

SJR

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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SJR 5*

BILL NAME: *Revenue sharing from Outer Continental Shelf oil
and gas developments*

SPONSOR(S): *Ferguson*

RELATED BILLS PENDING:

DATE INTRODUCED: *1-18-83*

REFERRALS: *Resources
Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: SJR 5, Relating to revenue sharing from Outer Continental Shelf oil and gas development.

DATE: April 26, 1983

The prospects of new federal legislation governing revenue sharing from development of the Outer Continental Shelf seem bright at the present time. The principal persons dealing with this issue, Senator Stevens and Senator Hollings of South Carolina, have reached a tentative agreement on this issue. This agreement would provide that 30% of the state's share of OCS revenue would be a direct pass-through to local governments. The State of Alaska would receive between \$20-40 million depending on the total revenue generated under outer continental oil and gas development.

SJR 5 expresses the support of the Legislature for the direct pass-through funding system and for the direct use of these funds by the local governmental unit. The Department of Community and Regional Affairs has expressed support for this concept (see position paper dated February 4, 1983).

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
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Senate

Committee on Resources

April 27, 1983

Memo

To: Bettye

From: Pat

Subject: Today's Hearing

SJR 5, Resolution in support of Congressional bill providing for direct pass-through of OCS monies

This bill is now gaining momentum in Congress and is supported by our Delegation. Bill provides for 30% of state OCS revenue entitlement to go directly to local government units. But monies are directed through state.

Our proposed CS addresses concerns by Sen. Sturgulewski that 1) "rural" citizens be changed to "local governments" to take in the case of Anchorage and other "urban" localities targeted for monies; and 2) delete last whereas clause which says local funds should not be subject to federal or state laws or regs.

This changed CS is ok with Sturgulewski, Ferguson, and consistent with Delegation's position on bill. (It does not specify what amount of pass-through monies should go to locals).

SJR 25, Resolution urging Congress to delete Birch and Beaver Creek Wild Rivers

This was drafted on behalf of North Star Borough in response to miners concerns. Environmentalists will oppose.

Birch Creek has many more problems than Beaver Creek.

It's only a resolution.

HB 314., Funding for Joint O&G Committee

Jim says OK.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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Senate

Committee on Resources

April 27, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Proposed CS for SJR 5, OCS revenue distribution

Attached is a proposed CS for the above bill. Changes are shown on the original bill. The changes are:

- 1) To change the words "rural citizens" to "local communities" and "local government units" to reflect the fact that OCS revenues would be distributed to local government units, both urban and rural in character depending on the location of OCS development.
- 2) Delete the last "whereas" clause which would call for direct pass-through of funds to localities without state or federal regulation. As currently drafted federal legislation calls for distribution of local revenues through the state and would require compliance with certain state and federal guidelines, standards and policies. Thus, deletion of this clause would bring the resolution into conformity with the provisions of the federal legislation as supported by Alaska's Congressional Delegation.

Introduced: 1/18/83
Referred: Resources and
Finance

by the Resources Committee

1 IN THE SENATE

2 CS SENATE JOINT RESOLUTION NO. 5 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to revenue sharing from Outer
6 Continental Shelf oil and gas develop-
7 ment.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the Congress of the United States is now considering legisla-
10 tion regarding revenue sharing from development of the Outer Continental
11 Shelf; and

12 WHEREAS a significant number of Outer Continental Shelf lease sales
13 over the next five years are to occur offshore Alaska; and

14 WHEREAS the development of oil and gas resources in the Outer Conti-
15 nental Shelf offshore Alaska may cause economic, social, and cultural
16 impact to Alaska's ^{local communities} [rural citizens]; and

17 WHEREAS such an impact will require the expenditure of revenue for
18 necessary projects to assist ^{local government units} [rural Alaskans] in coping with Outer Conti-
19 nental Shelf oil and gas development; and

20 WHEREAS the source for revenue for impacted local government units in
21 Alaska should derive from federal revenue from Outer Continental Shelf
22 lease sales; and

23 WHEREAS people residing in local government units in Alaska are best
24 able to determine the impact of Outer Continental Shelf oil and gas devel-
25 opment upon their communities; and

26 WHEREAS those local government units have the expertise and ability to
27 monitor and expend revenue for their impacted communities; and

28 WHEREAS revenue for impacted local government units should be passed
29 through directly to those affected areas and not be tied to existing state

1 [and federal programs and regulations;]

2 BE IT RESOLVED that the Thirteenth Alaska State Legislature supports
3 legislation in the 98th Congress which would allocate revenue for local
4 government units impacted by Outer Continental Shelf development on a
5 direct pass-through funding system providing revenue for direct use of
6 those local units for expenditures resulting from Outer Continental Shelf
7 oil and gas development.

10:07 a.m. to 10:57 a.m.

The House Committee on Merchant Marine and Fisheries was called to order by Chairman Jones at 10:07 a.m. He read his statement which is included here for the first bill, H.R. 5, sponsored by the Chairman. This legislation is known as a bill "To establish an Ocean and Coastal Resources Management and Development Fund from which coastal States shall receive block grants"

Ranking Member, Rep. Forsythe of New Jersey, spoke briefly as did Chairman D'Amours of New Hampshire. Rep. Forsythe introduced an Amendment in this mark-up session on behalf of Rep. Bateman of Virginia. It would allow states making satisfactory progress toward an approved Coastal Zone Management Plan to be placed in the formula (Summarized on Page 3 of the Committee Advisory, also included). Forsythe said Virginia was the only state which would apply to this section now. Congressmen Breaux and D'Amours spoke on this amendment and it was adopted unanimously.

Rep. Breaux of Louisiana introduced an amendment which would freeze the baseline of his State from which the 3-mile and 200-mile limit is measured. He said this issue was in litigation for 20 years and in 1981 the U.S. Supreme Court specified the boundaries. He said Louisiana is losing 40 miles of shoreline each year and that "the entire State may, one day, disappear".

Rep. Tauzin of Louisiana said that this problem is one for the country as the 200-mile limit is also measured from this baseline. He felt this Congress should permanently settle the issue for all states. Rep. Studts of Massachusetts supported the Breaux Amendment and suggested they might be able to take lands away from Arkansas, which drew a laugh. Rep. Biaggi asked Breaux what would happen if the state did disappear and what about the baseline. Breaux said there would still be a State of Louisiana. The Chairman said that if the Breaux Amendment did pass the bill would be referred to 2 other Committees and he would hope that Breaux would not insist on his Amendment. Breaux asked if he could win the Chairman's support for his amendment on the floor. Chairman Jones said he would not oppose it but he did not say he would support it.

Cong. D'Amours said that there had been no study of this Amendment on other states and that it did not involve lateral boundaries and he would have to give pause before he would support this amendment on the floor. He said he would appreciate Mr. Breaux withdrawing the Amendment. Chairman Jones asked if he did, indeed, withdraw the bill whereupon Breau said he "negotiating to withdraw" it. He said the issue had been studied for 20 years with Louisiana's litigation, that it did not affect any other state, does not affect lateral boundaries at all, and withdrew the amendment "with the support of the Chair on the floor", a highly problematic eventuality.

Cong. Jack Fields of Texas then offered a 7-page amendment to Page 5, Line 7 to replace the block grant section. He said he knew the political deals had been made and that his state had been discriminated against in a "blatant manner". I got the impression that Texas was not in the leadership in its CZM or other programs. Fields said that 96% of the OCS oil comes from Texas bringing in \$34 billion in revenues. Chairman Jones asked if Mr. Fields would defer in offering his amendment.

Congressman Young indicated that Alaska was involved in a similar problem as Texas and that some of the Eastern states cry when only one little well is drilled offshore. He said that four states - Louisiana, Louisiana, California and Alaska - produce a majority of the oil from off-shore facilities but he felt all the states should share the cost. He

said that he had always been a supporter of off-shore development but that he hoped the gentleman from Texas would not ask for a vote on his amendment. He warned that somewhere "down the line" particularly in New England, where \$68 billion is spent for foreign oil imports, we should address this problem which Mr. Fields had brought up.

Rep. Tauzin complimented the gentleman from Alaska and suggested that the Gulf Coast states produce most of the oil and, also, the fish products in the United States. He said that Louisiana had 100% coastal development whereas California only had 20%. He, too, hoped Mr. Fields did not call for a vote but he did feel states, who make an effort at offshore development, should have their problems addressed and he complimented the Texas Representative.

Mr. Fields asked the Chairman if this legislation would have an open rule on the floor and Mr. Jones said that, with the amount of money involved, it would be. Mr. Studts, answering Mr. Young, I felt, in particular, said that the four states mentioned receive most of the money in the bill, as they should and Texas would receive an allocation (which I judged would be the minimum). However, he said the need for this bill was because of the refusal of this Administration to fund programs which had been funded before and he cited the CZM program, as one example. Mr. Fields then withdrew his amendment and the previous question was called for.

Chairman Jones had 8 proxies (Mr. Hubbard later came in and was one of those proxies) and Rep. Forsythe, on the other side, also had a number of proxies - all voted YES, as well as all those present except Mr. Snyder of Kentucky, 2nd ranking minority member) and Mr. Fields. The vote was 37-2 with Cong. Shumway of California abstaining. A small technical amendment was offered prior to this vote by Chairman Jones. This was over at 10:50 a.m.

Cong. Bonker of Washington requested that his bill (along with 5 Members of the Washington State delegation and Mr. Young of Alaska) be considered next since he had another mark-up he had to go to. The Chairman agreed and Mr. Biaggi, who chairs the Merchant Marine Subcommittee, spoke on the bill affecting the "Third Proviso" of the Jones Act. His statement (included) contains his reasoning.

