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STATEMENT OF

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BEFORE THE

Subcommittee on Intergovernmental

Relations and Human Resources

Committee on Government Operations

House of Representatives

ON

PAYMENTS IN LIEU OF TAXES FOR FEDERAL PROPERTY

Mr. Chairman and other members of the committee:

We are pleased to be here today to discuss with you the proposals to modify the scope of the Federal payments in lieu of taxes programs. Over several decades the Federal government has created more than 50 programs for sharing various types of Federal revenues with State and local governments generally in recognition of the immunity of Federal property from taxation. The earlier programs were designed to return to States and local governments all or part of Federal receipts from the use of property, such as timber sales, grazing fees, and mineral leases. More recent programs have been designed to use general revenues for making payments in lieu of taxes on open space Federal property. The proposals you asked us to discuss would expand this set of programs to cover most Federal real property, including military installations and industrial facilities, post offices, and office buildings, and perhaps parts of the public infrastructure, such as highways, dams, and harbors.

The GAO has undertaken three analyses relating to the open space land payment in lieu of taxes programs. 1/

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1--A report to the Congress entitled "Alternatives for Achieving Greater Equities in Federal Land Payment Programs," (PAD-79-64, September 25, 1979).

--A report to Congressman McKay and 11 members of the House Committee on the Interior and Insular Affairs about the above report (B-167553, dated July 24, 1980).

--A report to Congressman Jim Weaver entitled "Proposed Changes to the Payments in Lieu of Taxes Program Can Save Millions," (PAD-81-82, July 10, 1981).

These reports contain GAO's views on several of the open space land payment programs and funding alternatives. My earlier views on the ACIR's report entitled Payments in Lieu of Taxes on Federal Real Property are printed in that document. We have not analyzed the individual bills in detail. Therefore, in my remarks today I will try to outline our experience and methodology which may be useful to you in considering similar programs and then comment generally about the types of proposals you are addressing.

GAO study of selected open  
space land payment programs

We have examined the current operation and alternative approaches to the payments in lieu of taxes program created by P.L. 94-565 in 1976 and the 10 receipt sharing programs that are related to it. Generally, we found inequities and inconsistencies in the combined operation of these 11 programs.

--First, although the basic aim in enacting these programs was to compensate States and counties for lost tax revenues and the economic burdens of tax-exempt Federal land, as the programs have been designed and implemented they pay States and counties a percentage of the annual Federal receipts generated by the land rather than equivalent taxes that would have been paid if the land were privately owned. For six States, and their counties, for which we were able to make comparison, we estimated that in 1978 they received \$213 million in Federal land

payments, which was \$187 million, or about 87 percent, more than they would have received on a tax equivalency basis.

--Second, since the receipt-sharing percentages in these programs vary between 5 and 90 percent, and since the productivity of individual parcels of land varies, some local governments received large payments while others received little or no payment.

--Third, the States can influence the size of payments to their counties under P. L. 94-565, by the way they distribute the receipts they receive under the other programs.

--Fourth, administrative problems in dealing with these multiple programs and several thousand political entities have also added to the inequities and inconsistencies. The particular problems include inaccurate state reports on receipt distribution, inaccurate acreage data from Federal agencies, initial uncertainty about the deduction of payments to independent school districts and difficulty in making corrections for erroneous payments in prior years.

In view of these problems with the existing programs, we analyzed alternative approaches that would resolve these inconsistencies. The attached table outlines the criteria we used, the options we evaluated, and the results of our analysis.

## EVALUATING FEDERAL LAND PAYMENT OPTIONS

Options Criteria	Tax Equivalency	Fee Per Acre	Receipt- Sharing	Receipt- Sharing Plus Fee Per Acre	Fee for Service	Fiscal Im- pact of Fed- eral Owner- ship	Imposed Expenditures	Comparable Tax Burden
<b>1. Legislative Requirements</b>								
a. Plan related to program intent?	Yes	No	No	Somewhat	Somewhat	Yes	Yes	Yes
b. Congressional intent clear?	Moderately difficult	Very easy	Yes	Needs careful wording	Needs careful wording	Very difficult	Very difficult	Very difficult
<b>2. Uniformity</b>								
a. Payments determined uniformly?	Yes	Depends upon payment schedule	No	Depends upon payment plan	Yes	Yes	Yes	Yes
b. Consistent principles and procedures?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>3. Congressional Control</b>								
a. Budgetary control maintained?	Depends upon implementation	Yes	No	Receipt, sharing, no; fee, yes	Depends upon implementation	Probably not	Probably not	Probably
b. Manipulation of payments possible?	Depends upon implementation	No	No	No	Depends upon implementation	Probably not	Probably not	Probably not
<b>4. Federal Administrative Requirements</b>								
a. Data available on time?	Yes	Yes	Yes	Yes	Probably	No	No	Perhaps
b. Audit authority identified?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
c. Economical and easy to administer?	Probably costly	Very easy and economical to administer	Yes	Yes	Probably costly	No	No	No
<b>5. Recipient's Administrative Requirements</b>								
a. Advance payment estimates provided?	Very likely	Yes	No	No	Yes	No	No	No
b. Payments timely?	Yes	Yes	No	Receipt, sharing, no; fee, yes	Yes	Yes	Yes	Yes
c. Payments stable?	Depends upon stability of taxes	Yes	No	No	Depends upon services provided	Probably	Probably	Probably

SOURCE: U.S. General Accounting Office, *Alternatives for Achieving Greater Equities in Federal Land Payment Programs*, PAD-79-64, Washington, DC, U.S. General Accounting Office, p. 48, Table 10.

