics of per capita payments as a substitute for payments in the nature of taxes claim that to the extent the payments would not approximate taxes reduced by whatever offsets are considered relevant, they would be inadequate; to the extent that they approximate that amount, they are an unfamiliar and unnecessary way for calculating an obligation for which generally understood tools of measurement already exist in the property tax system; and to the extent that they would award payments greater than the tax on Federal property would yield, they represent gratuities or subsidies which are not sought.

They argue that if per capita payments are to reimburse generally for services furnished to Federal property and persons connected with it, it would be better to do this by payments within the property tax frame. If per capita payments are to compensate for only selected services, the result would not satisfy those seeking a general contribution from the Federal property owner and the same difficulty of identifying the services to be compensated appears as in the case of service payments. Further difficulties arise in calculating the value of each compensated service to each federally connected person. A flat amount for all local tax units throughout the country is criticized as neither equitable nor feasible. A variable one requiring different analyses in each local taxing unit and possibly necessitating a review of local budgets and expenditures is criticized as creating administrative burdens disproportionate to any advantage offered by the per capita payment approach. Critics of per capita payments say that its alleged advantage of simplicity is illusory. Proponents say they have not worked out full details, but that in some respects the per capita payments might resemble grants-in-aid distributed on the basis of a certain population, namely, federally connected persons, and that if this appears to be a gratuity, it is actually no more so than a payment-in-lieu or a Federal consent to taxation either of which the Federal Government is not required to give and can withdraw at any time.

Chapter 7

CONCLUSIONS

Detailed consideration of the alternative general approaches to the problem under study has convinced the Committee of the desirability, if not need, of finding a solution within the framework of considerations germane to the property tax system. The problem is one created by the immunity of Federal properties to State and local taxation and its solution should be one bearing a rational and explainable relationship to the results which would follow if Federal properties were subject to these taxes.

For this reason the approaches of service and per capita payments have been rejected. They may have merit for specific purposes but they are not suited to help defray the general expenses of local governments, which should, in the Committee's view, be the purpose of Federal contributions to local governments on account of Federal property holdings.

The Committee has also rejected proposals which would require centralization of responsibility for all Federal payments in a single Federal agency. The Committee would prefer that each Federal property-holding agency be required to make payments for its properties from its funds so that each agency in budget requests to Congress would be under a continuing duty to justify its holdings and under a continuous pressure to keep them at a minimum.

Although the Committee's basic conclusion is that the solution to the problem may be found only within the framework of property tax consideration, it is nevertheless aware that the property tax criterion as a measure of the amount of the Federal property owner's responsibility to contribute to local government support is subject to some limitations. These limitations spring from the diverse character of Federal properties, the variety of uses to which they may be put in serving primarily national or local purposes, the similarity or contrast of these uses to uses made of private property, the differing service burdens of different properties on State and local governments arising partly from the self-service of certain Federal properties, the varying effects of Federal acquisition of different properties upon local tax bases, and from other factors. The effect of these limitations is to suggest, for some types of properties, the impropriety of requiring

any Federal payment whatsoever. For others, they suggest the propriety of modifying any tax equivalent amount in order to give effect to historical, practical, and theoretical considerations irrelevant to private property but intimately bound up with Federal property.

In its study of properties described in chapters 6 and 7, the Committee has examined only situations existing within the United States proper and not those existing in the Territories or possessions of the United States, in Puerto Rico, or in the District of Columbia. The Committee's recommendations concerning Federal payments on such properties are, therefore, confined to the United States proper and do not extend to the Territories or possessions of the United States.

Chapter 8

RECOMMENDATIONS

Recommendation 1:

Congress should not consent to payment of property taxes or any payments in lieu of property taxes on the categories of properties enumerated below. This immunity should not extend to special assessments (see *Recommendation 7*):

a. Property which, if privately owned or used, would by reason of its use be exempt from taxation under the laws of the State of situs.

b. Property used or held primarily for services to the local public, including but not limited to the following types of properties: Courthouses; post offices and properties incidental to local postal operations; weather stations and observation posts; assay offices; local irrigation projects; sanitation projects; federally owned airports maintained and operated by the Civil Aeronautics Administration; and properties used for experimental, testing or research purposes, such as a pilot plant, experimental farm, testing station, or laboratory, if the activities associated therewith serve primarily the local public.

c. Office buildings not associated with commercial or industrial activities and not included in *Recommendation 2*, customhouses, facilities for coining money and printing currency, bullion depositories, river and harbor improvements, prisons, reformatories, detention farms, hospitals, dispensaries, outpatient clinics, homes for the aged, sanitaria, quarantine and immigration stations, cemeteries, Coast Guard aids to navigation, Civil Aeronautics Administration aids to air navigation, beacons, facilities used in the police and regulatory functions of the Federal Government (other than those which are incidental to or an integral part of the properties included in *Recommendations 2* or *3*) and military and naval installations (but not those engaged in industrial or commercial activities) such as forts, camps, armories, observation posts, guard posts, proving grounds and airfields.

d. Property which under Federal law is subject to a payment to a State or local government of any portion of the revenue derived from its use or from the sale of such property or any of its products (revenue-sharing arrangements).

e. Stocks of strategic and critical materials and of agricultural commodities and other personal property which is not incidental to industrial or commercial activities.

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Recommendations for continued exemption of this comprehensive category of properties from contributions to the support of local governments rest upon a mixture of logical, traditional, and practical considerations. Paragraph *a* assures the Federal Government enjoyment of any exemption available to private taxpayers for property similarly used. Schools are a ready example. Paragraph *b* gives effect to the Committee's view that it is logical and practical that no Federal payments be required for property serving primarily the local public. Various types of properties, such as courthouses, post offices, weather stations, etc., are enumerated as properties belonging to a generic category primarily serving a local interest. It is not the view of the Committee that inquiry should be made into each instance involving one of these properties (such as an individual post office or federally owned airport) to ascertain whether its primary benefit is to the local community. Rather these properties should be deemed always exempt as properties which, in the main, serve primarily the local public. On the other hand, the Committee believes that an individual inquiry is necessary to determine the propriety of exemption for properties used for experimental, testing, or research purposes such as a pilot plant, experimental farm, testing station, or laboratory. If the activities associated with these properties serve primarily the local public, no Federal payment should be made on them. If not, a payment is in order.

The properties described in paragraph *c* are, by and large, properties primarily serving an interest broader than that of the local public. As such, it might seem logical and fair that they serve as a basis for Federal payments to the local taxing jurisdiction thus imposing upon Federal rather than local taxpayers the costs of local government allocable to such property. However, the Committee recommendation is to the contrary. The properties described in paragraph *c*, though varying widely in their nature, are all associated with traditional governmental activity. While this same observation may be made of some of the properties exempt as primarily serving a local purpose, it should be pointed out that the Committee has generally been impressed with the validity of a distinction between Federal properties used for traditional purposes of government and other properties in identifying those properties which should contribute to the support of local governments. The terms "governmental" and "proprietary", while not accurate for all purposes, serve as general demarcation lines between properties devoted to traditional governmental purposes for which there has been little demand for Federal payment and other Federal properties devoted to uses similar to those made of private property for which demands for Federal payment have been vocal. Concerning the property described in paragraph *c* the Committee has found little demand that they be divested of their

traditional tax immunity. It seems preferable to leave undisturbed an existing situation which meets with apparent general approval.

The properties described in paragraph *d* are already making a contribution to the support of State or local governments through revenue-sharing arrangements. Subjection to taxation or payment-in-lieu responsibilities would impose a double burden on the Federal owner.

The effect of paragraph *e* is to exclude from a contribution requirement all personal property not incidental to Federal industrial or commercial activities. This exemption is sweeping. All personal property used in the general administration of government, or lying in warehouse or dead storage is exempt. In addition, some property though incidental to Federal industrial or commercial activities is expressly exempt. This includes the stockpile of strategic and critical materials or machinery as well as stocks of agricultural commodities. Personal property requiring Federal payment would include machinery, machine tools, raw materials and semifinished goods being used or held in inventory for manufacture or processing. No payment would be required on finished products. The total value of the personal property which would be subject to payments is very great. But it is obviously only a fraction of the value of all Federal personalty. Again in this situation, the Committee has been disposed to restrict Federal payments to personal property devoted to uses comparable to those made of private personal property. While the exemption recommended for Federal personalty may be somewhat broader than the foregoing test would imply, the exempted Federal personalty is, for the most part, devoted to purposes which are either traditionally governmental or are so vast and unique that no private persons responding to customary market place considerations could reasonably discharge them (such as the stockpiling of strategic materials or the storage of agricultural commodities under the price support program).

If an item of Federal property falls within the categories described in this recommendation, it is *ipso facto* immune from a contribution requirement even though it may also fall within the categories of properties described in *Recommendations 2* or *3*. *Recommendation 1* is basic and prevails over any other recommendations in cases of conflict.

Recommendation 2:

The Federal Government should consent to nondiscriminatory State and local taxation of the following categories of properties in accordance with the laws of the State of situs:

a. **Properties acquired by the Federal Government to protect its financial interest in connection with loans or contracts of insurance or guarantee, such payments to continue until the property has been disposed of or placed in permanent use by the Federal Government;**

b. **Properties sold by the Federal Government under conditional sales contract or leased to taxable persons.**

The most important block of properties for which the Committee recommends Federal payments are not these described in this recommendation, but those made subject to payments in lieu of taxes under *Recommendation 3.* The properties described in this recommendation are properties which because of their close analogy to privately owned property are more suitably subject to direct local taxation than to payments-in-lieu. Practical considerations also direct this course. A similar recommendation for the properties described in this recommendation was made by the Bureau of the Budget in its proposed bill.

The Federal interest is usually ephemeral in property described in paragraph *a*, namely, that seized by the Federal Government to protect a security interest. This property has been on the tax rolls and will be returned to them when sold to liquidate the Federal interest. A transitory Federal ownership should not disturb the normal tax status of the property. Existing Federal law has recognized the validity of this view and in some cases consented to local taxation. (See appendix E.) Of course, where the Federal Government decides to retain such properties for its own use, the Federal responsibility to continue contributions to support local government should be judged anew by reference to the use made of the property.

In the case of properties described in paragraph *b* the Federal Government acts as a landlord marketing property. Its use of or interest in the property is merely the collection of rent or the purchase price. These activities are not unique to government. They are identical with activities customarily undertaken by private persons. In terms of its appearance and role in the economy, this property is so analogous to privately owned property that for tax purposes it ought to be so treated. Rental housing properties, however, for practical reasons come not under this recommendation, but under *Recommendation 3.*

The Committee is aware that Congress has already consented to the taxation of property of various Federal instrumentalities which are not wholly owned by the Federal Government.[1] Without this

[1] The corporations in which there is no Federal Government ownership or direct invest ment at present include:

a. those where there is no Federal Government ownership or liability (national banks and Federal credit unions);

b. those where there is an ultimate contingent equity in the Federal Government (Federal Reserve banks) and

c. those where there is contingent Federal Government liability (Federal Deposit Insurance Corporation, Federal Land Banks and Federal home loan banks which are still under Federal budget control).

In addition, Federal instrumentalities not wholly owned by the Federal Government include mixed ownership corporations which are considered private institutions (national farm loan associations and production credit associations) and mixed ownership corpora-

consent the property of these instrumentalities would be completely exempt from State and local property tax. In the case of some of these Federal instrumentalities, the Federal consent has involved merely realty; in the case of others, it has included certain types of personalty as well. The Committee has not considered the policy of taxation of these instrumentalities within the proper scope of its inquiry because they are not wholly owned by the Federal Government. It suggests, however, that the various Federal statutes consenting to taxation with respect to these instrumentalities be reexamined with a view to establishing a uniform policy of Federal consent to the taxation of the properties of these instrumentalities in harmony with the recommendations made herein for Federal property generally.

The Federal tax liability should trail in its wake neither penalties for delinquencies nor imposition of tax liens on the property. Administrative difficulties such as delay in congressional approval of an agency's budget may cause delays in payment. But no penalty should attach for that. Interest on delinquent Federal obligations is appropriate and to promote timely payment of Federal tax bills, legislation should make the tax obligations of any Federal agency a charge upon the agency's budget for the same year that the taxes are due.

Recommendation 2 has no application to any properties governed by *Recommendation 1* nor to any properties which are an integral part of or incidental to any properties governed by *Recommendation 1.*

Recommendation 3:

The Federal Government should make payments-in-lieu of property taxes on the following categories of properties, other than those enumerated under *Recommendations 1* and *2*;

***a.* Commercial and industrial properties, including properties employed by private contractors or subcontractors in the performance of contracts with the Federal Government, title to which has passed to the Federal Government pursuant to any partial or advance payment contract clause.**

***b.* Properties used or held for activities which serve primarily national or broad regional interests rather than those of the local public;**

***c.* Rental housing other than low-rent housing.**

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tions in which the Federal Government's interest in the capital exceeds 90 percent (banks for cooperatives and Central Bank for Cooperatives). Attention should also be called to properties transferred to the Office of Alien Properties. The Committee's recommendations contemplate no change in existing rules concerning the liability of these properties for State or local taxes.

Of course, the property of Federal corporations which are wholly owned by the Federal Government falls within the purview of the Committee's recommendations as Federal property generally. Such corporations include the Federal Farm Mortgage Corporation, Commodity Credit Corporation, Production Credit Corporation, Federal intermediate credit banks, Reconstruction Finance Corporation and Federal Savings and Loan Insurance Corporation.

The payments in lieu of taxes should be equivalent to the amount of taxes which would be assessable against the property if taxable, according to its value as determined by the established tax procedures of the taxing jurisdiction, including all provisions for administrative and/or judicial review of assessments, tax rates, or levies in accordance with applicable laws governing assessments and taxation, provided that Federal property is treated on the same basis and accorded the same safeguards as non-Federal properties. Payments thus established should be adjusted as follows:

(i) Reduced for the local cost of specific and customary State or local governmental services provided at Federal expense to the taxing jurisdiction or its residents, or the Federal property, or Federal employees and their families who reside within the taxing jurisdiction. The amount of this reduction should be based on the unit cost of the particular services to the taxing jurisdiction, or in the absence of such unit cost data should be based on the unit cost in comparable nearby taxing jurisdictions.

(ii) Increased by the amount of the expenditures incurred by the taxing jursidiction in providing specific services to the Federal property which it does not customarily provide to non-Federal properties.

The amount of adjustments (i) and/or (ii), if any, should be determined by the Federal Review Board (see *Recommendation 8*) on application of either the taxing district or the Federal agency owning the property. Where properties of more than one Federal owning agency are located within the taxing district, the Federal Review Board should allocate any adjustments made under (i) and/or (ii) among the Federal properties involved.

Local property assessing jurisdictions containing Federal properties deemed to be subject to payments in lieu of taxes hereunder should be required to file, with the Federal owning agency, applications for such payments on forms prescribed by the Federal Review Board. The application should contain a statement by the legally constituted assessing authority showing the property values proposed as the basis for computing tax equivalents hereunder. Such application should also advise the Federal property-owning agency of the steps necessary to be taken to secure administrative and/or judicial review of the valuation of the property as fixed by the assessing authority under the laws of the State of situs applicable to assessments of property for taxation. The application should also contain a statement by an appropriate fiscal authority on behalf of the taxing jurisdictions involved showing the applicable tax rates and the statutory procedures to be followed to secure review of any objections to such rates.

Federal agencies owning properties subject to payments hereunder, if requested by the legally constituted assessing officer of the taxing juris-

diction in which the property is located, should supply such statements or reports with reference to the property as may under applicable laws be required of the owners of taxable property.

To prevent disproportionate Federal contributions to particular communities, the total amount of payments to any taxing district for those properties described in paragraphs (*a*) and (*b*) of this recommendation which are located therein should be subject to the following limitation:

> **If the total payment to any taxing district in any year, as computed hereunder, exceeds the total taxes levied against all non-Federal taxable property in the district, the Federal Review Board (see *Recommendation 8*) should determine whether or not the computed total payment would confer unwarranted benefits upon the taxing jurisdiction, contrary to the interests of the taxpayers of the United States, and should fix the total payment at such sum as it shall deem fair and reasonable, but in no event at a sum less than the total taxes levied against all non-Federal taxable properties within the taxing district. Where properties of more than one Federal owning agency are involved, any reduction in the total payment determined hereunder should be apportioned among the Federal properties in accordance with their respective values as otherwise determined under this Recommendation.[2]**

No payment should be made to a State or local government which declines to provide services to the Federal property or its residents or employees and their families upon the same terms as are accorded to other properties, residents, or persons, unless the Federal property-holding agency deems the provision of such services to be unnecessary or undesirable.

These payments should be made by the Federal agency charged with the administration of the particular property.

Of the properties described in this recommendation, the most important category is, no doubt, that of paragraph *a*, namely, commercial and industrial properties. As already indicated, this is the very type of property which has sparked widespread demand for the Federal Government to make contributions to support local governments by reason of its property holdings. Some of these properties, i. e., those owned by the Reconstruction Finance Corporation and its subsidiaries, have already been subject to direct local taxation. For such properties a payment-in-lieu would be substituted under the Committee's recommendation. A clear definition of "commercial and industrial" is needed to indicate the properties included in this recommendation. The Committee proposes the definition contained in the Knowland bill (S. 2473, 83d Cong., 1st sess.):

[2] Mr. Folsom, while in general agreement with *Recommendation 3*, does not concur in the Committee's recommendations concerning payment limitations to prevent disproportionate Federal contributions. His alternative proposals are set forth in footnote 3, p. 66.

Sec. 3 (f) "Industrial or commercial" refers to activities involving primarily, or to properties the ownership or use of which involves primarily, the process of mining, manufacture, fabrication, repair, generation of electrical energy, transportation, or any similar process, including storage within or on such property, or the sale or resale, rent or lease of commodities or the sale of services, including storage within or on such property.

Attention should be drawn to the fact that this definition includes properties generating electrical energy. The great Federal power projects thus are subject to payments-in-lieu. Many of them are multipurpose projects. For these, the Committee recommends that a distinction be made between the power and the nonpower properties belonging to the installations. Precedent for this already exists in the present law defining the contribution to State and local governments by the Tennessee Valley Authority and in the legislative proposals of the Bureau of the Budget for payments in lieu of taxes (S. 788, 83d Cong., 1st sess.). Accordingly, the power properties in multipurpose Federal installations would, under the Committee's proposal, become subject to payments-in-lieu. The nonpower properties would be classified as to their uses and the Federal contribution, if any, determined by reference to the rules established for Federal properties devoted to such uses. In connection with property in the Boulder Canyon project, any payments under the Committee's proposal made to the State or local governments of Arizona and Nevada should be deducted from the $300,000 now being paid annually to each of these States under the Boulder Canyon Project Adjustment Act of 1940.

The Committee specifically excludes from *Recommendation 3* the power properties of the Tennessee Valley Authority. These properties are now subject to a payment in lieu of taxes in the form of a sharing of revenues with States and counties. This payment arrangement conceptually reimburses the recipient governments for the loss not merely of potential property tax receipts but of all potential taxes of those governments referable to the power property and its operation. While the payments made do not appear to equal property tax equivalent amounts in every county where the TVA has power property, total payments to States and counties in the TVA area probably exceed total property tax equivalents on all TVA power properties throughout the entire TVA area. The Committee finds that the present payment system is working to the general satisfaction of State and local governments in the TVA area and recommends that it remain undisturbed. The nonpower properties of TVA which now make no contribution to the support of State and local governments would, of course, be required under the Committee's recommendations to make a contribution in accordance with the Committee's specific recommendations for the particular classification into which they would fall judged according to their use. Similar recommendations

for the treatment of TVA power and nonpower properties were made by the Bureau of the Budget in its proposed legislation for payments in lieu of taxes (S. 788, 83d Cong., 1st sess.).

Included in paragraph *a* are properties in the hands of private contractors or subcontractors acquired by them for the performance of contracts with the Federal Government, title to which has passed to the Federal Government pursuant to contract clauses providing for partial or advance payments. The practice of including in government contracts title acquisition clauses operative upon the making of any partial payment to the contractor has become widespread, particularly in contracts for the production of national defense items. From the Federal viewpoint, this practice facilitates the financing of private production of items required by the Government, is consistent with Federal statutes and procurement regulations, and also secures the Federal interest against diversion of materials to nongovernmental purposes. The effect of the title acquisition significant to local governments is that it imparts tax immunity to the property. The tax losses resulting from this Federal practice have seemed so unjustified to local officials that on occasion some have condemned the whole system of partial payments as a tax evasion device. Some local taxing districts have contested the passage of title itself and have sought to tax the property in the hands of the private contractor. The Committee's recommendation that the Federal Government make payments in lieu of property taxes on these properties in the hands of private contractors will remove an irritation in sensitive intergovernmental relations.

In some situations these types of properties are so similar to privately owned property as to suggest that they be subjected to direct local taxation like the properties included in *Recommendation 2*. An example would be raw materials and goods in process located in the privately owned industrial plant of the contractor, such plant also containing taxable materials and goods of the same character. This general category of properties, however, involves a wide variety of types including many substantial properties possessing characteristics classifying them as more suitably subject to the payment-in-lieu treatment with offsets and general limitations. The practical difficulties involved in segregating types of such properties have led the Committee to suggest the payments-in-lieu approach for the entire category along with commercial and industrial properties generally. The recommendation will not interfere with the Federal practice of contracting for partial or progress payments to facilitate the financing of procurement contracts and will insure against revenue losses to local governments as incidents of such practice.

In principle, the broadest category of properties under this recommendation is that of paragraph *b*. It overlaps that of paragraph *a*

since most commercial and industrial properties are employed primarily in a national or broad regional purpose rather than a local one. In the Committee's view, the principle enunciated in paragraph *b* together with its counterpart set forth in *Recommendation 1b* is a paramount one in solving the problems eddying around the Federal tax immunity. Federal property used or held for activities serving primarily national or broad regional purposes should share the burden of supporting local government, whereas Federal property serving primarily the local public should not share this burden. This principle equilibrates responsibilities of Federal and local taxpayers in the most equitable way. While it may not achieve a nicely perfect equity, since a use could serve both a national and a local purpose, the concept of the primary beneficiary does provide a reasonable balance. By and large, it places the burdens where they belong and thus eliminates subsidization of either the Federal or local taxpayer by the other. The principle is not only theoretically sound but as a practical tool it permits fairly easy identification of obligated and nonobligated properties.

There are relatively few Federal properties of the type described in paragraph *c*—rental housing property. The most important group of these has been war housing governed by the Lanham Act. Most of this property, however, has been transferred to non-Federal ownership. The residue is already subject to payments in lieu of taxes under existing law. The Committee's recommendation thus implies no new obligation for these properties. The Committee's proposed general formula for payments-in-lieu could result in some reduction in the amount of Federal payments for specific housing projects, but this result is quite unlikely. By and large, the Committee's recommendation maintains the *status quo*.

It should be noted that the recommendation does not apply to low-rent housing projects. These are not usually owned by the Federal Government in any event. They do, however, customarily enjoy a tax exemption under agreements between the local Low Rent Housing Authority and the local government. This arises because Federal law requires local governments to make a contribution to the maintenance of low-rent housing and most local governments make this contribution by according the housing project tax exemption. This action by the local government is a voluntary one. The propriety of these arrangements is outside the scope of this Committee's inquiry which is confined to involuntary exemptions arising from the Federal immunity.

In some cases, properties described in this recommendation may also fall within the category of properties described in *Recommendations 1* or *2*. If so, *Recommendations 1* or *2* govern. For properties falling

by definition in more than one recommendation, *Recommendations 1, 2*, and *3* take priority in that order.

The payments-in-lieu proposed by the Committee are (1) tax equivalent amounts (2) adjusted up or down for unusual circumstances affecting the burden upon the local community for servicing the Federal property and (3) subject to an overriding ceiling to prevent unwarranted Federal payments to local governments. The basic ingredient is the tax equivalent. Contrary to most earlier payment-in-lieu proposals, the Committee recommends that determination of this amount be vested in local officials. This feature is basic to the Committee's recommendation. If the determination of the tax equivalent were to be vested in individual Federal agencies for their properties, most of the Committee would prefer to abandon the payments-in-lieu approach altogether at least for commercial and industrial property and would recommend the alternative of subjecting such property to local taxation. Protection of the Federal interest is adequately safeguarded, in the Committee's view, by the restrictions upon payments incorporated in the payments-in-lieu formula as well as in the normal appeal procedures available to the Federal Government along with other property owners. This view is reinforced by the scope of the properties recommended for exclusion from payment responsibilities (see *Recommendation 1*).

For the purpose of determining the tax equivalent amount, the Federal property owner would stand in the same position as a private owner. Local officials would apply local assessment practices and current tax rates to determine the Federal payments, just as they would a private owner's tax bill. Like the private taxpayer, the Federal Government could protest or appeal the assessment or tax rate to local and State administrative and judicial bodies.

At this point, the analogy to taxation of private property ceases. Further procedures, mostly designed to safeguard the Federal Government, become available. The tax equivalent amount may be reduced by a special Review Board (see *Recommendation 8*) upon application of the Federal property-holding agency if a customary State or local government service is provided at Federal expense to the taxing jurisdiction or its residents or to the Federal property or its residents within the taxing jurisdiction. The amount of the reduction is based on the unit cost of the particular service to the taxing jurisdiction. Federal payments on self-contained installations could thereby be reduced sharply. The tax equivalent amount could also be increased by the Review Board upon application of the local taxing jurisdiction for expenditures incurred by it in supplying specific services to the Federal properties which it does not customarily provide to other properties.

It should be pointed out that the Committee's recommendation allows no offset to the tax equivalent amount for general economic benefits. The Committee strongly believes that such benefits are entirely irrelevant to the Federal Government's responsibilities to make payments as a property owner since such benefits also result from the activities of private property owners but do not provide any basis for exempting or reducing taxes on the private property. It may also be observed that such benefits are incapable of measurement. The Committee feels that while offsets for general economic benefits might appear plausible to superficial view, they lack any sound basis when analyzed. Arguments for such offsets really proceed from a predisposition to disfavor any system of Federal payments.

Finally, under the Committee's proposal, the tax equivalent amount adjusted to reflect service burdens is made subject to a ceiling in order to prevent "windfalls" or unwarranted Federal payments to local governments.[3] Before endorsing any particular antiwindfall pro-

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[3] Mr. Folsom has submitted the following comments on *Recommendation 3:* "I concur with the Committee's recommendation that there is need for an 'antiwindfall' provision to prevent excessive Federal payments to individual taxing jurisdictions on account of properties described in paragraphs (*a*) and (*b*) of *Recommendation 3*. A limitation is necessary because in some situations Federal activities require an unusual concentration of costly improvements and equipment, greatly in excess of the ratio of improvements and tangible personal property to site (land) value found in private enterprise. In these situations, Federal payments based on the value of improvements and tangible personalty would result in excessive Federal contributions.

"To limit payments in these situations, the Committee recommends that the Federal Review Board (to be created pursuant to its *Recommendation 8*) be authorized to adjust Federal payments downward in those situations, but only in those situations, where total Federal payments to a taxing jurisdiction exceed the total taxes levied on the aggregation of all other property.

"This recommendation disregards the basic principle which should generally govern the level of the Federal payments and which underlies our entire approach to the payments-in-lieu of taxes problem, as developed in this report. This principle is that the Federal payment on account of a parcel of property should bear a reasonable relationship to the taxes which that property would produce if it were not required for Federal purposes and were instead utilized by taxable private enterprise. This is the sole criterion we have to guide us.

"The Committee's recommendation would disregard excessive Federal payments on individual parcels of property, even if very much in excess of this norm, so long as the property is situated in a taxing jurisdiction in which Federal properties subject to payments were less than all private taxable property. Thus, the Committee's recommendation would leave untouched excessive payments resulting from extraordinary concentrations of equipment on land within industrial centers only because the Federal payment would be less than the city's total tax levy. Moreover, the Committee's recommendation would be totally inoperative with respect to State property taxes, since even in those nonindustrial States which contain relatively costly Federal installations, the value of Federal property is less than the combined value of all private taxable property subject to the State tax levy.

"The Committee's recommendation calls for a review by the Federal Review Board of the finances of the jurisdictions affected by the 'antiwindfall' provision to determine whether Federal payments in excess of amounts raised from local taxpayers are warranted. This would involve review of local budgets by a Federal agency and should be avoided as far as possible.

"In lieu of the Committee's 'antiwindfall' provisions, the following is proposed as preferable although even this substitute will leave open the possibility of some windfall payments. Such a possibility seems inevitable under any formula approach which relies on objective criteria in place of subjective investigation into local needs and fiscal capacities:

"That part of the assessed valuation (on which the Federal payment is based)

vision, the Committee examined several proposals. Many of them involve a formula to be automatically applied to limit the Federal payment-in-lieu. The administrative simplicity of such proposals is attractive. On the other hand, all such formulas are unreasonably arbitrary in the Committee's view. Their application neither prevents an unjustified payment in every case nor insures an appropriate payment in any case. While such limitations inhere to some degree in any antiwindfall provision, the purely automatic formulas are characterized by more arbitrariness than the Committee can endorse. The Bureau of the Budget in its legislative proposal for payments-in-lieu (S. 788, 83d Cong., 1st sess.) suggested two types of antiwindfall limitations. The first would for each Federal installation arbitrarily restrict the payment for personalty and Federal improvements to realty to an amount ten times the tax equivalent on property exclusive of the Federal personalty and improvements to realty. The second limitation would allow no payment exceeding a reasonable contribution by the Federal Government to the support of an adequate level of local government service.

The Committee is unable to accept any concept which limits the Federal payment by limiting the property valuation in terms of any fixed ratio to the value at the time of Federal acquisition. The latter bears no relevance either to the current value of the property or to the impact on the community of the Federal ownership and operation. If the Federal Government purchases unimproved land of low value and erects a large industrial plant on it employing hundreds or thousands of people, a Federal payment-in-lieu keyed to a property value ten times the acquisition cost would probably be wholly inadequate compared with the property tax. And it is the property tax, with all its admitted limitations, which the Committee considers the most

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which relates to buildings, improvements and tangible personalty (as distinguished from the land) should bear no greater relationship to the assessed valuation of the land than prevails typically for similarly zoned or classified land within the taxing jurisdiction. In the absence of taxable parcels of land similarly zoned or classified within the taxing jurisdiction, the limitation should be based on the ratio prevailing in nearly comparable taxing jurisdictions.

"To limit this provision to the relatively small number of cases in which the windfall would otherwise be very substantial, its application could be limited to those Federal properties (operating units) on which the Federal payment would exceed, say $100,000 per year. To prevent erratic results at the margin, it could be provided that the limitation should in no case reduce the payment below $100,000.

"This 'antiwindfall' provision would work as follows: Assume that a Federal industrial laboratory, representing an investment of $50 million (exclusive of land costs) is located on a parcel of land currently valued at $1 million. Assume also that in the same taxing jurisdiction the prevailing ratio of site value to buildings, improvements, and tangible property for light industry properties averages 1 to 20. This ratio applied to the $1 million land value produces a theoretical value for buildings, improvements, etc., of $1 million x 20, or $20 million. In this situation the 'antiwindfall' provision would limit the Federal payment on account of buildings, improvements, etc. (as distinguished from the land), to the levy on a $20 million taxable property. This is another way of saying that if the federally owned land were being used for a privately owned industrial activity, it would on the average be the site of and pay taxes on a $20 million plant."

appropriate measure of the Federal payment-in-lieu simply because this is the measure which local governments have customarily used to determine the contributions of property owners to local government support.

The Committee has searched more for a limitation upon the Federal payment in terms of its effect upon total revenues of the taxing district and thus incidentally upon the burdens borne by other property owners in the jurisdiction. This should be the touchstone of "windfall" determinations. It is difficult to perceive that a Federal payment, based on the value of the Federal property with offsets where justified, would involve a "windfall" to a community and its other taxpayers if the effect of the Federal payment were small on the total property tax receipts of the local jurisdiction or on the tax burdens of the other property owners. Of course, some fixed level must be established within which Federal payments may be considered free from the taint of "windfall" in order to provide administrative simplicity for handling most cases. Any fixed level has some attributes of arbitrariness, but the Committee considers the level recommended by it generally fair and equitable and the best suited to meet the innumerable diverse situations with maximum equity and practicality.

The Committee recommends the following antiwindfall provision. Where the Federal payments in any taxing jurisdiction do not exceed the total property taxes levied against other property owners, they should be deemed free from any "windfall" character. Where they would exceed this level, each individual case should be examined by the special Review Board to determine how much of the excess, if any, should be paid to the local taxing jurisdiction. The number of cases requiring such special review would be relatively small. No substitute for such a review has been found after diligent search. All fixed formulas for mechanically determining the proper payment fail to give any assurance of substantial justice in individual cases. The Committee believes that of all the various proposals studied, its recommended antiwindfall provision combines the greatest amount of administrative simplicity with the largest measure of substantial justice.

Recommendation 4:

Recommendations 2 **and** ***3*** **should not apply to properties acquired by the Federal Government before September 8, 1939 unless the Congress has specifically authorized the payment of property taxes or payments-in-lieu of taxes on account of such properties.**

Most students of the problem have concluded that equity does not require initiation of Federal payments on properties whose noncontributory status has become integrated into the economic and fiscal life of the community. On properties long in Federal ownership local

tax rates and land values have grown up around the Federal tax immunity. Adjustments have been made. Equity requires no molestation of such cases.

The "cutoff date" of September 8, 1939,[4] is recommended because, as the date upon which the commencement of the national emergency was declared, it may be taken as the starting time of the enormous expansion of Federal property ownership accompanying the national defense program. Some representatives of Federal agencies advocate a later date because it would reduce the Federal administrative and economic burden of discharging tax and payment-in-lieu responsibilities.[5] The Committee believes, however, that fairness requires the 1939 date since a later date would prejudice those communities which have for the longest period carried more than their fair share of the national burden arising from the national defense program. Any cutoff date is arbitrary. However, some date is necessary to avoid unsettling settled cases and the 1939 date seems generally fair and reasonable.

Recommendation 5:

The Federal Government should make transitional payments-in-lieu on Federal properties described in category (*c*) of *Recommendation 1* which would not also fall within category (*a*), (*b*) or (*e*). These

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[4] Mr. Folsom has submitted the following comments on *Recommendation 4:* "I concur with the Committee's conclusion that Federal payments to State and local governments proposed under *Recommendations 2* and *3* should not apply with respect to properties the tax-exempt status of which has already become integrated into the economic and fiscal life of the community. The Committee correctly holds that where properties have long been in Federal ownership, local tax rates and land values 'have grown up around the Federal tax immunity' and the 'adjustments have been made.'

"I do not, however, concur in the September 8, 1939 'cutoff' date because it conflicts with our aforestated conclusion.

"Fifteen years have already elapsed since September 8, 1939, and another year or two will elapse before any legislation in this area can be made operative. This is a very long period from the viewpoint of property ownership and tax rates. Where, as a result of Federal property acquisitions, taxing jurisdictions found it necessary to compensate for the loss of revenue by increasing the tax rates on taxable property, these tax increases have long since been reflected in the reduction of property values (below the values which would have prevailed in the absence of these tax increases). Large proportions of these properties are no longer in the hands of the taxpayers who bore the impact of the tax increases. Sample data indicate that of the 23.5 million individuals who owned homes in 1940, not more than half own the same home in 1954. In some parts of the country the proportion is even smaller. The others received prices which reflected the tax exemption of Federal properties when they sold their properties.

"For this reason, if Federal payments were now initiated on properties acquired as long ago as 1939, they would in large part accrue to property owners who are not entitled to them. Such unnecessary gratuities at the expense of Federal taxpayers are not justified.