Cong. Bonker congratulated Mr. Jones and Mr. Biaggi for their rapid consideration of his legislation. Chairman Forsythe mumbled something which was incomprehensible but, in effect, he deferred to Mr. Young. He said that he had been under some criticism in Alaska for his co-sponsorship of this bill and that he was working to iron out the shipping problems in the State. He had been against foreign intervention in Alaska's fisheries and was equally opposed to this loophole. Bonker said this provision in the Jones Act was to enable goods shipped to Canadian ports to go by rail and the Great Lakes by rail and barge to New England. Alaska was specifically excluded originally but was included in the language of the Proviso with the Alaska Statehood Act of 1958. The activity ceased years ago. However, in recent years there has been an interest of foreign countries in this trade and he felt it was timely we move to close this loophole. Canada, by the way, he said, has a law which requires Canadian ships to be used in coastal trade. He also thanked Mr. D'Amours (who may run for the Senate in NH) for allowing his bill to be considered first (it took 7 minutes). There were no amendments and on a favorable move to the House floor the vote was unanimous.

H.R. 5 includes Alaska to a considerable degree and, of course, so does H.R. 1076. The third bill, S.2026, has much less impact on Alaska so I did not stay for full consideration of this bill in full Committee.

WALTER B. JONES, N.C., CHAIRMAN

MARIO BIAGGI, N.Y.
GLENN M. ANDERSON, CALIF.
JOHN B. BREAUX, LA.
GERRY E. STUDDS, MASS.
CARROLL HUBBARD, JR., KY.
DON BONKER, WASH.
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WEBB FRANKLIN, MISS.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

April 20, 1983

R E V I S E D

FULL COMMITTEE MARKUP NOTICE

TO: MEMBERS, MERCHANT MARINE AND FISHERIES COMMITTEE

FROM: HON. WALTER B. JONES, CHAIRMAN

SUBJECT: FULL COMMITTEE MARKUP

DATE: WEDNESDAY, APRIL 27, 1983

TIME: 10:00 A.M.

PLACE: 1334 LONGWORTH HOUSE OFFICE BUILDING

The Full Committee will meet to markup the following bills:

↙ H.R. 5, a bill to establish an Ocean and Coastal Resources Management and Development Fund.

H.R. 2062, a bill to reauthorize Title III of the Marine Protection, Research and Sanctuaries Act of 1972.

↙ H.R. 1076, a bill to strengthen the domestic waterborne commerce of the United States (referred to as the "Third Proviso" bill).

H.R. 1556, a bill to authorize the conveyance of the Liberty Ship JOHN W. BROWN to the JOHN W. BROWN Preservation Project.

Anyone offering amendments to the above bills please submit them to Edmund B. Welch, Chief Counsel, not later than 12:00 noon Tuesday, April 26, 1983.

Contact: Barbara Cavas, Chief Clerk, 225-8182

1 Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf
2 of Mexico, Long Island Sound, or one or more of the
3 Great Lakes, and includes the Commonwealth of
4 Puerto Rico, the Virgin Islands, Guam, the Common-
5 wealth of the Northern Mariana Islands, the Trust
6 Territory of the Pacific Islands, and American Samoa;

7 (2) the term "outer Continental Shelf" means all
8 submerged lands lying seaward and outside of the area
9 of "lands beneath navigable waters" as that term is
10 defined in section 2(a) of the Submerged Lands Act (43
11 U.S.C. 1301(a)), and of which the subsoil and seabed
12 appertain to the United States and are subject to its
13 jurisdiction and control;

14 (3) the term "Secretary" means the Secretary of
15 Commerce; and

16 (4) the term "coastal related energy facilities"
17 means any equipment or facility which, (A) is or will
18 be used primarily in the exploration for, or the devel-
19 opment, production, conversion, storage, transfer proc-
20 essing, or transportation of, any energy resource or for
21 the manufacture, production, or assembly of equipment,
22 machinery, products, or devices which are involved in
23 any such energy-resource activity, and (B) is, or is
24 likely to be, sited, constructed, expanded, or operated

1 in or in close proximity to, the coastal zone of any
2 coastal State because of technical requirements.

3 The term includes, but is not limited to (i) electric
4 generating plants; (ii) facilities associated with the
5 transportation, transfer, or storage of coal; (iii) petro-
6 leum refineries and associated facilities; (iv) gasification
7 plants; (v) facilities associated with the transportation,
8 conversion, treatment, transfer, or storage of liquefied
9 natural gas; (vi) oil and gas facilities, including plat-
10 forms, assembly plants, storage depots, tank farms,
11 crew and supply bases, and refining complexes; (vii)
12 facilities, including deepwater ports, for the transfer of
13 petroleum; (viii) facilities used for alternative ocean
14 energy activities, including those associated with ocean
15 thermal energy conversion; and (ix) pipelines, transmis-
16 sion facilities, and terminals which are associated with
17 any of the foregoing.

18 For the purposes of this paragraph, the siting,
19 construction, expansion, or operation of any coastal re-
20 lated energy facilities shall be "in close proximity to
21 the coastal zone of any coastal State" if such siting,
22 construction, expansion, or operation has, or is likely
23 to have, a significant effect on such coastal zone.

1 OCEAN AND COASTAL RESOURCES MANAGEMENT AND
2 DEVELOPMENT FUND

3 SEC. 2. (a) There is established in the Treasury of the
4 United States a fund to be known as the Ocean and Coastal
5 Resources Management and Development Fund (hereafter in
6 this Act referred to as the "Fund").

7 (b) Beginning in fiscal year 1983, the Secretary of the
8 Treasury shall pay into the Fund not later than the end of
9 each fiscal year the lesser of \$300,000,000 or an amount
10 equal to 10 per centum of the amount by which all sums
11 deposited in the Treasury of the United States pursuant to
12 section 9 of the Outer Continental Shelf Lands Act (43
13 U.S.C. 1338) during each fiscal year exceed all sums deposit-
14 ed in the Treasury of the United States pursuant to such
15 section during fiscal year 1982.

16 (c)(1) As provided in advance by appropriation Acts, the
17 Secretary shall use for fiscal year 1984, and for each subse-
18 quent fiscal year, an amount equal to not less than 10 per
19 centum and not more than 20 per centum of the total amount
20 appropriated from the Fund for the purposes of this Act to
21 carry out the National Sea Grant College Program Act (33
22 U.S.C. 1121-1131).

23 (2) As provided in advance by appropriation Acts, the
24 Secretary shall use the total amount of any sums paid into
25 the Fund during each fiscal year which are not used to carry

1 out the National Sea Grant College Program Act to provide
2 block grants pursuant to section 4.

3 NATIONAL OCEAN AND COASTAL RESOURCES

4 MANAGEMENT AND DEVELOPMENT BLOCK GRANTS

5 SEC. 4. (a) Subject to subsections (b), (c), and (d), for
6 fiscal year 1984 and for each subsequent fiscal year, the Sec-
7 retary shall provide to each coastal State a national ocean
8 and coastal resources management and development block
9 grant (hereafter in this Act referred to as a "block grant")
10 from sums paid into the Fund during the prior fiscal year
11 pursuant to section 3(b).

12 (b)(1) No coastal State may receive a block grant for a
13 fiscal year unless such coastal State has submitted to the
14 Secretary a report for such fiscal year which—

15 (A) specifies the allocation by such coastal State
16 of the block grant among coastal zone management ac-
17 tivities, coastal energy impact activities, living marine
18 resource activities, and natural resources enhancement
19 and management activities pursuant to section 5(a),
20 and

21 (B) describes each activity receiving funds pro-
22 vided by the block grant.

23 (2) Before submitting each report required under para-
24 graph (1), each coastal State shall provide opportunities for

1 the public to review and comment on the report and shall
2 hold at least one public hearing on such report.

3 (c) The amount of each block grant provided under sub-
4 section (a) for a fiscal year to a coastal State shall be deter-
5 mined by the Secretary under a formula established by the
6 Secretary which gives equal consideration to each of the fol-
7 lowing criteria:

8 (1) For each coastal State, the equal combination
9 of—

10 (A) the amount of actual leasing with respect
11 to oil and gas which is carried out under the
12 Outer Continental Shelf Lands Act (43 U.S.C.
13 1331 et seq.) during the previous fiscal year
14 which occurs within the outer Continental Shelf
15 planning area to which such coastal State is adja-
16 cent; and

17 (B) the volume of oil and gas produced from
18 outer Continental Shelf acreage leased by the
19 Federal Government which is first landed in such
20 coastal State during the previous fiscal year.

21 (2) For each coastal State, any proposed oil and
22 gas lease sales which are specified by the outer Conti-
23 nental Shelf leasing program prepared pursuant to sec-
24 tion 18(a) of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1344(a)) and which are scheduled to occur

1 within the outer Continental Shelf planning area to
2 which such coastal State is adjacent.

3 (3) The coastal related energy facilities (including
4 coal facilities) located within each coastal State during
5 the previous fiscal year.

6 (4) The shoreline mileage of each coastal State for
7 which the Secretary has approved a management pro-
8 gram under section 306 of the Coastal Zone Manage-
9 ment Act of 1972 (16 U.S.C. 1455).

10 (5) The coastal population of each coastal State
11 for which the Secretary has approved a management
12 program under section 306 of the Coastal Zone Man-
13 agement Act of 1972 (16 U.S.C. 1455).

14 (d) No coastal State for which the Secretary has ap-
15 proved a management program under section 306 of the
16 Coastal Zone Management Act of 1972 (16 U.S.C. 1455)
17 shall receive less than one-half of 1 per centum of the total
18 amount available for block grants pursuant to subsection (a)
19 during any fiscal year.