In reaching our conclusions, we emphasized the need for standards to measure program effectiveness and equity. We were particularly concerned with the relationship between the program's intent and the payment method. In our view,

<u>if the program's rationale is,</u>	<u>then the payment method should be</u>
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Tax immunity of Federal lands	Tax equivalency
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A business partnership between the Federal government and State and local governments	Receipt sharing
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To reimburse local governments for the costs incurred	Fee for services
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Fiscal impact of Federal ownership of land within a local jurisdiction	Impact aid payments
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A compromise to meet a payment obligation by a simple administrative method	Fee per acre
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Since tax immunity was the expressed congressional rationale given the greatest weight for the open space land payment programs we examined, we recommended tax equivalency as our most preferred method of payment for these programs.

Proposals to expand coverage of the payment in lieu of taxes program

The existing programs only cover a portion of the Federal real property. The ACIR's report shows that currently, the Federal government by statute enjoys property tax immunity for

775 million acres of land, 24,000 installations, and 2.6 billion square feet of floor area. The ACIR argues that since the Federal government does not contribute to the provision of State and local public services through the property tax mechanism but enjoys the benefits, an inequity is created and that this inequity--the failure to tax equals equally--is a violation of a standard public finance principle.

The ACIR report is a thorough and comprehensive document. A great deal of effort was expended to understand and present all of the arguments, both pro and con, with respect to this issue. Thus their basic recommendation that the Congress should authorize a program of payments in lieu of real property taxes to subnational governments deserves serious consideration.

#### Adding another program

The bills seek to redress the inequities by creating new programs extending the payment in lieu of taxes programs to most Federal real property with the amounts to be determined by the States and local governments on a tax equivalency basis. But they do not address other potential problems. For example:

--Three of the six proposed bills (H.R. 368, H.R. 324, and H.R. 407) contain no explicit statement limiting the amount to be paid under the program. The other three proposed bills (H.R. 928, H.R. 3314, and H.R. 3923) call for a prorata reduction in payments if sums appropriated are not sufficient. We believe it is particularly important to have a clearly defined spending limit rather than an open-ended spending program.

- The ACIR report suggests consideration of the concept that local authorities should have the "right" to tax federally owned property. The effect of this would be to create an open-ended unconditional grant, i.e., a program that has no budgetary limit and no congressional control with respect to how funds are spent. In short, State and local governments would set Federal expenditures by their taxing. We believe it is the Congress that should determine whether such payments are warranted and at what financial level. We prefer that the program rationale and the method of payment be stated explicitly in authorizing legislation and that the amounts to be paid be subject to positive action by the Congress through the appropriations process.
- Also, although the proposed bills specify general classes of property that would be subject to taxation, they provide no criteria for guiding implementors on making decisions on what should or should not be included in every class. For example, should local governments be allowed to tax structures like bridges and monuments? If so, valuation problems would certainly occur.
- Although the ACIR report states that the "valuation problem" is no obstacle to a payments in lieu of taxes program, we think a potential exists for some assessments to be inaccurate. Nonopen space real property includes a number of classes of property used for a wide range of

purposes; and for many of these there are no similar commercial properties to make a reliable assessment. Examples include the valuation of bridges, monuments, and military bases.

--In addition, all of the proposed bills specify that State and local governments would conduct appraisals. Only one of the bills (H.R. 928) states that an independent verification be made on these assessments. The potential for valuation problems are serious enough to warrant stronger controls over what constitutes acceptable assessment practices. Even though five of the six bills give authority to the General Services Administration to disapprove State and local government applications for payments in lieu of taxes, the procedures for disapproval and appeal could lead to protracted negotiation and litigation.

We believe an important additional issue which should be considered while you debate these bills is that taxing Federal property could affect decisions on the location of the Federal property either originally or its relocation. Local units could use tax incentives to attract Federal activities order to obtain the many financial benefits often associated with such property. I might call your attention to the furor usually associated with the closing of a military base or the move of a Federal unit to the suburbs or another State. The higher

taxes in urban areas could influence further movement to suburban and more rural areas.

Comprehensive uniform program

Your committee may want to go beyond consideration of these specific proposals to examine the entire network of shared revenue programs that have been patched together over the years.

In appraising the present set of policies and programs, we find incomplete coverage, inequities, inconsistencies, and administration problems. These result from the sequential addition of programs tailored to particular needs over several decades. The ACIR concluded that the enactment of a comprehensive uniform payment in lieu of taxes program to replace the existing ad hoc Federal payment programs would be the best approach. Some of the factors that we believe should be considered in addressing these programs comprehensively include the following:

--The Federal government's relationship with State and local governments are different from those of a private owner of property. State and local governments do provide services to Federal facilities, but the Federal government uses these facilities to provide for the common defense, to maintain the post offices and post roads, and other duties of the Federal government. We all recognize these factors, but we give them different weights in our arguments and analyses. This is a policy issue which the Congress will have to judge.

--The Federal government's ownership and use of real property usually has both benefit and cost to State and local governments. The concept of net benefits or cost, while difficult to implement, deserves some consideration, especially with respect to which programs should be replaced if a payments in lieu of taxes program is instituted.

--It is likely that no single payment method will be acceptable for all classes of Federal property and that a combination or mix of tax equivalency, receipt sharing, fees for services, etc. will be needed. This of course would be a very complex legislative task and it would require applying the type analysis we used on the 11 open space land payment programs to the entire network of existing and proposed programs.

In summary, we have found serious problems with the existing network of programs and we have reservations about adding another program or substituting a single program with a single payment method. A more workable approach might be to cover all Federal property, but in clusters of property with similar characteristics, treating each cluster uniformly.

This concludes my statement. My colleagues and I would be pleased to answer any questions you may have.