"If a 'cutoff' date is provided, it should be as nearly current as practicable. It should not be earlier than July 1, 1950. This 'cutoff' date would permit payments to be made with respect to the large Federal property acquisitions associated with defense requirements since the outbreak of hostilities in Korea and with the expanded atomic energy program. Even this date would, in some situations, result in payments to communities in which adjustment to Federal property ownership is already largely completed. The frequency of these instances, however, would not be incompatible with reasonable fairness."

[5] Compare the estimated Federal costs involved in alternate cutoff dates. See appendices G and H.

transitional payments should be made over a 10-year period in diminishing amounts. With respect to properties in Federal ownership at the time of the enactment of the legislation here proposed, transitional payments should be limited to properties acquired within the immediately preceding 10 years.

Under *Recommendation 1* many Federal properties will continue to be exempt from any obligation to contribute to the support of local governments even though they may be properties which, by and large, serve primarily national or regional purposes rather than the local public. That recommendation rests upon considerations of the traditional governmental character of such properties and the general acquiescence in their tax-immune character. For most of these properties either because of their fairly scattered locations and resultant levity of burden on any one taxing district, the absence of any requirements that they contribute taxes or payments in lieu of taxes will probably involve little real hardship to local governments. However, new Federal acquisitions which remove properties from local tax rolls definitely do impose hardships.

To cushion the shock of a sudden depletion of the tax base, the Committee recommends that new Federal acquisitions for the purposes named should carry with them the obligation to make transitional payments-in-lieu on a declining basis. These payments would provide States and local governments a reasonable period for adjusting their finances to the loss of permanent tax income. An appropriate formula for calculating the payments-in-lieu would be the tax equivalent (as measured by the average taxes on the property of the last 2 years before the Federal acquisition) reduced by one-fifth every 2 years until payments ceased at the end of 10 years.[6] Federal property acquired within the last 10 years would make ratable contributions. Thus, for eligible properties which have been held for 4 years, transitional payments of 60 percent of the tax equivalent would be made for 2 years, 40 percent for the next 2 years, and 20 percent for the final 2 years.

For new Federal land acquisitions for purposes now subject to shared revenues this Committee is recommending protection of the State or local government against revenue loss by proposing transitional payments in lieu of taxes in the case of national forest lands and permanent payments in the case of national parks, wildlife refuges and flood control lands. See recommendations in chapter 14 of this report.

Recommendation 6:

In all the foregoing *Recommendations*, the term "property" includes "real property" and "tangible personal property" according to the legal definitions of these terms in the State of situs.

[6] This formula is set forth in the Bureau of the Budget's legislative proposal, S. 788 (83d Cong., 1st sess.).

Under *Recommendation 1e*, all Federal personalty except that incidental to commercial and industrial operations is exempt from a contribution requirement. However, property incidental to such operations must make a payment and this recommendation is intended to make the requirement explicit.

The tax subjects under property tax laws vary from State to State. Sometimes only realty is included; sometimes both realty and tangible personalty; and sometimes only realty and certain types of tangible personalty. In every case the scope of the tax subjects determines the size of the tax base and thus influences the tax rate. Losses in local taxes through exemptions accorded tangible personalty place a burden upon other taxpayers just as directly as losses in taxes through exemptions accorded realty. Where the local tax losses are ones which Federal taxpayers should reimburse because of equitable considerations, the rules should be the same whether the local tax loss arises from the immunity of Federal tangible personalty or from the immunity of Federal realty. If equity requires a Federal payment because of a Federal property holding, there is no basis in logic for distinguishing between the tangible personalty and the realty. In fact, to pay on the realty but not on the tangible personalty discriminates in favor of States taxing only the former because they will get a fully equitable contribution to local government costs, where States taxing tangible personalty as well as realty will get only a partial contribution. This result hardly balances the equities. The Committee recommends that the Federal responsibility for paying taxes or making payments-in-lieu apply to both realty and tangible personalty in accordance with the laws of each State defining the subjects of the property tax in that State. The Committee does not recommend that the system of Federal payments embrace payments on Federal intangibles. The exemption of Federal intangible personal property from State and local taxation presents no problem.

Recommendation 7:

The Federal Government should consent to the payment of special assessments to finance local improvements where both non-Federal and Federal properties are included in the benefited district and subjected to the assessment, provided that Federal property is treated on the same basis and accorded the same safeguards and exemptions as non-Federal properties.

Such special assessments are essentially land service charges for particular improvements which enhance the value of the property. Consent to special assessments has already been given in the case of local improvements benefiting real properties of the Reconstruction Finance Corporation. The consent should be extended to all Federal

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real properties. Of course, the Federal Government should have the same rights and privileges as any private property owner to approve, reject, or contest local improvements. Federal delinquency in making any payments should not authorize penalties or proceedings against the land. The rule here should be analogous to the rule on nonattachment of penalties in cases of Federal tax liability.

The Committee recommends that the general statutory consent to special assessments against Federal property be confined to cases where the improvement financed by the special assessment benefits private as well as Federal property. This general statutory consent should not apply in cases where only Federal property is involved. It does not seem reasonable to require the Federal Government to pay through special assessments for projects desired by local communities but not agreed to by the Federal Government where it, alone, would have the obligation of defraying all costs of the project.[7] It is foreseeable, for example, that a community containing a Federal tract of land might wish to put a roadway or water or sewage line through the Federal land even though such a project might be incompatible with Federal plans for utilization of the tract. If the project does not abut non-Federal land, Federal dissent should preclude Federal liability for assessment. If the Federal property owner specifically consents to the improvement, however, it should have authority to pay the special assessment even though it is the only land owner affected. On the other hand, where the project adjoins non-Federal as well as Federal lands, the Federal land owner should be subject to special assessments for the improvement, despite its disapproval of the project, just as a private land owner.

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[7] This point was raised by several Federal agencies in objecting to provisions of S. 788 and H. R. 5605 (as passed by the House) consenting to special assessments.

"We believe that it is possible, under title III, notwithstanding this proviso (i. e., for appeal, etc.), that local jurisdictions or improvement districts may undertake improvement projects which would be financed in large part by assessments on Federal property and which may actually conflict with the desires and plans of the Federal Government for development of its own properties." (Letter from the Atomic Energy Commission to the House Committee on Interior and Insular Affairs, May 20, 1953.)

"It is our opinion that this provision is dangerous in that it would expose such property to assessments by local governments for drainage, irrigation, roads, or other types of local improvements which might be in conflict with the program for which the properties are being administered. Accordingly, we strongly recommend that this section be changed to authorize payments by the Federal Government of special assessments on Federal real property, as defined, only when it is determined by the Federal agency administering the property that the improvements are in the interest of the United States." (Letter from the Department of Agriculture to the House Committee on Interior and Insular Affairs, March 5, 1952.)

"Nor is this Office convinced of the desirability of consenting to special assessments for local improvements as provided in the bill. It appears that there could be commenced thereunder, against the will of the Federal Government and for which no Federal need exists, projects desired by local areas or officials. Also, while such local areas would derive the benefit of such a project, their costs would be borne by the United States, which may have no need or desire therefor." (Statement of E. L. Fisher, Acting Comptroller of the United States, *Hearings* before a Subcommittee of the House Committee on Government Operations on H. R. 5605, July 20–21, 1953, p. 52.)

Recommendation 8:

Congress should authorize and direct the President to appoint an administrative Review Board, composed of three members who should have responsibility for

a. Promulgating rules and regulations governing the payment program and assuring that all property-owning Federal agencies pursue uniform payment policies.

b. Determining the amount of adjusted payments in lieu of taxes under *Recommendation 3.*

c. Resolving, as an appellate body, Federal and State/local differences arising under this program.

d. Submitting annual reports to the President.

An advisory committee should be established to consult and advise the administrative Review Board with respect to the administration of the payment program. This Committee should consist of heads of Federal agencies and representatives of State and local governments, and of the public. This Committee should recommend to the President such changes in the payments legislation as it deems necessary.

The administration of the payment-in-lieu program proposed by the Committee requires the establishment of a Federal Review Board. Adjustment of the tax equivalent amounts for offsets or special credits would become the responsibility of such a Board. This Board would also have authority to determine the "windfall" character of any payment-in-lieu under the Committee's proposed formula. A special Review Board to discharge these functions in the administration of any payment-in-lieu program seems essential if the placing of final authority in either the local government or the individual Federal property-holding agency is to be avoided. The Committee strongly recommends that this authority be placed in a neutral, disinterested body and believes that the Board it proposes would be such a body.

This Board would also have the duty of promulgating rules and regulations governing the payment program and assuring that all property-owning Federal agencies pursue uniform payment policies, and of submitting annual reports to the President. The Federal payment program obviously requires some central agency to promulgate uniform rules to be followed by all Federal agencies making payments. Otherwise, different agencies would develop varied practices. Also, any new and important Federal program, as the Federal payment program is, ought to be periodically evaluated in reports to the President. Both of these necessities have been recognized in two of the most important proposed bills on the subject of Federal payments, namely, S. 788 (83d Cong., 1st sess.) drafted by the Bureau of the Budget and S. 2473 (83d Cong., 1st sess.), the Knowland bill. The responsibilities for the discharge of these functions obviously should

be vested in the same body which has the authority to administer the payment-in-lieu adjustments.

It should be pointed out that the Committee does not propose that the Review Board make the Federal payments. These should be made by each Federal property-holding agency for its properties. Each agency should defray the costs of payments on its properties from its individual budget and should be required to justify its property holdings in budget requests.

The Committee strongly recommends that an advisory committee be established composed of representatives of Federal, State and local governments and of the public to advise the Review Board.

Chapter 9

COSTS TO FEDERAL GOVERNMENT

Estimation of the costs to the Federal Government of any program for paying local taxes or making payments-in-lieu involves numerous difficulties with unknown factors. A first requirement is a clear definition of the Federal properties which will be subject to payment obligation and of any limitations to be placed upon a tax equivalent payment. Obviously, the costs of different programs vary enormously. Secondly, information concerning the nature, value, and location of Federal property subject to payment requirements is essential. In the absence of a complete contemporaneous inventory of Federal property, the only method for securing this information is to aggregate data supplied by individual Federal agencies after they have surveyed their property holdings. Such surveys involve much time and labor in view of the way that Federal property holdings are recorded. Furthermore, Federal agencies, having no knowledge of the value of their properties for tax purposes, are in no position to report more than the costs to the Federal Government of acquiring the property adjusted, in some cases, for depreciation. There are then difficulties in ascertaining the proper rate to apply to the property values to find the Federal tax liability. Since these vary widely in different localities, reasonable accuracy would require consideration of the location of each unit of Federal property. In the case of payments-in-lieu the effect of offsets or other payment-limiting factors offers further complications. Finally, of course, estimates have no prospective accuracy since the nature and amount of Federal holdings may change, locations of personal property may shift, and tax rates in any jurisdiction may change. Under all these circumstances the best estimates possible are admittedly rough.

The difficulties of making estimates have been pointed up by the Bureau of the Budget in the Senate hearings on S. 2473 and H. R. 5605.

It is difficult to translate these estimates of property costs into dependable estimates of the payments that would be made to local taxing authorities under this legislation. Gross cost is only one factor considered in assessing properties for tax purposes. Assessment practices vary widely, from township to township, from county to county, and from State to State. The ratios of assessed to full market values may differ for similar properties in a single assessment district.

There are wide variations in a given county or State. No general countrywide compilation is available on this subject, excepting for farm real estate. Only a few States provide information from which average effective property tax rates can be estimated, and these are almost exclusively for real estate. There are no such ratios available for personal property, excepting perhaps on a special, localized basis.[1]

The Bureau of the Budget has made estimates of the payments which might be made under S. 2473 on account of Federal properties. This bill contemplated payments only on "defense production facilities" but included both tangible personalty and realty. (See appendix F, p. 189.) After observing the difficulties inherent in a determination of Federal property values upon which payments under S. 2473 would be based, the Bureau of the Budget explained its estimates as follows:

> Accordingly, it becomes necessary to resort to a rough-and-ready basis for estimating payments that might be made under S. 2473. From the fragmentary information available, it appears that the payments to be made on real estate would average at least 1 percent, and possibly as much as 1.5 percent, of the full market value.
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> Personal property is less fully assessed than real estate, and most types of personal property are assessed at a smaller percentage of market value in nearly all the jurisdictions which tax such property. Consequently an estimate based on the range of effective rates assumed for real estate would almost certainly overstate the Government's liability for payments on personal property under S. 2473. Assuming an average effective rate of 1 percent, the payments on personal property valued at $9.1 billion would be $91 million.
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> Using these assumptions, and an effective date of June 30, 1953, the total of payments under S. 2473 may be estimated at $115 to $127 million for the fiscal year 1954. In addition, there would be administrative expenses, primarily in the field operations of the agencies which own and manage the properties. With a small allowance for central direction and rulemaking, the administrative expense has been estimated at $4.6 million for the first year and somewhat less in later years. By these necessarily rough approximations, then, the aggregate cost of S. 2473 is estimated at about $120 to $132 million at the present time; that is, for fiscal year 1954."[2]

Estimates are also available under another bill proposing payments on Federal properties. This bill, S. 788 (83d Cong., 1st sess.), provides variously for payments of taxes and special assessments and for payments-in-lieu and hardship payments on different types of Federal property. In the case of commercial and industrial properties, however, it arbitrarily limits payments on personalty and improvements to realty to 10 times the tax equivalent on the rest of the property in any particular installation. Moreover, the tangible personalty subject to payment is limited to that affixed to the realty and does not include inventories of raw materials, semifinished, and finished products. Finally, any payments-in-lieu are limited to amounts which

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[1] Statement of I. M. Labovitz, Labor and Welfare Division, Bureau of the Budget. *Hearings*, Subcommittee on Legislative Program, Committee on Government Operations (83d Cong., 2d sess.) on S. 2473 and H. R. 5605, June 2–3, 1954.

[2] *Ibid.*

will constitute a reasonable contribution by the Federal Government to the support of an adequate level of local government services. The result is that in terms of property uses, S. 788 is more comprehensive than S. 2473; in terms of personal property and limitations on individual payments, S. 788 is more restrictive.

Estimates by the Bureau of the Budget of new Federal costs under S. 788 were $111,200,000 for a property acquisition cutoff date of September 8, 1939, $32,300,000 for a cutoff date of January 1, 1946, and $23,700,000 for a cutoff date of July 1, 1950. These estimates related to payments in the fiscal year 1950. For details, see appendix G, p. 194.

The payment program contemplated by the Committee's recommendations is substantially broader than that provided for in S. 2473 or S. 788. For it, no accurate cost estimates are available. Those made by the Bureau of the Budget for programs under S. 2473 and S. 788 provide the best basis for constructing estimates under the Committee's recommendations. Estimates[3] of costs under S. 2473 in the fiscal year 1954, based on properties owned on June 30, 1953, and a 1939 cutoff date, indicate a sum ranging from $157 to $174 million where the assumed effective tax rate on personalty and realty is 1 percent and a sum of $190–$216 million where the assumed effective tax rate is 1 percent on personalty and 1½ percent on realty. The range in sums (with each assumption for effective tax rates) is attributable to unresolved doubts concerning the amount of Federal realty which would be subject to S. 2473 with a 1939 cutoff date. The gross costs of such property are estimated to be within a range from $5½ to about $7¼ billion. The details of these estimates may be found in appendix H, p. 196.

Variations in the scope of properties subject to payment under S. 2473 with a 1939 cutoff date compared to the properties subject to payment under the Committee's recommendations qualify the utility of the cost estimates under S. 2473 as indicative of probable costs under the Committee's recommendations. On the one hand, the Committee's recommendations embrace highly valuable properties excluded from costs under S. 2473, such as properties of the Atomic Energy Commission, multipurpose power projects, properties of a noncommercial, nonindustrial nature devoted primarily to national or broad regional purposes, and properties subject to transitional payments. On the other hand, the Committee's recommendations contemplate payments on a more restricted class of personal property than S. 2473 provided for. Finished goods, for example, are completely excluded from payment obligations where S. 2473 required payments on all finished goods stored or otherwise located on the premises of defense production facilities.

[3] These were prepared for the Study Committee by I. M. Labovitz, Assistant to the Chief of the Labor and Welfare Division, Bureau of the Budget.

Without accurate information concerning the effect upon cost estimates of the variations in coverage as between S. 2473 with a 1939 cutoff date and the recommendations of this Committee, some indication of the magnitude of costs under the Committee's recommendations may, nevertheless, be secured by adding to cost estimates under S. 2473 with a 1939 cutoff date, the estimates of costs of payment for Atomic Energy Commission properties. Such a procedure treats as mutually canceling all other cost variations as between S. 2473 with a 1939 cutoff date and the Committee's recommendations.

Estimates of the cost of payments on Atomic Energy Commission properties under S. 2473 with a 1939 cutoff date range from $31 million, if the assumed effective tax rate on personalty and realty is 1 percent, to $43 million if the assumed effective tax rate on personalty is 1 percent and on realty is 1½ percent. If these sums are added to the top range of estimated property values subject to S. 2473, the resulting cost estimates for Federal payments under the Committee's recommendations are $205 million where realty payments are calculated at an average effective tax rate of 1 percent and $259 million where such payments are computed at a rate of 1½ percent.

It should, however, be pointed out that cost estimates based on S. 2473 make no allowance at all for the ceiling limitation imposed on all payments in lieu of taxes under the Committee's recommendations. This limitation to prevent "windfalls" would probably limit the Federal payment in most cases to an amount not exceeding the property tax revenues of the particular taxing district secured from non-Federal property. It might not do so in every case or in any particular case because in order to prevent the limitation upon payment from becoming an instrument of injustice, any case where the Federal payment would exceed property tax receipts of the local tax jurisdiction from non-Federal property may, upon application of that jurisdiction, be reviewed by a special board for the purpose of determining how much, if any, of the excess should be included in the Federal payment. The overall effect of these provisions on the total Federal costs under the payment program is difficult to evaluate. What seems reasonably clear, however, is that these provisions could sharply reduce the Federal payments attributable to Atomic Energy Commission properties because the most costly installations of this agency are located in rural local tax jurisdictions where property tax receipts are probably at a relatively low level and thus form a relatively low ceiling on Federal payments in that jurisdiction.

It should also be pointed out that these cost estimates are based upon Federal property holdings as of June 30, 1953. The Federal inventory is constantly changing and increases or decreases, of course,

affect the costs of any Federal payment program. For example, it appears that increases in Atomic Energy Commission property holdings in the year ending June 30, 1954 would add from $11 to $15 million to the Federal costs described above depending upon whether 1 percent or 1½ percent is used in the estimates as the average effective tax rate on realty. No information is at hand indicating increases or decreases in other Federal property holdings during the same year. Other important variables affecting total annual payments under any Federal payment program would be changes in the local assessment ratios and the local tax rates, both of which factors have been merged in the concept of average effective tax rates used in the calculation of the above cost estimates.

Part IV

PROPERTIES ASSOCIATED WITH SHARED REVENUES

Chapter 10

GENERAL FEATURES OF THE REVENUE-SHARING ARRANGEMENTS

Sharing of the income receipts from federally owned lands with State and local governments is one of the lesser current issues in the broader problem of determining how Federal property can bear its fair share of State and local governmental costs. Revenue sharing is a lesser issue because many of these arrangements pertain to "public domain" lands which have never been on the tax rolls and because there is some revenue being received to help defray the costs of local government. Historically, however, revenue sharing is the oldest type of Federal payment to State and local governments on account of Federal ownership and use of property, and it is still the most important in terms of amounts being paid currently.

The various sharing arrangements may be conveniently grouped for clarity of analysis in three categories: Major programs, minor programs, and closely related programs. The latter group, in the strict sense, does not involve shared revenues; but it is so closely related to genuine revenue-sharing programs that it deserves brief mention here. Several of the minor programs, by strict definitions, involve payments in lieu of taxes. However, because they relate to the same kinds of lands as shared revenues and are usually linked in some manner with the revenue of the property, they are included as minor shared revenues. All the sharing arrangements (except one of the related programs) pertain to the ownership, use or development of federally owned lands and other resources thereon. The single exception is the related program concerning wildlife development by the States.

The Major Programs

In the fiscal year 1953, the Federal Government paid to States and local governments in the form of shared revenue from the receipts of Federal property the sum of $45.4 million. Of this total, 3 programs accounted for $42.3 million or 93.3 percent:

National forests (25 percent fund)	$18, 649. 794
Mineral leasing acts	17, 246, 724
Revested Oregon and California grant lands	6, 422, 027
Total	42, 318, 545

The payment of 25 percent of total national forest receipts to the States for the benefit of public schools and roads in the counties in which the national forests are located is the largest program both in amount and scope of coverage. In 1953, payments were made to 648 counties in 39 States and to Alaska and Puerto Rico.

The Mineral Lands Leasing Act of February 25, 1920, as amended and supplemented, allocates 37½ percent of total receipts from bonuses, royalties, and rentals from the leasing of Federal lands containing oil, gas, coal, phosphate, potash, sodium, and silica sand to the States and Territories in which the leased land is located for the benefit of public roads, schools, or other educational institutions. In 1953, 22 States and Alaska shared in these revenues.

At the present time 18 counties in Oregon are entitled by law to receive directly from the Federal Government 75 percent of the total receipts from the revested Oregon and California grant lands and did receive this percentage in 1952. Currently, however, the cost of access roads is being deducted from the top 25 percent; as a result, these counties received 52.5 percent of total receipts in 1953.

The Minor Programs

There are 15 minor revenue-sharing programs in effect with payments being made to State and local governments in 1953 under all of them except one. The various programs and the amounts paid in 1953 are as follows:

Corps of (Army) Engineers flood control lands (Seventy-five percent of receipts to States for public schools and roads in counties in which lands are located.)	$869, 052
Boulder Canyon project (Three hundred thousand dollars each to States of Arizona and Nevada.)	600, 000
Wildlife refuges under Migratory Bird Conservation Act (Twenty-five percent of net receipts direct to counties in which lands are located for public schools and roads.)	470, 621
Submarginal land held by Forest Service (Twenty-five percent of net revenue direct to counties in which lands are located for public schools and roads.)	451, 362
Taylor Grazing Act public lands (Twelve and one-half percent of grazing district fees ($183,549) and 50 percent of fees from leased lands outside grazing districts ($161,955) to the State for the benefit of the counties in which lands are located.)	345, 504

Alaska game licenses	88, 788
(Fifty percent of net proceeds from sale of game licenses to Territorial school fund.)	
Sales of public lands and timber	66, 655
(Five percent of net proceeds of such sales to States for education, roads, and other internal improvements.)	
Superior National Forest lands in Minnesota	45, 332
Three-fourths of 1 percent of appraised value to the State for general use of counties in which lands is located.)	
Federal Power Commission licenses	33, 530
(Thirty-seven and one-half percent of license receipts from occupancy and use of forest and other public lands to States.)	
Grand Teton National Park acquired lands	25, 761
(Full taxes last assessed for 10 years; thereafter 5 percent less each year for 20 years. Payments limited to 25 percent of fees from Grand Teton and Yellowstone National Parks. To the State for general use of counties in which land is located.)	
Reconveyed Coos Bay Wagon Road grant lands in Coos and Douglas Counties, Oreg.	25, 000
(Payments equal to current taxes but not to exceed 75 percent of receipts from these lands. Direct to counties for schools, roads, highways, bridges, and port districts.)	
Columbia Basin project lands	14, 738
(Payments to State or political subdivision by agreement from leasing receipts but not to exceed tax equivalent.)	
Oil and gas lands, south half of Red River, Okla	8, 803
(Thirty-seven and one-half percent of royalties in lieu of State and local taxes in Kiowa, Comanche, and Apache tribal funds. To the State for public roads and schools.)	
Grazing districts on Indian lands ceded to the United States	661
(Thirty-three and one-third percent of fees collected to the States for the benefit of public schools and roads in counties in which land is located.)	
Oil and gas lands added to the Navajo Indian Reservation in Utah	------
(Thirty-seven and one-half percent of net royalties to the State of Utah for tuition of Indian children, roads across these lands, or benefit of Indians residing on the reservation.)	
Total payments, minor programs	3, 045, 807

These minor revenue-sharing programs vary. Some, such as the Army flood-control lands and the wildlife refuges, are fairly comprehensive and affect a majority of the States; others affect a single State as the Red River oil and gas lands in Oklahoma or only a few counties as the Coos Bay Wagon Road grant lands in Coos and Douglas Counties, Oreg. In many cases the amount of revenue received by the States or counties is insignificant.

Closely Related Programs

There are several programs that are not strictly revenue-sharing arrangements but which are so closely related to the above provisions

that they deserve brief mention. Also, one of these related programs is commonly regarded as a regular revenue-sharing arrangement of the same order as those described above.

These related arrangements and the amounts involved in 1953 are:

National forests	$7,460,971
(Ten percent of total receipts are designated by Congress to be spent on forest roads and trails within the national forests in the States from which receipts are derived.)	
School lands within national forests in Arizona and New Mexico	122,755
(The proportionate share of total forest receipts in each State is paid into the common school fund of Arizona and New Mexico as the income from the school grant lands managed by the National Forest Service.)	
Public lands in Alaska reserved for school and other educational purposes.	545
(One hundred percent of the income derived from the sale of such lands or the products thereon is paid into permanent funds and only the interest expended for the benefit of the schools or other educational institutions.)	
Revenue from excise taxes on firearms and shells and fishing tackle	12,474,129
(A sum equal to 100 percent of the revenue from these excise taxes, less cost of administration, is distributed among the States for fish and wildlife restoration.)	
Total related programs	20,058,400

The expenditure of 10 percent of national forest receipts upon forest roads and trails amounts to a contribution in-kind to State and local governments. The allocation among the States of the revenue from the special excise taxes on firearms, ammunition, and fishing tackle, is a Federal measure which arises from the cooperative efforts of officials and conservationists of the various States to secure a nation-wide system for improving fish and wildlife resources. The other two related programs are nothing more than arrangements whereby the Federal Government manages the State or Territorial school lands with the revenue from these lands being turned over to Arizona, New Mexico, and Alaska.

Distribution and Use of Shared Revenues

Table 1 summarizes the payments by States under the various major and minor revenue-sharing arrangements for the fiscal year 1953. Every State except Rhode Island plus Alaska and Puerto Rico received some revenue, although in many cases the amount received was only a nominal sum. Because the bulk of federally owned land is in the West and because of the importance of timber and minerals thereon, revenue sharing is significant primarily for the Western

States. In 1953, the 11 Western States received 88 percent of total shared revenues.

As table 1 indicates, there is great variation in the amount of shared revenue received by each State or Territory. Oregon alone received $12.5 million or nearly 28 percent of the total in 1953. California and Wyoming each received over $6 million or 13 percent of the total payments. Thus these three States were paid $24.6 million or 54 percent of the total shared-revenue payments of $45.4 million in 1953. Three States were paid between $3 and $3.5 million, another 3 States received between $1 and $2 million, 6 between $500,000 and $1 million, 13 between $100,000 and $500,000, 12 between $5,000 and $100,000 and 9 received less than $5,000, 4 of which were paid less than $1,000. Rhode Island and the Territories of Hawaii and the Virgin Islands and the District of Columbia received nothing under any of the shared-revenue programs in 1953.

Distribution and use of shared revenues within each State or Territory depends largely upon the Federal statutes authorizing the payments but also in part upon State laws. The 18 major and minor sharing arrangements can be grouped in 7 categories with respect to distribution and use within the States and Territories.

1. Payment of revenue to States for public schools and roads in counties in which lands are located: National forests (25 percent fund), Corps of (Army) Engineers flood control lands, and grazing districts on Indian lands ceded to the United States.

In these provisions, Federal law requires distribution of the receipts to the counties of origin and specifies the use of the revenue. State legislation determines the ratio between the two specified uses—schools and roads.

2. Payment of revenue to States for the benefit of education or roads: Mineral leasing acts, oil and gas lands, south half of Red River, Okla., sales of public lands and timber, and Alaska game licenses.

With the exception of revenue from Alaska game licenses, which is required by Federal law to be expended through the Territorial school fund, States may determine whether the revenue shall be used for education or roads (or certain internal improvements with respect to some revenue from land and timber sales) and the manner of distribution.

3. Payment of revenue into the general fund of the States: Boulder Canyon project, and Federal Power Commission licenses.

In these two provisions, no allocation is required by the States. In Nevada, Clark County claimed that the State was obligated to allocate the revenue to such county by reason of the location of the Boulder Canyon project there, but the State Supreme Court ruled

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TABLE 1.—*Shared Revenues by States and by Funds, Fiscal Year 1953*

	National forests [1]	Submarginal lands [1]	Army flood control lands [2]	Federal Power Commission licenses [2]	Mineral Leasing Act [3]	Migratory bird refuges [4]	Taylor Grazing Act [3]	Sales of public land and timber [3]	Various special funds—Agriculture and Interior	Total
Alabama	$197,427	$711		$43	$683	$227		$1,810		$200,901
Arizona	496,368			120	36,881		$27,146	1,685	[5] $300,000	862,200
Arkansas	453,508	13,302	$45,315	16	2,350	1,139	31	983		516,644
California	2,760,310	420	54,759	15,647	3,193,539	1,490	37,664	15,232		6,079,061
Colorado	342,305	30,548	11,360	608	2,581,064	97	21,151	7,179		2,994,312
Connecticut			562							562
Delaware						305				305
Florida	182,275	20,256		5	56	772		1,215		204,579
Georgia	121,911	4,504	8,118			21,342				155,875
Idaho	939,037	3,835	585	3,278	57,226	2,211	25,683	5,448		1,037,303
Illinois	17,410		11			1,833				19,254
Indiana	3,377									3,377
Iowa	472		51,403			1,099		12		52,986
Kansas		9,105	24,496		30,128		12	24		63,765
Kentucky	44,617		23,108			938				68,663
Louisiana	151,735	45,096	5,136		32,655	294,913	24	853		530,412
Maine	2,621					632				3,253
Maryland			15			576				591
Massachusetts			602			28				630
Michigan	150,212			60	6,914	1,394		14		158,594
Minnesota	130,679		1,340	16		1,585	4	177	[6] 45,332	179,133
Mississippi	406,035	8,525	76,181	24	2,736	6,359		72		499,932
Missouri	35,410	692	69,959			597				106,658
Montana	554,259	86,893		2,096	1,027,701	11,474	29,048	3,268		1,714,739
Nebraska	16,927	5,779	37,422		4,705	32,004	173	409		97,419
Nevada	53,449			902	140,977	3,337	39,879	552	[5] 300,000	539,096
New Hampshire	40,288		894							41,182
New Jersey						16				16
New Mexico	224,093	20,436		10	3,087,013	677	28,931	3,675		3,364,835
New York		681	1,936	32		1,809				4,458
North Carolina	142,013	3,831	5,572			4,742				156,158
North Dakota	33	79,466	247,762		63,662	16,602	1,221	88		408,834
Ohio	4,411		14,436							18,847
Oklahoma	52,315	18,886	47,171	8	20,229	7,225	110	248	[7] 8,803	154,995
Oregon	6,029,382	3,700	3,063	7,046	7,396	30,688	20,264	10,879	[8] 6,447,027	12,559,445
Pennsylvania	48,727		12,005	38						60,770
Rhode Island										
South Carolina	270,871	18	101	11		99				271,100
South Dakota	106,216	41,482	18,897		84,457	1,633	4,519	559		257,763
Tennessee	71,412		25,602			154				97,168
Texas	575,318	30,035	55,749			6,706				667,808

Utah	170,039	418		1,217	1,017,045	1,245	28,942	3,331		1,222,237
Vermont	35,748		356			32				36,136
Virginia	56,205		17,214	16		408				73,843
Washington	3,434,618		1,134	1,577	4,292	1,537	5,770	6,426	[9] 14,738	3,470,092
West Virginia	49,266	82	6,788	3						56,139
Wisconsin	96,500			19		12,245		88		108,852
Wyoming	171,349	22,661		261	5,726,097	363	75,593	2,428	[10] 25,761	6,024,513
Alaska	6,784			464	118,918	88			[11] 88,788	215,042
Puerto Rico	3,862			13						3,875
Totals	18,649,794	451,362	869,052	33,530	17,246,724	470,621	[12] 346,165	66,655	7,230,449	45,364,352

[1] Data supplied by the National Forest Service; payments on submarginal lands are for calendar year 1953.
[2] From *Annual Report of The Secretary of the Treasury on the State of Finances*, for the fiscal year ended June 30, 1953, table 100.
[3] From *Report of the Director of the Bureau of Land Management*, 1953, Statistical Appendix, table 98.
[4] Data supplied by the Fish and Wildlife Service.
[5] Boulder Canyon project fixed annual payments.
[6] Superior National Forest lands, data from National Forest Service.
[7] Oil and gas lands, south half of Red River, computed from data in reference 3.
[8] Revested O and C grant lands, $6,422,027, and Coos Bay Wagon Road grant lands, $25,000, data from 3, table 95.
[9] Columbia Basin project lands, amount supplied by Bureau of Reclamation.
[10] Grand Teton National Park acquired lands, amount supplied by National Park Service.
[11] Alaska game licenses, amount from 2.
[12] Includes grazing districts on Indian lands ceded to the United States.

(October 1948) that the entire $300,000 should be credited to the State general fund.

4. Payment of revenue to the States for the general use of counties in which the lands are located: Taylor Grazing Act public lands, Superior National Forest lands in Minnesota, and Grand Teton National Park acquired lands.

With respect to State revenue from both grazing districts and leases of public lands outside such districts, Federal law merely requires that the proceeds are to be used as the State legislatures shall prescribe for the benefit of the counties in which the lands are located. Under the other two provisions, the States are required to pay the sums received to the counties in which the lands are located to be used as the counties may determine.

5. Payment of revenue to State of Utah for benefit of Indians on the lands: Oil and gas lands added to the Navajo Indian Reservation in Utah.

Under this special act, the State is required to use any revenue received for the sole benefit of the Indians in the form of tuition payments in white schools, roads, or other benefits.

6. Payment of revenue direct to counties in which the lands are located for the benefit of public schools and roads in such counties: Wildlife refuges under the Migratory Bird Conservation Act, submarginal land held by the Forest Service, and reconveyed Coos Bay Wagon Road grant lands.

Under all three provisions, the payments are made directly to the counties and the revenues are used for public schools and roads (plus bridges and port districts in the Coos Bay counties) as the counties shall determine.

7. Payment of revenue direct to counties in which the lands are located for general use: Revested Oregon and California grant lands, and Columbia Basin project lands.

Under both of these provisions, the payments are made directly to the counties whose officials can determine how and for what purposes the revenue shall be used.

With the exception of categories 2 and 3 above, shared revenues are allocated within the States to the counties in which the Federal lands are located. It may also be observed that in categories 6 and 7 the payments are made directly to the counties by the Federal Government. In a few cases where the revenue is small the State's share of Federal mineral royalties is also distributed to the counties on a basis of origin of the receipts, but most of this revenue is distributed on a statewide basis. An approximate division between the two types of distribution is as follows:

State use or statewide distribution	$18,037,104
Allocations or direct payments to counties	27,327,248
Total shared revenue, 1953	45,364,352

Payments or allocations to counties on a basis of origin of receipts or location of land results in great variation among the counties. As was noted in table 1 with respect to amounts received by the States, the amounts received by the counties also vary from a few dollars to several million dollars. Since Oregon receives more than a fourth of the total shared revenue and practically all of it is allocated on a county basis according to the location of the land, the distribution by counties and funds is shown for this State in table 2. Every county receives some revenue varying from less than $500 in 3 counties to $2¼ million each in Douglas and Lane Counties. These 2 counties received more than a third of the total shared revenues in Oregon and 10 percent of the total for all States and counties.