20 ~~REQUIREMENTS ON THE USE OF BLOCK GRANTS~~

21 ~~SEC. 5. (a) Block grants provided to a coastal State~~
22 ~~pursuant to section 1(a) may only be used for the following~~
23 ~~eligible activities:~~

1 ~~(1) Activities of such coastal State authorized by~~
2 ~~the Coastal Zone Management Act of 1972 (16 U.S.C.~~
3 ~~1451 et seq.).~~

4 ~~(2) Activities of such coastal State under the~~
5 ~~coastal energy impact program administered under sec-~~
6 ~~tion 308 of the Coastal Zone Management Act of 1972~~
7 ~~(16 U.S.C. 1457).~~

8 ~~(3) Activities of such coastal State for the en-~~
9 ~~hancement and management of living marine resources.~~

10 ~~(4) Activities of such coastal State for the en-~~
11 ~~hancement and management of its natural resources.~~

12 ~~(b) The Secretary shall insure that any coastal State~~
13 ~~receiving a block grant under section 1(a) will use at least~~

14 ~~(1) 30 per centum of the amount of each block~~
15 ~~grant for eligible activities specified by paragraph (1) of~~
16 ~~subsection (a), excluding activities administered under~~
17 ~~section 308 of the Coastal Zone Management Act and~~
18 ~~10 per centum of the amount of each block grant for~~
19 ~~activities specified by paragraph (2) of subsection (a);~~
20 ~~and~~

21 ~~(2) 20 per centum of the amount of each block~~
22 ~~grant for eligible activities specified by paragraph (3) of~~
23 ~~subsection (a).~~

"REQUIREMENTS ON THE USE OF BLOCK GRANTS

Sec 5. Block grants provided to a coastal State pursuant to section 4(a) shall be used for the enhancement and management of renewable ocean and coastal resources and for the amelioration of any adverse impacts that result from coastal energy activity with respect to the development of non-renewable resources.

(a) Such block grants shall be used for each of the following activities:

(1) Activities of such coastal State authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.).

(2) Activities of such coastal State pursuant to the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457).

(3) Activities of such coastal State for the enhancement and management of living marine resources.

(4) Activities of such coastal State for the enhancement and management of its natural resources.

(b) The Secretary shall insure that any coastal State receiving a block grant under section 4(a) will use at least 25 per centum of the amount of each block grant for eligible activities authorized by paragraph (1) of subsection (a), excluding activities administered under section 308 of the Coastal Zone Management Act."

1 ~~(c) Each coastal State shall be encouraged to provide~~
2 ~~financial assistance under this title to units of local govern-~~
3 ~~ment within such State.~~

4 ^(c)
~~(d)~~ Any coastal State which the Secretary determines
5 uses any funds provided by a block grant under section ~~4~~(a)
6 for an activity not specified in subsection (a), in an amount
7 less than specified in subsection (b), or in any other manner
8 inconsistent with this Act, shall repay such funds to the
9 Fund. If a coastal State does not repay any funds required to
10 be repaid under this subsection, the Secretary may reduce the
11 amount of any future block grant or grants provided under
12 section ~~4~~(a) by the amount of such required repayment.

13 ^(d)
~~(e)~~ Nothing in this Act shall be construed to repeal or
14 modify, by implication or otherwise, section 312 of the Coast-
15 al Zone Management Act of 1972 (16 U.S.C. 1461): *Pro-*
16 *vided, however,* That the Secretary shall reduce any block
17 grant, provided under this Act to a coastal State that has an
18 approved program under section 306 of the Coastal Zone
19 Management Act (16 U.S.C. 1455), by no more than 30 per
20 centum of the amount of such State's block grant, which is
21 attributable to sections ~~4~~(c) (4) and (5) of this Act, if the
22 Secretary makes the determination provided in section 312(c)
23 of the Coastal Zone Management Act.

"LOCAL GOVERNMENTS

Sec. 6(a) Each State receiving a block grant in any fiscal year pursuant to section 4(a):

(1) shall establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the State, and

(2) shall provide to its local governments allocations from such block grant commensurate with the responsibilities of the local governments in carrying out activities pursuant to section 5(a).

(b) In carrying out its responsibilities pursuant to subsection (a) (2) of this section, the State shall give particular emphasis to the activities of local governments in:

(1) providing public services and public facilities which are required as a result of coastal energy activity, and

(2) preventing, reducing, or ameliorating any unavoidable loss of valuable environmental or recreational resources if such loss results from coastal energy activity.

(c) In carrying out its responsibilities pursuant to this section, each State shall provide no less than 35 per centum of each such block grant to its local governments."

1 ASSESSMENT AND AUDIT

2 SEC. 6. (a) Any coastal State receiving a block grant for
3 a fiscal year under section 4(a) must submit to the Secretary
4 an assessment of the expenditure of funds provided by the
5 block grant.

6 ~~(b) Each assessment submitted by a coastal State for a~~
7 ~~fiscal year under subsection (a) must contain an audit of all~~
8 ~~funds provided by the block grant received by such coastal~~
9 ~~State for such fiscal year. Any audit contained in an assess-~~
10 ~~ment pursuant to this subsection shall be conducted by an~~
11 ~~entity which is independent of any agency or official adminis-~~
12 ~~tering or using funds provided by such block grant and shall~~
13 ~~be undertaken in accordance with generally accepted ac-~~
14 ~~counting principles.~~

"(b) Each assessment submitted by a coastal State for a
fiscal year under subsection (a) shall contain a statement of
all funds provided by the block grant received by such
coastal State for such fiscal year and shall include an
assessment of all financial assistance provided to such
State's local governments pursuant to section 4.

(1) Such statement shall have been audited by
an entity which is independent of any agency or official
administering or using funds provided by such block
grant.

(2) The audit shall be conducted in accordance
with the financial and compliance element of the
standards for audit of governmental organizations,
activities, and functions established by the Comptroller
General of the United States."

COMMITTEE ADVISORY

H. R. 5 - THE OCEAN AND COASTAL RESOURCES MANAGEMENT
AND DEVELOPMENT BLOCK GRANT ACT

Description:

H. R. 5 would establish an ocean and coastal resources management and development fund. Annually, the Secretary of the Treasury would pay into the fund the lesser of \$300 million or 10 percent of the amount by which revenues deposited into the Treasury from Outer Continental Shelf (OCS) oil and gas lease sales during each fiscal year exceed revenues deposited in Fiscal Year 1982.

The Secretary of Commerce would be directed to use between 10 percent and 20 percent of the amount appropriated from the fund to carry out the National Sea Grant College program. The remaining monies would be used to provide each coastal state with a block grant, beginning in FY 1984. Eligible uses for the block grants by coastal states include activities of such states authorized by the Coastal Zone Management Act and the Coastal Energy Impact Program of the CZMA. Such eligible uses also include activities for the enhancement and management of living marine and natural resources. No less than 25 percent of a state's block grant may be used for activities authorized by the CZMA.

Each state shall establish an effective mechanism for consultation and coordination with its local governments and shall provide no less than 35 percent of its block grant to local governments. The local governments located in the coastal zone of the state shall use the money for these same purposes as the state and shall give particular emphasis to impacts resulting from coastal energy activity.

The formula by which the block grants are allocated among all coastal states include criteria involving actual OCS leasing activity, future planned OCS lease sales, coastal related energy facilities and, for those states with approved coastal management programs, shoreline mileage and coastal county population. Each state that has an approved coastal zone management program shall receive no less than one-half of 1 percent of the amount available for the block grants.

Background:

H. R. 5, as introduced in the 98th Congress, was identical to H. R. 5543 from the 97th Congress. That predecessor legislation passed the House of Representatives on September 29, 1982, by a margin of 260-134.

This legislation evolves from a concern about proposed administration budget terminations of federal financial support for the 1972 Coastal Zone Management Act, the National Sea Grant College Program, the Coastal Energy Impact Program, and certain fishery programs. The budget proposals have been sent to Congress at the same time that the Department of the Interior has proposed, and is implementing, a significant acceleration of the OCS oil and gas leasing program. Under Secretary Watt's proposal, some 1 billion acres of offshore land will be offered for leasing over the next 5 years.

The major premise of H. R. 5 is: that a modest portion of future increases in federal revenues from the extraction of publicly-owned non-renewable, ocean energy resources should be allocated to coastal states for the continued sound management of, and research on, renewable ocean and coastal resources.

Subcommittee Action:

The Subcommittee on Oceanography held hearings on H. R. 5 on March 1 and 10, 1983. At the April 12 Subcommittee markup, Mr. D'Amours offered an amendment on behalf of himself, Mr. Jones of North Carolina, Mr. Forsythe, and Mr. Pritchard to require states to provide no less than 35 percent of their block grants to local communities and to modify the "eligible use" section of the bill. The amendment was adopted and the bill ordered reported.

Authorization Levels:

The Ocean and Coastal Resources Management and Development Fund, established by H. R. 5, would be composed of 10 percent of the increase in federal OCS revenues over FY 1982 revenues -- up to a ceiling of \$300 million per year. This represents the authorization of the legislation. Allocations to the National Sea Grant College Program and the block grants for states are subject to appropriation acts. The Sea Grant Program would be allocated an amount not less than 10 percent and not more than 20 percent of the amount appropriated for the Fund. The remaining monies would be available for state block grants.

Amendments:

Mr. Forsythe, on behalf of Mr. Bateman will offer an amendment to allow states that are making satisfactory progress toward an approved CZM program to be eligible for the shoreline mileage and coastal population criteria in the formula. The Secretary of Commerce would make the "satisfactory progress" determination and no such determinations could be made for a period exceeding 2 years.

