

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-221498.2

February 3, 1986

The Honorable Dick Cheney
House of Representatives**DO NOT MAKE AVAILABLE TO PUBLIC READING
FOR 30 DAYS**

Dear Mr. Cheney:

RELEASED

This is in response to your January 14, 1986 letter, cosigned by Senator Alan Simpson and Senator Malcolm Wallop, concerning the applicability of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) to payments made to states from royalties collected as a result of mineral development activities on federally-owned lands. You requested that we determine such payments to be exempt from sequestration under the Act, based on the "intragovernmental fund" exemption of section 255(g).

The January 15, 1986, OMB/CBO report to the Comptroller General included the account entitled "Payments to States from Receipts under Mineral Leasing Act" as subject to sequestration under Public Law 99-177. 51 Fed. Reg. 2012 (January 15, 1986). Because we could find no legal basis under the Act for exempting this account, we concurred with the OMB/CBO determination.

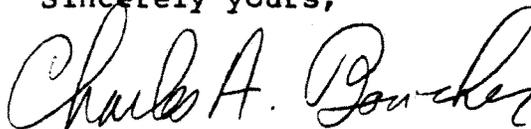
The account in question is comprised of receipts from sales, bonuses, royalties, and rentals resulting from development of mineral resources on public domain and acquired lands. Under 30 U.S.C. § 191, each state is paid 50 percent of the receipts collected from lands within its boundaries (90 percent in the case of Alaska). Payments are made on a monthly basis as funds are received.

As is the case with any other permanent appropriation, payments to states under 30 U.S.C. § 191 are subject to sequester under Public Law 99-177 unless they fall within any of the specific exemptions, exceptions, or special rules contained therein. The fact that the funds are intended to compensate states for their inability to tax federally-owned lands and minerals within their borders is not a sufficient ground to consider the payments exempt from sequestration. The Act is mechanical in nature, and applies to a variety of payments intended to compensate states, territories, and private parties, regardless of the rationale behind such payments.

In conducting our review of this account, we specifically considered the applicability of the "intragovernmental fund" exemption of section 255(g). That exemption was intended to cover accounts, such as certain revolving funds, financed largely through reimbursements from other Federal sources. The purpose of the exemption was to avoid double reductions of such funds (in the original account and in the receiving account). The exemption does not, in our view, apply to intergovernmental transfers such as those at issue here. As we are aware of no other exemption that would cover these payments, we agree with OMB and CBO that they are subject to sequester under the Act.

We appreciate having your views on the matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Charles A. Boncher".

Comptroller General
of the United States