The Federal laws authorizing the sharing of the above revenues with State and county governments also require that most of this revenue be used for educational and/or roads purposes. In a few minor programs, additional uses are also specified. About one-sixth of total shared revenues in 1953 could be used as the State or county governments determined. An approximate division between earmarked and unearmarked receipts is as follows:

To States or counties for education and/or roads (plus a few other purposes). (Categories 1, 2, 5, and 6 above.)	$37,876,799
To States or counties for general use (Categories 3, 4, and 7 above)	7,487,553
Total shared revenue, 1953	45,364,352

Table 2.—*Shared-Revenue Payments to Oregon by Counties and by Funds—Fiscal Year 1953*

County	National forests [1]	O and C lands [2]	Taylor Grazing Act [3]	Sales of public lands and timber [3]	Mineral Leasing Act [3]	Other funds	Total
Baker	$95,215		$832	$346			$96,393
Benton	12,078	$239,541		75			251,694
Clackamas	423,100	335,872		212	$41		759,225
Clatsop				95			95
Columbia		132,936		76			133,012
Coos	16,469	394,955		183		[4] $25,000	436,607
Crook	290,605		668	335	2,717		294,325
Curry	94,425	31,468	36	183			126,112
Deschutes	227,113		674	343	488		228,618
Douglas	491,126	1,750,002	27	571	195	[4] 4,329	2,246,250
Gilliam			333	137			470
Grant	356,600		1,190	508			358,298
Harney	237,097		4,499	1,142	15	[6] 28,426	271,179
Hood River	162,506			60			162,566
Jackson	173,881	1,187,433	963	316			1,362,593
Jefferson	41,303		204	201	15	[6] 3,700	45,423
Josephine	73,215	472,019	116	182			545,532
Klamath	368,142	123,945	1,186	690			493,963
Lake	320,602		1,990	936	480	[5] 2,262	326,270
Lane	1,296,500	974,864		517	780	[7] 2,316	2,274,977
Lincoln	107,494	30,826		112			138,432
Linn	493,313	220,918		258			714,489
Malheur	623		5,377	1,113	2,635		9,748
Marion	198,832	120,092		132		[7] 747	319,803
Morrow	4,167		265	232			4,664
Multnomah	52,810	61,651		51			114,512
Polk	2,944	183,028		83			186,055
Sherman			303	94			397
Tillamook	62,051	48,807		128			110,986
Umatilla	15,053		157	364			15,574
Union	73,129		98	228			73,455
Wallowa	71,496		257	357			72,110
Wasco	162,037		399	268			162,704
Washington		52,661		80			52,741
Wheeler	86,937		690	191	30		87,848
Yamhill	18,519	61,009		80			79,608
Undistributed						[8] 7,046	7,046
Totals	6,029,382	6,422,027	20,264	10,879	7,396	73,826	12,563,774

[1] Data supplied by the National Forest Service.
[2] Data supplied by the Bureau of Land Management, Portland office.
[3] County allocations supplied by the office of the Secretary of State in Salem, Oreg.
[4] Coos Bay Wagon Road grant lands, data for year 1952, from *Report of the Director of the Bureau of Land Management*, 1953, Statistical Appendix, table 123.
[5] Migratory bird refuges, data supplied by the Fish and Wildlife Service.
[6] Submarginal lands, data furnished by the National Forest Service.
[7] Army flood control lands, data from the office of the Secretary of State, Salem, Oreg.
[8] Federal Power Commission licenses, amount from table 1.

Chapter 11

ANALYSIS AND APPRAISAL OF THE MAJOR REVENUE-SHARING PROGRAMS

NATIONAL FORESTS—25-PERCENT FUND

Today there are approximately 181.2 million acres of land owned by the United States which are set aside as national forests in 40 States and the Territories of Alaska and Puerto Rico. Of this total acreage, about 155 million acres are "public domain" lands while some 26 million acres were acquired by purchase, gift, or exchange. Although the bulk of this land is in the Western States and Alaska, there are some 20 States east of the Great Plains with national forest acreage of about 500,000 to 2.5 million acres each. National forests in the Western States were created almost entirely from public domain lands, whereas national forests in the Eastern States were secured largely through purchases.

Brief History of Payments

Payments were first made in 1906 to the States for the benefit of public roads and schools in the counties in which the forest lands were located. In 1906 and 1907, the payments were 10 percent of the forest receipts, and payments to any county were not to exceed 40 percent of total county income from other sources. These provisions were superseded by the basic act of May 23, 1908, as amended in subsequent years (16 U. S. C. 500), which increased the payments to 25 percent of total receipts and omitted the proviso limiting payments to 40 percent of county income from other sources. No change was made in the requirement that the money be used for county school and road purposes.

Two other significant additions were made to the forest receipts sharing provisions. The Weeks Act of 1911 as amended extended revenue sharing to all acquired national forest lands (16 U. S. C. 500). And acts of 1916 and 1917, amended by Reorganization Plan No. 3 of May 16, 1946 (16 U. S. C. 520), provide that receipts from the de-

velopment and utilization of minerals on forest lands acquired under the Weeks Act are also subject to the 25-percent sharing provision.

Payments to the States from the forest receipts increased very slowly (after the increase from 10 percent to 25 percent of total receipts in 1908) from the inauguration of the program until World War II. Table 3 summarizes the growth of total national forest receipts and the States' share of these receipts. Payments to the States were less than $1 million until 1919 and were less than $2 million until 1943. During and following World War II, forest receipts and State payments increased by leaps and bounds. State payments more than doubled in amount between 1942 and 1945, doubled again between 1945 and 1950, and were 2¼ times as great in 1953 as in 1950.

TABLE 3.—*Total National Forest Receipts and Payments to the States From the 25 Percent Fund*

[Selected fiscal years 1906–53]

Fiscal year	Total net receipts	Payments to States—25-percent fund	Fiscal year	Total net receipts	Payments to States—25-percent fund
1906	$757, 813	[a] $75, 781	1930	$6, 751, 553	$1, 677, 559
1907	1, 530, 322	[a] 153, 032	1935	3, 228, 600	816, 957
1908	1, 788, 255	[b] 447, 064	1940	5, 859, 184	1, 432, 581
1910	2, 041, 181	510, 091	1945	16, 047, 935	4, 003, 031
1915	2, 481, 469	610, 788	1950	33, 594, 614	8, 343, 010
1920	4, 793, 482	1, 180, 063	1953	74, 732, 468	18, 649, 794
1925	5, 000, 137	1, 242, 954			

[a] Ten percent of total receipts.
[b] Twenty-five percent of total receipts for 1908 and subsequent years.

Source: Information supplied by the National Forest Service.

Pattern of Payments

Total payments by States from national forest receipts are shown in table 1. The State of Oregon received nearly a third of total payments in 1953, and the three Pacific Coast States received about two-thirds of the total, with the remaining one-third being very unequally distributed among the other 39 States and Territories containing national forests. Since the States allocate all of this revenue to the counties in which the forest lands are located, the distributional pattern by counties is more meaningful than by States.

To reduce the payments to the 648 counties and 2 territories in 1953 to manageable proportions, a frequency distribution of the county payments was made for each State. A summary of these State distributions is given in table 4. It is seen in this table that more than one-fifth of the counties received less than $1,000 in 1953, nearly half of them received less than $5,000, more than three-fifths were paid less

than $10,000, and about four-fifths received less than $20,000. At the other end of the distribution, 46 counties or about 7 percent of the total received between $100,000 and $1¼ million each. Hence, it is evident that for a few counties the payments from forest receipts are quite significant, but that for many counties the amounts received are of minor consequence. When the allocation is carried a step further to the local units of government within the counties, the amount received may be of still greater significance than at the county or State level.

TABLE 4.—*Distribution of the 25-Percent National Forest Payments to Counties, 1953*

Amount of payment	Number of counties [a]	Percent of total
Less than $1,000	139	21. 38
$1,000-$4,999	175	26. 92
$5,000-$9,999	93	14. 31
$10,000-$14,999	58	8. 92
$15,000-$19,999	48	7. 38
$20,000-$29,999	33	5. 08
$30,000-$39,999	14	2. 15
$40,000-$49,999	9	1. 39
$50,000-$74,999	26	4. 00
$75,000-$99,999	9	1. 39
$100,000-$149,999	14	2. 15
$150,000-$199,999	11	1. 69
$200,000-$299,999	9	1. 39
$300,000-$399,999	4	0. 62
$400,000-$499,999	5	0. 77
$500,000-$999,999	2	0. 31
$1,000,000 and over	1	0. 15
Total	650	100. 00

[a] Including Alaska and Puerto Rico.

Source: Computed from information supplied by the National Forest Service.

The Federal statute authorizing the national forest payments requires that the money 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 the national forest is located. The law further provides that when any national forest is in more than one State or county—which is usually the case—the distributive share to each from the proceeds of the forest shall be proportional to its area in the State or county. This latter provision means simply that the existing distribution of the receipts from each national forest is on an acreage basis. The division of the revenue between schools and roads varies greatly from State to State. To illustrate, in California, State law requires equal division between the two uses within each county; in Oregon and Idaho, 75 percent must be credited to the county road fund and 25 percent to the school fund; in Colorado, State law merely

requires a minimum of 5 percent to either purpose; and in Washington, there is no State law at all specifying the division of the forest receipts between roads and schools.

Fiscal Significance of National Forest Contributions to Local Governments

In considering the impact of the tax-exempt national forests upon the county and other local governments and the adequacy of the 25 percent contributions, it is essential to distinguish between the situation in the Western counties and that in the Eastern counties. In the former, the national forests were largely created from public domain lands which never have been subject to taxes. Local governments in these counties have developed without this tax base and have generally adjusted themselves to this condition and to such revenues as have been available from the 25-percent share of forest receipts. The generally large size and sparse population of the Western forest counties also lessen somewhat the fiscal impact of the national forests upon local governments. This is not to say, of course, that there are no criticisms or complaints at all in the Western counties, because there are and these will be noted later.

In the Eastern counties containing national forests, a different situation prevails. These counties are typically small in area with national forest lands secured largely through purchases. These acquired forest lands were formerly productive and on the property tax rolls. When such lands are added to the national forests, many years may elapse before significant amounts of receipts will be forthcoming for sharing with the local governments. It is true, of course, that these acquired forest lands may be cut-over timber lands or exhausted farm lands subject to extensive soil erosion and chronically tax delinquent. Nevertheless, the impact of national forests in these Eastern counties may be substantially greater with less fiscal significance of the 25-percent share of forest reecipts than in the Western counties.

An additional element pertaining to impact that applies to all counties is the extent to which the Federal Government renders special services in connection with the national forests to State and local governments not required of the private taxpayers. These special services include the construction and maintenance of roads and trails, fire protection, and to some extent, law enforcement, game protection, and other services. To a certain extent, these services would have to be provided at State and local expense and thus are direct contributions to State and local government. One difficulty in measuring the tax-offset value of these special services is the determination of the quantity

and quality of such services that would ordinarily be provided by State and local governments in the absence of Federal expenditures of this kind. It is well recognized that the full amount of the Federal expenditures cannot be taken as a direct offset to loss of taxes.

The question of adequacy of the 25-percent payments now being made from receipts of forest lands is difficult to answer because of the lack of a satisfactory yardstick of adequacy for most of the national forest lands. For acquired lands there is a reasonably defensible standard; it is either the actual tax loss at the time of acquisition or the current tax equivalent, less the value of direct services rendered by the Federal Government that would ordinarily be provided by State and local governments. For the vast acreage the national forest lands set aside from the public domain in the Western counties and never on the tax rolls, a serious question arises: Is the estimated tax loss, less the value of direct services, the proper standard against which to measure the adequacy of the 25-percent share of national forest receipts? If it is not, is there any other acceptable standard? Most appraisals of the adequacy of the national forest sharing provision are based on the tax-loss approach.

The National Forest Service has made several intensive studies of the adequacy of the 25-percent payments and direct services in terms of estimated tax losses. In 1937 the results were published of an intensive study of 30 counties selected as representative of conditions in the important forest areas of the United States. A summary of the fiscal findings is given in table 5. It may be observed that at the time of this study (1935–36) the 25-percent payments in the Western counties were only about 15 percent of estimated taxes on the forest lands, whereas in the Eastern counties, these payments were equal to 40 percent of potential taxes. When contributions in-kind are taken into account, the comparison changes materially. Because of very large contributions in kind in the Western counties, total contributions of the Federal Government in these counties exceed potential taxes by about 50 percent. In the Eastern counties, the sum of the 25-percent payments and contributions in kind are roughly equal to estimated taxes.

A similar study was completed by the Forest Service in May 1954, based on data for 1952. The study included 135 counties containing 40 percent of the total national forest acreage in the continental United States. The relevant fiscal data are summarized in table 6. In the table it is seen that total estimated taxes of $29.7 million on national forests in the continental United States are 71 percent greater than the 25 percent fund payments of $17.4 million. Specific contributions in kind (limited to those Federal expenditures that could reasonably be expected to have been incurred by State or local governments under private ownership of the forest lands), however, were estimated

for all regions at more than double the 25 percent cash payments.[1] This Forest Service study thus indicates that for all regions combined, estimated taxes are about one-half as much as the sum of the 25 percent payments and contributions in-kind.

There is much variation among the national forest regions with respect to the relationship of estimated taxes to contributions. Only

TABLE 5.—*Comparison of Potential Taxes on National Forest Lands With National Forest Contributions to State and Local Governments*

State and county	Potential taxes on national forests	Contributions			Excess of potential taxes over contributions [b]
		25-percent fund payments	In-kind [a]	Total	
WESTERN COUNTIES					
California:					
Del Norte	$1,400	$500	$26,600	$27,100	−$25,700
El Dorado	39,900	5,200	139,000	144,200	−104,300
Plumas	41,600	38,300	101,600	139,900	−98,300
San Diego	13,300	1,200	44,200	45,400	−32,100
Trinity	29,900	3,200	104,800	108,000	−78,100
Colorado:					
Larimer	21,700	8,400	24,900	33,300	−11,600
Mesa	18,300	5,400	20,800	26,200	−7,900
Mineral	11,300	3,500	5,200	8,700	2,600
Oregon:					
Crook	49,100	1,800	36,000	37,800	11,300
Deschutes	76,000	10,100	91,300	101,400	−25,400
Lane	231,100	15,500	171,800	187,300	43,800
Washington: Lewis	93,400	3,000	57,600	60,600	32,800
Total Western counties	627,000	96,100	823,800	919,900	−292,900
EASTERN COUNTIES					
Alabama:					
Lawrence	4,000	4,600	2,500	7,100	−3,100
Winston	3,800	3,800	2,500	6,300	−2,500
Arkansas: Montgomery	11,000	7,900	5,000	12,900	−1,900
Florida:					
Baker	9,600	5,900	1,000	6,900	2,700
Columbia	5,200	5,900	1,200	7,100	−1,900
Louisiana:					
Grant	12,800	1,600	2,400	4,000	8,800
Natchitoches	12,000	1,500	2,000	3,500	8,500
Mississippi:					
Sharkey	8,400	19,400	0	19,400	−11,000
Stone	3,500	300	3,000	3,300	200
North Carolina: Macon	6,000	2,500	4,700	7,200	−1,200
South Carolina: Berkeley	20,000	7,000	2,000	9,000	11,000
Tennessee: Johnson	3,300	1,800	800	2,600	700
Texas:					
Houston	13,600	4,200	3,000	7,200	6,400
Trinity	7,900	3,000	3,500	6,500	1,400
New Hampshire: Grafton (towns)	28,000	7,700	13,200	20,900	7,100
Minnesota:					
Cook	25,100	3,500	36,200	39,700	−14,600
Lake	20,700	4,500	43,100	47,600	−26,900
Wisconsin: Forest	15,200	200	4,000	4,200	11,000
Total Eastern counties	210,100	85,300	130,100	215,400	−5,300

[a] Includes only Federal expenditures which are estimated by the Forest Service as taking the place of property taxes on national forest lands.
[b] A negative sign represents an excess of contributions over potential taxes.

Source: Adapted from *National Forest Contributions to Local Governments* by The Forest Taxation Inquiry, January 25, 1937, tables 19 and 20.

[1] Specific contributions in-kind include $11.7 milion or 70 percent of average actual direct expenditures for fire control during 1950–52, $8.5 million or 45 percent of average direct expenditures for roads, trails, and structures, and $18.7 million average annual expenditures for forest highways.

TABLE 6.—*Comparison of Estimated Taxes, 25 Percent Fund Payments, and Contributions In-Kind by National Forest Regions, 1952 as Estimated by the Forest Service*

(1) National Forest Region	(2) Percent of National Forest area in sample	(3) Estimated tax fiscal year 1952	(4) 25-percent fund payments fiscal year 1952	(5) Taxes as percent of 25-percent fund payments	(6) Special contributions in-kind average annual fiscal year 1950–52 [a]
	Percent	*Dollars*	*Dollars*	*Percent*	*Dollars*
North Rocky Mountain	56	1,933,514	1,144,199	169	3,879,546
Rocky Mountain	22	1,616,855	528,766	306	2,353,295
Southwestern	31	1,048,160	745,743	141	4,283,451
Intermountain	41	1,848,188	633,903	292	4,643,309
California	45	7,465,254	3,288,028	227	10,528,362
Pacific Northwest	47	12,761,750	7,678,575	166	8,060,015
Eastern	48	398,264	234,712	170	836,515
Southern	27	1,274,726	2,620,485	49	2,177,076
North Central	42	1,385,577	[b] 517,834	268	1,997,794
Total	40	29,732,288	[b]17,392,245	171	38,759,363

(1) National Forest Region	(7) 25-percent fund payments plus contributions in-kind	(8) Taxes as percent of 25-percent payments plus contributions	(9) Estimated tax per acre	(10) 25-percent fund payments per acre	(11) Contributions in-kind per acre
	Dollars	*Percent*	*Cents*	*Cents*	*Cents*
North Rocky Mountains	5,023,745	38	7.8	4.6	15.7
Rocky Mountain	2,882,061	56	8.2	2.7	11.9
Southwestern	5,029,194	21	5.2	3.7	21.3
Intermountain	5,277,212	35	6.0	2.1	15.2
California	13,816,390	54	38.7	17.0	54.6
Pacific Northwest	15,738,590	81	54.8	33.0	34.6
Eastern	1,071,227	37	9.5	5.6	19.9
Southern	4,797,561	27	13.5	27.8	23.1
North Central	2,515,628	55	16.5	6.2	23.8
Total	56,151,608	53	18.6	10.9	24.3

[a] See footnote 1, p. 98.
[b] Includes payment of $45,006 to the State of Minnesota on account of certain areas in the Superior National Forest.

Source: Adapted from *National Forest Contributions to Local Governments*, 1952, Forest Service, U. S. Department of Agriculture, May 1954, table 1.

in the Southern region were the taxes less than the 25-percent payments; in all other regions, taxes were about 1½ to 3 times as great as the cash payments. In the Southern and Southwestern regions, estimated taxes were about one-fourth as much as the sum of cash and in kind contributions, with an average of about one-half for all regions and a ratio of taxes to total contributions of four-fifths in the Pacific Northwest region.

The last three columns of table 6 compare estimated taxes and contributions on an acreage basis. These comparisons reveal the great variations in value and productivity of the different national forest regions. It may be noted that there is less variation in contributions in kind per acre than in either taxes or 25-percent fund payments.

A recent study of national forests in Texas sponsored by the East Texas Chamber of Commerce indicates that over an 18-year period from 1936 to 1953, inclusive, total payments to the counties from the 25-percent fund exceeded assumed total taxes by 39 percent. The findings of this study are given in table 7.

TABLE 7.—*Comparison of the 25-Percent Fund Payments and Estimated Taxes on Texas National Forest Lands, 1936–53 Inclusive*

	25-percent fund payments	Estimated taxes	Gain or loss (−) (18 years)
Angelina	$57, 460	$158, 905	−$101, 445
Houston	752, 365	299, 632	452, 733
Jasper	19, 516	46, 071	−26, 555
Montgomery	176, 301	94, 864	81, 437
Nacogdoches	2, 017	3, 401	−1, 384
Sabine	363, 534	341, 158	22, 376
San Augustine	72, 553	214, 838	−142, 285
San Jacinto	221, 334	196, 360	24, 974
Shelby	219, 261	170, 366	48, 895
Trinity	545, 801	217, 543	328, 258
Walker	203, 322	147, 444	55, 878
Total	2, 633, 464	1, 890, 582	742, 882
Per acre per year	22.2 cents	15.9 cents	6.3 cents

Source: *Texas National Forest Study*, East Texas Chamber of Commerce, Longview, Tex., 1954, p. 50.

Of the 11 counties in the Texas National Forest, 7 received more and 4 received less from the 25-percent fund than they would have received from outright taxation of the national forest lands. The study also points out that only in recent years have receipts from the 25-percent fund exceeded estimated taxes, and that for many years some of the counties received less revenue than taxes would have yielded. The study notes that in 1953 the average tax per acre for privately owned land in the 11 national forest counties was approximately 20 cents per acre, whereas the 25-percent payments were 88 cents per acre or more than 4 times the average tax payment on private lands.[2]

State and Local Appraisal of the 25-Percent Sharing Arrangement

In general there is currently considerable apathy among State and local officials in the Western States concerning the 25-percent revenue sharing arrangement of the national forests. The revenue is apparently being received and used without too much question or

[2] Report pp. 94–96.

thought about it. Perhaps a partial explanation for this apathy is the adjustment to the 47-year-old sharing provisions and the rapid increase in the gross receipts of the national forests during the last decade. There appears to be no issue concerning the general level of payments.

Probably the three factors which are of greatest concern today to county government officials in the operation of the national forest program are (1) the reduction of the property tax rolls through the acquisition of privately owned potential forest lands, (2) the reduction of national forest gross receipts or the county tax base or both through the land and timber exchange program, and (3) the restrictions on the use of national forest payments for public schools and roads. In addition to these problems, other causes for complaint in past years—and still current in many cases—are (4) the lack of stability in the revenues, (5) the meager amount of the revenue where for various reasons the national forests are not yielding substantial receipts, and (6) the distribution of the receipts on an acreage basis.

Acquired National Forest Lands

The Weeks Act of 1911 as amended (16 U. S. C. 515, 516) authorizes the purchase of forested, cut-over, or denuded lands within the watersheds of navigable streams either for the purpose of regulating the flow of such streams or for the production of timber. Before such purchases are effective, the legislature of the State in which the land lies must consent to the acquisition of the land. Purchases of forest land under this act can be made only from funds specifically appropriated by Congress therefor.

The Forest Service had an extensive long range acquisition program. As stated some years ago: "The ultimate objective of the Forest Service * * * involves a greatly expanded program of acquisition looking toward a total area in national forests approaching 300 million acres."[3] This acquisition program is not the current official policy of the Forest Service. Some local government officials take the stand that acquisitions be halted until an adequate in-lieu tax program be adopted. To many others, even this solution is unacceptable without additional safeguards such as local approval of all Federal land acquisitions. Here is a problem that requires a more adequate solution than now provided by the 25-percent payment provision.

Exchange Practices and Procedures

The exchange of privately owned or State owned forest lands for national forest lands or timber was authorized by the General Ex-

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[3] *National Forest Contributions to Local Government*, report of the Forest Service, U. S. Department of Agriculture, February 10, 1937, p. 1.

change Act of 1922 (16 U. S. C. 485) as amended and the Weeks law of 1925 (16 U. S. C. 516). Although the exchange acts authorize the exchange of both forest *lands* and *timber*, it is apparently a rather general practice in the Western counties to exchange only the cutting rights to timber in the national forests for privately or State owned lands. The effect of this practice is to reduce local revenue in two ways. Exchange of timber for additional lands is not regarded as a "sale" by the Forest Service and hence there is no payment to local governments from such dispositions of timber. Revenue is also lost to the local government when privately owned lands are removed from the property tax rolls in exchange for the national forest timber. Even a tripartite exchange agreement among a private lumber operator, a private landowner, and the Forest Service in which cash is involved is not regarded as a sale and hence not part of gross revenue subject to sharing.

Differences between the exchange procedure and the sale process also favor the former method over the latter. Exchanges are negotiated whereas sales are made on the basis of competitive bids. Negotiations for exchange are also subject to fewer restrictions than are sales. And, of course, the exchange process requires no specific appropriation from Congress.

This loss of local revenue from the exchange of land and timber is one of the sore spots in the Western counties although the present official policy of the Forest Service apparently discourages such exchanges.

Restrictions on the Use of Payments

As has been stated above, Federal law limits the use of the 25-percent fund payments to public schools and roads in the counties. When this restriction was adopted, it was almost universal practice to support these functions largely through the property tax. Furthermore, support of the schools and roads then as now constitutes two of the most important functions of State and local government. In many States, however, the State government has assumed much of the responsibility for both of these functions and uses nonproperty tax revenue extensively to support them.

There is almost universal agreement among county officials that the present restriction should be removed so that counties may have a free hand in determining the use of the 25-percent fund payments. Some school officials are opposed to the unearmarking of these revenues; others are indifferent to the proposition. It appears that there is a fairly good case for removing the use restriction.

Instability of Revenue

In recent years, payments from timber receipts have accounted for 85 to 90 percent of total payments to local governments from the national forests. Because of the nature of the timbering industry and the distribution of the timber resources, together with the high proportion of forest receipts from this source, there is inherent instability in the county share of forest receipts under the existing provision. Yet local governments ordinarily are not able to adjust well to fluctuating or uncertain revenues. For this reason, the lack of stability is a serious drawback of the present payments. Even though there is considerable acquiescence to fluctuation and uncertainty in the revenues, improvement in this regard would be highly desirable.

Inadequate Revenue

The criticism of inadequacy of the payments to the counties was more vocal before the substantial increases of recent years. The criticism is still valid for those lands acquired by purchase, donation, or exchange which, if they happen to be in a depleted condition, as they frequently are, may produce little or no revenue during the period required to restore them to productive use. Or Forest Service policy may dictate that there be little or no revenue-producing activity in certain areas because of watershed protection, timber conservation, and other reservations. When these conditions exist, it would appear that there is cause for complaint and that the revenue-sharing provision should be modified or supplemented to correct the situation except in cases where the forest lands are set aside for municipal watersheds or other State or local use.

Distribution of Payments on an Acreage Basis

Complaints have been made in the past and are still heard from time to time about the inequity of distributing the payments on an acreage basis whenever a national forest is located in more than one county. Under this plan, the valuable and productive part of a forest may be in one county and the larger acreage in another, with the latter getting more revenue than the former.

If the basic philosophy of the national forest payments is to gear them as closely as possible to the operation of the local property tax, then distribution on an acreage basis might be inequitable in many cases. There is a trend to use nonproperty taxes in support of local government, but the property tax is still so important in financing local government that the standard of value is perhaps the one that is best understood and accepted. Some persons contend therefore that,

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other things being equal, some measure of value might be a better basis for distribution of national forest payments than acreage.

General Appraisal (State and Local)

With specific reference to the views of various individuals and associations in recipient States and counties concerning the sharing provision of the national forests, two broad conclusions can be stated: (1) There is general acceptance of the level of payments now being provided by the 25-percent share of gross receipts, and there is no apparent general disposition to change this level of payments. It is definitely apparent, however, that any attempt to reduce the percentage or the level of payments would be vigorously opposed. (2) There is divided opinion with respect to the question of continuing the revenue-sharing plan of payments or changing to a property value plan. The advocates of each plan claim superiority over the other approach. Undoubtedly a basic factor in the preference is the actual and potential revenue to a given State or area under each plan.

Some people consider the payments as being not 25 percent but 35 percent of gross receipts when the required 10 percent that must be spent within each State for forest roads and trails is included.

Possible Alternate Payment Plans

In devising a satisfactory payment plan for the national forests, it is important to keep in mind that there is a very substantial public interest—local, regional, and national—in the national forests in terms of timber conservation, flood control, watershed protection, wildlife protection, and recreation. Whatever the level of payments might be, some part can justifiably be assigned to the Federal taxpayers. Likewise, the local taxpayers should bear part of the cost of carrying these lands. Furthermore, the impact of the national forests upon State and local governments is usually not a heavy one except in special situations.

The two basic approaches to payments to State and local governments on account of the national forests have been indicated above. There are variants of each approach so that a number of alternate plans can be devised. Several of these plans will be summarized.

Present Provision With Minor Modifications

A plan that has been in effect without major modification for nearly 50 years is not likely to be cast aside or changed materially without serious consideration. Hence, one real possibility is a continuation of the existing provision with only minor modifications. The great

increase in the payments in recent years, the additional contributions in-kind in the form of roads and trails, fire protection, recreation facilities, etc., and the long-standing adjustment to this arrangement make it attractive to many people.

Two modifications might be made that would not greatly change the existing arrangement. The value of timber disposals under the exchange agreements could be included in gross receipts and thus be subject to sharing. On acquired lands that have been subject to taxes, temporary minimum payments based on either actual tax loss or a flat percentage of acquisition cost or appraised value of the land could be made until the gross receipts subject to revenue sharing were considered adequate.

Full Tax Equivalent Payments

A plan that has some supporters is the payment to each local unit of government of the full tax equivalent on all national forest land within its jurisdiction. This plan would require the application of the same assessment standards to national forest lands that are used by each unit of government for privately owned lands. To this value would be applied the same tax rate that is applied to private property. Equity would require, of course, that a credit be taken against the full tax equivalent for the value of any services rendered by the Forest Service which would ordinarily be performed by the State or local government.

It might be noted that the Forest Service is strongly opposed to this approach because of the complexities inherent in the plan and the large volume of administrative work required.

Modified Gross Receipts Plan

In 1937 the Forest Service devised two payment plans that would substantially change the existing method of payment, although neither one would have materially changed the then existing aggregate amount being paid to local governments. One plan was an extensive modification of the 25-percent revenue-sharing provision, and the other was a property value plan.[4]

The modified gross receipts plan aimed at substantially improving the existing method through stabilization and more equitable distribution of the 25 percent share of gross receipts. Receipts from each national forest would be divided into two portions: (1) Receipts from timber sales and all forest products, and (2) all other receipts, chiefly from grazing and special use. Payments to the States from both the timber 25-percent fund and the miscellaneous 25-percent fund

[4] *National Forest Contributions to Local Government*, by The Forest Taxation Inquiry, 1937, pp. 59–65.

would be the average receipts in each fund for the last 5 fiscal years. However, the aggregate timber 25-percent fund in any State would be limited to 0.5 percent of the timber value of national forests in the State.

Within each State, the timber 25-percent fund would be distributed among the counties on a basis of the timber value in each, and the miscellaneous 25-percent fund would be distributed to the counties according to the origin of the receipts.

Additional temporary payments would be made on acquired national forest lands at the rate of the minimum effective property tax rate in rural districts on the cost of acquisition, with the cost base being reduced by one-tenth each year over a period of 10 years, at the end of which these special payments would stop. Cost of acquired land would include the value of lands obtained through exchange for timber or by donation. If the State would make a contribution to the local government on account of private lands being added to the national forests, the Federal Government could match these payments up to 50 percent of the above specified acquisition payment. If the latter rate were 0.6 percent, then the total Federal contribution could not exceed 0.9 percent of acquisition cost.

All payments under this plan would be paid to the States for distribution to the counties. No restrictions would be placed on the use of the revenue except that it must be used for the benefit of counties in which the national forests are located. No county could receive more in any year than the total amount of property taxes levied for that year.

Property Value Plan

This plan, devised almost 20 years ago by the Forest Service, proposed that ultimately national forest payments would be based on property value at a low and uniform rate. The rate suggested was 0.5 percent of the value of the national forests as appraised by the Secretary of Agriculture. For acquired national forest lands, this standard of payment would be applied immediately and without adjustment. For national forests carved out of the public domain, there would be deferred application of this measure in many cases.

This delayed application would be accomplished by so adjusting the value of the public domain national forest lands that the amount paid to any State in any year would approximate 25 percent of average gross receipts for the preceding 5 years. The specific technique proposed was to limit the appraised value of public domain lands in a State to 50 times the average gross annual receipts of all national forests in that State for the last 5 fiscal years. Then application of

the rate of 0.5 percent to this value would be equal to 25 percent of the average gross receipts.

The total adjusted value of public domain lands plus the full appraised value of acquired lands in any county would be the contribution base in that county. The payment to each State annually would be 0.5 percent of the State's contribution base, and the State would distribute this payment among the counties at the rate of 0.5 percent of the contribution base of each county.

The appraised value of national forest lands would be made annually by counties, public domain separately from acquired lands, at the fair market value, including timber and forage resources but excluding minerals, waterpower, and improvements. No value would be given to lands set aside for municipal watersheds or other State or local use.

As in the gross receipts plan, the use of the payments would not be earmarked except for general benefit of the counties containing national forests, and no county could receive more than total property taxes levied in the county for that year.

The property value plan limits the payments to any county to an amount somewhere near the tax equivalent on private land. In the gross receipts plan, such is not the case and payments could be much higher or lower in particular counties than the full tax equivalent.

MINERAL LEASING ACTS

The Bureau of Land Management administers the Federal mineral leasing acts applicable to three types of public land. (1) The Mineral Lands Leasing Act of 1920, as amended and supplemented, applies to the acquiring of certain minerals by lease in the public domain lands, and the rentals and royalties from these leases are shared with the States. (2) Reorganization Plan No. 3, effective July 16, 1946, transferred the functions of the Secretary of Agriculture relative to the leasing or other disposal of minerals in certain acquired lands to the Secretary of the Interior. The Mineral Leasing Act for Acquired Lands of August 7, 1947 (Public Law 382, 80th Cong.) extended the provisions of the Mineral Leasing Act of 1920 to all acquired lands, with minor exceptions, thus centralizing Federal mineral leasing activities in the Department of the Interior. (3) The Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462) applies to the acquiring of minerals by lease in the submerged lands lying seaward and outside the area of lands beneath navigable waters within State boundaries.

The following discussion of revenue sharing of mineral lease receipts is concerned only with mineral leases on the public domain

lands (category 1 above). The sharing of revenue out of rents and royalties from the acquired lands (category 2) is governed by whatever revenue-sharing arrangements are applicable to the particular Federal agency other than the Bureau of Land Management originally holding the land. There is no revenue sharing on Outer Continental Shelf mineral leases (category 3).

Brief History of Mineral Leasing Payments

The first mineral leasing act containing a revenue-sharing provision was an act of October 2, 1917 which provided that 50 percent of potassium royalties and rents was to be paid to the States within which the leased lands or deposits were located to be used for roads and schools (40 Stat. 300). This act was repealed by an act of February 7, 1927 (44 Stat. 1058).

The more general Mineral Lands Leasing Act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181 *et seq.*), as amended and supplemented by subsequent acts of Congress, authorized the leasing of lands containing, or potentially valuable for oil, gas phosphate, sodium, oil shale, coal, potassium, and in Louisiana and New Mexico sulphur. The leasing of gold, silver, and quicksilver deposits in certain land claims in Arizona and New Mexico is covered by the act of June 8, 1926 (44 Stat. 710; 30 U. S. C. 291–293).

Revenue from bonuses, royalties, and rentals under the Mineral Leasing Act of 1920 is distributed as follows: 37½ percent is paid directly to the States or Alaska in which the leased lands or deposits are located; 52½ percent is paid into the reclamation fund; and 10 percent is paid to the United States Treasury. The amounts paid to the States must be used for public roads, public schools, or public educational institutions as the State legislatures may determine.