Mr. Breaux may offer an amendment to the definition section of the bill that would freeze the baseline of the State of Louisiana from which the territorial sea is measured. Such baseline has been determined by a final decree of the U. S. Supreme Court but is subject to future modification if the State's shoreline continues to erode.

OPENING STATEMENT OF THE HONORABLE WALTER B. JONES
CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES
REGARDING
H.R. 5: THE OCEAN AND COASTAL RESOURCES MANAGEMENT AND
DEVELOPMENT BLOCK GRANT ACT

ON SEPTEMBER 30, 1981, I INTRODUCED H.R. 4597, THE
PREDECESSOR TO THE BILL THAT WE ARE CONSIDERING TODAY. AT
THAT TIME, I POINTED-OUT INCONSISTENT ADMINISTRATION
POLICIES. IT MAKES LITTLE SENSE, I SAID, TO VASTLY INCREASE
OFFSHORE LEASING WHILE, AT THE SAME TIME, TERMINATING THE
MANAGEMENT PROGRAMS THAT ALLOW OUR COASTAL STATES TO DEAL
WITH SUCH AN INCREASE. THESE WARNINGS SEEMED TO FALL ON DEAF
EARS -- WITH A FEW NOTABLE EXCEPTIONS.

ON FEBRUARY 22, 1982, I WAS JOINED BY MY COLLEAGUE FROM
NEW HAMPSHIRE, MR. D'AMOURS, AND OTHERS, IN INTRODUCING H.R.
5543. ON THAT DAY, I REPEATED MY BELIEF THAT THOSE
INCONSISTENT POLICIES THREATENED TO INHIBIT THE O.C.S.
LEASING PROCESS BY PROMOTING CONFLICT AND LITIGATION.
APPARENTLY, WE WON A FEW BELIEVERS -- THAT BILL PASSED THE
HOUSE BY A NEARLY TWO-TO-ONE MARGIN. UNFORTUNATELY, WE RAN
OUT OF TIME IN THE 97TH CONGRESS.

THE BILL WHICH WE ARE CONSIDERING TODAY, H.R. 5, IS A CONTINUATION OF L. B. LEAHY'S EFFORT. IT IS APPROPRIATE, THAT THIS COMMITTEE SHOULD NOW CONSIDER THE BILL. RECENTLY, WE HAVE BEGUN TO SEE THE RESULTS OF THE ADMINISTRATION'S POLICIES:

* LAST YEAR THIS CONGRESS PASSED AN INTERIOR APPROPRIATIONS ACT WHICH BANNED LEASING IN AREAS OFF CALIFORNIA AND NEW JERSEY;

* JUST ONE WEEK AGO, FOUR ATLANTIC STATES FILED SUIT TO BLOCK LEASE SALE 76;

* ONE WEEK PRIOR TO THAT, MASSACHUSETTS SOUGHT AND WON BLOCKAGE OF SALE 56;

↓
* NATIVE TRIBES IN ALASKA HAVE SUED AND BLOCKED FINAL ACCEPTANCE OF BIDS ON SALE 57;

* MY STATE, NORTH CAROLINA, IS DETERMINED TO BLOCK SALE 78 UNLESS MR. WATT MAKES SOME RATHER MODERATE CHANGES, WHICH UP TO NOW THE INTERIOR DEPARTMENT HAS REFUSED TO DO.

I COULD LIST MORE EXAMPLES, BUT I THINK THE POINT IS CLEAR. THE SIMPLE LOGIC OF THIS LEGISLATION HAS NEVER BEEN MORE CLEAR. WE CANNOT ACCELERATE O.C.S. DEVELOPMENT WITHOUT COOPERATION FROM THE STATES. FEDERAL ASSISTANCE IS KEY TO STATE COOPERATION. H.R. 5 PROVIDES THAT ASSISTANCE IN A MANNER WHICH BALANCES FEDERAL CONTROL, STATE FLEXIBILITY, AND ENVIRONMENTAL PROTECTION.

THE NATION CANNOT AFFORD TO HAVE ITS O.C.S. PROGRAM DEAD-IN-THE-WATER. IN COMPARISON, THE COST OF H.R. 5 IS JUST A DROP-IN-THE-BUCKET. A VOTE FOR H.R. 5, A BILL WITH 105 COSPONSORS, IS ONE FOR A STRONG STATE-FEDERAL PARTNERSHIP AND FOR TIMELY O.C.S. DEVELOPMENT.

NOT READ

STATEMENT OF THE HONORABLE NORMAN E. D'AMOURS
AT THE COMMITTEE ON MERCHANT MARINE AND FISHERIES'
MARKUP OF H.R. 5, THE OCEAN AND COASTAL RESOURCES
MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT
WEDNESDAY, APRIL 27, 1983

MR. CHAIRMAN, H.R. 5 WAS UNANIMOUSLY ORDERED REPORTED BY THE OCEANOGRAPHY SUBCOMMITTEE ON APRIL 12TH.

THIS LEGISLATION IS AN EFFORT TO ADDRESS TWO BASIC AND PRESSING CONCERNS. THE FIRST IS THAT OF EQUITY. AS YOU KNOW, THERE IS PRESENTLY A SERIOUS INEQUITY IN THE WAY WE HANDLE THE RECEIPT OF REVENUES GENERATED BY ENERGY ACTIVITY ON FEDERAL LANDS. UNDER THE MINERAL LEASING ACT, THE FEDERAL GOVERNMENT TURNS OVER 50 PERCENT OF ALL REVENUES TO THE STATES WHEN THE FEDERAL LANDS IN QUESTION ARE WITHIN A STATE'S BORDERS. IN ADDITION, THE STATES RECEIVE FEDERAL PAYMENTS-IN-LIEU OF TAXES AND THEY ARE PERMITTED TO ASSESS A SEVERENCE TAX ON THE MINERALS RECOVERED. ALL TOLLED, THESE PROVISIONS ALLOW MINERAL-PRODUCING STATES TO REAP MORE THAN A BILLION DOLLARS A YEAR FROM FEDERAL LEASING ACTIVITY.

COASTAL STATES WITH ENERGY ACTIVITIES OFF THEIR COASTS ARE ACCORDED NONE OF THESE REVENUE SOURCES. YET THE COASTAL IMPACTS FROM THESE ACTIVITIES ARE WELL DOCUMENTED AND THE PACE OF OCS ACTIVITIES ARE LIKELY TO BE VASTLY ACCELERATED IN THE NEXT FEW YEARS.

THE SECOND CONCERN IS THAT, IN THE FACE OF THIS OCS ACCELERATION, THE REAGAN ADMINISTRATION HAS ATTEMPTED TO ZERO OUT NEARLY ALL OF THE CRUCIAL OCEAN AND COASTAL MANAGEMENT PROGRAMS FOR WHICH THIS COMMITTEE HAS FOUGHT OVER THE LAST DECADE. THIS COMMITTEE, AND CONGRESS AS A WHOLE,

HON. D'AMOURS
STATEMENT - MARKUP H.R. 5
APRIL 27, 1983
PAGE TWO

MUST STAND BY ITS LONG-TERM COMMITMENT TO THESE PROGRAMS,
AND TO THE VISION OF A FEDERAL-STATE PARTNERSHIP IN THE
COASTAL ZONE THAT WAS THE UNDERLYING BASIS OF THESE PROGRAMS.
AS WE HAVE HEARD REPEATEDLY IN TESTIMONY, IF WE DENY STATES
THE PROGRAMS THEY NEED IN ORDER TO WISELY MANAGE THEIR
COASTAL ZONES, THEY WILL HAVE NO CHOICE BUT TO PLAY A PURELY
OBSTRUCTIONIST ROLE WITH REGARD TO OCS DEVELOPMENT. IN THAT
SENSE, LETTING THESE PROGRAMS DIE WILL SURELY COST US A
GREAT DEAL MORE IN THE LONG RUN.

THEREFORE, H.R. 5 WAS INTRODUCED, AS H.R. 5543 WAS LAST
CONGRESS, IN HOPE OF RESTORING EQUITY TO COASTAL STATES AND
PROVIDING SOME ASSURANCE THAT IMPORTANT COASTAL PROGRAMS
WILL CONTINUE TO FUNCTION.

I STRONGLY SUPPORT THE REVENUE SHARING BILL BEFORE US
TODAY AND HOPE THAT MY COLLEAGUES, MOST OF WHOM ARE ALREADY
CO-SPONSORS OF THIS BILL, WILL ALSO LEND IT THEIR SUPPORT.

THANK YOU, MR. CHAIRMAN.

1 AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H. R. 5

2 OFFERED BY MR. FIELDS

3
4 Strike out all after the enacting clause and insert in lieu
5 thereof the following:

6 Sec. 1. This Act may be cited as the "Coastal Resource and
7 Economic Development Grant Act of 1983."

8 Sec. 2 (a) The Congress finds that ---

9 (1) the demand for energy in the United States is
10 increasing and will continue to increase for the foreseeable
11 future;

12 (2) domestic production of oil and natural gas has
13 declined in recent years;

14 (3) the United States continues to be overly dependent
15 on foreign sources of oil and natural gas;

16 (4) the outer Continental Shelf contains significant
17 quantities of oil and natural gas that can and should be
18 developed to reduce United States dependence on foreign
19 sources of oil and natural gas; and to meet its energy
20 needs;

21 (5) the Federal Government has embarked on a necessary
22 program for the development of such outer Continental Shelf
23 oil and gas resources;

24 (6) the exploration, development and production of
25 outer continental shelf resources, and the siting of related
26 energy facilities, impact various State and local
27 governments;

1 (7) traditional programs of the Federal Government to
2 assist State and local governments impacted by outer
3 Continental Shelf development are inadequate and often place
4 restrictions on such governments which hinder creative and
5 intelligent planning;

6 (8) State and local governments assume most of the
7 risks associated with outer Continental Shelf development;
8 and

9 (9) the Federal government has created programs to
10 share Federal revenues from onshore mineral development with
11 impacted States, while no comparable Federal program exists
12 with respect to development of outer Continental She f
13 lands.

