

Written Statement of

The Honorable Keven Stratton  
Representative of District 48  
Utah House of Representatives

Before the  
Senate Committee on Energy and Natural Resources'  
Subcommittee on Public Lands, Forests, and Mining

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Washington, D.C.

Chairman Cortez-Masto, Ranking Member Lee and distinguished members of the committee, thank you for holding today's hearing and for inviting me to testify in support of S. 1008, or the MORE PILT Act, a bill to require the Secretary of the Interior to develop a modeling tool, conduct a study, and issue reports relating to the tax equivalent amount of payments under the payment in lieu of taxes program.

I feel so very grateful to live and work and raise a family in the United States of America. As Americans, we are all so richly blessed by Divine Providence with a beautiful country to call home. My stewardship in the Utah Legislature includes serving as the Chair of the House Natural Resources, Agriculture, and Environment Standing and Interim Committees as well as the House Chair of the Federalism Commission. We are grateful for and cherish both the State and Federally managed public lands within the State of Utah. Utah has statutorily memorialized its commitment to be a premier public lands state. Over the last 10 years we have passed and implemented a comprehensive statutory framework to care for the public lands within the State of Utah. This framework is the result of over 100 bills and resolutions that have been passed, and include a State Wilderness Act, A State Monument Act, the Utah Public Lands Management Act, a separate and distinct Resource Management Plan for each of our 29 counties, and an overall Statewide Resource Management Plan.

With approximately 65% of the Land in Utah being non-taxable and federally managed – second in percentage only to the State of Nevada with over 80% non-taxable federally managed lands<sup>1</sup> - a concern that cannot be overstated is the impact of PILT on western states, communities and their citizens..

Utah appreciates every dollar of PILT money received, yet the harsh reality is that current PILT is a miniscule fraction of the fair property tax equivalency value, resulting in exponentially depressive impacts on funding for education and essential government services, including first responder services, the construction of roads, schools, and other infrastructure, and search and rescue services (see Joint Resolution On Federal Government Payments In Lieu Of Taxes, 2020 Sixth Special Session, State of Utah). In 1921, US Supreme Court Justice George Sutherland, stated to the New York Bar Association: “To give a man his life but deny him his liberty, is to take from him all that makes his life worth living. To give him his liberty but take from him the property, which is the fruit and badge of his liberty, is to still leave him a slave.”

Current PILT payments deny the States and their citizens the full benefit of the property within their borders thus the treatment of the citizens in the State of Utah, and surrounding States is not equal to the treatment of citizens that live in the states east of Colorado.

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<sup>1</sup> <https://crsreports.congress.gov/product/pdf/R/R42346>

Guided by “A Report to the President and to the Congress by the Public Land Law Review Commission” completed in June 1970, the State of Utah in 2018 passed two unanimous bipartisan pieces of legislation to commence a study to determine the fair taxable value of all federally managed public lands in the State. The focus of this Utah study, completed in the spring of 2020, is consistent with Congressional Legislative intent underlying federal PILT and FLPMA legislation and in like manner the intent of S. 1008 being considered by this Committee today.

Let me emphasize some foundational points to the policy direction and legislation under consideration today.

Prior to the passage of FLPMA, as the federal government was transitioning away from disposing of federal land, a report entitled “One Third of the Nation’s Land” was issued by the Public Land Law Review Commission with recommendations for policy guidelines for the retention and management or disposition of Federal Lands. That Commission made multiple recommendations including “...that the interests of all concerned should be protected by a continuing program of periodic valuation of Federal lands... Federal lands would have to be valued expressly for tax purposes...”<sup>2</sup> The Commission continued by stating that “ At the operational level, representatives of the Federal Government, jointly with state and/or local governments, should agree on a valuation for tax purposes **consistent** with assessment of privately owned lands in the area.”<sup>3</sup> These valuations would be made for the equitable compensation of states.