The 37½-percent figure was a compromise between the 45 percent voted by the Senate and the 30 percent voted by the House of Representatives, and both the 30 and the 45-percent figures were based on the cash and in-kind contributions of the national forests.[5] The 37½-percent share of mineral leasing receipts has remained unchanged since first adopted in 1920.

Payments to the States under the Mineral Leasing Act for each of the last 10 years and total payments for prior years are given in table 8.

Although annual payments to the States from the 25-percent fund of the national forests currently are greater than payments from mineral leases, total payments to the States from the initiation of each

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[5] *Federal Land Ownership and the Public Land Laws,* House Committee on Interior and Insular Affairs, 83d Sess., May 13, 1954, pp. 55–56.

TABLE 8.—*Payments to the States From Mineral Leasing Act Receipts, February 25, 1920 to June 30, 1953*

Fiscal year	Amount paid	Fiscal year	Amount paid
1920–43	$50, 450, 375	1950	$10, 564, 879
1944	4, 306, 424	1951	13, 902, 378
1945	4, 025, 752	1952	16, 380, 142
1946	4, 043, 465	1953	17, 246, 724
1947	5, 980, 256		
1948	9, 536, 124	Total	147, 763, 676
1949	11, 327, 157		

Source: *Report of the Director of the Bureau of Land Management,* Statistical Appendix, fiscal years 1947–53.

program are greater from the latter than from the former. Total payments from mineral leases through June 30, 1953 have been $147.8 million; the comparable figure for the 25-percent fund of the national forests is $126 million.

Payments to the States from mineral leases have increased rapidly in recent years. Average annual payments were about $2.2 million from 1920 to 1943; they rose to $4 million during World War II; and they are now more than $17 million per year.

Pattern of Payments

Fewer than half of the States share in the mineral leasing payments, with the Western States receiving the bulk of the revenue. This distribution is due, of course, to the fact that nearly all of the public domain land is in the Western States. Table 9 gives the distribution of mineral leasing payments by States for the fiscal year 1953 and for the entire period from February 25, 1920 to June 30, 1953.

Table 9 makes it abundantly clear that only a few States receive the bulk of the mineral leasing payments. Six States received 96.5 percent of the total payments in 1953 and 97.9 percent of the total over the entire period. Wyoming alone received a third of the payments in 1953 and over two-fifths of all mineral leasing payments since the inception of the program. California, Colorado, and New Mexico are now each receiving about one-sixth of the total, with Montana and Utah each getting about 6 percent. All other States receive less than 1 percent. Only the six States named above have received more than 1 percent of the cumulative total mineral leasing payments.

In the six principal States, these payments are used to a large extent for statewide educational purposes. In California, all of the mineral leasing payments are credited to the State school fund and allocated in the same manner as other revenues in this fund. Colorado previously allocated two-thirds of these payments to the counties of origin

for roads and one-third to the Colorado School of Mines. A new allocation law was enacted in 1953 which limits the amount any county may receive to $500,000 in 1955, $300,000 in 1956, and $200,000 per year thereafter. The county portion is to be used for roads and schools, with not more than 75 percent allocated to either function. All revenue from mineral leases in excess of the above amounts in each county is credited to the State school fund for general distribution.

TABLE 9.—*Payments to the States From Mineral Leasing Act Receipts, Fiscal Year 1953 and Total Payments February 25, 1920 to June 30, 1953*

State or Territory	Fiscal year 1953		February 25, 1920 to June 30, 1953	
	Amount	Percent	Amount	Percent
Alabama	$683	0. 01	$82, 096	0. 06
Alaska	118, 918	. 69	131, 611	. 09
Arizona	36, 881	. 21	177, 338	. 12
Arkansas	2, 350	. 02	4, 749	(a)
California	3, 193, 539	18. 52	38, 389, 219	25. 98
Colorado	2, 581, 064	14. 97	13, 291, 936	9. 00
Florida	56	(a)	1, 327	(a)
Idaho	57, 226	. 33	293, 607	. 20
Illinois			21	(a)
Kansas	30, 128	. 18	198, 065	. 13
Louisiana	32, 655	. 19	362, 904	. 25
Michigan	6, 914	. 04	15, 801	. 01
Mississippi	2, 736	. 02	6, 725	(a)
Montana	1, 027, 701	5. 96	5, 776, 244	3. 91
Nebraska	4, 705	. 03	33, 123	. 02
Nevada	140, 977	. 82	957, 813	. 65
New Mexico	3, 087, 013	17. 90	20, 812, 563	14. 08
North Dakota	63, 662	. 37	431, 026	. 29
Oklahoma	20, 229	. 12	109, 979	. 07
Oregon	7, 396	. 04	29, 659	. 02
South Dakota	84, 457	. 45	229, 199	. 16
Utah	1, 017, 045	5. 90	5, 028, 756	3. 40
Washington	4, 292	. 03	38, 367	. 03
Wyoming	5, 726, 097	33. 20	61, 361, 548	41. 53
Total	17, 246, 724	100. 00	147, 763, 676	100. 00

[a] Less than 0.01 percent.

Source: *Report of the Director of the Bureau of Land Management*, 1953 Statistical Appendix, tables 98 and 119.

In Montana, the mineral leasing payments are divided equally between the State highway fund and the State public school equalization fund. New Mexico allocates all of this revenue to educational purposes, including the State school of mines, free textbooks, and equalization. In Utah, 10 percent of the payments is allocated to the counties of origin for roads and 90 percent is divided equally between the State public school equalization fund and the institutions of higher education. Of the first $4 million received, Wyoming allocates 6 percent to the counties of origin for roads, 35 percent to the State

highway fund, 9 percent to the University of Wyoming, and 50 percent for schools throughout the State. Receipts in excess of $4 million are allocated in the same manner, but the last three named recipients are required to credit the amounts received to permanent funds.

Fiscal Significance of Mineral Leasing Act Payments to State and Local Governments

As was noted in table 9, these payments are fiscally significant only to a half dozen States. In most of the other States the payments are too small to be of much importance.

The payments to the States from the mineral lease receipts present a situation considerably different from that of the national forest payments. The questions of impact upon State and local government and of adequacy of the payments in the light of this impact are not quite of the same order as the questions pertaining to the national forests.

For one thing there is no problem from reduction of the property tax rolls and loss of tax revenue. Mineral leases apply largely to public domain lands, and insofar as they apply to acquired lands, such lands were acquired by the various agencies for purposes other than their mineral rights.

Also, there is a strong feeling in some quarters in the West that the mineral rights in the public domain lands should belong to the States rather than to the Federal Government.

There is very little relationship between the amounts of the payments to the States and the potential taxes on the surface rights of the public domain lands. Obviously, there is a much closer relationship between the amounts paid and potential State and local taxes on the mineral rights. If the Federal royalty is 12½ percent of gross receipts, the State would receive approximately 4½ percent of gross production receipts; with royalties at 15 percent, State payments will be about 5½ percent of total receipts at the point of production. These returns compare favorably with severance tax rates in some States.

Where there is mineral production or extensive leasing for exploratory purposes, it is not likely that a case can be made for larger payments in terms of tax losses. On this ground alone, the present payments appear to be ample. States also have an opportunity to tax mineral production on both Federal and private land by means of an occupation or severance tax, or by using production as a basis of assessment for property taxes. Several States are now using these methods.

In contrast with the national forests, there are fewer special services rendered or fewer contributions in-kind made on the public domain lands as offsets to potential taxes.

Because of a very low correlation between the location of mineral deposits and social needs, a strong case can be made for substantial State taxation of mines and mineral production rather than mostly local taxation. The revenue sources and needs can then be harmonized more closely. For this reason, it is believed that the mineral leasing payments are wisely made to the State governments. It is also believed that the bulk of these payments can be used most effectively by the State governments. Colorado is the only State receiving substantial mineral leasing payments which currently allocates the larger part of such revenues to the counties of origin. As was noted above, legislation has already been enacted in Colorado to limit the allocations to counties beginning in 1955.

Instability in output and therefore in revenues to the governments is inherent in the production of minerals. During the past decade, the mineral leasing payments to the various States have decreased as much as 50 to 60 percent from the preceding year in a few cases. On the whole, however, total payments as well as the amounts paid to each State have been increasing steadily in recent years. Of course, this situation may not always continue.

Instability of shared revenue is less serious when the payments are made to and expended by the State governments than when the payments are made to the local units of government. Inasmuch as mineral leasing payments are made to the State governments, with the bulk of these payments being expended by them, instability in shared mineral receipts is not a serious problem.

State and Local Appraisal of the 37½-Percent Sharing Arrangement

With the exception of some criticism of the size of the share, there is general satisfaction with the present provision pertaining to the sharing of mineral leasing receipts. Many State and local officials feel that both the rate and the manner of payment are quite satisfactory and should be continued.

One question that is raised, particularly in Wyoming, is the equity of and justification for the present division of mineral leasing receipts between the States (37½ percent) and the reclamation fund (52½ percent). The following quotation illustrates this point of view:

> Of all the oil royalty money from 23 States accrued to the rotating fund of the Reclamation Bureau to June 30, 1953, in the amount of $190,759,313, Wyoming contributed 43.6 percent, or $83,164,410. Wyoming has received approximately 6½ percent of Bureau development, a large part of which went to store our water with our money to benefit downstream States.[6]

[6] Statement by J. Elmer Brock, president, Wyoming Natural Resources Board, to the Wyoming Power Conference, Casper, Wyo., March 11, 1954.

Those who raise this question suggest that the solution lies either in more upstream water development projects in the States where the mineral royalties originate or in a larger share of the mineral leasing receipts to these States.

Some people feel that the rate of sharing with the States should be raised from 37½ to 50 percent of gross receipts. Support for this proposal comes from two sources: (1) Those, as noted above, who are dissatisfied with the quantity and nature of the reclamation projects and who would thus divert mineral leasing receipts from the reclamation fund to the States. (2) Those who feel that the public domain lands really should be in State or private ownership in which case the State would receive not just 37½ percent of the receipts but either all of the income if State owned or enlarged tax bases if privately owned.

To illustrate the second point above, the net loss to Wyoming from Federal ownership of national forest and public domain lands has been claimed to be about $33 million annually. The computations are as follows:[7]

Income from national forest and public domain lands if managed by Wyoming (at 91 cents per acre, the average yield of 3¼ million acres of State land)	$24,378,455
Total Federal mineral leasing receipts derived from Wyoming (1952)	14,584,912
Gross loss to Wyoming	38,963,367
Less total shared revenue payments to Wyoming (1952)	5,743,346
Net loss to Wyoming	33,220,021

From this point of view, Wyoming and other Western States are being deprived of substantial amounts of revenue by continued Federal ownership of land and minerals. It is even claimed that

> * * * the comparative backwardness of many of our States, the general lack of development, the loss in some cases of population which the balance of the Nation gains, result in part from the deeply hidden paralysis of absentee ownership, control and operation of so huge a proportion of our lands and minerals.
>
> It is not the mere fact that our States are deprived of so much revenue in dollars; it is what that revenue would mean to our development if we could spend it for the improvement and development of our lands, mineral and water resources, research into our peculiar problems, our schools, colleges, highways, roads—in short, our entire economy and culture.[8]

In contrast to the above claimed losses in Wyoming from federally owned lands, it can be demonstrated that total shared revenue pay-

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[7] Letter from J. Elmer Brock to Dr. Jonathan Foreman, "Friends of the Land," (not dated but apparently written in 1953).

[8] Address by Breck Moran, Chief of Resource Development, Wyoming Natural Resource Board, "The Crown Colonies of the West," delivered at the Oregon Reclamation Congress at Baker, Oreg., October 26, 1953.

ments to Wyoming are equal to or greater than current equivalent taxes on the federal lands.

Support for an increase in the rate of sharing of mineral receipts from 37½ to 50 percent was voiced by the Montana Association of County Commissioners as follows:

> Federal mineral royalties including oil and gas: Fifty percent of the receipts should be returned to the counties and divided one-half for school purposes and one-half for roads. * * * The reason for our decision in this matter is that the Federal Government should not be in the oil, gas, or mineral business to the exclusion or with greater returns than the County Government wherein the lands are situated. After all, the Federal Government puts out little or no money on lands of this kind or on the receipts for royalties, while county government is required to furnish all of the necessities of government, such as building and maintaining roads, recording, policing and schools.[9]

General Appraisal of Sharing Mineral Receipts

Under Federal ownership of the public domain and other lands subject to mineral leasing, there appears to be universal approval of the present arrangement of sharing gross receipts with the States. To the Committee's knowledge, no alternate arrangement has ever been proposed. In view of the nature of the mineral deposits and their development, a payment based upon actual production is logical and defensible. The present rate of 37½ percent of gross receipts is widely accepted, with some support for an increase to 50 percent being found among State and local officials and even some Federal officials.

Special services or contributions in-kind are practically nonexistent in connection with Federal mineral rights in lands. Costs of administration are low.

In a general way there is some basis for the large share of mineral leasing receipts being allocated to the reclamation fund. As mineral resources are depleted in the Western States, reclamation projects can add alternative productive resources. However, there are several criticisms of this allocation of mineral receipts. The expenditure of the reclamation funds is not too closely correlated with the origin of the funds. Some States benefit materially from the fund without contributing much to it. Furthermore, the changed relationship of the Federal Government in the public works program and the size and nature of many of the recent reclamation projects perhaps warrant a more direct method of financing.

At one time the revenue from the 52½ percent of mineral leasing receipts was very important to the Bureau of Reclamation, but now

[9] Recommendations of the Executive Committee of the Montana Association of County Commissioners contained in a letter from William A. Brown, Association Counsel, August 6, 1954.

it is relatively small compared with other funds which the Bureau receives. Perhaps the chief value today of this allocation is its psychological value.

Mineral Leasing Act

A careful review of pertinent facts indicates that the existing sharing ratio of 37½ percent of gross mineral leasing receipts justifiably can be continued. It is fairly comparable to national forest sharing when the 10 percent of receipts expended on forest roads and trails and the other contributions in-kind are added to the 25-percent cash payments.

The main question is whether or not the sharing ratio should be increased, say, to 50 percent. Since a case for larger payments cannot be made in terms of tax losses, some other basis must be found. Support for an increase is based upon two additional grounds. One is the claim that if the public domain lands were State owned—as some people believe they should be—the States would be receiving all of the royalties and not just 37½ percent.

A second basis for an increase in the share is the fact that the Treasury now retains only 10 percent of the gross receipts and that 90 percent is returned to the States through the 37½-percent cash payment and through the reclamation fund which receives 52½ percent of the receipts. It is a question then of diverting some of the mineral leasing receipts from the reclamation fund directly to the States from which the receipts are derived.

OREGON AND CALIFORNIA REVESTED LANDS (O AND C LANDS)

The Oregon and California grant lands and the revenue-sharing arrangement pertaining thereto present a unique situation, differing from both the national forests and the mineral leasing program. The unique elements include (1) the unusual change in ownership, (2) the checkerboard pattern of land location, and (3) the variations in the payment arrangements applicable to these lands. Because of these unique features, special consideration must be given to these lands.

The revested Oregon and California railroad grant lands consist of approximately 2.6 million acres of mostly forest lands in 18 western Oregon counties. These lands occupy a checkerboard pattern of odd-numbered sections of land in a zone about 60 miles wide in the East-West direction and approximately 300 miles long in the North-South direction, extending from the Columbia River to the California State line. About 1 million acres lie inside the boundaries of national forests

where the odd-numbered O & C sections alternate with the even-numbered sections of national forests. The 1.6 million acres outside the national forest boundaries alternate chiefly with private land but also with considerable public domain acreage and with some lands owned by the State and counties.

The O & C lands extend through the heart of the greatest remaining reservoir of commercial Douglas fir timber. By law this forest is required to be managed on a sustained yield basis. It is further required that the timber be marketed in such a way as to contribute to the economic stability of the local communities and industries.

History

In 1866 the Congress granted some 3.7 million acres of public lands to the Oregon and California Railroad Co. to aid in the construction of a railroad from Portland, Oreg., to California. Certain terms of tthe granting acts were violated after passage of land title to the company. After a congressional investigation, the O & C lands were returned by law to Federal ownership in 1916 (39 Stat. 219). The unsold acreage revested under this act was approximately 2.9 million acres and was placed under the jurisdiction of the Department of the Interior. It was the intention of the legislation that all of these lands except those classified as power sites would ultimately be disposed of.

Revestment costs consisted of the following:

Compensation to the O & C Railroad Co	$4, 102, 215. 28
Outstanding tax claims for the years 1913–15	1, 571, 044. 05
Total	5, 673, 259. 33

The revestment act required that income from the O & C lands was to be credited to a special Treasury Fund known as the Oregon and California Land Grant Fund. First priority on the fund was to repay the compensation paid the railroad company. Second priority was to the Treasury for the taxes paid for the years 1913–15. After meeting these two obligations, further income was to be divided as follows:

25 percent to the counties in lieu of taxes.
25 percent to the State school fund.
40 percent to the reclamation fund.
10 percent to the United States Treasury.

There was a very slow return of these grant lands to private ownership. And because of low income from the lands, 10 years elapsed before the first and second priorities were fully satisfied. In the meantime, from 1916 to 1926, inclusive, the 18 O & C counties received no payments in lieu of current taxes.

Legislation in 1926 (44 Stat. 915) provided the following: (1) The counties were paid $7,135,283 for the back taxes which they would have received had the lands remained in private ownership. This appropriation was made subject to reimbursement from the O & C Land Grant Fund. (2) The law provided for continuation of payments-in-lieu of taxes in the future. (3) When all such claims were setttled, the formula provided in 1916 was to be used.

At the end of another decade, income from the O & C lands was still insufficient to satisfy the county tax claims. By 1937, delinquent taxes for 4 years totaled $2,067,424. The financial situation was reported in 1937 as follows:

Tax claims:	
1916–26	$7, 135, 283. 36
1927–33	3, 866, 646. 01
1934–37	2, 067, 423. 77
Total tax claims	13, 069, 353. 14
Income (1916–36)	8, 269, 719. 09
Excess of tax claims over income	4, 799, 634. 05
Acquisition cost (1916)	5, 673, 259. 33
Deficit in O & C Fund and delinquent tax claims (1937)	10, 472, 893. 38

In addition to the above deficit of $10.5 million, costs of administration and protection for the 21-year period (1917–37) were estimated to be about $2 million.

New legislation was enacted in 1937 (50 Stat. 874) with a twofold purpose: to replace the policy of encouraging disposal of land and timber with one providing for sustained-yield management of forest resources, and to provide a better solution to the financial problems. The plan adopted in 1937 for the distribution of O & C income, which is the one in effect today, is as follows:

Fifty percent to the 18 counties in lieu of current taxes.

Twenty-five percent to the 18 counties after the delinquent tax claims of the counties were paid and after the United States Treasury was reimbursed for money advanced to make payments in lieu of taxes in prior years.

Twenty-five percent to be available to defray costs of administration and management, with any unused portion to be applied to the deficit in the O & C fund.

It is significant to note that when the 1937 formula was under consideration, representatives from the O & C land counties opposed the plan. They did not want to abandon the principle that the Federal Government should pay the counties the equivalent of ad valorem taxes. They were fearful that the 50 percent of receipts allotted to the counties would be insufficient to pay ad valorem taxes. The plan

was made effective despite the local opposition, although the counties were guaranteed payments of not less than 78 percent of their 1934 tax claims on O & C lands.

Like the national forests and mineral leases, receipts from the O & C lands increased rapidly—far beyond expectations. By 1952, the Treasury had been completely reimbursed, and for that year—and that year only—the counties received the full 75 percent of receipts. In 1952, Congress provided that the costs of access roads built with appropriations for the 1953 fiscal year should be defrayed from the top 25 percent of the counties' share. As a result of this action, the share paid to the counties in 1953 was 52.5 percent of total O & C receipts. This provision, however, is not a permanent modification of the distribution formula.

Pattern of Payments

Although the counties had to wait as long as 10 years for some of the payments, they eventually received payments in lieu of taxes or a definite share of the receipts for each year since revestment occurred in 1916. These payments are shown in table 10.

The tax equivalent payments varied between a half million dollars and three-quarters of a million dollars in the period of 1917 to 1937. From a mere $200,000 in 1939, shared-revenue payments have climbed to $6.4 million in 1953. Had the full 75 percent share been paid in 1953, as it was in 1952, these counties would have received about $9 million in 1953.

Distribution of these payments among the 18 O & C land counties in Oregon for the fiscal year 1953 is shown in table 2. The distribution among the counties is based upon the ratio of the 1915 assessed value of the O & C land in each county to the total assessed valuation of these lands in 1915. This formula gives 3 counties over 60 percent of the payments. These 3 counties are: Douglas, 27.25 percent; Jackson, 18.49 percent; and Lane, 15.18 percent. In 1953, these counties received respectively, $1,750,000, $1,187,000, and $975,000. The other 15 counties receive from one-half of 1 percent to 7⅓ percent of the total annual payments.

Fiscal Significance of O & C Payments to 18 Oregon Counties

Throughout most of the period since revestment of the O & C lands in 1916, payments to the 18 Oregon counties have approximated current taxes. From 1916 to 1937, the amount of the payment was measured by the current tax equivalent. Although delinquency in such payments was the rule during most of this 21-year period, eventually

TABLE 10.—*Payments to Oregon Counties From O & C Lands, Selected Years 1917–37; 1938–53*

Tax equivalent payments		Shared-revenue payments		
Fiscal year	Amount paid	Fiscal year	Percent of receipts	Amount paid
1917	$452, 280	1938		[a] $110, 291
1918	455, 638	1939		201, 600
1919	610, 942	1940		372, 404
1923	723, 625	1941		444, 701
1924	732, 013	1942		479, 006
1925	720, 784	1943		680, 364
1929	581, 091	1944	50	881, 580
1930	579, 971	1945		856, 376
1931	475, 561	1946		659, 193
1935	532, 935	1947		1, 442, 121
1936	521, 076	1948		2, 210, 601
1937	779, 345	1949		1, 761, 766
		1950		1, 812, 457
		1951		3, 172, 177
		1952	75	6, 053, 458
		1953	52. 5	6, 422, 027
		Total payments 1917–1953, inclusive		40, 402, 273

[a] Payments this year, the first under the act of August 28, 1937, were based on receipts from March 1 to June 30, 1938. The receipts from July 1, 1937 to February 28, 1938, were distributed under the act of July 13, 1926.

Source: Special tabulation prepared by Bureau of Land Management, Portland, Oreg.

tax-equivalent payments were paid in full. The counties finally received approximately what would have been paid in taxes had these lands remained in private ownership.

Since 1937, payments have been based upon a share of the total receipts. The only relationship of the sharing arrangement to taxes was the guarantee that payments should not be less than 78 percent of the 1934 tax claims on O & C lands.

From 1938 to 1946, the 50 percent share of total receipts yielded average payments fairly close to, but perhaps a little less than, current taxes. Since 1947, receipts from O & C lands have increased rapidly and the counties' share in recent years has exceeded estimated taxes by a substantial margin. Payments of $6 million in 1952 and $6.4 million in 1953 are probably several times as great as property taxes would have been had the lands been subject to taxation.

Estimates indicate that ad valorem taxes would have been about $17.8 million for the period of 1939 to 1953, inclusive.[10] Under the 1937 revenue-sharing formula, the counties received $27.5 million during this period or nearly $10 million more than estimated taxes.

Over the entire period from 1916 to 1953, the counties received about two-thirds of total O & C land receipts, and practically all of

[10] Bureau of the Budget memorandum, August 13, 1953.

the remaining one-third was required to pay the costs of revestment and administration of the lands. Through 1953, the O & C lands were self-sustaining, but there was very little net income to the United States Treasury.

It is generally believed by both Federal and local officials that the current high level of receipts from O & C lands will continue for some years to come. If this condition proves to be true, the counties' share at the 1953 rate of 52.5 percent or the full 75 percent specified in the formula will produce very generous payments as compared with equivalent taxes on the O & C lands.

Another type of comparison that is significant is to compare the payments on O & C lands with those on national forest lands. This is done in table 11. Cash payments per acre for the year 1953 are given for the O & C lands and for national forests within these counties. It is seen that the average O & C payment per acre of $3.10 is more than 5 times as great as the average national forest payment of $0.58 per acre from the 25-percent fund. The maximum payment per acre was $1.06 for the national forests and $14.52 for the O & C lands.

TABLE 11.—*Comparison of Payments Made to 18 Oregon Counties on National Forest and O & C Lands*

[Fiscal Year 1953]

County	National forests (25 percent of gross receipts)			O & C lands (52.5 percent of gross receipts)		
	Acres in county	Payments in 1953		Acres in county	Payments in 1953	
		Total	Per acre		Total	Per acre
Benton	18,053	$12,078	$0.67	50,852	$239,541	$4.71
Clackamas	547,340	423,100	.77	56,058	335,872	5.99
Columbia	----------	----------	----------	11,159	132,936	11.91
Coos	76,760	16,470	.21	98,993	394,955	3.99
Curry	602,796	94,425	.16	37,078	31,468	.85
Douglas	993,706	491,126	.49	612,994	1,750,002	2.85
Jackson	441,517	173,881	.39	389,454	1,187,433	3.05
Josephine	407,656	73,215	.18	255,927	472,019	1.84
Klamath	1,130,493	368,142	.33	46,338	123,945	2.67
Lane	1,400,861	1,296,501	.93	278,094	974,864	3.51
Lincoln	160,669	107,494	.67	13,658	30,826	2.26
Linn	466,827	493,313	1.06	81,547	220,918	2.71
Marion	206,841	198,832	.96	20,697	120,092	5.80
Multnomah	68,360	52,811	.77	4,247	61,651	14.52
Polk	4,400	2,944	.67	41,045	183,028	4.46
Tillamook	92,747	62,051	.67	26,672	48,807	1.83
Washington	----------	----------	----------	11,735	52,661	4.49
Yamhill	27,680	18,519	.67	37,986	61,009	1.61
Total	6,646,706	3,884,902	.58	2,074,534	6,422,027	3.10

Source: Basic data on national forest acreage and payments from information supplied by the National Forest Service; O & C acreage from *Report of the Director of the Bureau of Land Management, 1953*, Statistical Appendix, table 7, and payments from a special tabulation prepared by the Bureau of Land Management, Portland, Oreg.

State and Local Appraisal of the O & C Revenue-Sharing Arrangement

Because these lands were subject to taxation for many years, the current tax equivalent has been the principal measure of the payments to which these 18 counties have felt they were entitled. As already indicated, the O & C land counties were so apprehensive that the 1937 sharing formula would yield payments less than current tax equivalents that they opposed its adoption.

At the present time there is strong support in Oregon for the existing arrangement which now gives the 18 O & C land counties 75 percent of the gross receipts. There is also acquiescence by the counties to the temporary budget provision which deducts the cost of access roads from the top 25 percent of the counties' share of gross receipts.

People who accept the 25-percent national forest payments as adequate or who in general support payments on an ad valorem basis will defend as equitable the 50 or 75-percent share of total receipts from O & C lands. Because of the former private ownership of these lands, the large Federal payments are held to be justifiable. It is held that these O & C forests are a State resource and should be exploited for the benefit of Oregon and not the Nation.

It is also argued that large payments are required on the O & C lands for these specific reasons:

1. These lands differ from other Federal lands because they do not exist in solid blocks remote from settled areas. Rather they consist of alternate sections which are intermingled with private agricultural and forest lands to which the counties must furnish all of the usual services of local government, including roads, schools, and police protection.

2. The peculiar location of the lands and the heavy timber hauling place an unduly heavy road cost on these counties. It is estimated that from 65 to 75 percent of the total road cost is attributable to timber hauling, a large part of which originates on O & C lands. It is claimed that in some counties the road budget absorbs all of the O & C payments plus the portion of the national forest payments available for roads as well as the 17 percent of the gasoline tax received by the counties.

3. The cost of schools has been increased considerably without increasing the tax base of the counties. Wherever logging operations are started, migratory timber workers move in in trailer houses and send their children to the public schools.

Some people believe that shifting back to the ad valorem system of payments in lieu of taxes would be the proper payment standard but that any such change now would be premature for these reasons:

1. Inventories of timber on the O & C lands are inadequate for proper valuations.

2. A complete reassessment of property in Western Oregon is now under way by the counties and the State tax commission. The project will not be completed, however, until about 1960. This reassessment program should be completed before making any change in the O & C payment formula.

3. Another objection of the counties at the present time to the ad valorem system of payments in lieu of taxes is the risk of arbitrary action by Federal officials in appraising the value of the land and timber. The counties feel that there should be some safeguard against any arbitrary action in the valuation process. It is suggested that some manner of review should be provided for the protection of local government.

If large payments are to be continued on O & C lands, there is a little support in Oregon for making part of the payments to the State government to be used as the legislature may determine. Large amounts are being paid at present to a few counties, and a few people feel that some degree of equalization would be desirable. The fiscal aspects of these timber resources are somewhat akin to those of mineral resources in other States. And all mineral leasing payments are made directly to the State governments.

Possible Alternate Payment Plans

Because of the special historical situation pertaining to the O & C lands, any realistic payment plan should be based on the premise that payments will not be less than current equivalent taxes. The present sharing formula does not guarantee this standard, but actual payments in general have been equal to or greater than the tax equivalent.

Tax Equivalent Payments

Perhaps the most direct approach to the payment problem on O & C lands is to apply the ad valorem tax principle. Payments would then be neither more nor less than the sums paid if the lands were under private ownership. This plan would require the application of the same assessment standards to O & C lands that are used by each unit of government for similar privately owned lands. Certainly if this standard were rigorously followed, neither the counties nor the Federal Government could claim inequitable treatment.

Since this standard was applicable to O & C lands for many years, and since it now applies to the Coos Bay Wagon Road grant lands, the transition should not be difficult. Careful attention should be given, of course, to the valuation problems noted above.

National Forest Formula

It can be argued with much logic that all Federal forest lands should be subject to the same payment provisions. Hence, why not extend the national forest formula to the O & C lands, including both the 25-percent fund for the direct benefit of the counties and the 10-percent allocation for roads and trails in the forests from which the receipts were derived?

At the present level of receipts, the 25-percent fund payments would probably be equal to the tax equivalent, but in general, estimated taxes on national forest lands exceed the 25-percent funds payments (see table 6). It would appear to be necessary to modify the national forest formula by providing for minimum payments equal to the current tax equivalent. In determining the current tax equivalent, presumably, the 10 percent of gross receipts spent on roads and trails and other contributions in-kind should be considered as part of the contribution to the State and local government.

Equal Division of Net Income

The Department of the Interior in 1952 had under consideration a plan whereby the counties would receive 50 percent of the *net* income from the O & C lands.[11] Under this plan, the counties and the Federal Government would share equally in the costs of protecting, developing, and managing the lands and would get equal shares of the net income.

The main argument for this plan is that it would enable operations to be increased materially. Due to the lack of personnel and access roads, it is held that timber cutting is below the sustained yield of the O & C lands. More capital improvements and personnel would ultimately increase the receipts to such an extent that 50 percent of the net income will very likely exceed 50 percent of gross receipts under present operations.

Again there is no necessary relationship between 50 percent of net income and tax equivalent payments.

Modified Distribution Plan

If the payments are to be continued at the rate of 50 to 75 percent of gross receipts, a plan involving some control of the revenue by the State government might be evolved. For example, all payments could be made directly to the State government with the proviso that no O & C county should receive less than equivalent taxes on O & C lands within its jurisdiction. The legislature might then be given a

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[11] W. H. Horning, *Forestry Program of the Bureau of Land Management.* Working Material for Bureau of Land Management Conference, July 11–19, 1952.

free hand in the disposition of any revenue in excess of the tax equivalent payments.

Controverted Lands

Of special interest in connection with the O & C lands is the jurisdictional controversy between the Departments of the Interior and Agriculture concerning some 463,000 acres of revested O & C grant lands. The Oregon and California Railroad Company never got around to selecting 463,000 acres of indemnity lands in lieu of lands no longer available within the grant area. In the meantime the national forests were created and the unpatented indemnity lands were incorporated into national forests. The lands were administered as other national forest lands including the distribution of receipts.

In 1939 the Department of the Interior claimed jurisdiction over these lands and thereby gave them their "controverted" status. Under the Wolfson-Granger agreement of September 1942, receipts from these lands have been held in a special fund pending settlement of the controversy. As of March 31, 1954, the suspense account had a balance of $7,582,100.

For a dozen years the counties received no revenues at all from the receipts originating on these controverted lands. The controversy was settled by the approval of Public Law 426, 83d Congress, on June 24, 1954. Jurisdiction of the lands remains with the National Forest Service but the receipts, including the amount in the suspense fund, are to be distributed under the O & C formula.

Public Law 426 also authorizes and directs the exchange of administrative jurisdiction of O & C lands lying within the boundaries of national forests or within 2 miles of such boundaries and national forest lands in order that both types of land may be blocked up for better administration.

All 18 of the O & C land counties will share in the receipts from the controverted lands even though nine of the counties contain no controverted land acreage. Seventy-five percent of the amount in the suspense account will provide an initial distribution of $5,686,500 to the 18 counties. This distribution is not reflected in any previous statistics of payments cited for these counties.

Chapter 12

ANALYSIS AND APPRAISAL OF THE MINOR REVENUE-SHARING PROGRAMS

Corps of (Army) Engineers Flood-Control Lands

The first provision for the sharing of receipts from the leasing of lands acquired by the United States for flood-control purposes was the Flood Control Act of June 28, 1938 (52 Stat. 1222). This act provided that 25 percent of the receipts from lands acquired for lower Mississippi River flood-control purposes should be paid to the State for the benefit of the public schools and roads in the county in which the property was located.

This provision of 1938 pertaining only to the sharing of gross receipts from leased lands acquired for flood-control purposes in the alluvial valley of the Mississippi River was extended to the entire country by the Flood Control Act of August 18, 1941 (55 Stat. 650). The percentage allocated to the States for the counties was increased from 25 percent to 75 percent by the act of July 24, 1946 (60 Stat. 642; 33 U. S. C. 701c–3).

In 1953 the allowable uses for this shared revenue were broadened. In addition to using it for public schools and roads, authority was given to expend the revenue "for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements." (Public Law 60, 83d Cong., 1st sess., approved June 16, 1953.)

Total payments to the counties from flood-control land receipts have increased from a few thousand dollars to more than a million dollars today. As a total, these payments are now the largest among the 15 minor revenue-sharing programs. Table 12–A shows the growth of these payments. The distribution of payments for some 160–170 counties in 1953 and 1954 in 34 States is given in table 12–B. One-third of the counties received less than $500, about one-fourth were paid between $500 and $5,000, and about 40 percent received more than $5,000. These payments are considerably larger than for any of the other minor revenue-sharing programs. Table 13 gives the distribution of the payments by States for the fiscal years 1951 and 1952.

TABLE 12-A.—*Payments to the States From Corps of Engineers Flood-Control Lands—1939 to 1954*

Fiscal year	Amount paid	Fiscal year	Amount paid
1939	$3,900	1947	$207,020
1940	6,301	1948	236,802
1941	7,365	1949	467,516
1942	15,200	1950	566,393
1943	59,000	1951	812,870
1944	70,000	1952	869,052
1945	85,438	1953	988,885
1946	70,948	1954	1,053,144

Source: 1939–42, H. Doc. 216, 78th Cong., 1st sess. Table 1; 1944 and 1945, "Expenditures for Grants-in-Aid and Shared Revenues," Bureau of the Budget, May 2, 1949; 1946–52, *Annual Report of the Secretary of the Treasury on the State of Finances;* 1953 and 1954, Corps of Army Engineers.