14 (b) The Congress declares that it is the purpose of this Act
15 to provide coastal States and units of local coastal governments
16 with a share of the revenues derived from outer Continental Shelf
17 oil and gas development in a manner which will allow such
18 governmental units maximum flexibility to plan for, and mitigate
19 against, such offshore development.

20 Sec. 3 Definitions. For the purposes of this Act ---

21 (a) the term 'coastal State' means any State of the United
22 States in, or bordering on, the Atlantic, Pacific, or Arctic
23 Ocean, the Gulf of Mexico, Long Island Sound, and includes the
24 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern
25 Mariana Islands the Trust Territory of the Pacific Islands, and
26 American Samoa;

27 (b) the term 'unit of local coastal government' means ---

28 (1) the government of any county, parish, borough,

1 municipality, town or township, which is a unit of general
2 government below the State (determined on the basis of the
3 same principles as are used by the Bureau of the Census of
4 the Department of Commerce for general statistical purposes)
5 and which governs a geographical area located entirely in a
6 coastal State and located: on or adjacent to a coastline,
7 or within an area impacted by operations conducted pursuant
8 to this Act, as determined by the Secretary; and

9 (2) the Metlaktla Indian Community and the recognized
10 governing body of any Indian tribe in any coastal state
11 except Alaska, which performs substantial governmental
12 functions and which governs a geographical area located
13 entirely in a coastal state and located: on or adjacent to
14 a coastline, or within an area impacted by operations
15 conducted pursuant to this Act, as determined by the
16 Secretary.

17 (c) the term 'coastline' means the ordinary low
18 water along the portion of the coast which is in direct contact
19 with the open sea, or with any of the Great Lakes, and the line
20 marking the seaward limit of inland waters; and

21 (d) the term 'Governor' means the Governor or chief
22 executive officer of any coastal State, or the individual or
23 entity designed by, or pursuant to, State law to exercise the
24 powers granted to such Governor or chief executive officer under
25 this subsection.

26 (e) the term "Secretary" means the Secretary of the
27 Treasury.

1 Sec. 4 (a) Upon enactment, the Secretary shall establish a fund
2 in the Treasury of the United States to be known as the Coastal
3 Resource and Economic Development Fund (hereafter referred to
4 as the "Fund").

5 (b) the amount to be deposited annually in the fund shall be
6 the lesser of 5% or \$300,000,000 of revenues from bonuses and
7 royalties deposited annually in the Treasury of the United States
8 pursuant to section 9, of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1338).

10 DISPOSITION OF GRANTS FROM FUND

11 Sec. 5 (a) During the fiscal year ending on September 30, 1984,
12 and during each fiscal year ending after September 30, 1984, the
13 Secretary shall pay to the Governor of each coastal State and to
14 each unit of local coastal government, from sums deposited in the
15 Fund during that fiscal year pursuant to section 4, an amount
16 certified to the Secretary by the Secretary of the Interior
17 pursuant to subsections (b) and (c)

18 (b) (1) Subject to subsections (c) and (d), the Secretary of
19 the Interior shall certify, pursuant to subsection (a) an amount
20 to be paid to the Governor of each coastal State which is equal
21 to the sum of ---

22 (A) a maximum of 4 per centum of the Federal bonus
23 revenues deposited that fiscal year from each tract leased
24 after the date of enactment of this Act;

25 (B) a maximum of 6 per centum of the Federal royalty
26 revenues deposited that fiscal year from from production under
27 development plans approved after the date of enactment of
28 this Act.

1 (2) For a tract within two hundred and fifty miles of only
2 one coastal State, the coastal State shall receive the maximum
3 amount of bonus and royalty revenues available for distribution
4 if the tract is immediately adjacent to the outer edge of the
5 coastal State's territorial sea. For tracts between zero and two
6 hundred and fifty miles from the State's territorial sea,
7 the amount of revenues certified shall decrease linearly from the
8 full amount available to 50 per centum of the maximum amount
9 available.

10 (3) For tracts within two hundred and fifty miles of more
11 than one coastal State, the amount of revenues certified shall be
12 calculated as in paragraph (2) but divided among the coastal
13 States in a manner inversely proportional to their relative
14 distances from the tract.

15 (4) If a straight line could not be drawn from a tract to
16 the outer edge of a coastal State's territorial sea without
17 crossing the land mass of another State, the coastal State shall
18 get no share of the revenues from the tract.

19 (c) (1) From the amounts certified by the Secretary of the
20 Interior, pursuant to subsection (b) (1) of this section, 50
21 per centum shall be distributed to each coastal unit of local
22 government as specified in this paragraph.

23 (2) Each amount certified pursuant to paragraph (1) to be
24 paid during a fiscal year to a unit of local coastal government
25 shall be proportional, as much as possible, to the total of all
26 amounts certified pursuant to paragraph (1) to be paid during
27 such fiscal year to all units of local coastal government located
28 entirely in such coastal State as the amount of the entitlement

1 allocated to such unit of local coastal government for the most
 2 recent entitlement period under section 108 of the State and
 3 Local Fiscal Assistance Act of 1972 (31 U.S.C. 1227) is
 4 proportional to the total of all amounts of entitlements
 5 allocated to units of local coastal government located entirely
 6 in such coastal State for the most recent entitlement period
 7 under section 108 of the State and Local Assistance Act of
 8 1972 (31 U.S.C. 1227).

9 (d) (1) The total amount certified pursuant to subsection (b)
 10 to be paid to the Governor of a coastal State during a fiscal
 11 year may not exceed an amount equal to the sum of \$80,000,000.

12 (2) For purposes of determining each amount certified
 13 pursuant to subsection (b) to be paid to the Governor of a
 14 coastal State during a fiscal year, and each amount certified
 15 pursuant to subsection (c) to be paid to a unit of local coastal
 16 government during a fiscal year, the Commonwealth of Puerto Rico,
 17 the Virgin Islands, Guam, the Northern Mariana Islands, the Trust
 18 Territory of the Pacific Islands, and American Samoa shall
 19 together be considered as one coastal State and any such amount
 20 certified pursuant to subsection (b) shall be equally divided
 21 among the Commonwealth of Puerto Rico, the Virgin Islands, Guam
 22 the Northern Mariana Islands, the Trust Territory of the Pacific
 23 Islands, and American Samoa.

24 (e) (1) The Secretary shall insure that an amount equal to
 25 not less than 25 per centum of each amount paid to the Governor
 26 of a coastal State during a fiscal year pursuant to subsection
 27 (b) is used by such Governor for activities including but not
 28 limited to, activities relating to the management of coasta'

1 resources, scientific research, and fisheries development, which
2 the Governor determines are of assistance to local coastal
3 communities impacted by the operations of this Act and, in the
4 case of Alaska, that are located within the boundaries of Coastal
5 Resource Areas established pursuant to the Alaska Coastal
6 Management Act.

7 (2) The Secretary shall insure that each amount paid to the
8 Governor of a coastal State during a fiscal year pursuant to
9 subsection (b) is not used to replace funds which such coastal
10 State would provide to units of local coastal government if such
11 amount was not paid to the Governor of the coastal State.

12 (3) The Secretary of the Treasury shall pay to the Governor
13 of the State of Alaska any amount certified by the Secretary
14 pursuant to subsection (c) to be paid to the unorganized borough
15 by the State of Alaska.

16 AUTHORIZATION OF APPROPRIATIONS

17 Sec. 6. For the fiscal year ending on September 30, 1984,
18 and each fiscal year ending after September 30, 1984, there
19 is authorized to be appropriated to the Secretary of the Treasury
20 such sums as may be necessary to carry out section 4 of this Act,
21 not to exceed \$300,000,000 per fiscal year.

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98TH CONGRESS
1ST SESSION

H. R. 1076

I

To strengthen the domestic water borne commerce of the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1983

Mr. BONKER (for himself, Mr. YOUNG of Alaska, Mr. SWIFT, Mr. PRITCHARD, Mr. LOWRY of Washington, Mr. DICKS, and Mr. CHAMBER) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To strengthen the domestic water borne commerce of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 27 of the Merchant Marine Act, 1920 (46
4 U.S.C. 883) is amended by striking out "*Provided further,*
5 That this section shall not apply to merchandise transported
6 between points within the continental United States, includ-
7 ing Alaska, over through routes heretofore and hereafter rec-
8 ognized by the Interstate Commerce Commission for which
9 routes rate tariffs have been or shall hereafter be filed with

- 1 said Commission when such routes are in part over Canadian
- 2 rail lines and their own or other connecting water facilities:".

○

1119 ✓

STATEMENT BY THE HONORABLE MARIO BIAGGI,
CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE,
AT FULL COMMITTEE MARKUP OF
H.R. 1076, THIRD PROVISOR

WEDNESDAY, APRIL 27, 1983

THE THIRD PROVISOR OF THE JONES ACT WAS ENACTED TO IMPROVE THE TRANSPORTATION OF MERCHANDISE BETWEEN POINTS IN THE CONTINENTAL UNITED STATES. IT ALLOWED THE CONTINUED OPERATION ON THE GREAT LAKES OF CAR FERRIES BY CANADIAN RAILROADS AS A PART OF THE TRANSPORTATION OF MERCHANDISE FROM MIDWESTERN STATES ACROSS CANADA BY RAIL AND BARGE TO NEW ENGLAND. ALASKA WAS SPECIFICALLY EXCLUDED ORIGINALLY, BUT WAS INCLUDED IN THE LANGUAGE OF THE PROVISOR WITH THE ENACTMENT OF THE ALASKA STATEHOOD ACT IN 1958.