As the commission weighed the consideration of costs in the federal budget, the report states that “[T]he Commission... believes, however, that the total cost [of valuing federal lands] is irrelevant if fairness requires the compensating of state and local governments for protecting the national interest in lands considered to warrant retention in Federal ownership. It is a proper cost to be borne by all Federal taxpayers.”<sup>4</sup>

The Congressional Research Service stated that, “The Payments in Lieu of Taxes (PILT) Act (31 USC 1601-1607) was passed October 1976, thus promoting the Public Land Law Review Commission’s recommendation of nearly a decade earlier. ...PILT held the promise of both stabilizing Federal payments to counties and improving prospects for tax equivalency.”<sup>5</sup>

However, since the inception of the program, PILT payments to counties have been only a small fraction of what local governments would otherwise generate through property taxes, depriving

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<sup>2</sup><https://leg.mt.gov/content/Committees/Interim/2013-2014/EQC/Meetings/September-2013/one-third-of-nation.pdf>

<sup>3</sup>Ibid

<sup>4</sup>Ibid

<sup>5</sup>[https://www.fs.fed.us/rm/pubs/rmrs\\_qtr036.pdf](https://www.fs.fed.us/rm/pubs/rmrs_qtr036.pdf)

rural communities in Western states of crucial funds that support education, essential governmental services, and other critical needs.

This has not been PILT's only shortcoming. The Congressional Research Service states that, "No precise dollar figure can be given in advance for each year's PILT authorized level. Five factors affect the calculation of a payment to a given count: (1) the number of acres eligible for PILT payments, (2) the county's population, (3) payments in prior years from other specified federal land payment programs, (4) state laws directing payments to a particular government purpose, and (5) the Consumer Price Index as calculated by the Bureau of Labor Statistics. If the appropriation for PILT funding is less than the full authorized amount, each county receives a prorated payment."<sup>6</sup> This quote highlights two important facts: firstly, the equation used to determine PILT payments has nothing to do with property values; and secondly, recipients of PILT have no certainty even with the fraction of funding that they do receive.

For those units of local government that contain major cities, the disparities become even larger. In FY2016, the counties in which Sacramento, Chicago, and Cleveland are found, as well as the District of Columbia, all received PILT payments, although the property tax on similar nonfederal lands likely would have been substantially greater. PILT payments are by no means acting as an equivalent to property tax payments.<sup>7</sup>

In fact, a 1999 USDA study concluded that, "To generate an aggregate national tax equivalency, a fully funded PILT would have to be increased by a factor of almost 3-½ times."<sup>8</sup> Since 1999 we all understand the value of real property has increased at a rate dramatically greater than the modest increase of PILT payments.

The Utah Legislature has seen success in overseeing the development of a federal land valuation model, together with the review and analysis of applicable studies and materials pertaining to the property tax equivalency of PILT. This study has led to increased understanding of the actual value of these lands.

There are 615,000 acres of Forest Service and BLM lands either entirely contained within Utah city boundaries, or located within one mile of city boundaries. The federal PILT payment for these in-held acres is \$1.4 million, but the equivalent property tax for this land exceeds \$358 million per year, and the fair market value of these lands is \$56 billion according to the study performed by the state. If the federal government decided to apply these in-held lands to community planning and recovery, as it did for more than 70,000 acres in and around Las Vegas,

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<sup>6</sup> <https://www.crs.gov/Reports/RL31392?source=search&guid=e5e8388e1def476f8e48e86c11291232&index=0>

<sup>7</sup> Ibid

<sup>8</sup> [https://www.fs.fed.us/rm/pubs/rmrs\\_qtr036.pdf](https://www.fs.fed.us/rm/pubs/rmrs_qtr036.pdf)

Nevada over the past two decades (pursuant to the Southern Nevada Public Lands Management Act), the five percent (5%) attributable to the support of Utah schools under our Statehood Enabling Act, exceeds \$2.8 billion.<sup>9</sup>

These are critical insights federal decision makers need to be aware of on a national scale if PILT payments are ever to be equitable. Senator Lee's bill would cause such a study to be conducted for all states in the Union so we can all be aware of what value the federal lands within our states hold. Thank you for your time and the opportunity to testify on this legislation. I look forward to answering your questions.

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<sup>9</sup> <https://le.utah.gov/interim/2020/pdf/00002567.pdf>