TABLE 12-B.—*Distribution of Flood-Control Payments to Counties, 1953 and 1954*

Amount of Payment	Number of counties		Percent of total number	
	1953	1954	1953	1954
Less than $100	22	24	13.92	14.20
$100–$499	32	32	20.25	18.94
$500–$999	15	17	9.49	10.06
$1,000–$1,499	9	8	5.70	4.73
$1,500–$1,999	3	5	1.90	2.96
$2,000–$2,999	7	8	4.43	4.73
$3,000–$3,999	3	2	1.90	1.18
$4,000–$4,999	5	6	3.17	3.55
$5,000–$9,999	28	26	17.72	15.39
$10,000–$19,999	24	30	15.19	17.75
$20,000–$29,999	3	3	1.90	1.78
$30,000–$39,999	4	7	2.53	4.14
$40,000–$49,999	2	0	1.27	----------
$50,000–$59,000	1	1	0.63	0.59
Total	158	169	100.00	100.00

Source: Computed from information supplied by the Corps of Army Engineers.

TABLE 13.—*Payments by States From Corps of Engineers Flood-Control Lands, Fiscal Years 1951 and 1952*

State	1951	1952	State	1951	1952
Arkansas	$34,852	$45,315	New York	$1,924	$1,936
California	60,197	54,759	North Carolina	82	5,572
Colorado	12,620	11,360	North Dakota	112,221	247,762
Connecticut	375	562	Ohio	24,284	14,436
Georgia	4,312	8,118	Oklahoma	183,434	47,171
Idaho	----------	585	Oregon	3,478	3,063
Illinois	469	11	Pennsylvania	8,782	12,005
Iowa	----------	51,403	South Carolina	----------	101
Kansas	61,848	24,496	South Dakota	24,158	18,897
Kentucky	7,175	23,108	Tennessee	24,630	25,602
Louisiana	382	5,136	Texas	54,503	55,749
Maryland	15	15	Vermont	326	356
Massachusetts	510	602	Virginia	4,291	17,214
Minnesota	304	1,340	Washington	2,600	1,134
Mississippi	81,124	76,181	West Virginia	4,151	6,788
Missouri	59,565	69,959			
Nebraska	39,151	37,422	Total	812,868	869,052
New Hampshire	1,105	894			

Source: *Annual Report of the Secretary of the Treasury on the State of Finances,* 1952 and 1953, table 100.

Irregularity of receipts from lands that are acquired for flood-control purposes is not an unexpected result. Lands that are subject to intermittent flooding are not likely to be stable sources of revenue. Although payments for only 2 years are shown in table 13, the irregularity is apparent. For example, payments to Georgia nearly doubled between 1951 and 1952, while payments to Kansas dropped about 60 percent. Payments to North Dakota increased from $112,000 to $248,000, but in Oklahoma, they decreased from $183,000 to $47,000.

Fluctuations of such magnitude mean that some counties are really unable to budget flood-control revenues. In other areas, of course, a fair amount of stability obtains.

Although the percentage of gross receipts that is paid to the counties is high—75 percent—there is no assurance that the amount paid will be adequate, inadequate, or more than adequate to compensate for tax losses. One element in this uncertainty is the fact that large areas of flood-control land may produce little revenue or very irregular revenue as already noted. Another factor is that the benefits from flood protection may be direct and considerable to adjacent taxable private property or the benefits may accrue largely to others remote from the location of the acquired lands.

It has been argued, therefore, that revenue-sharing, even at a high rate, is not a satisfactory solution for Federal ownership of flood-control lands. These lands are largely acquired lands and their acquisition reduces the local property tax base. At the same time, the flood-control project may greatly enhance other property values.

Proponents of this view have maintained that equity requires the application of two principles in making payments on flood-control lands: (1) Apply either a minimum low flat-rate guaranty on original cost or appraised land value, or make payments based upon tax losses with periodic adjustments for changes in tax rates or assessed valuations, and (2) reduce or eliminate such payments in proportion to the local protective benefits when benefits are reasonably ascertainable.

On the other hand, some of the flood-control lands are public domain lands and property tax considerations are not so relevant for them. Furthermore, revenue-sharing as a form of Federal payment has certain advantages in administrative simplicity.

Boulder Canyon Project

The Boulder Canyon Project Act, as originally approved December 21, 1928 (45 Stat. 1057), provided for the payment of 37½ percent of any excess revenues to the States of Arizona and Nevada. Each State was to receive one-half of the payments or 18¾ percent of the excess revenue. The payments were to be in lieu of taxes and other benefits

which Arizona and Nevada would have enjoyed if the project had not been federally constructed. The revenue-sharing rate of 37½ percent was selected because this was the rate adopted for sharing of both mineral leasing receipts and Federal Power Commission license revenues.

The first unit of the power plants went into service on June 1, 1937, which is the beginning date of the 50-year period for the power contracts, the amortization of construction costs, and the agreement to make payments to the two States.

The original contracts for the sale of power or falling water were based on competitive prices and would have assured Arizona and Nevada well over $300,000 each annually.[1]

The power contractors asked for a readjustment of the rates in 1937, and, inasmuch as the Attorney General held that realization of excess revenue for payments to the States was not required by the project act, the States of Arizona and Nevada were fearful that there might not be sufficient revenues to pay at least $300,000 or more. Hence the act of July 19, 1940 (54 Stat. 775) commuted the original revenue-sharing arrangement and provided for flat payments of $300,000 a year each to Arizona and Nevada until May 31, 1987, from the revenues of the project.

In the event that either State or any political subdivision thereof levies taxes on the project, the payments to the States shall be reduced by the amounts of such taxes collected.

Annual payments of $300,000 each to Arizona and Nevada have been made continuously since the fiscal year 1941.

It is also worth noting that revenues from the Boulder Canyon project also were made available during the fiscal years of 1948, 1949, 1950, and 1951 for payments to the Boulder City School District not to exceed $65 per semester per pupil as reimbursement for the actual cost of instructing pupils who were dependents of employees of the United States living in the immediate vicinity of Boulder City, Nev. (62 Stat. 235).

At the time of enactment of the Boulder Canyon Project Act, Senators from Arizona and Nevada made a strong plea for payments in terms of equity and justice, arguing that it was "the moral duty of this Government to pay to Arizona and Nevada something for the great resource the Government proposes to take from Arizona and Nevada and give to California."[2]

However, the rationale of the amount of the present payments in connection with the Boulder Canyon project is difficult to establish In terms of adequacy and logic, the present payments of

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[1] S. Rept. 1784, 76th Cong., 3d sess., p. 3.

[2] *Congressional Record*, vol. 69, April 28, 1928, p. 7395.

$300,000 annually to Arizona and Nevada appear to be quite arbitrary. The original 37½-percent figure was chosen because it was used in two previous acts. "The States of Nevada and Arizona, however, believed that they were going to receive from their share of 18¾ percent of excess revenues, a sum-in-lieu of the loss of taxation, substantially over $300,000 annually."[3] Hence, the figure of $300,000 is based largely upon a percentage of anticipated excess revenues under given circumstances.

There appears to be no issue at present with respect to the amount of the payment being made. A few people mildly suggest that perhaps the $300,000 payment should be reviewed inasmuch as economic conditions have changed so much since the amount of the payment was established.

In the various programs of recent years to bring about more uniformity and equity in the payments on federally owned property, the Boulder Canyon project is one type of property that is usually recommended for either administrative payments or direct taxation.

The special Treasury Committee in 1943 recommended that the entire commercial power element of public projects be made subject to full payments in lieu of taxes. The value of the property was to be derived by a process of capitalizing commercial-power income and then adjustment of such "full value" to local valuation practice.[4]

Payments in lieu of taxes would also be required on the power property of the Boulder Canyon Project under the Bureau of the Budget bill on payments in lieu of taxes (see S. 788, 83d Cong., 1 sess.). Any such payments would be deducted, however, from the $300,000 paid to Arizona and Nevada.

Wildlife Refuges Under Migratory Bird Conservation Act

The United States Fish and Wildlife Service operates refuges for the conservation of migratory waterfowl and for the preservation and propagation of rare birds and wild animals in most of the States and Alaska. These refuges are established on both public domain lands and acquired lands. In the Eastern States, the refuges are located mostly on acquired lands; in the Western States, public domain lands constitute about 60 percent and acquired lands about 40 percent of the total acreage. In addition, the Service has joint administration with other Federal agencies over several million acres in the Western States.

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[3] *Ibid.*

[4] *Federal, State, and Local Government Fiscal Relations*, S. Doc. 69, 78th Cong., 1st sess., 1943, pp. 291–292

Payments were first authorized under the Migratory Bird Conservation Act of June 15, 1935 (49 Stat. 383). This act authorized the payment of 25 percent of the net receipts from the sale of surplus wildlife, timber, hay, etc., from the wildlife refuges to the counties in which the refuges are located for the benefit of the public schools and roads. This is one of two acts which bypass the State government and make payments directly to the counties.

Payments to the counties have increased steadily from $6,277 in 1936 to $470,621 in 1953. A significant event that more than doubled the receipts from the refuges in recent years was the discovery of oil and gas on a refuge in Louisiana.

In the fiscal year 1953, payments were made to 153 counties in 39 States and to Alaska. In general the payments are very small. They ranged from less than a dollar in three counties to $292,000 in Plaquemines County, La. The latter county, containing the refuge on which oil and gas was recently discovered, received 62 percent of the total payments. Total acreage in the 101 refuges producing some revenue was 6⅓ million acres, and the average acreage was about 63,000 acres.

On an acreage basis, payments varied from virtually nothing to as much as $6 per acre in Plaquemines County, La. Omitting the oil and gas revenue in the latter county, average payment per acre was only 2.84 cents in 1953. In about a dozen counties, payments were between 20 cents and 70 cents per acre.

TABLE 14.—*Distribution of Wildlife Refuge Payments to Counties, 1953*

Amount of payment	Number of counties [a]	Percent of total number
Less than $100	65	42. 21
$100–$499	43	27. 92
$500–$999	13	8. 44
$1,000–$1,499	9	5. 84
$1,500–$1,999	3	1. 95
$2,000–$2,999	8	5. 19
$3,000–$3,999	2	1. 30
$4,000–$4,999	2	1. 30
$5,000–$9,999	3	1. 95
$10,000–$19,999	3	1. 95
$20,000–$29,999	2	1. 30
$30,000 and over	1	. 65
Total	154	100. 00

[a] Including Alaska.

Source: Computed from data supplied by the Fish and Wildlife Service.

The small size of the payments to most counties is indicated clearly in table 14. In 1953, 42 percent of the counties received less than $100, 70 percent received less than $500, and 78.5 percent received less than $1,000. Only 9 counties or about 6 percent were paid $5,000 or more.

The chief criticism of the wildlife refuge program is that the payments are too small. A substantial portion of the acreage is acquired land and reduces the property tax rolls. It is true, of course, that these lands are usually low-valued lands, but the counties dislike to lose any tax revenue. The situation would be improved some if 25 percent of the gross revenue were paid rather than 25 percent of the net proceeds. This change, however, will not fully answer the criticism because of the very low revenue yield of refuge lands.

Another criticism is that in many cases the local benefits are small, the main benefits being largely regional or even national. For this reason also, some people believe that the current low level of payments should be increased.

Four methods of increasing the payments have been suggested: (1) Change the base from net to gross, (2) increase the percentage from 25 percent to 50 or 75 percent, (3) make in-lieu payments on acquired lands, and (4) make payments on all lands based on the revenues lost from alternate uses of the land as measured by similar land put to other uses.

There appears to be a reasonably good case for some upward adjustment in payments, especially on acquired lands, and perhaps for some improvement in the distribution of the payments.

Submarginal Land Held by the Forest Service

At the end of the calendar year 1953, the United States Department of Agriculture held 7,142,029 acres of lands in land utilization projects under title III of the Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 526; 7 U. S. C. 1012). These submarginal lands[5] are located in 111 counties in 25 States. All but a very small percentage of these lands are acquired lands. Until this year they have been administered by the Soil Conservation Service but are now under the jurisdiction of the Forest Service.

The authorizing act provides that 25 percent of the *net* revenues[6] from these submarginal lands shall be paid to the counties in which the lands are located for the benefit of the public schools or roads. Like payments on the wildlife refuges, these payments bypass the State governments and are made directly to the counties. Also like the

[5] Most of these are in fact submarginal. In popular usage all lands held under title III of the Bankhead-Jones Farm Tenant Act are referred to as submarginal lands and this report adopts that terminology.

[6] The term "net revenues" has been interpreted to mean "the gross receipts from rents, concessions, licenses, and other sources incident to the use of the lands reduced only by applicable refunds, adjustments, etc., rather than income after deducting expenses, etc." 17 C. G. 768, March 22, 1938.

wildlife refuges, the payments are based on net receipts rather than on gross revenue.

Payments on submarginal lands were first made for the calendar year 1939. Total payments have increased from $11,506 for that year to $451,362 for the year 1953.

The relative payments to the counties from these lands are greater than the payments from wildlife refuges, but less than those from the national forests. Average payment per acre for both 1952 and 1953 was 6.3 cents compared with 2.5 cents and 2.8 cents for wildlife refuges and 10.9 cents in 1952 for the national forest 25-percent fund. However, submarginal land payments per acre were equal to or greater than payments per acre in 6 of the 9 national forest regions (see table 6). In the California, Pacific Northwest, and Southern regions where timber cutting is heavy, national forest payments per acre were 3 to 5 times greater than those on submarginal lands.

A half dozen counties received fairly high submarginal land payments per acre, but these counties were mostly in Louisiana, Oklahoma, and Texas where oil and gas production is the main source of the high receipts.

TABLE 15.—*Distribution of Submarginal Land Payments to Counties, 1953*

Amount of payment	Number of counties	Percent of total number
Less than $100	17	15. 31
$100–$499	17	15. 31
$500–$999	6	5. 41
$1,000–$1,499	9	8. 11
$1,500–$1,999	8	7. 21
$2,000–$2,999	8	7. 21
$3,000–$3,999	7	6. 31
$4,000–$4,999	12	10. 81
$5,000–$9,999	15	13. 51
$10,000–$19,999	9	8. 11
$20,000–$29,999	1	. 90
$30,000–$39,999	2	1. 80
Total	111	100. 00

Source: Computed from data supplied by the Forest Service.

For many counties, the payments are not fiscally significant. Table 15 shows that nearly one-third of the counties received less than $500 in 1953, half of them received less than $2,000 and three-fourths were paid less than $5,000.

The principal impact of Federal ownership of these lands, as is true for all acquired conservation lands, is the tax loss. Since these lands are often tax delinquent and in a badly depleted condition when acquired by the Federal Government, the actual tax loss may be small. This factor should be recognized in the payment provision.

Proposals considered by the Committee for easing difficulties experienced under present revenue-sharing arrangements include:

1. Return of lands to private ownership as soon as possible.

2. Make payments based primarily upon tax losses with periodic adjustment for changes in tax rates or assessed valuations.

3. Pay to the counties a low flat percent of acquisition cost or appraised value of the land.

4. Continue present revenue-sharing possibly in combination with alternatives (2) and (3) as minimum payments until the revenue sharing plan becomes productive enough to be considered satisfactory.

5. Apply the national forest revenue-sharing formula to these lands since they are now administered by the National Forestry Service which is presently disposing of submarginal lands suitable for agriculture and integrating the rest with the national forests.

Taylor Grazing Act Public Lands

The area of unreserved public land in the continental United States under the jurisdiction of the Bureau of Land Management is about 171 million acres, of which 170 million acres are in the 11 Western States. The Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) authorizes the establishment of grazing districts on vacant, unappropriated, and unreserved lands from the public domain (exclusive of Alaska).

Such grazing districts, with a current total acreage of some 142.7 million acres of unreserved lands, have been established in 10 Western States. (The State of Washington has no grazing districts.) Grazing districts are known as section 3 lands. Both reserved Federal lands and some non-Federal lands also are administered by agreement as part of the grazing districts.

In addition to grazing districts, the Taylor Grazing Act provides for the administration of minor isolated portions of the grazing areas by means of leases to individual stockmen or to small groups of stockmen. These lands, known as section 15 lands, lie outside the grazing districts. There are 17.8 million acres of these lands under lease to stockmen in 18 States, with 98 percent of this acreage being in 10 Western States. (Utah has no section 15 leased lands.)

From the date of enactment in 1934 until August 6, 1947, the Taylor Grazing Act required payment to the States from which the receipts originated of 50 percent of total receipts from both grazing district fees and leases of land outside districts to be expended as the State legislature prescribed for the benefit of the counties in which the grazing lands were located. The amendment to the act approved on August 6, 1947 (61 Stat. 790) left unchanged the distribution of reve-

nue from leases but drastically changed the allocation of grazing district fees and introduced a new principle into the formula.

Instead of a single fee, the act of August 6, 1947 required a grazing fee of which 12½ percent is payable to the States for the benefit of the counties and a range-improvement fee which is used entirely for that purpose. Section 15 leases are made on terms and conditions prescribed by the Secretary of the Interior. Currently, the lease rental is based on the carrying capacity of the lands.

Payments to the States for the benefit of the counties under the Taylor Grazing Act for each of the last 10 years and total payments for prior years are given in table 16.

TABLE 16.—*Payments to the Counties From Taylor Grazing Act Receipts, June 28, 1934 to June 30, 1953*

Fiscal year	Grazing districts	Leased lands	Total
1934–43	$2, 655, 463	$506, 884	$3, 162, 347
1944	406, 584	101, 171	507, 755
1945	382, 585	115, 460	498, 045
1946	368, 017	112, 062	480, 079
1947	409, 557	107, 556	517, 113
1948	136, 961	115, 322	252, 283
1949	99, 842	85, 420	185, 262
1950	108, 201	189, 784	297, 985
1951	137, 677	150, 709	288, 386
1952	172, 385	159, 599	331, 984
1953	184, 210	161, 956	346, 166
Total	5, 061, 482	1, 805, 923	6, 867, 405

Source: *Report of the Director of the Bureau of Land Management*, Statistical Appendix, fiscal years 1947–53.

The change in the sharing formula in 1947 is clearly apparent in table 16. Total payments of about $500,000 in the years 1944 to 1947 dropped to $300,000–$350,000 in the years 1950 to 1953 even with an increase in fees in 1951.

Taylor Grazing Act payments must be allocated by the State legislatures to the counties in which the revenues originate. The grazing lands generally are quite widely distributed in each of the Western States which means that a high percentage of the counties share in the allocation of the funds. In 1953, some 345 counties or 84 percent of the 410 counties in the 11 Western States participated in the Taylor Grazing Act revenues. Since the total payments are not too large, this wide participation means that in a majority of the counties the amounts received are not very significant. In 1953, the average payment per county was only about $1,000.

The distribution of payments for 298 counties in 9 Western States as given in table 17 shows that more than one-fourth received less than $100, nearly three-fifths were paid less than $500, nearly three-

TABLE 17.—*Distribution of Taylor Grazing Act Payments to Counties in Nine Western States, 1953*

Amount of payment	Number of counties	Percent of total number
Less than $100	82	27. 52
$100–$499	90	30. 20
$500–$999	47	15. 77
$1,000–$1,499	31	10. 40
$1,500–$1,999	19	6. 38
$2,000–$2,999	12	4. 03
$3,000–$3,999	5	1. 68
$4,000–$4,999	4	1. 34
$5,000–$9,999	5	1. 68
$10,000–$14,999	1	. 33
$15,000–$19,999	2	. 67
Total	298	100. 00

Source: Computed from information obtained from the various State financial officers.

fourths received less than $1,000, and less than 4 percent of the counties received $5,000 or more.

On an acreage basis, Taylor Grazing Act payments are exceptionally low. In recent years, the payments have averaged about one-fifth of a cent per acre. In contrast, the average wildlife refuges was 2.5 cents to 3 cents per acre; for submarginal lands, about 6 cents per acre; and for national forests, about 11 cents per acre.

Not only is a very small percent of the grazing fees returned to the counties but every one of the 10 States sharing in these revenues requires the counties to use the revenues for range improvement rather than for general governmental purposes. Six of the 11 Western States also earmark revenue from grazing leases for range improvement, while 5 States specify that lease revenue shall be used for schools or general government purposes.

There is very little criticism in the Western States of the Taylor Grazing Act revenue-sharing arrangements. This is true even though only 12½ percent of the grazing district fees is paid to the counties and is used entirely for range improvement. A few State officials feel that the grazing fees are entirely too low, hence the amounts returned to the counties are too small. Comparable private lands, it is held, would pay far more in taxes than the counties are receiving from Taylor Grazing Act revenue.

There is considerable support in such States as Wyoming, New Mexico, and Montana for ultimate State or private ownership of most of the grazing lands controlled by the Bureau of Land Management. It is felt that the national interest is too small to warrant permanent Federal ownership of these lands. Pending a long range transfer program, the present revenue-sharing arrangement is quite generally acceptable to these groups.

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On the question of private ownership of these grazing lands, the following appraisal has been given:

> We see, then, three reasons why private ownership of all Western Federal land is a hopeless goal—the reasons are: (1) The importance of multiple-use management; (2) the economic reluctance of private enterprise to invest in much of it and to be subjected to taxes on it; and (3) the impossibility of some of it being used in independent private allotments. We conclude that private ownership of *all* Western Federal land is a will-o'-the-wisp; that not all of it can with any practicability whatever be privately owned and managed. Much of it will remain public, Federal, even if it were offered gratis to any taker.
>
> But on the other hand, it is equally unrealistic to argue that the Federal land of the West must *all* remain Federal or even public.[7]

The situation with respect to the Taylor Grazing Act lands is rather complex. Although there is some national interest, the lands are predominantly used by the livestock industry in the pursuit of private gain. Hence there should be little burden upon the Federal taxpayer to make payments to States and counties. Certainly the national interest, and quite likely the local public interest, in these lands is less than in the national forests. Like the forests also, the impact upon State and local governments is relatively small. If larger payments are wanted by local governments from these grazing lands, such increases could come largely by raising the fees of the users.

In 1946 a study was made by the Bureau of Agricultural Economics with respect to the proper allocation of costs of administration and improvement of Taylor Grazing Act lands between the range users and the public interest. The conclusion was reached that on the basis of benefits "the range users' share of Federal expenditures for grazing district lands in the fiscal years 1944 and 1945 would have been 70 percent of all costs for administration and 89 percent of all costs for improvements."[8] The study recognized that changing policies and expenditures would also change the ratios of private and public interests.

The principal criticism with respect to the Taylor Grazing Act lands appears to be the low fees charged the range users.

In table 18 it is seen that national forest fees have always been 2 or 3 to 5 or 6 times the grazing district fees. Some of the explanations offered for these wide differences in fees are the following:

1. The Forest Service reimburses permittees for range improvement expenditures, whereas permittees on grazing districts often contribute large sums for range improvement.

2. Forest service ranges in general have a greater value than grazing districts.

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[7] M. M. Kelso, *Current Issues in Federal Land Management in the Western United States,* Journal of Farm Economics, 29 (November 1947), p. 1309.

[8] *Allocation of Costs of Administration and Improvement of Taylor Grazing Act Lands between Range Users and Public Interest,* U. S. Department of Agriculture, Bureau of Agricultural Economics, 1947, p. 1.

TABLE 18.—*Comparison of Grazing Fees on National Forests and on Grazing Districts, Selected Years 1936–53*

Year	Average national forest grazing fees, 11 Western States (cents per head per month)		Fees in grazing districts, 10 Western States (cents per head per month)	
	Cattle	Sheep	Cattle	Sheep
1936	13. 05	3. 36	5	1
1941	15. 97	3. 85	5	1
1946	27. 00	6. 25	5	1
1947	31. 00	7. 50	[a] 8	[a] 1. 6
1950	42. 00	10. 75	8	1. 6
1951	51. 00	12. 25	12	2. 4
1952	64. 00	15. 25	12	2. 4
1953	54. 00	11. 75	12	2. 4

[a] Combinations of grazing and range improvement fees. For all years after 1946, the range improvement ee for cattle is 2 cents and for sheep, 0.4 cents .

Source: Forest fees—W. L. Dutton, "History of Forest Service Grazing Fees," *Journal of Range Management*, 6 (November 1953), p. 397; grazing district fees—Memorandum from the Director of the Bureau of Land Management to regional administrators, December 19, 1951, and the Federal Range Code for Grazing Districts, May 1953.

3. The forest user has an advantage in the large number of calves and lambs under 6 months of age (which graze free) over the grazing district user. (By fall and winter, calves and lambs going on the range are 6 months' old or more for which fees are charged.)

4. The stability of grazing operations on district lands is subject to upset because of the development of need for the land for higher uses—military, reclamation, etc.

The livestock industry argues, with much economic support, that in the long run the range user probably pays in one form or another the full value for the forage taken from the Federal range, regardless of the level of fees for the use of the latter. If the fees are below their full value, then to a large extent this difference will be capitalized into the value of the ranch making use of the Federal range. In this way, it is held, the range user is already being taxed on the value of the public grazing lands. At best, however, capitalization of public values is a long run, imperfect process.

The principal aspect of the "fee problem" today is whether to establish fees on (1) the cost of administration basis or on (2) the full value of the forage basis, and if the latter, how shall it be done.

National Parks and Monuments

The National Park Service is the only major land-management Federal agency which is not authorized to share its revenues generally with State and local governments. There is limited sharing in two

particular situations. Payments are being made on Grand Teton National Park acquired lands, and small amounts of revenue are shared through limited grazing on park and monument lands. Also, payments may be made out of Yellowstone National Park revenues for the construction and operation of schools for children of park employees.

The national park system consists of 175 areas in various categories totaling 21.9 million acres. Of this total, approximately 14.8 million acres are in the continental United States. In addition, the National Park Service administers for other Federal agencies 4 recreational areas and 1 historic site containing some 2,020,100 acres.

About five-sixths of the total park system acreage in continental United States is in the 11 Western States and consists chiefly of public domain lands with small percentages of purchased and donated lands. For the Nation as a whole, however, acquired park lands total slightly over 2 million acres.

Two aspects of the payment problem for park lands should be considered. One aspect pertains to making payments in lieu of taxes on acquired lands. The other one is the broader question of whether or not park revenues generally shall be subject to sharing with State and local governments.

With respect to the first problem, there is a definite measurable impact—the tax loss—when taxable land is acquired by purchase or donation for national park purposes. It appears that for acquired lands the equitable course of action would be to make payments based upon tax losses or to make payments equal to a low flat percent of acquisition cost or appraised value of the land.

The case for general revenue sharing is less clear than for payments on acquired land. The nature and location of parks and monuments, especially in the West where acreage is large, generally result in a rather light impact upon State and local governments. Some services, as education and police protection, must be provided of course. There is a substantial national interest in many parks and monuments and thus some payment may be justified, although it need not be large. There has been some interest in extending the national forest formula to the national parks.

A type of payment for parks that might be more appropriate than revenue sharing is a payment related to the ordinary-use values of similar adjacent lands. The most common uses would be timber cutting and grazing. The lands could be appraised in terms of these resources and then payments related to the revenues foregone by withdrawing these lands from such ordinary uses. A precedent for this approach has been established in the payment plan for the Superior National Forest in Minnesota. (See discussion of this plan, pp. 142–143.)

Two previous Federal studies, both published in 1943, recommended that payments be made on national park lands. The Federal Real Estate Board recommended payments only on acquired lands. "In order to give some compensation for loss of tax base on account of lands acquired by the National Park Service through purchase or donation, it is recommended that a contribution be authorized amounting to not more than 25 percent of receipts from visitors' fees allocable to these lands." [9]

The special Treasury Committee was more liberal and suggested "that payments be made in the manner proposed for national forest lands." [10] The latter proposal was to continue the 25-percent payments on a modified distribution basis with a minimum flat rate payment of 0.5 to 1 percent on the value of acquired lands.

Reference was made above to three types of limited payments now being made on park lands.

It is reported that in 1947 there were 1.7 million acres of Park Service lands being grazed with gross revenues of $13,777.[11] Limited livestock grazing is permitted not to exceed the lifetimes of the permittees or duration of their businesses in certain areas which were being grazed when the park or monument was first established. However, it is the general policy to eliminate eventually such use of park lands.

Prior to September 1948, funds to provide elementary and secondary education for children of Yellowstone National Park employees were raised by the employees. The act of June 4, 1948 (Public Law 604, 80th Cong.; 16 U. S. C. 40a–40c) authorizes payments from the revenues of the park to reimburse local school boards for operating costs and to participate in the construction of facilities. Payments under this authority have been as follows:

Fiscal year	Annual costs	Construction (school buildings)
1949	$13, 251	------------
1950	15, 655	------------
1951	15, 602	------------
1952	15, 800	$44, 130
1953	17, 599	7, 842
1954 (estimated)	22, 846	------------

The third category of payments, those made on Grand Teton National Park acquired lands, will be discussed separately in the following section.

[9] *Federal Contributions to States and Local Governmental Units with Respect to Federally Owned Real Estate,* H. Doc. 216, 78th Cong., 1st sess., p. 24.

[10] *Federal, State, and Local Government Fiscal Relations,* S. Doc. 69, 78th Cong., 1st sess., p. 289.

[11] J. R. Mahoney, *Natural Resource Activities of the Federal Government,* Legislative Reference Service, Library of Congress, 1950, p. 28.

Grand Teton National Park Acquired Lands

The controversial Jackson Hole National Monument was created by Executive order of the President in 1943. The nub of the controversy was the removal of some 50,000 acres of private land from the property tax roll of Teton County, Wyo. by a gift of the land to the Federal Government from John D. Rockefeller. Since the Federal Government already owned some 93.4 percent of the land in the county, this acquisition would leave only about 3.8 percent of the county area in private and State ownership. The county wanted perpetual payments equal to full taxes on the proposed acquisition.

In 1950 the original Grand Teton National Park and the Jackson Hole National Monument were consolidated to form a new Grand Teton National Park (64 Stat. 851; 16 U. S. C. 406d-3). Payments to compensate for tax losses on lands acquired after March 15, 1943—the date of the Presidential proclamation creating the Jackson Hole National Monument—were to be made as follows:

> The full amount of the taxes last levied on both land and improvements are to be paid for a period of 10 years. Thereafter declining annual payments will be made at the rate of full taxes less 5 percent of such amount each year for 20 additional years. Thus at the end of 30 years all payments shall cease. The act also provides that the amount of the payment in any year shall not exceed 25 percent of the fees paid by visitors to the Grand Teton National Park and to Yellowstone National Park.

The payments are made to the State of Wyoming for distribution to the county in which the lands are located. Payments under this act have been as follows:

Fiscal year:	*Amount*
1953	$48,627 (1950 and 1951 calendar year taxes.)
1954	25,761 (1952 calendar year taxes.)
1955 (estimated)	25,813 (1953 calendar year taxes.)

In view of the long controversy, this payment plan perhaps should not be disturbed except for one reason. If uniform legislation is adopted providing minimum payments on most categories of acquired lands, it would appear that equity would then require a reconsideration of, and possible change in the payment plan for Grand Teton National Park acquired lands.

Sales of Public Lands and Timber

Since Ohio became a State in 1803, the Federal Government has been paying to the public land States 3 to 5 percent of the net receipts from the sale of public lands within such States. Recently the Bureau of Land Management was authorized to sell unreserved timber and

other materials on public lands and to pay 5 percent of the net income derived therefrom to the States (43 U. S. C. 1187).[12]

Each public land State now receives 5 percent of the net proceeds of the sales of public land and materials within its boundaries. The balance of the net proceeds in the 16 reclamation States is credited to the Reclamation Fund.

The various acts, dating from March 3, 1803, to June 20, 1910, provide that this revenue be paid to the States to be used for education, roads, canals, irrigation and levees, internal improvements, or improving the navigation of rivers.[13]

Total payments from March 3, 1803, to June 30, 1953 to 29 States have been $17.4 million. Eight States, of which only one is a Western State, have received about $1 million each.

Although these payments have been increasing rapidly in recent years, the amounts are not large enough to be very significant to any State. Total annual payments since 1947 have been as follows:

Fiscal year:	*Total payments*
1947	$4,892
1948	9,703
1949	18,600
1950	28,753
1951	$59,890
1952	68,593
1953	66,655

In 1953, payments were made to 25 States of which 13 received less than $1,000. The maximum payment was $15,200.

There are no problems with respect to these payments. There is little, if any, impact upon State and local governments from the sale of the land or the timber thereon. The payment on timber sales might be regarded as a payment in lieu of stumpage taxes, but 5 percent is rather low for this type of tax. Perhaps all that can be said is that these payments add small amounts to the total payments because of the Federal ownership of the public domain lands.

Inasmuch as 95 percent of the net proceeds under these acts from the 16 reclamation States is credited to the reclamation fund, the States receive the benefit of most of the net proceeds from land and timber sales. In 1953, less than 8 percent of the payments were made to nonreclamation States.

Federal Power Commission Licenses

The Federal Water Power Act of June 10, 1920 (41 Stat. 1072, sec. 17; 16 U. S. C. 810) provided that 37½ percent of charges arising

[12] Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress) *Report on Taxes and Other In-Lieu Payments on Federal Property*, May 18, 1954, prepared for House Committee on Interior and Insular Affairs, Committee Print No. 23 (83d Cong., 2d Sess.).

[13] Rebecca L. Notz, *Federal Grants-in-Aid to States, etc.*, Legislative Reference Service, Library of Congress, p. 46.

from water power licenses for occupancy and use of national forests and public lands should be paid to the State in which the lands are located. The payment is made to the general fund of the State government.

Total payments were at their peak in 1931 when $159,134 was paid. During the past 6 years payments have been as follows:

Fiscal year:	*Total payments*	Fiscal year:	*Total payments*
1948	$25,537	1951	$27,013
1949	23,372	1952	27,609
1950	28,315	1953	33,531

In 1953, payments were made to 26 States with California receiving $15,647 of the total payments of $33,531 and with 5 other Western States receiving from $1,000 to $7,000 each. These 6 Western States received 92 percent of the total payments.

The amount of revenue received by most States under this act is not large enough ordinarily to be of much importance. There is very little impact upon State and local governments. The basis of payment is most likely the fact that the States own the beds and banks of navigable streams and have sovereignty over the use of the water except as to navigation. When there is development of private power projects subject to the licensing provisions of this act, such properties will be subject also to the regular taxation of the State and local governments. There are no known problems pertaining to this revenue-sharing provision.

Superior National Forest Lands in Minnesota

For the 500,000 acres of wilderness area in the Superior National Forest in Minnesota a special payment arrangement has been set up replacing the general revenue-sharing arrangements applicable to other national forests. A decision had previously been made to drastically curtail timber cutting in this area in order to preserve its unique primitive beauty and set it aside as a wilderness canoe area. As a result of this decision, counties would obviously have been deprived of revenues which they otherwise might have anticipated from customary timber operations in the national forests. To avoid this hardship a special law (62 Stat. 568, 16 U. S. C. 577g) was passed in 1948 authorizing flat payments on these lands instead of the customary national forest shared revenues.

The plan requires the annual payment of three-fourths of 1 percent of the fair appraised value of the forest lands which is determined at 10-year intervals by the Secretary of Agriculture with no appeal from his valuations. Payments are made to the State for distribution to the counties concerned.

Total annual payments have been as follows:

Fiscal year:	Total payments	Fiscal year:	Total payments
1949	$43,548	1952	$45,006
1950	45,122	1953	45,332
1951	44,810		

As an indication of the relative importance of these payments, detailed information for the fiscal year 1953 is given.

County	Acreage	Appraised value		Payments at three-fourths of 1 percent	
		Total	Per acre	Total	Per acre
					Cents
Cook	159,619	$1,698,047	$10.64	$12,735	7.98
Luke	180,013	2,052,233	11.40	15,392	8.55
St. Louis	159,600	2,294,013	14.37	17,205	10.78
Total	499,232	6,044,293	12.11	45,332	9.08

These payments appear to compare favorably with the national forest 25-percent fund payments. The average payment of 9.08 cents per acre for the wilderness area compares with an average of 6.2 cents per acre for the 25-percent fund payment for the North Central region of the national forests and an average of 10.9 cents per acre for all forest regions in 1952 (table 6 above).