DURING THE PAST 25 YEARS, LITTLE USE HAS BEEN MADE OF THE THIRD PROVISOR. IMPROVED RAIL TRANSPORTATION AROUND THE GREAT LAKES AND THE CONSTRUCTION OF BRIDGES HAS MADE THE USE OF RAIL-CAR BARGES UNNECESSARY. NO ONE IS OPERATING UNDER THE THIRD PROVISOR AT THIS TIME.

THE TRADE THAT IS INVOLVED AND OF IMMEDIATE ISSUE NOW IS COASTWISE SERVICE FROM PLACES IN THE LOWER 48 STATES TO ALASKA. THE CURRENT CONCERN ARISES FROM THE FACT THAT THERE HAVE BEEN TWO RECENT EFFORTS TO TAKE ADVANTAGE OF THE THIRD PROVISOR EXEMPTION. ALTHOUGH UNSUCCESSFUL THUS FAR, THOSE WHO WISH TO ENTER THE TRADE AND TAKE ADVANTAGE OF THE EXEMPTION HAVE NOT ABANDONED THEIR EFFORTS.

IF THE THIRD PROVISOR EXEMPTION WERE TO BE UTILIZED, IT WOULD MEAN THAT CARGO NOW BEING SHIPPED FROM OUR U.S. NORTHWEST PORTS ON U.S.-FLAG VESSELS TO ALASKA COULD INSTEAD BE MOVED BY

GROUND TRANSPORTATION TO A CANADIAN PORT AND FROM THERE TO ALASKA ON FOREIGN-FLAG OR OTHER NON-COASTWISE-QUALIFIED VESSELS. THIS, OF COURSE, WOULD HARM JONES ACT OPERATORS WHO HAVE INVESTED MILLIONS OF DOLLARS IN THE ALASKA TRADE -- AS WELL AS RESULT IN A LOSS OF AMERICAN SEAGOING AND PORTSIDE JOBS.

AT THE HEARING ON MARCH 18, THE SUBCOMMITTEE HEARD TESTIMONY THAT THERE IS CURRENTLY ADEQUATE SERVICE TO ALASKA AND SUFFICIENT COMPETITION AMONG THE JONES ACT OPERATORS IN THE TRADE. WHILE THIS JONES ACT EXEMPTION ONCE SERVED A PURPOSE, IT HAS OUTLIVED ITS USEFULNESS. I SEE NO COMPELLING REASON TO RETAIN THE EXEMPTION, AND I URGE MY COLLEAGUES TO JOIN ME IN SUPPORTING THE BILL.

98TH CONGRESS
1ST SESSION **H. R. 2062**

To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1983

Mr. D'AMOURS (for himself and Mr. PRITCHARD) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Marine Protection, Research, and Sanc-
4 tuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to
5 read as follows:
6 "TITLE III—NATIONAL MARINE SANCTUARIES
7 "SEC. 301. FINDINGS, PURPOSES, AND POLICIES.
8 "(a) FINDINGS.—The Congress finds that—
9 "(1) this Nation historically has recognized the
10 importance of protecting special areas of its public

1 lands, but such efforts have been directed almost exclu-
2 sively to land areas above the high water mark;

3 “(2) certain areas of the marine environment pos-
4 sess conservation, recreational, ecological, historical,
5 research, educational, or esthetic qualities which give
6 them special national or regional significance;

7 “(3) while the need to control the effects of par-
8 ticular activities has led to enactment of resource-spe-
9 cific legislation, these laws cannot provide a coordinat-
10 ed and comprehensive areawide approach to the man-
11 agement of special marine environments;

12 “(4) a Federal program which identifies and com-
13 prehensively manages special marine environments will
14 contribute positively to marine resource development
15 and conservation; and

16 “(5) such a Federal program will also serve to en-
17 hance public awareness, understanding, appreciation,
18 and wise use of the marine environment through public
19 educational, recreational, and research programs.

20 “(b) PURPOSES AND POLICIES.—The purposes and
21 policies of this title are—

22 “(1) to establish a system of national marine sanc-
23 tuaries, by identifying marine environments of special
24 significance due to their conservation, recreational,

1 ecological, historical, research, educational, or esthetic
2 value;

3 “(2) to provide authority for comprehensive
4 areawide management of these environments which
5 will complement existing regulatory authority in order
6 to protect or restore sanctuary resources;

7 “(3) to support, promote, and coordinate scientific
8 research on, and monitoring of, the conditions of sanc-
9 tuary resources, in order to expand scientific knowl-
10 edge of significant marine resources and improve man-
11 agement decisionmaking;

12 “(4) to enhance public awareness, understanding,
13 appreciation and wise use of the marine environment
14 through public interpretative and recreational pro-
15 grams; and

16 “(5) to facilitate, to the extent compatible with
17 the primary objective of resource protection, all public
18 and private uses of sanctuary resources not prohibited
19 pursuant to other authorities.

20 “SEC. 302. DEFINITIONS.

21 “Notwithstanding the provisions of subsection (h) of sec-
22 tion 3 of this Act, as used in this title—

23 “(1) The term ‘marine environment’ means—

24 “(A) the ocean waters and the continental
25 shelf over which the United States asserts juris-

1 diction for purposes of regulating living and non-
2 living marine resources; and

3 “(B) the Great Lakes and their connecting
4 waters.

5 “(2) The term ‘Secretary’ means the Secretary of
6 Commerce.

7 “(3) The term ‘State’ means any of the several
8 States or any territory or possession of the United
9 States which has a popularly elected Governor.

10 “SEC. 303. SANCTUARY DESIGNATION STANDARDS.

11 “(a) STANDARDS.—The Secretary, upon approval of the
12 President, may designate any area of the marine environment
13 as a national marine sanctuary if the Secretary determines
14 that such designation will fulfill the purposes and policies of
15 this title, and if the Secretary finds that—

16 ‘ (1) the area is of special significance due to its
17 conservation, recreational, ecological, historical, re-
18 search, educational, or esthetic value;

19 “(2) existing State and Federal regulatory and
20 management authorities are inadequate to assure co-
21 ordinated and comprehensive management of the area,
22 including provisions for resource protection, scientific
23 research and public education, and that inclusion
24 within the system of national marine sanctuaries will
25 facilitate these objectives; and

1 “(3) the area is of a size and nature which indi-
2 cates that it will be amenable and responsive to the
3 comprehensive areawide management.

4 “(b) FACTORS AND CONSULTATIONS REQUIRED IN
5 MAKING FINDINGS.—For purposes of deciding whether or
6 not an area of the marine environment meets the standards
7 listed in subsection (a) (1), (2), and (3), the Secretary shall—

8 “(1) take into consideration—

9 “(A) the value of the area’s inherent natural
10 resource and ecological qualities; including its
11 contribution to biological productivity, mainte-
12 nance of ecosystem structure, maintenance of eco-
13 logically or commercially important or threatened
14 species or species assemblages, and the biogeo-
15 graphic representation of the site,

16 “(B) the area’s significance as a resource of
17 historical, cultural, archaeological, or paleonto-
18 logical value,

19 “(C) the present and potential human-use
20 values that are dependent on maintenance of the
21 area’s resources; including commercial and recre-
22 ational fishing, other recreational activities, and
23 research and educational opportunities,

1 “(D) present and potential activity impacts
2 that may adversely affect the resource qualities
3 identified in subparagraphs (A), (B), and (C),

4 “(E) the existing State and Federal regula-
5 tory and management authorities applicable to the
6 area and the ability or inability of those authori-
7 ties to fulfill the purposes and policies of this title,

8 “(F) the manageability of the area, including
9 such determining factors as its size, its ability to
10 be identified as a discrete ecological unit with de-
11 finable boundaries, its accessibility, and its suit-
12 ability for surveillance and enforcement, and

13 “(G) the public benefits to be derived from
14 sanctuary status, giving emphasis to the benefits
15 of long-term protection of commercially significant
16 resources, vital habitats and resources which gen-
17 erate tourism, to the negative impacts produced
18 by management restrictions on income generating
19 activities such as mineral development, and to the
20 socioeconomic effects of sanctuary designation;
21 and

22 consult with—

23 “(A) the Committee on Merchant Marine and
24 Fisheries in the House of Representatives and the

1 Committee on Commerce, Science, and Transpor-
2 tation in the Senate,

3 “(B) the Secretaries of State, Defense, and
4 Transportation, the Secretary of the Interior, the
5 Administrator, and the heads of other interested
6 Federal agencies,

7 “(C) the responsible officials of any State
8 that will be affected by the establishment of the
9 area as a national marine sanctuary, and

10 “(D) the appropriate officials of any Regional
11 Fishery Management Council established by sec-
12 tion 302 of the Magnuson Fishery Conservation
13 and Management Act of 1976 (16 U.S.C. 1852)
14 that may be affected by such designation, and

15 “(E) other interested persons.

16 “SEC. 304. IMPLEMENTATION OF DESIGNATIONS.

17 “(a) DEFINITIONS.—For purposes of this section—

18 “(1) The term ‘Congressional review period’
19 means, with respect to a sanctuary designation made
20 under subsection (b), the one hundred and twenty-day
21 period, beginning on the designation date of the sanctu-
22 ary, of continuous session of the Congress. In deter-
23 mining such one hundred and twenty-day period—

24 “(A) continuity of session is broken only by
25 an adjournment of Congress sine die; and

1 lowing terms of such designation: .',
2 the first blank space being filled with the title of
3 the designation, the second blank space being
4 filled with the date on which the notice was sub-
5 mitted to Congress, and the third blank space
6 being filled with the text of each term of the des-
7 ignation which is disapproved.

8 “(b) DESIGNATION PROCEDURES.—(1) An area of the
9 marine environment shall be considered to be designated as a
10 national marine sanctuary if, on the same day (hereinafter
11 referred to as the ‘designation date’), the Secretary—

12 “(A) publishes in the Federal Register notice of
13 such designation, appropriately titled, together with the
14 terms of the designation; and

15 “(B) submits to each House of Congress a copy of
16 such notice and terms together with—

17 “(i) an analysis of the findings made with re-
18 spect to the designated area under section 303(a);

19 “(ii) proposed mechanisms to coordinate ex-
20 isting regulatory and management authorities
21 within such area;

22 “(iii) a management plan detailing goals and
23 objectives, management responsibilities, resource
24 studies, interpretive and educational programs,

1 and enforcement and surveillance activities for
2 such area;

3 “(iv) draft regulations which will be proposed
4 for adoption under section 305(1); and

5 “(v) an estimate of annual management costs
6 of such area, including costs of personnel, equip-
7 ment and facilities, enforcement, research, and
8 public education.

9 “(2) The terms of a designation shall include, among
10 other things, the geographic area included within the pro-
11 posed sanctuary, the characteristics of the area that give it
12 conservation, recreational, ecological, or esthetic value, and
13 the types of activities that will be subject to regulation by the
14 Secretary in order to protect those characteristics.

15 “(c) TAKING EFFECT OF DESIGNATIONS.—The desig-
16 nation of a national marine sanctuary under subsection (b)
17 shall take effect after the closing date of the congressional
18 review period unless—

19 “(1) the Congress disapproves the designation by
20 adopting a resolution of disapproval described in sub-
21 section (a)(2)(A) before the close of the congressional
22 review period;

23 “(2) in the case of a designated area that is locat-
24 ed entirely within the waters over which one or more
25 States have jurisdiction, the Governor of the State, or

1 the Governors of each of such States, as the case may
2 be, certify to the Secretary, within the sixty-day period
3 beginning on the designation date of the sanctuary,
4 that the designation is unacceptable to the State; or

5 “(3) the Secretary withdraws the designation
6 under subsection (d)(3).

7 “(d) DISAPPROVAL OF TERMS OF DESIGNATION.—(1)
8 No term of a designation that is submitted to the Congress
9 under subsection (b)(1)(B) shall take effect if the Congress
10 disapproves the term by adopting a resolution of disapproval
11 described in subsection (a)(2)(B), for such term, before the
12 close of the congressional review period.

13 “(2) A term of designation shall not take effect within
14 any portion of a national marine sanctuary that is within the
15 jurisdiction of a State if the Governor of the State certifies to
16 the Secretary, within the sixty-day period beginning on the
17 designation date of the sanctuary, that the application of such
18 term within such portion is unacceptable to the State.

19 “(3) If the Secretary considers that action taken under
20 paragraph (1) or (2), or both, will affect the designated area
21 in such a manner that the purposes and policies of this title
22 cannot be fulfilled within such area, the Secretary may with-
23 draw the designation.

24 “(e) PUBLICATION UPON TAKING EFFECT.—The Sec-
25 retary shall publish in the Federal Register the designation of

1 each national marine sanctuary that takes effect under this
2 title, together with the terms of the designation that are
3 effective.

4 "SEC. 305. REGULATIONS AND NEGOTIATIONS.

5 "With respect to each designation of a national marine
6 sanctuary that takes effect under section 304—

7 "(1) the Secretary, after consultation with other
8 interested Federal and State agencies, shall issue nec-
9 essary and reasonable regulations to implement the
10 terms of the designation and control the activities de-
11 scribed in it, except that all permits, licenses, and
12 other authorizations issued under any other authority
13 that pertain to activities carried out within the sanctu-
14 ary shall be valid unless such regulations otherwise
15 provide; and

16 "(2) the Secretary of State, if the sanctuary in-
17 cludes an area of water beyond the territorial jurisdic-
18 tion of the United States, shall take such action as
19 may be appropriate to enter into negotiations with
20 other Governments for the purpose of arriving at nec-
21 essary arrangements with those Governments for the
22 protection of the sanctuary and to promote the pur-
23 poses for which it was established.

1 "SEC. 306. RESEARCH.

2 "The Secretary shall conduct such research and educa-
3 tional programs as are necessary and reasonable to carry out
4 the purposes and policies of this Act.

5 "SEC. 307. ANNUAL REPORT ON AREAS BEING CONSIDERED
6 FOR DESIGNATION.

7 "The Secretary shall submit a report to the Congress on
8 or before November 1 of each year, setting forth information
9 on those sites which the Secretary will be actively consider-
10 ing for sanctuary designation in the current fiscal year. Such
11 information for each site shall include, to the extent available
12 at time of submission, the following:

13 "(1) A description of the resources and other
14 values which makes the site nationally significant.

15 "(2) Present and potential human uses.

16 "(3) Impacts of present and potential activities.

17 "(4) Existing State and Federal regulatory and
18 management authorities.

19 "(5) Boundary options.

20 "(6) Regulatory options.

21 "(7) Potential research and educational benefits.

22 "SEC. 308. ENFORCEMENT.

23 "(a) IN GENERAL.—The Secretary and the Secretary of
24 the department in which the Coast Guard is operating shall
25 conduct such enforcement activities as are necessary and rea-
26 sonable to carry out this title. The Secretary shall, whenever

1 appropriate and in consultation with the Secretary of the de-
2 partment in which the Coast Guard is operating, utilize by
3 agreement the personnel, services, and facilities of other Fed-
4 eral departments, agencies, and instrumentalities, or State
5 agencies or instrumentalities, whether on a reimbursable or
6 nonreimbursable basis in carrying out his responsibilities
7 under this title.

8 “(b) CIVIL PENALTIES.—(1) Any person subject to the
9 jurisdiction of the United States who violates any regulation
10 issued under this title shall be liable to a civil penalty of not
11 more than \$50,000 for each such violation, to be assessed by
12 the Secretary. Each day of a continuing violation shall con-
13 stitute a separate violation.

14 “(2) No penalty shall be assessed under this subsection
15 until the person charged has been given notice and an oppor-
16 tunity to be heard. Upon failure of the offending party to pay
17 an assessed penalty, the Attorney General, at the request of
18 the Secretary, shall commence action in the appropriate dis-
19 trict court of the United States to collect the penalty and to
20 seek such other relief as may be appropriate.

21 “(3) A vessel used in the violation of a regulation issued
22 under this title shall be liable in rem for any civil penalty
23 assessed for such violation and may be proceeded against in
24 any district court of the United States having jurisdiction
25 thereof.

1 “(c) JURISDICTION.—The district courts of the United
2 States shall have jurisdiction to restrain a violation of the
3 regulations issued under this title, and to grant such other
4 relief as may be appropriate. Actions shall be brought by the
5 Attorney General in the name of the United States, either on
6 his own initiative or the request of the Secretary.

7 “SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

8 “To carry out this title, there are authorized to be ap-
9 propriated not to exceed the following sums:

10 “(1) \$2,264,000 for fiscal year 1984.

11 “(2) \$2,500,000 for fiscal year 1985.

12 “(3) \$2,750,000 for fiscal year 1986.”.

○

COMMITTEE ADVISORY

H.R. 2062: A BILL TO REAUTHORIZE THE NATIONAL MARINE SANCTUARY PROGRAM

BACKGROUND:

The National Marine Sanctuary Program (NMSP) was established in 1972. This program authorizes the Secretary of Commerce, with Presidential approval, to designate areas of the marine environment as national marine sanctuaries. The purpose of sanctuary designation, as currently stated, is to preserve or restore the conservation, recreational, ecological, or esthetic values of these areas. The NMSP is administered by the National Oceanic and Atmospheric Administration.

Since establishment of the program in 1972, six sanctuaries have been designated. While the Act and its legislative history clearly indicate that the NMSP was designed to protect significant marine areas, it is not intended to prohibit all uses, but rather, to protect the recognized values of the site and emphasize compatible human uses. The legislative history emphasizes the importance of maximizing human benefit and use.

Administratively, the program has had a mixed history. Difficulties have arisen in determining how to maximize human benefit and use. The Secretary is authorized to regulate uses of sanctuary resources, such as oil and gas development and commercial fishing. Concern has been expressed that clearer definition of policy and greater Congressional scrutiny are needed to guide development of such regulations.

Recently, the Secretary published a listing of potential sanctuary sites. This list -- the Site Evaluation List -- constitutes a "pool" of potential sites from which future national marine sanctuaries will be drawn. Each year, several sites will be drawn from this list and actively considered for designation; "active candidate" status initiates the process of detailed consideration and involves periods for public comment and public hearings in affected areas.

AUTHORIZATION LEVELS:

H.R. 2062 authorizes the NMSP at \$2.264 million, \$2.5 million and \$2.75 million in fiscal years 1984, 1985, and 1986 respectively. The Administration has requested a three-year reauthorization at \$2.264 million in 1984 and "such sums as necessary" in subsequent years.