The payment rate of three-fourths of 1 percent compares with an average effective tax rate of nine-tenths of 1 percent for all farm real estate in the United States for 1952 and with an average effective tax in Minnesota of 1.43 percent.[14]

Assuming that the valuations are fair appraisals, it would appear, in view of the light impact of these wilderness lands upon State and local governments in Minnesota, that the special payment plan for this area is a reasonably satisfactory one for both the counties and the Federal Government.

Reconveyed Coos Bay Wagon Road Grant Lands

The reconveyed Coos Bay Wagon Road grant lands are closely related both in history and location to the O & C lands. This wagon road grant included 105,240 acres. The road was constructed and title passed to the Southern Oregon Co.

Like the O & C lands, terms of the granting act were violated and 93,000 acres were reconveyed to the Federal Government by an act of Congress in 1919 (40 Stat. 1179). The company was compensated for the lands at the rate of $2.50 per acre and the delinquent tax

[14] *Taxes Levied on Farm Real Estate in 1952*, Bureau of Agricultural Economics, United States Department of Agriculture.

claims were paid. After reimbursement of these items, revenues were to be distributed as follows:

Twenty-five percent to Coos and Douglas Counties in lieu of taxes.

Seventy-five percent to the General Fund of the Treasury.

Payments to the counties were to be used for common schools, roads, bridges, and port terminals. Apparently the counties received no payments between 1919 and 1926.

Distribution of revenue under the above formula began in 1926 and was followed until 1939 when the distribution formula was changed. The 1939 act provided that 25 percent of the gross revenue should be available for the costs of administration and the remaining 75 percent was to be deposited in a special trust fund from which the two counties were to receive payments equivalent to the annual taxes on comparable private lands. Surpluses in the trust fund are paid to the Treasury at the end of each 10-year period.

Two significant differences between the Coos Bay Wagon Road and the O & C payment provisions may be noted:

1. In 1939 the former plan was changed from revenue sharing to full tax-equivalent payments, whereas in 1937 the O & C plan was changed from tax-equivalent payments to straight revenue sharing.

2. The Coos Bay Wagon Road grant lands have yielded a substantial surplus to the Treasury above costs of reconveyance, administration, and payments to the counties, whereas the surplus from the O & C lands through 1953 has been only nominal.

The financial record of the Coos Bay Wagon Road grant lands since reconveyance is approximately as follows:

	Fiscal years 1919–39	Fiscal years 1940–53	Total
Gross income	$2, 128, 127	$3, 247, 436	$5, 375, 563
Costs of reconveyance of lands to government	779, 684	33, 049	812, 733
Costs of administration		241, 553	241, 553
Payments to counties	337, 111	298, 187	635, 298
Net return to Treasury	1, 011, 332	2, 674, 647	3, 685, 979

Total annual payments to Coos and Douglas Counties in lieu of taxes on the 93,000 acres of reconveyed lands during the last 6 years have been as follows:

Fiscal year:	*Total payments*	Fiscal year:	*Total payments*
1948	$18, 730	1951	$29, 714
1949	[a] 20, 000	1952	29, 329
1950	27, 967	1953	[a] 25, 000

[a] Estimated.

Like the O & C lands, the Coos Bay lands were on the property tax rolls for many years. Hence, the minimum acceptable payment to

these counties will undoubtedly continue to be the full tax-equivalent—which has been the basis of payment since 1939.

Columbia Basin Project Lands

The Columbia Basin Project Act of March 10, 1943 (57 Stat. 19; 16 U. S. C. 835c–1) authorizes the Secretary of the Interior to enter into agreements with any State or political subdivision thereof to make payments in lieu of taxes on real property acquired and held under this act. The land is acquired and held pending completion of the irrigation projects to avoid increasing the land cost to the settlers through private speculation.

In 1948, contracts were entered into with four Columbia Basin counties: Adams, Grant, Franklin, and Walla Walla in Washington. The contracts provide for payment by the Federal Government of the lesser of these two amounts: (1) The amount of taxes which would have been levied on such settlement lands had they remained in private ownership, or (2) 50 percent of leasing revenues derived by the Government for such lands.

Payments have averaged from 75 to 80 percent of the taxes which would have been levied on the lands and have been made as follows: [15]

Fiscal year	Adams	Grant	Franklin	Walla Walla	Total
1949	$270	$3, 210	$1, 361	-------	$4, 841
1950	542	6, 190	1, 657	$35	8, 424
1951	374	4, 888	1, 983	72	7, 317
1952	389	5, 092	2, 109	72	7, 662
1953	1, 019	6, 335	7, 312	72	14, 738

Funds used to make the payments are the lease revenues from the lands or Grand Coulee power sales.

Perhaps the main criticism of this type of payment is that it is a negotiated rather than a mandatory payment. It would appear that all acquired conservation lands might well be subject to fairly uniform minimum payment standards. The particular agreements under the authority of this act appear to be generally satisfactory.

Oil and Gas Lands, South Half of Red River, Okla.

A special act of March 4, 1923 (42 Stat. 1448) and a joint resolution of June 12, 1926 (44 Stat. 740) provide that 37½ percent of

[15] Information supplied by the Bureau of Reclamation.

the royalties from oil and gas land leases from the south half of the Red River in Oklahoma is to be paid by the Department of the Interior to the State of Oklahoma. These payments are in lieu of State and local taxes on Kiowa, Comanche, and Apache tribal funds, and are to be expended in the same manner as the general Mineral Leasing Act payments for the support of public roads, public schools, or public educational institutions.

These special payments have fluctuated considerably, being much higher in the 1920's and early 1930's than in the last 15 to 20 years. Annual payments for a few selected years and total payments to 1953 are as follows:

Fiscal year:	*Amount*	Fiscal year:	*Amount*
1928	$66, 876	1950	$4, 125
1930	34, 303	1951	6, 164
1935	10, 464	1952	11, 790
1940	4, 671	1953	8, 803
1945	3, 400		
		Total to June 30, 1953	651, 242

Since these shared-revenue payments are in lieu of taxes on certain Indian tribal funds, it is problematical whether they are more or less than tax losses on exempt property or income. Mineral production is often subject to wide fluctuation with equally fluctuating payments. The whole problem of the impact of tax-exempt Indian property, Indian education and other necessary services upon State and local government is a complex one. Without all aspects of the problem being considered, little can be said about the adequacy of these special Red River mineral leasing payments.

Oil and Gas Lands Added to the Navajo Indian Reservation in Utah

Similar to the above provision is the special act of March 1, 1933 (47 Stat. 1418) which authorizes the payment of 37½ percent of the royalties from oil or gas produced on certain lands added to the Navajo Indian Reservation to the State of Utah. The payments are to be made to the State government and used for tuition of Indian children in white schools, roads across the added lands, or for the benefit of Indians residing on the reservation.

To date there has been no production of oil or gas in the Utah area of the reservation; consequently, no payments of any kind have been made to the State of Utah under this act.

While potential payments from any future oil and gas production on these lands are earmarked for benefit of the resident Indians, any such payments would help to offset the impact of these Indians and their general tax-exempt status on State and local governments.

Grazing Districts on Indian Lands Ceded to the United States

Section 11 of the Taylor Grazing Act (43 U. S. C. 315j) provides that 33⅓ percent of the fees received from grazing districts on Indian lands ceded to the United States shall be paid to the States in which the lands are located to be expended as the legislatures may prescribe for the benefit of the public schools and roads in the counties in which such lands are situated. This allocation differs from the general distribution of grazing district fees in two respects: 12½ percent of other fees are paid to the States and such payments are not earmarked.

Prior to August 6, 1947, 25 percent of the grazing fees on these lands were payable to the States for the counties.

Small acreage and small payments are involved in this program. Total payments for several recent fiscal years have been as follows:

Fiscal year:	*Amount*
1947	$43
1948	245
1949	130
1950	$188
1952	350
1953	661

Most of the discussion above of the Taylor Grazing Act revenue-sharing provisions applies to this part of the program also.

Alaska Game Licenses

The Alaska Game Law of January 13, 1925, as amended and superseded by the act of July 1, 1943 (48 U. S. C. 199 (k)), provides that the Alaska Game Commission, after retaining 10 percent of the proceeds of licenses and permits, shall pay 50 percent of the remainder of the proceeds to the Treasurer of the Territory to be expended through the Territorial school fund. Payments for a few selected fiscal years have been as follows:

Fiscal year:	*Amount*
1940	$20, 281
1944	25, 118
1948	48, 260
1951	$62, 466
1952	62, 316
1953	88, 788

The impact of the activities of the Alaska Game Commission upon the school system seems rather remote. The share of game licenses and permits would appear to be largely a miscellaneous source of income for the Territorial school fund.

Tennessee Valley Authority Properties [16]

All property of the Tennessee Valley Authority is exempt from State and local taxes, as well as all other taxes that might be imposed on its franchises and income. Provision is made, however, for payments to the States and local units in-lieu of taxes. Payments are made in each State in which the Authority conducts power operations and holds power property. The payments are equal to 5 percent of the gross proceeds derived from the sale of power, and are apportioned by a formula which gives equal weight to power sales and to power property. Thus the payments to any State depend on (1) the ratio of power sales within that State to total power sales, and (2) the ratio of TVA power property within the State to total TVA power property. If the amount thus apportioned to any State for any year is less than the former State and local property taxes on acquired power property, the difference is made up by a supplementary payment. Provision is made for payments equal to former county and district property taxes directly to counties affected, and the amounts so paid are deducted from amounts otherwise due to the respective States. Amounts equal to the former municipal property taxes are included in the payments to the States. Modifying provisions require payments of at least $10,000 to each State (including payments to counties therein).[17]

In the development of the legislation for TVA payments in lieu of taxes [18] it was argued in behalf of payments that there was a need for a tax or a substitute payment on hydroelectric power generated from water resources of the States and sold in the market. Payments to replace taxes levied on land acquired for reservoir purposes were advocated. Other arguments were based on the need for compensation to the States for taxes that they would collect from the electric power phase of the program if it were in private ownership.

The major arguments against payments were based on the danger of moving in the direction of State and local taxation of Federal property, the inconsistency of using Federal funds to develop an area and making payments in lieu of taxes on such developments, and the unfairness to the Federal taxpayers of making in-lieu payments to States without reference to the earnings of the project and without providing for the retirement of the Federal investment.

The payments-in-lieu provisions which are contained in section 13 of the TVA Act originally provided for payment to Alabama and

[16] This section is based upon TVA mimeographed publication, "Report on Section 13 of the TVA Act," December 1944, and *Report on Taxes and Other In-Lieu Payments on Federal Property*, May 13, 1954, prepared for House Committee on Interior and Insular Affairs by Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress), Committee Print No. 23 (83d Cong., 2d Sess.).

[17] 16 U. S. C. 831–831dd.

[18] 16 U. S. C. 831.

Tennessee of 5 percent of the gross proceeds from the sale of hydroelectric power. The 5 percent was payable to the State in which the power was generated. On the additional generation at mainstream dams attributable to reservoir dams constructed on tributary streams the 5 percent was divided equally between the two States.

By 1940, the provisions of the 1933 act were inadequate to meet the conditions presented by the extension of the TVA program into other States and by the purchase of important power properties from private utilities. Furthermore, experience had demonstrated that the place of generation alone was not a satisfactory basis for interstate allocation of a payment in lieu of taxes on a unified power system including a number of interconnected steam and hydro plants. These and various other issues came up for consideration when the States and counties became concerned over the prospects of tax losses arising from the purchase of the Tennessee Electric Power Co. properties in 1939.

The law as presently in effect has been set forth above, but it is to be noted here that by the terms of the act the 5 percent figure did not become effective until 1949. For the years 1941 to 1949, the percentage was graduated downward from 10 percent to 5 percent. The act further required the TVA to make a report by January 1, 1945, on the operation of its provisions. The general manager of the Authority in the previously cited report declared that the section "has proved generally successful in its operation to date. Special problems have arisen in connection with its administration and others will undoubtedly present themselves in the future. This, together with the general importance of payments in lieu of taxes by Federal agencies, indicates the need for continuing study of the subject." [19] More recently the TVA has expressed the belief that section 13 has operated, and is operating, as satisfactorily as any scheme of Federal taxpayments or in-lieu taxpayments is likely to operate, and that no change in it is desirable.[20]

Payments in lieu of taxes are currently running at the rate of approximately $3.6 million per year. A statement issued by the Tennessee Valley Authority and reprinted in the Congressional Record [21] gives a State-by-State breakdown of a comparison of former property taxes and tax equivalents paid by the TVA in fiscal year 1952. The brief text and the summary for all States combined is presented below:

The Tennessee Valley Authority during the fiscal year ended June 30, 1952, paid to 7 States and 135 counties a total of $3,036,207 in lieu of taxes as required under section 13 of the TVA Act, amended in 1940. During the same pe-

[19] Tennessee Valley Authority, mimeographed report on sec. 13 of the TVA Act.

[20] Letter from TVA to the House Committee on Interior and Insular Affairs, September 6, 1951.

[21] *Congressional Record*, Jan. 29, 1953, p. A346.

riod, according to figures just compiled from the contractors' annual financial reports to TVA, property taxes and equivalents paid to State and local units of government by the municipalities and cooperative associations distributing TVA power amounted to $4,333,240.

The combined payments, totaling $7,369,447, exceed by $4,135,655 the property taxes formerly paid on all reservoir lands and power production and distribution properties when they were in private ownership. In comparison with this excess, the State and local business taxes, such as income, franchise, gross receipts, hydrogeneration, gasoline, and motor-vehicle levies, applicable to the properties under private ownership, have been estimated at about $857,000.

The following table is a comparison of the State, county, district, and municipal ad valorem taxes formerly paid on reservoir lands and on power properties before their acquisition by the TVA and municipalities and cooperatives distributing TVA power, and the annual property taxes paid, and in-lieu payments made during the fiscal year ended June 30, 1952:

Comparison of Former Property Taxes With Ad Valorem Taxes and Tax Equivalent Paid by TVA and Its Distributor Contractors, Fiscal Year Ended June 30, 1592

Former property taxes:	
On TVA property: [a]	
All reservoir land: [b]	
State and municipal	$44,662
County and district	378,085
Total	422,747
Purchased power property:	
State and municipal	204,747
County and district	962,425
Total	1,167,172
On distributors' power property: [c]	
State and municipal	900,873
County and district	743,000
Total	1,643,873
Total former taxes	3,233,792
Tax and in-lieu payments:	
TVA payments:	
To States	1,917,047
To counties	1,119,160
Total	3,036,207
Distributor payments [d]	4,333,240
Total payments	7,369,447

[a] Average property tax levies for last 2 years properties were in private ownership, computed on basis of property held and operated by TVA on June 30, 1951.

[b] Reservoir land allocated to navigation and flood control as well as that allocated to power.

Indian Lands

The situation with respect to the tax-exempt Indian lands under the jurisdiction of the Department of the Interior is somewhat different from most of the other categories of public domain lands. If the Indian reservations were largely self-contained and operated by and for the Indians, there would be no special problem; but such is not the case. Here there is a substantial impact upon State and local governments, and particularly upon educational systems. There is an increasing tendency in the 11 Western States for the Indian children to attend the public schools. In fact, special Indian schools have been abolished in some States. In addition, lands are still being acquired for Indians, thus reducing the local tax base.

Another complicating factor in the picture is the situation of non-Indians operating substantial acreage of Indian lands.[22] Out of a total of 56½ million acres in 1944, 13½ million acres were non-Indian operated. Thus many non-Indians live on tax-exempt Indian lands, and, of course, require governmental services.

Against these debits may be set the following credits: Small amounts of unrestricted individual Indian lands are fully taxable, roads are built and maintained on Indian reservations which also benefit the public, and tuition payments are made in all of the Western States. In 1947–48, a total of $828,189 in tuitions was paid either in lump sums to 7 States under State contracts or indirectly to the school districts in the other 4 Western States. A special revenue-sharing act exists for certain Indian lands in Utah, but no payments have yet been made under this act.

In this connection it should be noted that the Hoover Commission, in its report of Indian Affairs, recommended:

1. That the Indians be integrated into the rest of the population.

2. That pending complete integration, the administration of Indian social programs be progressively transferred to State governments.

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[22] U. S. Department of Agriculture, Bureau of Agricultural Economics. *Federal Rural Lands*, Washington, D. C.: Bureau of Agricultural Economics, 1947, p. 34.

Tablenotes—Continued

[c] Property tax levies for last year properties were in private ownership, computed on the basis of purchased properties acquired by the several distributors to June 30, 1951.

[d] To determine amount of ad valorem payments shown here, social security levies and various business taxes applicable to cooperatives in some States have been eliminated from taxes and tax equivalents aggregating $4,671,924 charged to operations by TVA power distributors for fiscal year 1952. Most of the municipal distributors make payments-in-lieu of taxes only to the owner municipalities. However, the Chattanooga, Knoxville, and Nashville power boards and several other cities in Tennessee, as well as all the municipal power boards in Kentucky and Virginia, also make payments to the counties in which they operate.

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3. That comprehensive program planning have as its objective

a. The transfer of all tribal property to Indian owned corporations.

b. Termination of tax exemption for Indian lands.

This long-range program may or may not be eventually realized.

Recognizing the complexities of this problem, some[23] have suggested that the following steps could be taken immediately.

1. Inaugurate taxation or in-lieu payments on leases of lands to non-Indians and acquired lands.

2. Provide more adequate tuition payments for Indian children attending public schools.

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[23] National Education Association, *Status and Fiscal Significance of Federal Lands in the Eleven Western States,* 1950, p. 160.

Chapter 13

GENERAL EVALUATION OF REVENUE-SHARING ARRANGEMENTS

Underlying Philosophy of Shared-Revenue Payments

The Committee's study of Federal payments with respect to all the foregoing types of lands indicates the absence of any uniform set of principles defining the nature of the Federal Government's responsibilities to make payments to States or local governments by reason of its property holdings. Some properties are subject to payments; some are not. For the payments which have been authorized no common philosophy has been advanced to support them. Various rules reflect various considerations. The result is a motley array of payment arrangements: No payments at all in some cases, transitional payments, tax equivalent payments, fixed-percent-of-value payments, percentage of net receipts, and percentage of gross receipts, with the latter varying from 5 percent to 75 percent.

Two different philosophies may be identified which in varying degrees inhere in the various revenue-sharing arrangement. These may be called (1) the Federal custodial interest philosophy and (2) the tax equivalent payment philosophy. Conclusions with respect to the nature and appropriate amount of payments for any particular type of Federal land holding would vary as one or the other of these philosophies is adopted.

Federal Custodial Interest Philosophy

Under this philosophy, the Federal Government would hold and manage land for the benefit of the people of the State where the lands are located without any financial gain above the cost of stewardship. Many State and local officials entertain this view especially as to public domain lands. They hold that market prices should be charged by the Federal Government for the exploitation of the lands and its products with all revenues in excess of administrative costs being paid to the State and local governments. There is no shared-revenue

program which conforms perfectly to this philosophy, although payment plans for the O and C lands, the Taylor Grazing Act lands, and for mineral leases reflect a good deal of it.

A modification of this philosophy would treat as beneficiaries of the Federal land holdings the people in a general region not limited to the particular State where the Federal lands are located. The Taylor Grazing and Mineral Leasing Acts seems to reflect such a philosophy more than any other payment arrangement.

There are, of course, those who maintain that the Federal lands are held for the benefit of all of the citizens of the country, and national benefits from Federal holdings are cited in support of this view. Such a view would challenge any revenue sharing with State or local citizens on any Federal custodial interest theory.

Where revenues from Federal lands are shared with local governments or States or utilized for the benefit of particular regions, it is arguable that the percentage distributions of revenue among the different levels of government reflect the varying degrees of beneficial interest on the part of those different levels of government in the Federal holdings as determined by Congress. Actually, there is diversity of opinion as to the proper percentage to be allocated to States or local governments even where revenue sharing is endorsed as an appropriate payment arrangement. Many people accept the historically developed State and local shares of 25 percent and 37½ percent of gross revenues as satisfactory. Others, apparently thinking in terms of a Federal and State/local partnership, would recommend a 50–50 split of the gross or net revenue. Still others suggest a sharing in accordance with whatever the typical sharing ratio of landlord and tenants might be with some suggesting that such a ratio be 60–40 with the lesser amount going to the State or local government.

Tax Equivalent Philosophy

This philosophy would consider that shared-revenue arrangements should produce for States or local governments the amount which would be paid in property taxes by a nondelinquent private owner. Revenue sharing thus would be considered merely a convenient device for discharging the normal responsibilities of a local property owner. The Federal Government would be considered the same as any private owner of property. This philosophy encounters some difficulty with respect to public domain lands which have never been on local tax rolls.

Whatever philosophy may lie behind any particular revenue-sharing arrangement, it is clear that the tax equivalent amount is the standard most commonly utilized to evaluate the sufficiency of payments. It

is the customary yardstick to which local, State and Federal officials constantly refer in discussing the adequacy of any payments. And most people regard a tax equivalent payment as providing all the revenue that State and local governments are entitled to receive from Federal holdings. Some persons have suggested a variation of the tax equivalent standard to require minimum payments equal to the added costs imposed on local government by the Federal holding and maximum payments equal to full tax equivalents. Actual payments would be determined by negotiation at some point between these limits.

Many of the shared-revenue plans are explainable in terms of the tax equivalent philosophy. The tax equivalent as a standard of payment may be found in the programs involving Coos Bay Wagon Road grant lands, Grand Teton National Park acquired lands, Columbia Basin project lands, and Superior National Forest lands.

General Conclusions

1. In general, the existing revenue-sharing arrangements are operating satisfactorily. There is a general absence of criticism and agitation for change.

2. While uniformity in payment provisions throughout the various shared-revenue programs would seem desirable as a general proposition, the diversity in the various land use programs and in their historical setting suggests that absolute uniformity in payment provisions would produce disuniform results from the standpoint of equity.

3. In general, restrictions upon State or local use of the Federal payments to federally chosen objectives are unnecessary, productive of State and local dissatisfaction and in some cases positively prejudicial to good fiscal management by local governments. Furthermore, they are inconsistent with the maintenance of independent local self-government.

4. It appears generally desirable that Federal revenue-sharing payments be made to the general fund of the State governments—especially where the alternative is payments to great numbers of counties or local governmental units. In some cases the legislatures should have authority to determine the allocation and use of the revenue. In other cases, the States should be required to make payments to the counties where the Federal lands are located.

5. In general, the Federal Government should not acquire land by purchase, exchange, or donation without making adequate payment to compensate for local property tax losses unless the Federal acquisition serves primarily a local purpose.

6. In view of the general acceptance of and satisfaction with shared-revenue arrangements on Federal lands, especially those related to the

public domain, revenue sharing should be continued as the general basis for making payments to State and local governments by reason of Federal ownership of lands. However, in some situations where public policy requires a land utilization productive of almost no income from such lands, some supplementary or substitute payments are necessary if State or local governments are to receive any payments at all. The same observation may be made with respect to other lands which by reason of their physical condition are incapable of producing more than a low level of income receipts. In such cases, substitute or supplementary payments may be appropriate. Their amounts may be measured by tax equivalent standards to produce either full or partial payments in lieu of taxes.

7. For some lands unique factors indicate that payments in lieu of taxes are generally preferable to revenue-sharing arrangements.

Chapter 14

RECOMMENDATIONS

National Forests

Recommendation 9:

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 25-percent fund should be based upon a centered moving 5-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 10 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.

By and large, the present revenue-sharing arrangements on national forests are operating to general satisfaction. Neither practical nor theoretical considerations require replacement of this revenue-sharing arrangement with some other Federal payment procedure. The 25-percent share of receipts payable by the Federal Government appears generally fair and reasonable and should not be disturbed. The existing apportionment of income receipts among the States for the benefit of counties on the basis of area of national forests in the States and counties appears to be quite satisfactory. Other apportionment bases are alleged to accomplish a more equitable distribution of income receipts. Whatever validity can be ascribed to such a view, the Committee believes that maintenance of the existing, easily understood formula which offers the fewest apportionment complications is the most desirable course to follow. The present requirement that 10 percent of the income receipts originating in any State be expended by the Federal Government for forest roads and trails within that State should also be continued.

The recommendation that the 25-percent fund be computed on a 5-year average of income receipts instead of upon the present annual basis is designed to secure a greater stability in shared-revenue payments and thus facilitate budgeting problems of the recipient counties. Instead of an average based upon receipts for the past 5 years, a centered moving 5-year average is proposed.[1] This will avoid penalizing local governments in periods of rising receipts such as the present time.

Inclusion of the value of national forest timber exchanged for private or State-owned land within the income receipts subject to shared revenues will eliminate a feature of the present paying arrangements which has been most widely assailed by local governments as incompatible with equity and the general intent of the revenue-sharing arrangements. Of course, when timber and land are exchanged for timber and land, the value of timber transferred away from the Federal Government, should be reduced by the value of timber received by the Federal Government for purposes of calculating income receipts.

The elimination of the present restriction upon the local use of the Federal payments to expenditures for schools and roads will free local government to spend their shared-revenue receipts to meet locally determined needs. The result will not only facilitate better fiscal management by local governments but will return to them powers of local self-government which they should possess.

To meet the "acquired land" problem it is proposed that lands acquired for national forests be subject to the transitional payments described in *Recommendation 5* of chapter 8. Acquired lands are limited to those which at the time of acquisition were subject to taxes. Such transitional payments should be made to the States for the benefit of the counties in which the acquired lands are located and should be deducted from any national forest shared revenues payable from such lands to the State for the benefit of such counties. The transitional payments on acquired national forest properties just as for

[1] A 5-year "centered" moving average would involve a provisional payment and an adjustment two years later.

(*a*) As a *provisional payment* each county would receive annually 25 percent of gross receipts (apportioned as at present) averaged over the last 5 fiscal years. For example, at the close of fiscal year 1955, each county would receive 25 percent of gross receipts averaged over the years 1951, 1952, 1953, 1954 and 1955. The average may be called the provisional average for 1955.

(*b*) An *adjustment* would be made 2 years after the provisional payment to reflect a 5-year average of gross receipts centered about the year in question as a midpoint. For example, the year 1955 is the midpoint for the 5-year period—1953, 1954, 1955, 1956 and 1957. Comparison of the centered average and the provisional average for 1955 will then indicate whether an additional payment is due the county for that year or whether there has been an overpayment. In the latter event, the excess may simply be withheld from the current provisional payment to the county in question.

The method outlined will be simple in operation since the provisional average for any given year will be identical with the centered average for the second year previous.

other properties might be based upon tax equivalents as measured by the average taxes on the property in the last 2 years before the Federal acquisition.

Mineral Leases

Recommendation 10:
The Commitee recommends the continuation of the present arrangements for the distribution of the proceeds of mineral leases among the States with the following modifications:

***a.* The restriction upon the use of funds to expenditures for schools and roads should be eliminated.**

Considerable attention was given to the appropriateness of the present 37½ percentage of receipts distributed to the States especially in view of some local requests that this percentage be increased. The Committee concluded that any justification for increasing the percentage is dependent upon the weight given to the philosophical concept that the Federal Government holds mineral leasing lands for the benefit of the people of the State where those lands are found. The Committee is in no position to decide such a question. The present 37½-percent rate of distribution is adequate to replace whatever receipts the States would derive from taxation if the mineral lands were privately owned. The 37½-percent rate also bears some analogy to the rate of distribution in the case of national forest lands (25-percent distribution plus 10 percent expended on roads and trails) although there is no necessary relationship between shared revenues on national forests and those on mineral lands. These are, in general, *ex post facto* rationalizations of the present percentage. The legislative history of the Federal decision to establish that percentage at 37½ percent indicates that the decision resulted from a compromise and was rather arbitrary, though not for that or any other reason necessarily unjust. The fact that Congress determined to return to the States via the Reclamation Fund an added 52½ percent of the income receipts from mineral lands, reserving only 10 percent of those receipts for Federal administrative costs lends some credence to the claim that Congress has recognized the custodial philosophy with respect to mineral lands. Complete adoption of such a philosophy would suggest the propriety of returning to each State all Federal receipts from mineral lands within the State minus any Federal costs of administering the program. It may be claimed that in a general way this is now being done since the group of States receiving the benefit of the 52½ percent-contribution to the Reclamation Fund are generally the same States containing the mineral lands. However, the individual States do not share in the Reclamation Fund in direct proportion to

contributions to that fund from mineral leases within the individual States. This fact challenges the view that Congress has recognized the custodial philosophy. The Committee is unable to determine the extent, if any, to which the present revenue-sharing arrangements indicate Federal recognition of the custodial principle. If they are based upon any such principle at all, the existing arrangements may be interpreted as indicative of the extent to which Congress has been willing to recognize a State's fair share of receipts under the custodial theory. This congressional decision rests upon political determinations which this Committee is unable to evaluate. What is clear is that the present arrangements do adequately protect the States from any tax "losses" by reason of the Federal ownership.

In accordance with the Committee's general recommendation that Federal restrictions upon State or local use of their shared-revenue receipts be eliminated except where they may be specifically justified, the Committee recommends elimination of these restrictions on shared revenues from mineral leases. Limitations on use are not so burdensome where the recipient is a State rather than a local government operating within smaller budget possibilities, but the principle remains valid in any event. The present limitation of expenditures to roads and schools for mineral lease shared-revenue receipts is not particularly burdensome to the States, but it is an unnecessary Federal control over State funds which should be eliminated.

Oregon and California Revested Lands (O and C Lands)

Recommendation 11:

The Committee recommends that the present arrangements pertaining to the sharing of the revenues from the O and C lands with the counties in Oregon should be continued with the following modifications:

***a.* As a permanent policy**

(i) Fifty percent of the gross receipts from O and C lands, including the controverted lands, should be paid annually to the State of Oregon with the proviso that sums fully equivalent to taxes on the O and C lands should be paid to each of the counties containing O and C lands. Any excess revenue above the total tax equivalent payments to the counties should be allocated as the State legislature may provide.

(ii) As much as necessary of the remaining 50 percent of the receipts, including those from the controverted lands, should be used by the Federal Government to achieve a maximum sustained yield from the forests. Any receipts not so used should be paid into the General Fund of the Treasury.

(iii) The effective date of the permanent plan should be the date of completion of the timber inventories on O and C lands and the reassessment project by the Oregon State Tax Commission now in progress, but not later than 1960.

***b.* In the interim period before the permanent plan is put into effect**

(i) Fifty percent of the gross receipts should be paid directly to the State of Oregon with the proviso that all of the revenue should be paid to the counties containing O and C lands under the existing distribution formula.

(ii) The present temporary arrangement for providing access roads from O and C forest receipts should be continued.

While the history of legislation and other developments concerning the O and C lands lends some support to the theory that the United States interest in these lands might be a mere custodial one for the benefit of the people of the area concerned, it is more compatible with the idea that the Federal Government intended and the county governments expected that Federal payments equating taxes would be made on these lands. The original revestment act provided for 25 percent of shared revenues as payments in lieu of taxes after receipts had discharged Federal costs of compensating the former railroad owner and of paying off delinquent tax claims. Later in 1926, after receipts had not proved sufficient to discharge tax equivalent payments to the counties, over $7 million was appropriated to liquidate past deficiencies in the tax equivalent payments and a statute reaffirmed the continuance of future payments in lieu of taxes. When at the end of another decade, income from the O and C lands was still insufficient to satisfy tax equivalent payments to counties, new legislation was enacted increasing from 25 to 50 the percentage of receipts payable to counties "in lieu of current taxes" and providing for one-half of the balance to be paid to the counties after accounts had been settled for past deficiencies in tax equivalent payments and one-half to be used for forest administration and management costs, with unused portions to go into the old O and C funds to reimburse the Federal Government for past expenditures relating to O and C lands. The counties, then unaware of future developments, opposed the shared-revenue formula, clinging to the claim that the Federal Government should pay the equivalent of ad valorem taxes. This history clearly reveals a Federal intent and a local expectancy of Federal payments equating taxes. And although the pattern of annual payments has been irregular, total payments over the years have, in fact, generally equated the taxes which would have been received by the counties had the lands been in private ownership.

The Committee recommends that the permanent policy of the Federal Government be to authorize a system of payments for the benefit of the O and C counties which, over the years, will equate the taxes which the lands would yield in private ownership. The present statu-

tory provision of 50 percent of gross receipts "in lieu of current taxes" based upon present and probable future timber operations seems more than ample to secure to the counties tax equivalent payments. The Committee, therefore, recommends that, as a permanent policy, payment of 50 percent of the gross receipts from the O and C (including the controverted) lands continue to be paid. In keeping with the Committee's general recommendations that shared-revenue payments be made to the State, rather than to counties, the Committee makes a similar recommendation for the O and C lands. A condition should be attached, however, obligating the State to make annual payments to the O and C counties fully equivalent to taxes on the lands. Any excess over the tax equivalent amounts in the hands of the State from the 50 percent shared-revenue fund should be available for whatever use the State legislature considers appropriate. The State legislature might choose to place such excesses in a fund to discharge tax equivalent payments to O and C counties in future years when 50 percent of the O and C revenues may fail to produce sums equaling tax equivalents. In any event, the Federal Government should consider those annual payments exceeding tax equivalent amounts as a justification for maintaining the shared-revenue percentage at 50 percent in future years, when, and if, that percentage because of reduced timber operations fails to produce tax equivalent amounts.

The Committee proposes that the remaining 50 percent of gross receipts be used to whatever degree necessary to achieve a maximum sustained yield on O & C lands. Such expenditures for forest management and building of access roads, will, of course, help guarantee the sufficiency of the 50 percent shared-revenue payments to produce tax equivalent amounts and even more. The Committee believes that its proposal will meet with favor from most local, State, and Federal officials.

The above plan cannot be smoothly put into operation at the present time. When timber inventories on the lands and the reassessment project of the Oregon State Tax Commission are completed, the plan should be inaugurated. At the latest, it should be put into effect by 1960.

Until such time as the above arrangements are made, the Committee recommends an interim arrangement. Under this arrangement 50 percent of the gross receipts should be paid to the State of Oregon for transmittal to the O and C counties under the existing distribution formula. In addition, the present temporary arrangement for providing access roads from forestry receipts should be continued. These recommendations will generally continue existing practices, insure the O and C counties even more than tax equivalent payments, and aid in developing the forest for increased timber operations and resultant revenues until such time as the permanent system is installed.

Corps of (Army) Engineers Flood Control Lands

Recommendation 12:

The Committee recommends that the present arrangements whereby the Federal Government shares revenues from flood-control lands of the Corps of Engineers with States for the benefit of counties where those lands are located be continued with the following modifications:

***a.* The annual payments should be based upon a centered moving 5-year average of income receipts from such lands in each county.**

***b.* Receipts from mineral leases upon the flood-control lands should be separated from other receipts and payments for the benefit of counties from such receipts limited to 25 percent.**

***c.* For lands acquired since the cutoff date specified in *Recommendation 4*, the Federal payments to any county in any year should not be less than a payment in lieu of taxes calculated in accordance with the rules described in *Recommendation 3*.**

Revenue sharing is not an entirely satisfactory type of Federal payment for flood-control lands which for the most part are acquired lands. Income receipts are irregular, resulting payments have little relationship to tax losses, and revenue sharing payments take no account of local benefits from the Federal property. It does not appear, however, that Federal payments based upon tax losses with adjustments for local benefits are an altogether satisfactory substitute for the present arrangements. Tax equivalent payments on lands which have always been in the public domain would seem inconsistent with settled policies which are widely accepted. Furthermore, conversion from one system of payments to another often results in reduced payments to particular local governments and in some cases these reductions may be very significant. In balancing considerations the Committee has concluded that continuation of the present system of revenue sharing is the most desirable course to follow. This system, however, may be greatly improved by a few modifications.

The Committee recommends continuation of the present local share of revenue receipts at 75 percent. It is recommended, however, that the local share of receipts from mineral leases upon flood-control lands be confined to 25 percent. In effect, receipts from mineral leases would be separated from other receipts and the local distributive shares of 25 percent and 75 percent calculated for each fund respectively. It seems essential to limit the local share from the mineral receipts to avoid disproportionate windfall gains to counties upon which oil or other valuable minerals may be discovered. This recommendation will bring the local share of receipts from both mineral and nonmineral sources of flood-control lands in line with those recommended by the Committee for wildlife refugee lands.

The annual payments which are now often irregular should be made more stable. This can be accomplished by basing the payments made for the benefit of each county upon a centered moving 5-year average of income receipts from flood-control lands in each county.

Finally, the Committee recommends that for lands acquired since the cutoff date specified in *Recommendation 4*, the Federal payment to any county in any year be not less than a payment in lieu of taxes calculated according to the rules described in *Recommendation 3*. The effect of this provision is to build a floor beneath which shared-revenue payments to counties containing such lands cannot fall. In effect, for such lands, counties would receive either the shared revenues paid under the existing formula or a payment-in-lieu of taxes—whichever is more. This guarantee of a minimum payment is not merely transitional but enduring. For property acquired since the cutoff date specified in *Recommendation 4*, there is some justification for eliminating the shared-revenue arrangements entirely and replacing them with payments in lieu of taxes. However, some counties may under shared-revenue arrangements be securing a more generous return than payments-in-lieu would provide and it seems unnecessary to disturb such arrangements.

Boulder Canyon Project

Recommendation 13:

The Committee recommends that the present payments now being paid annually to Arizona and Nevada under the Boulder Canyon Project Adjustment Act of 1940 be continued within the framework of a system of payments in lieu of taxes proposed by the Committee in *Recommendation 3* for Federal power projects generally. The Committee therefore recommends:

_a._ As to power properties, Federal payments in lieu of taxes should be made in accordance with the rules described in *Recommendation 3*. All such payments made to the State or local governments of Arizona and Nevada should be deducted from the $300,000 now being paid annually to each of these States under the existing arrangements.

_b._ As to nonpower properties, these should be classified according to their use and the Federal payment obligation determined in accordance with the appropriate Committee recommendation for similar properties as set forth in chapter 8 of this report.

The Committee believes that properties of the Boulder Canyon project should be generally subject to the same payments in lieu of taxes as have been recommended generally for Federal multiple purpose power projects (see p. 62 of this report). The Committee does

not, however, wish to disturb the existing payment provisions which have been established by specific legislation. The above recommendation will achieve these two purposes.

Wildlife Refuges Under Migratory Bird Conservation Act

Recommendation 14:

The Committee recommends that the present revenue-sharing arrangements pertaining to wildlife refuges be continued with the following modifications:

a. Payments should be made to the States for the benefit of the counties in which such lands are located.

b. Payments from nonmineral receipts derived from such lands should be increased from 25-percent net to 75-percent gross.

c. Payments from mineral lease receipts derived from such lands should be limited to 25 percent of such receipts.

d. Payments from both the 25-percent and 75-percent funds should be based on a centered moving 5-year average of income receipts.

e. For lands acquired since the cutoff date specified in *Recommendation 4*, the Federal payments for the benefit of any county in any year should not be less than a payment in lieu of taxes calculated in accordance with the rules described in *Recommendation 3*.

f. The restriction upon local use of Federal payments to roads and schools should be eliminated.

In the Committee's opinion it is necessary to increase the local governments' share of the income receipts from wildlife refuge lands. To a considerable extent these are acquired lands and the present local share is generally inadequate to replace the loss of former tax revenues from such lands even though they are usually of low value. The Committee has recommended that the local share of nonmineral income receipts be increased from 25 percent to 75 percent and be calculated on a gross basis. This increase will make the local share of income receipts from the wildlife refuge lands equal to that from flood-control lands under the Corps of Engineers. In many respects the two types of lands are similar. From the standpoint of national versus local interest in each type of land the local share should be at least as great in the case of wildlife refuge lands as in the case of flood-control lands. The latter often serve a considerable local interest; the wildlife refuges rarely do. This percentage increase in the local share will not be of great significance to most governments affected, since almost half of the counties receiving shared revenues from wildlife refuges in 1953 received less than $100 and almost 80 percent received less than $1,000. A more liberal Federal recognition of its responsibilities as a local property owner will, however, considerably improve Federal-State-local relations in the relatively few counties involved.

No increase is recommended in the local share of income receipts on wildlife refuge lands attributable to mineral leases. The present 25 percent is regarded as adequate.

In order to stabilize the income of local governments from the wildlife refuge sharing arrangements, it is recommended that payments from both the 25-percent and 75-percent funds be based on a centered moving 5-year average of such income receipts. Increased stability in these payments will permit local governments to improve their budget and fiscal practices.

In keeping with the Committee's view that all Federal restrictions upon the local use of shared-revenue payments be eliminated and that Federal payments be made to the States for the benefit of inferior political subdivisions rather than directly to those subdivisions, specific recommendations to that effect are made concerning the shared revenues from wildlife refuges.

In order to meet the problem of tax loss on acquired lands, the Committee has made recommendations to assure payments in lieu of taxes on such lands. This payment would be available to any local government which has lost taxable lands through Federal acquisitions for wildlife refuges at any time since the cutoff date specified in *Recommendation 4*. The payments would be calculated by reference to the rules described in *Recommendation 3* for payments-in-lieu generally.

Submarginal Lands Held by the Forest Service

Recommendation 15:

The Committee recommends that present revenue-sharing arrangements be replaced by those contained in *Recommendation 9* for national forests.

The submarginal lands in land utilization projects are now administered by the Forest Service rather than by the Soil Conservation Service. It is the Committee's understanding that it is the present policy of the Department of Agriculture to dispose of those submarginal lands suitable for agricultural use and to integrate the remaining lands with the national forests. These facts suggest that submarginal lands might well be integrated for payment purposes with the national forest lands and the Committee so recommends.

Taylor Grazing Act Public Lands

Recommendation 16:

The Committee recommends that the present revenue-sharing arrangements pertaining to Taylor Grazing Act lands should be continued with the following modification:

a. Elimination of the present restriction to roads and schools now limiting local use of Federal payments from grazing districts on Indian lands ceded to the United States.

The principal factors responsible for the decision to recommend no important changes in the payment arrangements pertaining to the Western range lands were the following: (1) The general satisfaction that prevails in the West with respect to the provisions; (2) the fact that larger payments should be conditional upon at least a commensurate increase in the grazing fees; and (3) the fact that a very large portion of the current payments is not used for governmental purposes but is used for range improvement and thus largely for private benefit.

There are no limitations on State or local use of the Federal payments except for receipts derived from grazing fees on Indian lands ceded to the United States. Although the latter receipts involve only a few dollars and are of no significance, it is proposed that the restriction be eliminated in keeping with the Committee's general recommendation to eliminate use limitations in all shared-revenue programs.

National Parks and Monuments

Recommendation 17:

The Committee recommends that Federal properties in national parks and monuments remain generally exempt from taxation or any requirement of payments in lieu of taxes except as follows:

a. On lands acquired since the cutoff date specified in *Recommendation 4*, which were subject to local taxation at the time of acquistion, annual payments in lieu of taxes should be made for the benefit of the local taxing districts involved in accordance with the rules described in *Recommendation 3*.

b. Similar payments in lieu of taxes should be made on improvements such as federally owned lodges and hotels acquired or constructed since the cutoff date specified in *Recommendation 4*.

c. On lands dedicated to national park or monument purposes since the cutoff date specified in *Recommendation 4* which, at the time of such dedication, were subject to revenue-sharing arrangements, annual payments should be made for the benefit of the local taxing districts equivalent to the average shared-revenue payments received by such taxing districts from activities on the lands affected during the 10 years immediately preceding the dedication to national park and monument purposes.

d. All payments described herein should be made to the State for the benefit of the counties in which the lands are located.

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The Committee believes that it is generally desirable to keep the national parks and monuments free from any tax or payment-in-lieu obligation to local governments. The lands involved, for the most part, are part of the public domain which has never been subject to local property taxation. Local communities have grown up around this fact and there has been general acceptance of the Federal tax immunity with respect to these lands.

While national park lands serve a considerable local purpose in making attractive recreational areas easily available to local residents, it is clear that they serve primarily a national purpose rather than a local one. In this light it would appear appropriate for some Federal payment to be made to local governments with respect to lands which have not always been tax immune as part of the public domain. It is, moreover, clear that local taxing jurisdictions should be protected from loss of revenue arising from new Federal acquisitions for national park purposes. The Committee has, therefore, recommended that compensating Federal payments be made to local governments whose income receipts have been adversely affected by new Federal acquisitions. In keeping with the Committee's general recommendation of a 1939 cutoff date, payment would be limited to those lands acquired for national park purposes after that date. Where such acquisitions involve property which has been subject to local taxation, annual payments-in-lieu are recommended to be determined in accordance with the rules described in *Recommendation 3* for payments-in-lieu generally. Where the new acquisitions involve other Federal lands, which though not subject to local taxation, have been subject to shared-revenue requirements, an appropriate payment related to the past shared-revenue receipts should be made. This payment should be measured by the amount which the local government is accustomed to expect from the preexisting shared-revenue arrangements. For that purpose the Committee recommends that the amount be established on a fixed basis as the average of the shared-revenue payments received by the taxing districts from the lands involved during the 10 years immediately preceding the dedication of the lands to park purposes.

All payments should be made to the States for the benefit of the counties in which the lands are located.

Grand Teton National Park Acquired Lands

Recommendation 18:

The Committee recommends that the present payment arrangements be replaced by those contained in *Recommendation 17* for national parks and monuments.

Since the Committee has recommended the extension to all national parks of the principle already adopted for Grand Teton National Park, namely, that local taxing jurisdictions be protected from revenue losses arising from new acquisitions for park purposes, it seems clear that the payment arrangements effectuating that principle should be made uniform for all national parks. It has been proposed, therefore, that the present transitional payments on Grant Teton National Park lands be replaced by the permanent payments-in-lieu of taxes recommended for other national parks.

Sales of Public Lands and Timber; Federal Power Commission Licenses; Superior National Forest Lands in Minnesota; Reconveyed Coos Bay Wagon Road Grant Lands; Oil and Gas Lands, South Half of Red River, Okla.; Oil and Gas Lands Added to the Navajo Indian Reservation in Utah; and Alaska Game Licenses

Recommendation 19:

The Committee recommends that the present payment arrangements pertaining to these various lands and licenses should be continued with the following modification:

a. The restriction upon the State or local use of the Federal payments to roads and schools and other specific purposes should be eliminated from the following shared-revenue arrangements:

(i) Sales of Public Lands and Timber.

(ii) Reconveyed Coos Bay Wagon Road Grant Lands.

(iii) Oil and Gas Lands, South Half of Red River, Okla.

(iv) Oil and Gas Lands Added to the Navajo Indian Reservation in Utah.

(v) Alaska Game Licenses.

In general, all the above shared-revenue programs appear to be reasonably satisfactory and the Committee recommends no change in them except for those described in paragraph (*a*) where the restrictions upon State or local use of the Federal payments should be removed. This latter recommendation is in keeping with recommendations which this Committee is making for all shared-revenue programs generally.

Columbia Basin Project Lands

Recommendation 20:

The Committee recommends that the payments in lieu of taxes provided for these lands by the Columbia Basin Project Act of March

10, 1943 (57 Stat. 19; 16 U. S. C. 835 (c–1)) be replaced by the payments in lieu of taxes as described in *Recommendation 3*.

The main criticism of this type of payment is that it is a negotiated rather than a mandatory payment. Since the Committee has recommended general payment standards applicable to this type of land, there appears to be no reason why these lands should not be subject to such standard payment provisions.

Tennessee Valley Authority Properties

Recommendation 21:

The Committee recommends that the existing revenue-sharing arrangements be continued as payments in lieu of taxes on power properties. For nonpower properties the Committee recommends that they be classified according to their use and that payments with reference to them be determined in accordance with the applicable recommendations of chapter 8 of this report.

The explanation of the Committee's proposal may be found at pp. 62–63 of this report.

Indian Lands

The Committee considers that the problem of tax immunity pertaining to Indian lands is so closely related to the general Federal policy with respect to Indians that it is inappropriate to make a recommendation concerning the tax status of such lands apart from a reappraisal of the entire Federal policy respecting Indians. Such a comprehensive reappraisal has not been within the Committee's terms of reference.

SEPARATE STATEMENT BY CHARLES F. CONLON

I think that industrial and commercial installations owned but not directly operated by the Federal Government should be subjected to direct taxation under the generally applicable property tax laws of the States and local governments. Personal property incidental to or used in these installations should be similarly treated.

As to other properties, where the in-lieu approach is appropriate under the principle laid down in the Committee report, I think the United States should not be bound by local review procedures in those cases where the valuation originally submitted by the assessing authority is regarded as excessive.

Use of Tax Procedures

Everyone who has studied the matter of Federal payments to State and local government with respect to Federal property holdings concedes that the problem is a complicated one even though a good case may be made in favor of at least some payments for some properties. The complexities of the matter are evident from the various reasons advanced to support the case for payments, among which might be mentioned:

1. Where properties serve national or broad regional purposes, it is fitting that local costs associated with property ownership be a national and not a local cost.
2. Where acquisitions of previously taxable property are made the impact on local revenues caused by the removal of the property from the tax rolls may be very serious.
3. Continuation of tax exemption tends to prevent the disposition of Federal property which is suitable for private development and not necessary to be held for conservation or similar purposes.
4. Continuation of the tax exemption appears to lead to a constant increase in the amount of commercial and industrial property not subject to state and local taxes.
5. Tax-exempt status gives rise to discriminations and inequalities in the conduct of private business operations. For example, where Federal properties are used for commercial and industrial purposes and not operated directly by the United States, the private operator of the facility may enjoy a competitive advantage over others in the same business who operate privately owned facilities.

A consideration of these diverse reasons indicates that it is not feasible to devise one principle uniformly applicable to all situations involving Federal ownership. In one case the emphasis is on factors or circumstances which in another instance would be irrelevant. A consideration of the variety of Federal payment provisions presently authorized by Congress leads one to the same conclusion.

Despite the variety of factors involved in the Federal property situation, considered on an overall basis, it is possible, nevertheless, to single out an important group of these properties for which a well defined solution may be proposed. These properties are the industrial and commercial types described in the first paragraph of this statement, and the solution is the one there recommended—to subject them to the property tax. The reasons which persuade me to recommend that they be subjected to the tax process are as follows:

1. Tax exemption for this type of property means that important segments of economic activity are removed from the State and local tax base. The important role of Federal expenditures in the national production picture is the subject of frequent comment. Yet the fact that this activity conducted through private contractors may be insulated from State and local taxation often escapes attention.

This withdrawal of important segments of economic activity from the State and local tax base is not limited to the Federal ownership problem. The Federal ownership phase here under discussion is only one aspect of a much broader problem involving the whole range of excises applicable to business operations.

2. Since these properties are operated to all intents and purposes as private facilities by private managers and with private employees, the property tax approach is desirable, because it would apportion costs on the same basis as that applicable to similar privately owned property. The use of the property tax approach will not solve all problems attributable to Federal operations in a community, but it will at least eliminate any problems created solely by the exemption of Federal property from taxation, and it will do so on the same basis, i. e., the property tax basis, commonly accepted as appropriate for private property of a similar type.

3. The property tax approach reduces the potential administrative burden on the part of the property-owning agencies of the United States which the in-lieu method would involve. Under the property tax approach, existing property tax administrative machinery including established review procedures would be utilized. The availability of these procedures is certain because a tax in the conventional meaning of the term would be assessed against the properties. On the other hand, there are some technical difficulties to be faced in the implementation of the Committee's recommendation in this respect.

4. The recommendation that the Federal interest in property be

subjected to direct taxation under the circumstances described here is not as novel or drastic as it appears at first glance. Testifying before the Senate Committee on Armed Services in 1947, the then Under Secretary of War said that any property used for commercial purposes in any State, even though title is in the Government, is certainly property that should be taxed by local government. The property concerned here is of an industrial type comparable to similar privately owned and operated property. Many of the plants that would be subject to the property tax under this proposal were actually subject to State and local property tax laws when they were originally built by the Defense Plants Corporation. The policy of Congress which permitted the taxation of plants built by the Defense Plants Corporation is therefore a precedent for direct taxation of industrial and commercial properties. The specific tax coverage proposed here is broader than the original defense plant legislation, however, in that it would include inventories of raw materials, work in progress and machinery.

5. The actual detail of dealing with assessment would probably devolve on the private operators of the facility under Federal agency authorization and review procedures similar to those used for handling contractors' reimbursable expenditures. The contractors' management know-how would no doubt be as valuable in this respect as it is in connection with other aspects of the operation.

6. The treatment recommended here for industrial and commercial properties not directly operated by the United States, along the general lines previously sanctioned by Congress, would remove from the whole Federal property question that class of properties which seems to provoke most controversy—controversy occasioned probably because the case for exempting them is a comparatively weak one from the standpoint of equity. It is not inconceivable that were these properties set aside and treated like similar privately owned properties, the task of formulating appropriate standards for payments with respect to other types of Federal properties would be facilitated.

"Windfalls"

The fear has been expressed that the United States might find itself making windfall payments to local governments and, in effect, to present taxpayers if the tax process were used for commercial and industrial properties. If these windfalls to private taxpayers mean no more than lower taxes resulting from an increase in the total amount of property on the tax rolls, the United States has no complaint. If it is fair that national costs be borne nationally, then these taxes ought to be paid. That the United States has been something less than

prompt in recognizing its obligation is hardly a good reason for denying payments in the future.

It is true that there are instances where valuable property is located in one district while population and demands for expensive services are concentrated in another district. It has been suggested that a tax payment to the situs under such conditions would be a windfall. That tax payment would not be a windfall any more than tax payments under similar circumstances by private industrial and commercial operations would be windfalls. Such a situation indicates only that the property tax is not the perfect tax, a fact which is readily conceded.

Another type of windfall that has been mentioned is that which might occur if a valuable plant were built in an area where the population and the level of local government services were very low and where there was very little other property. It is said that even a low rate would produce a large sum in taxes, i. e., a windfall. The answer is that if expenditures were very low, then the Federal proportion of those expenditures would also be very low. There are many instances of districts where one or two taxpayers pay the bulk of the taxes. If industrial operations conducted for the United States give rise to such situations they ought to be met and decided on their merits. It has happened in the past that the location of large private plants or other installations in a previously sparsely settled or poor area has marked the beginning of an improvement in the range and quality of Government services. If the costs of such a development have to be raised from property owners, the Federal Government does not stand in any better position than a private owner of similar property so far as the general equities are concerned.

While no case is cited where the taxation of industrial and commercial property not directly operated by the United States would result in a tax payment to a local government that would be grossly disproportionate to the costs of governmental services available, it probably would make this direct tax proposal more acceptable if some type of safeguard were provided for the contingency of a windfall of that kind. It is, therefore, suggested that the proposal to subject industrial and commercial property not directly operated by the United States to State and local taxation be hedged with a proviso that if on application to the review board, the owning agency could demonstrate that the tax payment which would otherwise be made to the taxing district is grossly disproportionate to the costs of available governmental services, the authority to levy taxes on the property would be withheld. The in-lieu procedure would thereupon become effective as to that particular property.

The tax proposal outlined here is not intended to apply to stockpiled goods, finished products in storage nor in general to any personal property owned by the United States which is not incidental to in-

dustrial or commercial operations of the type previously described.

The Atomic Energy Commission properties appear to be *sui generis*. There is more or less complete governmental control over the subject matter. While many of the AEC operations are conducted by private contractors, the United States does pay the operating costs of the three principal AEC towns. On the whole, however, there is at least a *prima facie* case for applying the tax principle to AEC installations not operated directly by the Commission with the possible exception of the three installations just mentioned.

Review of Valuations—In-Lieu Approach

If the tax proposal outlined above is acceptable, there will still remain a variety of properties to be dealt with on an in-lieu basis along the general lines proposed in the Committee report. Many of these properties serve general governmental purposes in the conventional sense, and lack counterparts in private hands. Appraisal problems are likely to be more complex and a comparison of the valuation of similar properties in private hands unavailable. Then, too, the in-lieu method contemplates that the initially determined payment will be subject to offsets and additions in terms of costs of specific services.

These conditions represent significant departures from the property tax approach. Accordingly, it does not seem appropriate to bind the United States to use existing administrative and judicial procedures for reviewing local property tax assessments in those cases where Federal property-administering agencies think it advisable to question either the amount or legality of the initial tax equivalent figure. This figure is derived, under the Committee proposal, from established assessment and levy procedure in the taxing district.

It may readily be conceded that a tentative appraisal by tax officials would provide a useful starting point for the determination of an in-lieu payment tied to the standard of a tax equivalent. However, it is an entirely different thing to require the United States to accept this figure or to seek its modification through the usual property tax review procedure where the basic plan subserved differs fundamentally (because of the offsets and additions feature) from the property tax approach.

Aside from the objection on principle, there is a difficulty of a practical nature to be considered in connection with the use of property tax review procedure. The person who seeks a review must have the standing of a taxpayer and there must be an assessment in the usual sense of the term, to be reviewed. There is no real assessment under the in-lieu procedure, because the property itself is not subject to taxation. While some review procedures at the local level might

be availed of in an informal manner with the consent of all parties concerned, this would not be true with respect to judicial proceedings which must involve an actual case or controversy based on binding legal obligations.

Related Problems

The recommendations made here with respect to the taxation of industrial and commercial property owned but not directly operated by the United States necessitates reference to other aspects of the intergovernmental tax immunities problem. Since these cases involve private interests they are, strictly speaking, outside the scope of this Committee's inquiry. Nevertheless, if some types of personal property owned by the Federal Government are to be subjected to State and local taxes, then it seems appropriate for the Commission to review the matter of tax exemptions in favor of private persons under existing Federal law. The following are examples of such situations.

1. With the exception of housing projects covered by Public Law 364, Eightieth Congress, first session, privately owned property situated on Federal areas over which the United States has exclusive jurisdiction is not subject to State and local taxation. The Buck Act (4 U. S. C. 105–106) permits the imposition of State sales and income taxes with respect to private operations in those areas, but the act does not apply to property taxes.

2. The Soldiers' and Sailors' Civil Relief Act (54 Stat. 1186 as amended) provides some exemptions from State and local property taxes in favor of personnel in the Armed Forces.

3. Under the provisions of Revised Statutes of the United States, section 5219, tangible personal property of national banks is exempt from State and local taxation.

APPENDIX A.—*Area, in Acres, of Lands in Federal Ownership* [a]

[Federal Government land as percent of all land in the United States]

State	Total land area (acres)	Federal lands as percent of total	Federal Government land (acres)
Alabama	32, 689, 920	3. 36	1, 099, 722
Arizona	72, 691, 200	69. 43	50, 471, 920
Arkansas	33, 744, 000	8. 98	3, 031, 431
California	100, 353, 920	45. 74	45, 900, 157
Colorado	66, 538, 880	37. 35	24, 851, 005
Connecticut	3, 135, 360	. 50	15, 714
Delaware	1, 265, 920	3. 21	40, 603
District of Columbia	39, 040	33. 41	13, 043
Florida	34, 727, 680	8. 21	2, 851, 207
Georgia	37, 451, 520	4. 89	1, 831, 193
Idaho	52, 997, 120	64. 69	34, 285, 000
Illinois	35, 806, 080	1. 25	448, 992
Indiana	23, 171, 200	1. 45	336, 952
Iowa	35, 831, 040	. 29	105, 310
Kansas	52, 552, 320	. 61	323, 118
Kentucky	25, 669, 760	3. 69	946, 131
Louisiana	28, 913, 280	3. 64	1, 053, 161
Maine	19, 865, 600	. 72	143, 131
Maryland	6, 327, 680	3. 63	229, 392
Massachusetts	5, 060, 480	1. 04	52, 671
Michigan	36, 494, 080	7. 42	2, 709, 428
Minnesota	51, 205, 760	7. 46	3, 819, 665
Mississippi	30, 348. 800	4. 89	1, 484, 713
Missouri	44, 332. 800	3. 70	1, 641, 502
Montana	93, 642, 240	36. 54	34, 213, 875
Nebraska	49, 057, 920	1. 50	735. 224
Nevada	70. 273, 280	84. 71	59, 526, 959
New Hampshire	5, 775, 360	11. 82	682, 600
New Jersey	4, 814, 080	2. 00	96. 462
New Mexico	77, 767, 040	45. 62	35, 479. 713
New York	30, 674, 560	1. 17	358. 214
North Carolina	31, 450, 880	6. 13	1, 927, 562
North Dakota	44, 834, 560	5. 91	2, 651, 898
Ohio	26, 318, 080	. 98	259, 156
Oklahoma	44, 341, 120	8. 78	3, 891, 209
Oregon	61. 664, 000	52. 72	32, 510, 870
Pennsylvania	28, 828, 800	2. 05	590, 522
Rhode Island	677, 120	2. 79	18, 917
South Carolina	19, 580. 160	4. 66	912, 702
South Dakota	48, 983, 040	17. 23	8, 610, 766
Tennessee	26, 855, 040	6. 13	1, 646. 281
Texas	168, 732. 160	1. 33	2, 246. 572
Utah	52, 701, 440	71. 33	37, 592, 044
Vermont	5, 937, 920	11. 69	694, 184
Virginia	25, 535, 360	8. 14	2, 078, 615
Washington	42, 865, 280	34. 99	14, 998, 067
West Virginia	15, 417, 600	8. 36	1, 289, 062
Wisconsin	35, 017, 600	6. 41	2, 243, 003
Wyoming	62, 403, 840	51. 61	32, 207, 086
State total	1, 905, 361, 920	23. 89	455, 146, 726

[a] Committee print, Committee on Public Lands, House (81st Cong., 1st sess.), November 15, 1949, serial No. 22

APPENDIX B.—*Impact Upon Communities*

1. In Stratford, Conn., a large federally owned plant leased to a private operator produces airplane engines. It was previously privately owned and paid taxes but was acquired and greatly expanded by the United States Government as part of the national defense program. It is now tax exempt. Its appraised value exceeds that of all other properties in the town combined, $83 million as against $67 million. The population of the town has doubled since 1930 largely because of the increased employment (present 3,500) in this plant. The increased population has multiplied local government costs. A very small police department aided by local constables and a volunteer fire department have grown into full-time, fully equipped professional staffs of 47 and 43 men, respectively. Necessary expansion of sanitation facilities has cost about $1 million in recent years. School enrollment has increased from 5,270 to 7,200 in the last 7 years. The school budget has more than doubled from $878,331 to $1,812,747. Almost $6 million in new school construction was required in the last 5 years, and although the tax rate for school support has increased about one-third, the town's limited tax resources compel school operation at a per pupil cost of about one-eighth less than the State average ($195 compared to $245).—From the summary of information supplied by Harry B. Flood, Town Manager, Stratford, Conn., in a letter to the Commission on Intergovernmental Relations dated January 14, 1954.

2. "At the beginning of World War I, in 1917 the Government took title to the Hoboken Terminal, comprising 6 piers and 1,959,600 square feet (50.5 acres) of land having an assessed value of $12,269,000. During World War II the United States Navy took title to additional property consisting of 21.3 acres, together with improvements thereon, assessed for $7,227,000. The total assessed value of Government-owned property in Hoboken is $19,496,000. The total area is 57.33 acres, or 14.4 percent of the total land area of the city, and 14.462 percent of the total assessments.

"The additional tax burden imposed upon the taxpayers of Hoboken by the exemption of the pier property controlled and operated for commercial purposes by the Maritime Commission, from 1918 to 1949, amounts to $16,046,440.73."—Memorialization by the city of Hoboken, N. J. to the United States Maritime Commission for Hoboken's Acquisition of Title in Government-Owned Piers, April 22, 1949, p. 3, 5–6.

3. "The Federal Government owns approximately 6½ square miles of San Francisco's small area of only 44 square miles. Deducting State-owned property it would own 6½ square miles out of 28. Federal real property in San Francisco is valued at about $170 million with a minimum present tax loss to San Francisco of about $5 million, a severe burden to San Francisco and its other property owners who may pay higher taxes. In view of San Francisco's confined peninsula type location and its built-up condition, there is a serious shortage of property and therefore any property released by the Federal Government could be immediately used by private industries or home owners and would give rise to private payrolls and increased property tax returns."—Francis V. Keesling, Jr., *Hearings* (unpublished) before the House Committee on Public Lands on H. R. 1356, March 2, 1949, pp. 40–41.

4. A typical case of actual tax loss by interagency transfers of Federal property may be found in Adrian, Mich. In this city of 18,400 people the Defense Plants Corporation built a plant in 1942–43 and leased it to a private operator for production of critical war material. By statutory Federal consent the plant was subject to property taxes. Taxes were paid until 1952 when payments ceased because the plant had been transferred to the United States Government for use by the Air Force. The tax loss was $87,958 annually or 9 percent of city tax receipts representing $5 for every person in the city. The city furnishes all municipal services to the plant and its employees. The population growth, attributable in fair measure to the plant, has increased the volume of all municipal services and necessitated a bonded indebtedness of over $2,500,000 to increase school, water, and sanitation facilities.—*Hearings*, Subcommittee on Legislative Program, Committee on Government Operations (83d Cong., 2d sess.) on S. 2473 and H. R. 5605, June 2–3, 1954.

5. In Burlington, N. J., a Defense Plants Corporation plant, built in 1942, was subject to taxes. Three days before the 1950 tax year the plant was transferred to another Federal agency and immediately the city lost thereby 18.4 percent of its property tax base. Since that time the city has been defraying one-third of its current expenses out of surpluses accumulated during the war years and earmarked for city improvements, including school construction, now financially impossible to make.—Summary of interview between Mayor Anthony T. Greski and other city officials of Burlington, N. J. and Leslie A. Grant, Research Associate, Commission on Intergovernmental Relations.

6. On a broader State basis the effects of Federal property acquisitions since 1939 have been described as follows:

"In California, between 1939 and 1952, the Federal Government acquired 2,114,516 acres of land. It has an estimated assessed valuation of $73,051,269. Improvements thereon have an estimated assessed value of $244,921,255. The estimated yearly property tax loss to local government in California alone on Federal property acquired since 1939 is $16,927,107. Military and defense plants alone represent $280,569,910 in estimated assessed valuation that has been lost to local government in California. That loss in revenue became an additional tax burden to the property owners throughout the State even though the Federal acquisitions served a national interest. The inequitable tax burden thereby thrust upon particular taxpayers should be recognized as the prime responsibility of all who pay taxes to the Federal Government."—National Association of County Officials. "Why * * *" 1953. p. 6.

APPENDIX C.—*Provisions for Revenue Sharing Affecting Federal Properties* [1]

DEPARTMENT OF AGRICULTURE

National forests (in general).—Twenty-five percent of all moneys received from each national forest shall be paid to the State in which the national forest is located. The proceeds are to be used as the State legislatures shall prescribe for the benefit of the public schools and roads of the counties in which the national forest is located. The sums currently being paid to the States amount to approximately $18 million per year (16 U. S. C. 500). Although not strictly a share-the-revenue arrangement, but worthy of note nevertheless, is the provision under which 10 percent of the receipts from national forests are designated by Congress to be spent for the construction and maintenance of forest roads and trails within the national forests in the States from which such receipts are derived. The sums currently being expended amount to approximately $7 million per year (16 U. S. C. 501).

National forests in Arizona and New Mexico.—Such proportion of the gross proceeds of all national forests located within Arizona and New Mexico as the area of lands granted for school purposes bears to the total area of all national forests in each of the two States, shall be paid to each. The proceeds are to be paid into the common school fund of each State. The sums currently being paid in Arizona and New Mexico total approximately $130,000 per year (36 Stat. 562, 573, sec. 6, 24).

Submarginal land held by the Soil Conservation Service.—Twenty-five percent of net revenues received from the use of such lands (but exclusive of proceeds from sale of land) shall be paid to the counties in which such lands are situated. The funds are to be used for school and road purposes. The sums currently being paid to the counties amount to approximately $385,000 per year (7 U. S. C. 1012).

DEPARTMENT OF DEFENSE

Lands acquired for flood-control purposes by Corps of (Army) Engineers.—Seventy-five percent of moneys received from the lease of such lands shall be paid to the States in which such property is located. The proceeds are to be used as the State legislatures shall prescribe for the benefit of the public schools and roads of the counties in which the lands are located. The sums currently being paid to the States amount to approximately $850,000 per year (33 U. S. C. 701c (3)).

DEPARTMENT OF THE INTERIOR

Public lands sold, including timber, sand, and other materials thereon.—Five percent of the net proceeds from the sale of such lands, including materials thereon, shall be paid to the States in which located. The proceeds are designated for various uses including education, roads, and certain other internal improvements (31 U. S. C. 711 (17), 43 U. S. C. 391, 1187, and numerous acts applicable to single States). The sums currently being paid to the States amount to approximately $85,000 per year.

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[1] *Report on Taxes and Other In-Lieu Payments on Federal Property,* May 13, 1954. Prepared for House Committee on Interior and Insular Affairs by Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress), Committee Print No. 23 (83d Cong., 2d Sess.).

Public lands in Alaska reserved for school and other educational purposes.—The entire income derived from the sale of timber and disposition of such lands reserved for school or other educational purposes or minerals thereon shall be set apart as permanent funds of the Territory to be invested. The income from the investment shall be expended as the legislature may prescribe for the benefit of the public schools or the agricultural college and school of mines. The sums currently being added to the fund amount to approximately $800 per year (48 U. S. C. 353).

Public lands within grazing districts.—Twelve and one-half percent of the grazing fee receipts (sec. 3 permits) are paid to the States. The proceeds are to be used as the State legislatures shall prescribe for the benefit of the counties in which the lands are located. The sums currently being paid to the States amount to approximately $182,000 per year (43 U. S. C. 315b, 315i).

Grazing fee receipts from public lands outside grazing districts.—Fifty percent of the grazing fee receipts from such lands (sec. 15 leases) are paid to the States. The proceeds are to be used as the State legislatures shall prescribe for the benefit of the counties in which the lands are located. The sums currently being paid to the States amount to approximately $175,000 per year (43 U. S. C. 315i, 315m).

Grazing districts on Indian lands ceded to the United States.—Thirty-three and one-third percent of the fees from grazing districts on such lands are paid to the States in which such districts are located. The proceeds are to be used as the State legislatures shall prescribe for the benefit of the public schools and roads of the counties in which such grazing lands are located. The sums currently being paid to the States amount to approximately $200 per year (43 U. S. C. 315j).

Revested Oregon and California grant lands.—Fifty percent of the receipts of the Oregon and California land grant fund, plus the unearmarked portion of an additional 25 percent are paid to the Oregon counties in which the lands are situated. The funds may be used for the same purposes as other county funds. The sums currently being paid to the counties amount to approximately $4.8 million per year (39 Stat. 218, 50 Stat. 875–6).

Reconveyed Coos Bay Wagon Road grant lands in Coos and Douglas Counties, Oreg.—Up to 75 percent of the receipts of the United States from such lands may be paid to the counties. The amount actually paid shall be determined after appraising and assessing the lands and timber thereon. The same rate of taxes as is applied to similar private properties shall be applied to the assessed valuation. The funds shall be used for common schools, roads, highways, bridges, and port districts. The sums currently being paid to the counties amount to approximately $26,000 per year (53 Stat. 753–4).

Mineral lands.—Thirty-seven and one-half percent of the receipts in bonuses, royalties, and rentals under the Mineral Leasing Act, and rents and royalties from potash and potassium deposits are paid to the States and Alaska. The proceeds are to be used as the State or Territorial legislatures may prescribe for the construction and maintenance of roads, for the support of public schools or other public educational institutions. The sums currently being paid to the States and Alaska amount to approximately $18 million per year (30 U. S. C. 191, 275, 285, 286, 292).

Oil and gas lands, south half of Red River, Okla.—Thirty-seven and one-half percent of the oil and gas royalties from such lands shall be paid to the State in lieu of State and local taxes on Kiowa, Comanche, and Apache tribal funds. The proceeds are to be used by the State for roads and public schools. The sums currently being paid to the State amount to approximately $15,000 per year (42 Stat. 1448, 44 Stat. 740, 48 Stat. 1227, sec. 4).

Oil and gas lands added to the Navajo Indian Reservation in Utah.—Thirty-seven and one-half percent of the net royalties from such lands shall be paid to

Utah. The proceeds shall be used for paying the tuition of Indian children in white schools, or building or maintaining roads across the lands, or for the benefit of Indians residing on the reservation (47 Stat. 1418).

Boulder Canyon Project.—$600,000 of the revenues from the operation of the Boulder Canyon project are appropriated to Arizona and Nevada, each State receiving $300,000 (43 U. S. C. 617c, 618–618c).

Wildlife refuges under Migratory Bird Conservation Act.—Twenty-five percent of the net proceeds from the sale of wildlife refuge products and privileges are paid to the counties in which the refuges are located. The proceeds are to be expended for the benefit of public schools and roads. The sums currently being paid to the counties amount to approximately $350,000 per year (16 U. S. C. 715s).

Revenue from excise tax on firearms, shells and cartridges.—A sum equal to the revenue from the excise tax on firearm, shell and cartridge manufacture is distributed among the States. The proceeds are to be used for wildlife restoration, including management research. The sums currently being paid to the States amount to approximately $10 million per year (16 U. S. C. 669–669*i*).

Revenue from excise tax on fishing rods, etc.—A sum equal to the revenue from the excise tax on fishing rods, creels, reels, and artificial lures, baits and flies is distributed among the States. The proceeds are to be used for fish restoration, including research into fish culture and management, formulation of restocking plans, acquisition of breeding places, etc. The sums currently being paid to the States amount to approximately $2.5 million per year (16 U. S. C. 777–777k).

Alaska game licenses.—Fifty percent of the net proceeds from the sale of various game licenses and permits in Alaska are paid to the Territory. The proceeds may be expended through the Territorial school fund. The sums currently being paid to Alaska amount to approximately $62,000 per year (48 U. S. C. 199 (k)).

Federal Power Commission

National forests and public lands.—Thirty-seven and one-half percent of the funds derived from licenses issued by the Commission for the occupancy and use of such forests and lands shall be paid to the States in which they are located. The sums currently being paid amount to approximately $35,000 per year (16 U. S. C. 810).

Tennessee Valley Authority

Gross proceeds from the sale of power.—Payments shall be made to States and counties equal to 5 percent of the gross proceeds from the sale of power, in lieu of taxes on property, franchises and income. The payments shall be apportioned (*a*) one-half on the basis of power sales, and (*b*) one-half on the basis of the book value of power property. The payments to each State (including counties therein) shall not be less than the 2-year average of State and local ad valorem property taxes levied (immediately prior to acquisition) against power property purchased and operated by the Tennessee Valley Authority and against that portion of reservoir lands related to dams constructed by or on behalf of the United States and held or operated by the Tennessee Valley Authority and allocated to power. The minimum payment to any State is $10,000. The Tennessee Valley Authority shall pay directly to the counties sums (which will be deducted from the allocation to the State) equal to the 2-year average of county and other local ad valorem property taxes upon power property and reservoir lands allocable to power as determined above. The sums currently being paid to States and counties amount to approximately $3.1 million per year (16 U. S. C. 831).

APPENDIX D.—*Provisions for Payments in Lieu of Taxes on Federal Properties* [1]

ATOMIC ENERGY COMMISSION

Property previously subject to taxation which has been acquired by the Atomic Energy Commission.—Payments may be made by the Commission in amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District, or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment (42 U. S. C. 1809 (b)).

DEPARTMENT OF AGRICULTURE (*see also* APPENDIX C)

Lands acquired for certain public works.—Provision is made with respect to lands acquired in certain States for specified works designed to improve runoff and waterflow retardation, and soil erosion prevention. There shall be paid annually to the counties in which such lands are located a sum equal to 1 percent of the purchase price, or if not acquired by purchase, then 1 percent of their valuation at the time of acquisition (58 Stat. 905).

Superior National Forest lands in Minnesota.—There shall be paid to the State of Minnesota three-fourths of 1 percent of the fair appraised value of Superior National Forest lands in Cook, Lake, and St. Louis Counties, Minn. The State shall pay the sums received to the counties involved in conformity with the fair appraised value of such lands located in each county. The fair appraised value of the lands shall be determined by the Secretary of Agriculture at 10-year intervals and his determination shall be conclusive and final (16 U. S. C. 577g).

Farmers Home Administration property.—There are two types of property held by the Farmers Home Administration which are treated differently: (*a*) property held under the Bankhead-Jones Farm Tenant Act for tenant purchase loans and mortgage insurance (except property used solely for administrative purposes, and (*b*) all other property held under the act. While property described under "*a*" above is subject to direct taxation like all other privately owned property, provision is made whereby the Secretary of Agriculture may make payments in lieu of taxes on all other property (7 U. S. C. 1024).

Resettlement and rural rehabilitation projects.—Agreements may be entered into with a State or political subdivision or other taxing unit for payments in lieu of taxes on resettlement or rural rehabilitation projects for resettlement purposes constructed with funds allotted or transferred to the Resettlement

[1] *Report on Taxes and Other In-Lieu Payments on Federal Property,* May 13, 1954, Prepared for House Committee on Interior and Insular Affairs by Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress), Committee Print No. 23 (83d Cong., 2d Sess.).

Administration. Sums fixed in such agreements shall be based on the cost of the public or municipal services to be supplied for the benefit of such projects or the persons residing on or occupying such premises, but taking into consideration the benefits to be derived by such State or subdivision or other taxing unit from such project (40 U. S. C. 432–33, 50 App. U. S. C. 1355 (d)).

"Case-Wheeler Act" lands.—Agreements may be entered into with a State or political subdivision or other taxing unit for payments in lieu of taxes on lands being prepared for irrigation and return to private ownership under the Case-Wheeler Act. Sums fixed in such agreements shall be based on the cost of the public or municipal services to be supplied for the benefit of such project or the persons residing on or occupying such premises, but taking into consideration the benefits to be derived by such State or subdivision or other taxing unit from such project (16 U. S. C. 590z–8).

Department of the Interior (*see also* Appendix C)

Columbia Basin Project lands.—Agreements may be entered into with any State or political subdivision for payments in lieu of taxes with respect to any real property located on the Columbia Basin (Grand Coulee Dam) project. Payments are to be made out of funds derived from the leasing of lands. Sums fixed in the agreements shall not exceed the taxes that would be due if the property were not tax exempt (16 U. S. C. 835c–1).

Transitional in-lieu payments of $100,000 a year for 10 years are being made with respect to 8,350 acres of acquired lands on the Big Thompson project in Colorado (National Education Association, *Status and Fiscal Significance of Federal Lands in the Eleven Western States*, 1950 p. 161).

Grand Teton National Park lands recently acquired.—There shall be paid to the State of Wyoming for 10 years after acquisition of privately owned lands and improvements acquired after March 15, 1943, a sum equal to the full amount of annual taxes last assessed thereon by public taxing units in the county where the property is located. For each succeeding fiscal year for 20 years there shall be paid a sum equal to such full amount less 5 percent. Total payments may may not exceed 25 percent of the fees collected from visitors to the Grand Teton National Park and Yellowstone National Park. The sums so paid to the State shall be distributed to the counties where the lands acquired are located (16 U. S. C. 406d–3).

Reconveyed Coos Bay Wagon Road grant lands in Coos and Douglas Counties, Oreg.—The lands and timber in such reconveyed tracts shall be appraised and then assessed as are other similar properties, and payments in lieu of taxes shall be computed by applying the same rate of taxes as is applied to similar private property. Such payments may not exceed 75 percent of the receipts by the United States from such lands. The funds shall be used for common schools, roads, highways, bridges, and port districts (53 Stat. 753–4).

Boulder Dam (see Appendix C).

General Services Administration

Surplus real property.—Sums in lieu of taxes may be paid on account of real property declared surplus by taxpaying Government corporations, pursuant to the Surplus Property Act of 1944, where legal title remains in the corporation (40 U. S. C. 490 (a) (9)).

Low-cost housing constructed by United States Housing Authority.—Agreements may be entered into to pay annual sums in lieu of taxes to any State or political subdivision. The amount paid shall not exceed the taxes that would be paid upon such property if it were not exempt (42 U. S. C. 1413 (c)).

Slum clearance and community development.—Agreements may be entered into with any State or local taxing authority with respect to such property for the payment of sums which shall approximate the taxes which would have been paid if it were not exempt from taxation (42 U. S. C. 1456 (c) (3)).

Defense housing, etc., erected under the Lanham Act during World War II.—Payments in lieu of taxes shall be paid with respect to real property and improvements used for defense housing, defense public works, etc., erected under the Lanham Act. The payments shall be made out of rentals in an amount which shall approximate the taxes which would be paid to the State or political subdivision if it were not tax exempt. Such allowance as shall be considered appropriate shall be made for expenditures by the Government for streets, utilities, and other public services to serve such property (42 U. S. C. 1546).

Housing in critical defense housing areas.—Payments in lieu of taxes shall be paid with respect to real property and improvements acquired under the Defense Housing and Community Facilities and Services Act of 1951 in critical defense housing areas held for residential purposes or for commercial purposes incident thereto, whether or not such property is or has been held in the exclusive jurisdiction of the United States. The payments shall be made out of rentals in an amount which shall approximate the taxes and special assessments which would be paid to the State or political subdivision if it were not tax exempt. Such allowance as shall be considered appropriate shall be made for expenditures by the Government for streets, utilities, and other public services to serve such property (42 U. S. C. 1592g).

Housing in isolated defense areas.—Payments in lieu of taxes may be made with respect to real property acquired under the Defense Housing and Community Facilities and Services Act of 1951 for housing and community facilities needed in connection with isolated defense installations, or the defense installation served thereby. The payments shall take into consideration other payments by the Federal Government to the State and local taxing authorities, the value of services furnished by such taxing authorities and the value of any service provided by the Federal Government (42 U. S. C. 1593b)

Slum clearance and low-cost housing projects.—Agreements may be entered into with any State or political subdivision for payments in lieu of taxes with respect to slum clearance and low-cost housing projects. The sums paid shall be based upon the cost of the services supplied for the benefit of the project or persons occupying such premises, but taking into consideration benefits derived by the State or subdivision from the project (40 U. S. C. 422–3).

Foreclosed housing at educational institutions.—Agreements may be entered into with any State or local taxing authority for payments in lieu of taxes with respect to housing at educational institutions on which loans made by the agency have been foreclosed (12 U. S. C. 1749a).

TENNESSEE VALLEY AUTHORITY (*see* APPENDIX C)

APPENDIX E.—*Provisions for State or Local Taxation of Federal Properties*[1]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation.—The real property of the Commodity Credit Corporation shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property (15 U. S. C. 713a–5).

Farm Credit Administration supervised lending agencies.—The real and tangible personal property of the Central Bank for Cooperatives, banks for cooperatives, the Production Credit Corporation, and production credit associations, the real property only of Federal and joint stock land banks, Federal Farm Mortgage Corporation, national farm loan associations, and Federal intermediate credit banks, shall be subject to State, Territorial, and local taxation to the same extent as other similar property (12 U. S. C. 931, 933, 1020f (a), 1111, 1138c).

Farmers Home Administration.—There are two types of property held by the Farmers Home Administration which are treated differently: (*a*) property held under the Bankhead-Jones Farm Tenant Act for tenant purchase loans and mortgage insurance (except property used solely for administrative purposes and (*b*) all other property held under the act. While property described in "*b*" above is liable for payments in lieu of taxes, property in "*a*" is subject to direct taxation like other privately owned property (7 U. S. C. 1024).

Federal Farm Mortgage Corporation.—The real property of the Federal Farm Mortgage Corporation shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property is taxed (12 U. S. C. 1020f (a)).

DEPARTMENT OF THE INTERIOR

Columbia Basin (Grand Coulee Dam) project.—Any public lands acquired in connection with the Columbia Basin (Grand Coulee Dam) project shall be subject to legal assessment or taxation by any irrigation, reclamation, and conservancy district in the State of Washington in the same manner and to the same extent as privately owned lands (16 U. S. C. 835c–1).

DEPARTMENT OF JUSTICE

Alien Property Custodian.—Property transferred to the Alien Property Custodian shall not because of such transfer be exempt from State or local tax laws as applied to such property. Taxes shall be paid to the same extent, as nearly as may be deemed practicable as though the property had not been transferred. Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law is not affected (50 App. U. S. C. 36).

[1] *Report on Taxes and Other In-Lieu Payments on Federal Property,* May 13, 1954, Prepared for House Committee on Interior and Insular Affairs by Raymond E. Manning (Senior Specialist in Taxation, Legislative Reference Service, Library of Congress), Committee Print No. 23 (83d Cong., 2d Sess.).

Federal Credit Unions

Real and tangible personal property.—The real and tangible personal property of Federal credit unions shall be subject to State, Territorial, and local taxation to the same extent as other similar property (12 U. S. C. 1768).

Federal Deposit Insurance Corporation

Real property.—The real property of the Federal Deposit Insurance Corporation shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property (12 U. S. C. 264 (p)).

Federal Home Loan Banks

Real property.—The real property of Federal Home Loan banks shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property (12 U. S. C. 1433).

Federal Reserve Banks

Real property.—The real estate of Federal Reserve Banks shall be subject to State and local taxes (12 U. S. C. 531).

Federal Savings and Loan Insurance Corporation

Real property.—The real property of the Federal Savings and Loan Insurance Corporation shall be subject to State and local taxation to the same extent according to its value as other real property (12 U. S. C. 1725 (e)).

Home Owners Loan Corporation

Real property.—The real property of the Home Owners Loan Corporation shall be subject to taxation to the same extent according to its value as other real property (12 U. S. C. 1463 (c)).

Housing and Home Finance Agency

Foreclosed insured property.—Real property acquired in connection with insurance under the National Housing Act loans for slum clearance and community development, and loans for housing at educational institutions shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property (12 U. S. C. 1706, 1714, 1749a, 42 U. S. C. 1456 (c) (3)).

National Agricultural Credit Corporation

Real Property.—The real property of National Agricultural Credit Corporations shall be subject to State and local taxation to the same extent according to its value as other real property is taxed (12 U. S. C. 548 (d) (3), 1261).

National Banks

Real property.—The real property of national banks shall be subject to State and local taxation to the same extent according to its value as other real property (12 U. S. C. 548 (d) (3)).

Reconstruction Finance Corporation

Real property.—The real property of the Reconstruction Finance Corporation (as well as any public corporation wholly financed and managed by the Reconstruction Finance Corporation) shall be subject to special assessments for local improvements and shall be subject to State, Territorial, and local taxation to the same extent according to its value as other real property. Personal property is specifically exempted (15 U. S. C. 694j (a) (6)).

Veterans Administration

Foreclosed property.—Property acquired by the Veterans Administration under the law with respect to loans to veterans shall not be exempt from State and local taxation by reason of its acquisition by the Veterans Administration (38 U. S. C. 694j (a) (6)).

APPENDIX F.—*Excerpt from Statement of I. M. Labovitz, Labor and Welfare Division, Bureau of the Budget on S. 2473 and H. R. 5605.*

TABLE 1.—*Estimated Value of Properties Subject to Payments Under S. 2473 in the Fiscal Year 1954, Assuming Enactment on June 30, 1953*

SUMMARY

Section of bill	Gross costs (in thousands)
Sec. 4:	
(a)	$4, 881, 324
(b)	792, 869
(c) (1)	216, 218
(c) (2)	13, 135
Subtotal, sec. 4	5, 903, 546
Sec. 5, subtotal	5, 560, 297
Total	11, 463, 843

Section of bill and Federal agency	Number of properties or locations	Gross costs (in thousands)
Sec. 4 (a):		
Air Force: Personalty	----------	$2, 049, 000
Army: Personalty	621	642, 150
Navy: Personalty	----------	2, 164, 660
GSA:		
Real estate	1	973
Personalty	54	24, 541
Total, sec. 4 (a):		
Real estate	----------	973
Personalty	----------	4, 880, 351
Subtotal	----------	4, 881, 324
Sec. 4 (b):		
Air Force:		
Land	1	250
Construction		15, 600
Army:		
Land	21	2, 079
Construction		207, 116
Navy:		
Land	49	16, 700
Construction		244, 050
Personalty	----------	140, 900
GSA:		
Land	29	67, 973
Construction		
Personalty	272	98, 201
Total, sec. 4 (b):		
Real estate	----------	553, 768
Personalty	----------	239, 101
Subtotal	----------	792, 869

Section of bill and Federal agency	Number of properties or locations	Gross costs (in thousands)
Sec. 4 (c) (1):		
Air Force:		
Land	10	$2, 000
Construction		55, 682
Army:		
Land	9	153, 192
Construction		
Navy:		
Land	1	125
Construction		5, 219
Total, sec. 4 (c) (1):		
Real estate	----------	216, 218
Personalty	----------	----------
Subtotal	----------	216, 218
Sec. 4 (c) (2):		
Air Force:		
Land	2	250
Construction		7, 135
Navy:		
Land	1	1, 250
Construction		4, 500
Total, sec. 4 (c) (2):		
Real estate	----------	13, 135
Personalty	----------	----------
Subtotal	----------	13, 135
Sec. 5:		
Air Force:		
Real estate	21	104, 250
Personalty	310	2, 211, 550
Army:		
Real estate	92	520, 600
Personalty	616	1, 058, 450
Navy:		
Real estate	42	973, 047
Personalty	335	692, 400
Total, sec. 5:		
Real estate	----------	1, 597, 897
Personalty	----------	3, 962, 400
Grand total	----------	5, 560, 297

Recapitulation by section, and type of property:

Sec. 4 (a):	
Real property	$973
Personalty	4, 880, 351
Sec. 4 (b):	
Real property	553, 768
Personalty	239, 101
Sec. 4 (c) (1):	
Real property	216, 218
Personalty	----------
Sec. 4 (c) (2):	
Real property	13, 135
Personalty	----------
Sec. 5:	
Real property	1, 597, 897
Personalty	3, 962, 400
Entire bill, S. 2473:	
Real property	2, 381, 991
Personalty	9, 081, 852
Total	11, 463, 843

SECTION 4. *Consent to Taxation.*—Section 4 grants consent to State and local governments to impose their property taxes on defense production facilities which fall within three categories defined in the section.

This Federal property may be taxed to the same extent and in the same manner as if it were privately owned. The assessed valuation on which the tax is based is to represent no greater percentage of true value than is used by assessing authorities in valuing property generally for tax purposes within the taxing jurisdiction. Any special tax treatment accorded to other similar property is to be applied to this Federal property.

Assuming that S. 2473 had become law on June 30, 1953, it is estimated that Government property with a gross cost of nearly $6 billion would have been subject to property taxes under this section during the fiscal year 1954. More than $5 billion of this is personal property; about $780 million is real estate. (Real estate is defined for purposes of these estimates, as it usually is in property tax laws, to comprise both land and improvements.)

These totals cover the categories defined in three subsections of section 4:

1. Subsection 4 (a) refers to property acquired since June 30, 1950, in order to protect the financial interest of the Federal Government in connection with loans or contracts of insurance or guaranty or contracts for procurement for national defense.

In compiling estimates of the property that might be subject to payments under this provision, we find that estimates for subsection 4 (a) are composed almost entirely of progress payments made by the military departments on the current inventories of materials and goods in process in the hands of defense contractors. This qualifiies under the words, "property acquired * * * to protect the financial interest of the Federal Government in connection with * * * contracts for procurement for national defense." In addition, the General Services Administration reports that it has one parcel of real estate and a quantity of machine tools in the "machine tool pool order program." The total for subsection 4 (a) is $4.9 billion.

2. Subsection 4 (b) refers to property leased or sold by conditional sale to taxable persons. In this case, the Federal interest may be taxed if the defense production facility is not otherwise subject to State or local taxation. The information given to us by the military departments and GSA indicates that in the current fiscal year there might have been within this subsection 100 manufacturing plants subject to taxation as real estate, and substantial quantities of machine tools and other production equipment classified as personal property. The total estimated value of property under subsection 4 (b) is almost $800 million.

3. The third group in section 4, under subsection (c), comprises defense production facilities which have been taxable since June 30, 1950, or may become taxable hereafter but which would not continue subject to taxation if this consent were not given. This subsection refers primarily to properties which have been taxable, or may become taxable, because of their ownership by a taxable Government corporation, such as the Reconstruction Finance Corporation, but which are taken from the tax rolls by transfer of title, administration, or use to a nontaxable Government agency.

This provision of S. 2473 resembles in some respects the coverage of H. R. 5605, but the consent given in S. 2473 applies only if the property continues to be used as a defense production facility.

In effect, this provision directs that where consent has previously been given for the taxation of a particular Government-owned property, and it was subject to taxation after June 30, 1950, transfer of title or administrative jurisdiction among Federal agencies should not operate to withdraw the consent as long as the property continues to be a Federal defense production facility.

The compilations indicate that if S. 2473 had been law throughout the fiscal year 1954, the military departments might have been subject to taxes on 23 defense production plants under subsection 4 (c). Three of these were transferred to the departments within this fiscal year. The total for subsection 4 (c) is around $230 million.

In summary for section 4, the gross cost of nearly $6 billion which I mentioned earlier for properties under this section includes about $4.9 billion reported under subsection 4 (a) by the military services. Since this item represents the aggregate of progress payments outstanding on the current inventories of materials and goods in process in the hands of defense contractors, its amount might fluctuate substantially from time to time. For purposes of these estimates for fiscal year 1954, the figures are for June 30, 1953.

SECTION 5. *Payments on tax-exempt properties.*—Payments may be made under section 5 for defense production facilities which are not made subject to taxation by section 4. Expressly exempted by subsection (a), however, is any defense production facility acquired or constructed by the Federal Government prior to July 1, 1950. Also exempted is any defense production facility which, if in private ownership, would be tax exempt under the Constitution or laws of the State of location.

In general, the State or local governments will be eligible for annual payments on property subject to the provisions of this section. Subsection (b) provides, however, that a State or local government is not eligible if it discriminates against the defense production facility or its residents or workers or their families in the way in which it provides or withholds the usual governmental services.

The amount of each payment under section 5 is to be determined by the Federal owning agency in accordance with general rules and regulations to be issued by the Director of the Office of Defense Mobilization. The rules and regulations must require consideration of several enumerated factors, to the extent that each is pertinent to any particular claim for payment. Also, the general rules are to specify or recommend weights to be given to these factors.

The items to be considered may be characterized as representing mainly: (1) The amount of taxes that would be paid if the property were taxable; (2) additional expenditures which may be required of the local government for providing services to the defense production facility, and its workers or residents and their families; and (3) certain types of aid rendered by the Federal Government.

The bill provides that during the first 6 months after its effective date applications shall be accepted relating to the first tax year which begins after June 30, 1953. Therefore, in making estimates of properties that might be the subject of payments in the fiscal year 1954, we have assumed that the legislation was in effect from the beginning of the fiscal year.

From the data supplied to us by the property-owning agencies, it appears that in the fiscal year 1954 property with a gross cost of approximately $5.6 billion might have been subject to payments under section 5 of S. 2473. Of this total, $1.6 billion represents the gross acquisition and construction costs of 155 parcels of real estate in production facilities owned by the Army, Navy, and Air Force. This includes the production equipment in these plants. The remaining $4 billion is classified as personal property at more than 1,250 locations. Most of this value appears to be current inventories of materials and parts in installations of the military departments, but also within the $4 billion are some inventories of machine tools and other production equipment.

Estimated payments under S. 2473.—The aggregate gross cost of property possibly subject to S. 2473 is thus estimated at $11.5 billion, of which $5.9 billion would be made subject by section 4 to taxation like property in taxable private

ownership, and the remainder, $5.6 billion, would be made subject by section 5 to administratively determined payments roughly equivalent to ordinary taxes. Of the overall total, some $9.1 billion represents estimates for personal property, and $2.4 billion is the total for real estate.

It is difficult to translate these estimates of property costs into dependable estimates of the payments that would be made to local taxing authorities under this legislation. Gross cost is only one factor considered in assessing properties for tax purposes. Assessment practices vary widely, from township to township, from county to county, and from State to State. The ratios of assessed to full market values may differ for similar properties in a single assessment district. There are wide variations in a given county or State. No general countrywide compilation is available on this subject, excepting for farm real estate. Only a few States provide information from which average effective property tax rates can be estimated, and these are almost exclusively for real estate. There are no such ratios available for personal property, excepting perhaps on a special, localized basis.

Accordingly, it becomes necessary to resort to a rough-and-ready basis for estimating payments that might be made under S. 2473. From the fragmentary information available, it appears that the payments to be made on real estate would average at least 1 percent, and possibly as much as 1.5 percent, of the full market value. If the gross cost to the Government of $2.4 billion is taken as a rough measure of market value, the payments which would have been made in the fiscal year 1954 on account of real estate under this bill may be estimated at $24 to $36 million.

Personal property is less fully assessed than real estate, and most types of personal property are assessed at a smaller percentage of market value in nearly all the jurisdictions which tax such property. Consequently an estimate based on the range of effective rates assumed for real estate would almost certainly overstate the Government's liability for payments on personal property under S. 2473. Assuming an average effective rate of 1 percent, the payments on personal property valued at $9.1 billion would be $91 million.

Using these assumptions, and an effective date of June 30, 1953, the total of payments under S. 2473 may be estimated at $115 to $127 million for the fiscal year 1954. In addition, there would be administrative expenses, primarily in the field operations of the agencies which own and manage the properties. With a small allowance for central direction and rulemaking, the administrative expense has been estimated at $4.6 million for the first year and somewhat less in later years. By these necessarily rough approximations, then, the aggregate cost of S. 2473 is estimated at about $120 to $132 million at the present time; that is, for fiscal year 1954." [1]

[1] U. S. Senate Committee on Government Operations, 83d Cong., 2d sess., *Hearings before the Subcommittee on Legislative Program, on S. 2473* and *H. R. 5605* (June 2 and 3, 1954), pp. 48–51.

Appendix G.—*Estimated Expenditures Under S. 788 for Payments to State and Local Governments on Federal Real Property* [1]

The bill contains a cutoff date of January 1, 1946, which would in general preclude administratively determined payments upon properties acquired by the Federal Government before that date. The cutoff date does not apply, however, in the case of those properties which have since that date been subject to Federal payments of some sort. Neither does the cutoff date apply to those titles of the bill which authorize the payment of taxes, the payment of special assessments, or the supplementary system of payments in cases involving burdens not otherwise compensated.

Annual expenditures under the bill in the early years of its operation will be determined largely by the cutoff date selected. Federal property-owning agencies were asked to furnish cost estimates based on each of three possible cutoff dates—January 1, 1946, and also September 8, 1939, and July 1, 1950. For purposes of the estimates, the agencies were asked to assume property holdings as they actually were at the end of the fiscal year 1950, and also to assume that the bill was enacted several years earlier, so that all parts would have been in full operation in that fiscal year. The agency replies are summarized in the following table. The estimates are necessarily rough, since they depend on estimates of property values, local tax rates, and other factors. In addition, they omit some properties upon which payments might be made. No estimates are included for the supplementary system of payments authorized by title IV of the bill. Any estimates for that title would be highly speculative, since the supplementary system would not come into operation automatically upon enactment of the bill, but rather would be inaugurated at the option of the Commission and used only to the extent that experience proved such payments to be necessary. Because of these and other limitations upon the data, the figures should be interpreted as indicating only the general order of magnitude of expenditures under the proposed legislation.

The summary of expenditures in the attached table is based on information furnished by the agencies before insertion in section 101 (b) (4) of the first proviso, which sets a ceiling on amounts to be paid on account of Federal improvements and tangible personal property. Further information from the agencies indicates that with the 1946 cutoff date this proviso might reduce the total amount shown in the table for title I by something over $2 million. Although in the time available the agencies were not asked to furnish similar information based on the other cutoff dates, a rough estimate suggests that the ceiling might reduce payments by about $1 million with the 1950 cutoff date and by about $25 million with the 1939 cutoff date.

The amounts estimated by the Department of Defense are shown separately. They indicate a larger total of new expenditures under the proposed bill than for all other agencies combined.

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[1] Excerpt from Exec. Comm. No. 722, Regarding Payments in Lieu of Taxes, dated August 16, 1951. (83d Cong., House Committee Print.)

Estimated Annual Expenditures Under the Proposed Bill for Payments to State and Local Governments on Federal Real Property If the Act Had Been Effective During the Fiscal Year 1950 [a]

[In millions]

Basis of expenditures	Estimated expenditures based on cutoff date in—		
	1939	1946	1950
Title I (administratively determined payments):			
Department of Defense	$92.8	$6.3	$3.3
Other agencies	38.4	24.3	18.5
Less adjustment for limit on payments on certain improvements	−25.0	−2.0	−1.0
Total, title I	106.2	28.6	20.8
Title II (taxation):			
Department of Defense	20.0	20.0	20.0
Other agencies	1.4	1.4	1.4
Total, title II	21.4	21.4	21.4
Title III (special assessments):			
Department of Defense	([b])	([b])	([b])
Other agencies	.4	.4	.4
Total, title III	.4	.4	.4
Title IV (supplementary system of payments)	([b])	([b])	([b])
Administrative expense:			
Department of Defense	1.8	.8	.4
Other agencies	1.1	.8	.4
Total, administrative expense	2.9	1.6	.8
Expenditures under proposed bill:			
Department of Defense	114.6	27.1	23.7
Other agencies	41.3	26.9	20.7
Less adjustment for limit on payments on certain improvements (title I)	−25.0	−2.0	−1.0
Total, expenditures under proposed bill	130.9	52.0	43.4
Expenditures under laws superseded by proposed bill:			
Department of Defense	1.0	1.0	1.0
Other agencies	18.7	18.7	18.7
Total expenditures under laws superseded	19.7	19.7	19.7
Expenditures under proposed bill less expenditures under superseded laws:			
Department of Defense	113.6	26.1	22.7
Other agencies	22.6	8.2	2.0
Less adjustments for limit on payments on certain improvements (title I)	−25.0	−2.0	−1.0
Total, expenditures under proposed bill less expenditures under superseded laws	111.2	32.3	23.7

[a] Source: U. S. Bureau of the Budget, as republished in Hearing, Commission on Government Operations, U. S. Senate (83d Cong., 1st sess.) on S. 2473.

[b] Not available.

APPENDIX H.—*Memorandum of June 9, 1954*

To: Mr. Arthur Tanner, Chairman,
Study Committee on Payments in Lieu of Taxes and Shared Revenues,
Commission on Intergovernmental Relations.

FROM: I. M. Labovitz,
Bureau of the Budget.

SUBJECT: Estimates of payments under S. 2473 assuming various cutoff dates.

This memorandum supplies cost estimates for S. 2473, prepared in response to the request made by your Committee at its first meeting.

The accompanying table shows the gross cost of properties estimated as a base for payments during the fiscal year 1954 under each section of the bill, assuming it had been enacted June 30, 1953. It shows also the payments that would have been made on account of these properties if the average effective rate equalled 1 percent of the gross cost for all the properties and, alternatively, if the average effective rate for the real property equalled 1½ percent and for personalty, 1 percent. The Department of Defense and the General Services Administration, in presenting their estimates for S. 2473 to the Senate Committee on Government Operations, have assumed an average effective rate of 2 percent for all property, both real and personal, so that their estimates of payments for the bill as a whole are about twice the minimum estimate shown in this table with the 1950 cutoff date.

More detail about the estimates, using the cutoff date of July 1, 1950, is presented in the statement which I gave on June 2, 1954, at a hearing before the legislative subcommittee of the Senate committee. A copy of that statement (and related papers) is attached. It indicates the kind of property covered by the estimate for each subsection. It also indicates the major reasons for my assumption of the 1 and 1½ percent effective rates in computing probable payments.

The estimates are all necessarily rough, and those based on the earlier cutoff dates are especially crude because they are derived from aggregates shown in accounting and property control records which were not devised to yield this type of information in terms of the categories used in the bill.

Some deviations occur between figures presented to the Senate subcommittee by the Bureau of the Budget and those presented by the Department of Defense. The major difference is that our tabulation classifies under real estate in section 5 an inventory of plant equipment, with a gross cost of $778,047,000, which the Navy Department subsequently classified as personal property in testifying before the subcommittee. We have not been able to establish whether this is predominantly of the kind which assessors might consider real estate or is predominantly movable equipment. In any case, if all this equipment were considered personalty, the effect would be to reduce by about $4 million each of the maximum payments estimates for section 5 and the entire bill shown in the attached table. This change would apply under each of the cutoff dates.

Estimated Value of Properties and Payments Under S. 2473, in the Fiscal Year 1954, Assuming Enactment on June 30, 1953, and Using Cutoff Dates in 1939, 1946, and 1950

[In millions]

Section of bill and type of property	1950 cutoff: Gross costs of property	1950 cutoff: Payments, with average effective tax 1 percent on personal and— 1 percent on real	1950 cutoff: Payments, with average effective tax 1 percent on personal and— 1½ percent on real	1946 cutoff: Gross costs of property	1946 cutoff: Payments, with average effective tax 1 percent on personal and— 1 percent on real	1946 cutoff: Payments, with average effective tax 1 percent on personal and— 1½ percent on real	1939 cutoff: Gross costs of property	1939 cutoff: Payments, with average effective tax 1 percent on personal and— 1 percent on real	1939 cutoff: Payments, with average effective tax 1 percent on personal and— 1½ percent on real
Section 4 (a) — Real	$1			$1			$1		
Personal	4,880			4,880			4,880		
4 (b) — Real	554			554			554		
Personal	239			239			239		
4 (c) (1) Real	216			494			494		
Personal				45			45		
4 (c) (2) Real	13			13			13		
Subtotal, section 4:									
Real	784	$8	$12	1,062	$11	$16	1,062	$11	$16
Personal	5,119	51	51	5,164	51	51	5,164	51	51
Both	5,903	59	63	6,226	62	67	6,226	62	67
Section 5—Real	1,597	16	24	1,824	18	27	5,548–7,248	55–72	83–109
Personal	3,962	40	40	3,962	40	40	3,962	40	40
Subtotal, section 5	5,559	56	64	5,786	58	67	9,510–11,210	95–112	123–149
Entire bill—Real	2,382	24	36	2,886	29	43	6,610–8,310	66–83	99–125
Personal	9,081	91	91	9,126	91	91	9,126	91	91
Total	11,463	115	127	12,012	120	134	15,736–17,436	157–174	190–216

Prepared for Study Committee on Payments in Lieu of Taxes and Shared Revenues, June 8, 1954.

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