SUBCOMMITTEE ACTION:

Hearings on the NMSP were held jointly on February 24, before the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment. Prior to the hearings, H. R. 1229 was introduced by Mr. Young of Alaska, to terminate the program. Subsequent to the hearings, two bills were introduced: H.R. 1633 by Mr. Breaux; and H.R. 2062 by Mr. D'Amours. Both bills contained provisions to define legislative intent more specifically and to broaden consultation with interested parties. H.R. 1633 contained the additional requirement of Congressional designation of sanctuaries, rather than the existing procedure of Secretarial designation and Congressional review with the option to disapprove.

H.R. 2062 was reported by the joint Subcommittee on April 12. While no amendments were offered at Subcommittee markup, it was agreed in a colloquy between Mr. Breaux and Mr. D'Amours, to offer a joint amendment at the Full Committee level. This amendment would represent a compromise between the approaches of H.R. 1633 and H.R. 2062.

AMENDMENTS:

One amendment is expected to H.R. 2062 at the Full Committee markup on April 27. That amendment will be offered jointly by Messers D'Amours, Breaux, Forsythe and Pritchard. Structured in the nature of a substitute, the amendment makes two major changes to H.R. 2062: first, it mandates a 45-day period for "Committee Action" prior to final designation; and second, it provides that the appropriate Regional Fishery Management Councils shall have the opportunity to draft regulations governing fishing within sanctuaries.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

ALASKA LEGISLATIVE
INFORMATION OFFICE
400 NORTH CAPITOL, N.W.
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WASHINGTON, D.C. 20001
(202) 624-5873

April 27, 1983

MAY 3 - 1983

To: Transportation Committee Members

From: Gene Kennedy, Washington LIO

This morning I attended the full Committee mark-up of H.R. 1076, the so-called "Third Proviso" bill, which would repeal this exemption to the Jones Act. The Subcommittee on Merchant Marine and Fisheries held hearings on this approximately 2 weeks ago and I sent you the account at that time. The unanimous recommendation without amendment brought the legislation to the full Committee on Merchant Marine and Fisheries this morning.

There was one other bill on the agenda this morning, H.R. 5, which passed with one amendment (Bateman requested by Ranking Minority Member Forsythe of New Jersey) by a vote of 37-2 with one abstaining. This bill would provide block grants to establish an Ocean and Coastal Resources Management and Development Fund. Four states - including Alaska - would receive the most money from this bill.

H.R. 1076, a Bill to strengthen the domestic water borne commerce of the United States was the 2d item on the changed agenda. The following occurred pertaining to this bill:

Cong. Bonker of Washington requested that his bill (along with 5 Members of the Washington State delegation and Mr. Young of Alaska) be considered next since he had another mark-up he had to go to. The Chairman agreed and Mr. Biaggi, who chairs the Merchant Marine Subcommittee, spoke on the bill affecting the "Third Proviso" of the Jones Act. His statement (included) contains his reasoning.

Cong. Bonker congratulated Mr. Jones and Mr. Biaggi for their rapid consideration of his legislation. Chairman Forsythe mumbled something which was incomprehensible but, in effect, he deferred to Mr. Young. He said that he had been under some criticism in Alaska for his co-sponsorship of this bill and that he was working to iron out the shipping problems in the State. He had been against foreign intervention in Alaska's fisheries and was equally opposed to this loophole. Bonker said this provision in the Jones Act was to enable goods shipped to Canadian ports to go by rail and the Great Lakes by rail and barge to New England. Alaska was specifically excluded originally but was included in the language of the Proviso with the Alaska Statehood Act of 1958. The activity ceased years ago. However, in recent years there has been an interest of foreign countries in this trade and he felt it was timely we move to close this loophole. Canada, by the way, he said, has a law which requires Canadian ships to be used in coastal trade. He also thanked Mr. D'Amours (who may run for the Senate in NH) for allowing his bill to be considered first (it took 7 minutes). There were no amendments and on a favorable move to the House floor the vote was unanimous.

This legislation would, in effect, repeal the exemption. As far as we have been able to determine from your computer, right now, there is no companion bill in the Senate. However, we will keep you informed on the fate of this legislation as it goes to the floor and its progress to and through the Senate.

98TH CONGRESS
1ST SESSION

H. R. 1076

To strengthen the domestic water borne commerce of the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1983

Mr. BONKER (for himself, Mr. YOUNG of Alaska, Mr. SWIFT, Mr. PRITCHARD, Mr. LOWRY of Washington, Mr. DICKS, and Mr. CHANDIER) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To strengthen the domestic water borne commerce of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 27 of the Merchant Marine Act, 1920 (46
4 U.S.C. 883) is amended by striking out "*Provided further,*
5 That this section shall not apply to merchandise transported
6 between points within the continental United States, includ-
7 ing Alaska, over through routes heretofore and hereafter rec-
8 ognized by the Interstate Commerce Commission for which
9 routes rate tariffs have been or shall hereafter be filed with

2

- 1 said Commission when such routes are in part over Canadian
- 2 rail lines and their own or other connecting water facilities:".

○

1119 ✓
STATEMENT BY THE HONORABLE MARIO BIAGGI,
CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE,
AT FULL COMMITTEE MARKUP OF
H.R. 1076, THIRD PROVISOR

WEDNESDAY, APRIL 27, 1983

THE THIRD PROVISOR OF THE JONES ACT WAS ENACTED TO IMPROVE THE TRANSPORTATION OF MERCHANDISE BETWEEN POINTS IN THE CONTINENTAL UNITED STATES. IT ALLOWED THE CONTINUED OPERATION ON THE GREAT LAKES OF CAR FERRIES BY CANADIAN RAILROADS AS A PART OF THE TRANSPORTATION OF MERCHANDISE FROM MIDWESTERN STATES ACROSS CANADA BY RAIL AND BARGE TO NEW ENGLAND. ALASKA WAS SPECIFICALLY EXCLUDED ORIGINALLY, BUT WAS INCLUDED IN THE LANGUAGE OF THE PROVISOR WITH THE ENACTMENT OF THE ALASKA STATEHOOD ACT IN 1958.

DURING THE PAST 25 YEARS, LITTLE USE HAS BEEN MADE OF THE THIRD PROVISOR. IMPROVED RAIL TRANSPORTATION AROUND THE GREAT LAKES AND THE CONSTRUCTION OF BRIDGES HAS MADE THE USE OF RAIL-CAR BARGES UNNECESSARY. NO ONE IS OPERATING UNDER THE THIRD PROVISOR AT THIS TIME.

THE TRADE THAT IS INVOLVED AND OF IMMEDIATE ISSUE NOW IS COASTWISE SERVICE FROM PLACES IN THE LOWER 48 STATES TO ALASKA. THE CURRENT CONCERN ARISES FROM THE FACT THAT THERE HAVE BEEN TWO RECENT EFFORTS TO TAKE ADVANTAGE OF THE THIRD PROVISOR EXEMPTION. ALTHOUGH UNSUCCESSFUL THUS FAR, THOSE WHO WISH TO ENTER THE TRADE AND TAKE ADVANTAGE OF THE EXEMPTION HAVE NOT ABANDONED THEIR EFFORTS.

IF THE THIRD PROVISOR EXEMPTION WERE TO BE UTILIZED, IT WOULD MEAN THAT CARGO NOW BEING SHIPPED FROM OUR U.S. NORTHWEST PORTS ON U.S.-FLAG VESSELS TO ALASKA COULD INSTEAD BE MOVED BY

GROUND TRANSPORTATION TO A CANADIAN PORT AND FROM THERE TO ALASKA ON FOREIGN-FLAG OR OTHER NON-COASTWISE-QUALIFIED VESSELS. THIS, OF COURSE, WOULD HARM JONES ACT OPERATORS WHO HAVE INVESTED MILLIONS OF DOLLARS IN THE ALASKA TRADE -- AS WELL AS RESULT IN A LOSS OF AMERICAN SEAGOING AND PORTSIDE JOBS.

AT THE HEARING ON MARCH 18, THE SUBCOMMITTEE HEARD TESTIMONY THAT THERE IS CURRENTLY ADEQUATE SERVICE TO ALASKA AND SUFFICIENT COMPETITION AMONG THE JONES ACT OPERATORS IN THE TRADE. WHILE THIS JONES ACT EXEMPTION ONCE SERVED A PURPOSE, IT HAS OUTLIVED ITS USEFULNESS. I SEE NO COMPELLING REASON TO RETAIN THE EXEMPTION, AND I URGE MY COLLEAGUES TO JOIN ME IN SUPPORTING THE BILL.



THE
aashto
journal
TM

WEEKLY
TRANSPORTATION
REPORT

PHYLLIS G. WEISS, Editor

MAY 3 - 1983

VOLUME 83, No. 16

April 22, 1983

UPDATE ON LARGE TRUCK CONTROVERSY

The Federal Highway Administration (FHWA) this week rescinded its designation of certain highways for use by larger trucks in the four states that filed lawsuits on the issue.

This action affected Alabama, Georgia, Pennsylvania and Vermont, which went to court to block the FHWA designation of highways that can be used by the larger trucks. It appears similar action will be taken in other states that file litigation against FHWA's April 6 designations.

FHWA Administrator Ray Barnhart said this week the agency plans to resolve informally the differences with other complaining states. The agency soon will issue its procedures for states to appeal the FHWA designations so a permanent network can be established by Oct. 3.

The controversy arose when many state officials charged that FHWA ignored state recommendations and designated some highways that states felt would be unsafe for use by the larger trucks. Several states, in addition to the four mentioned above, are contemplating legal and legislative action. In Congress, a number of bills have been introduced to change provisions of the law opening more roads to the bigger trucks (April 8, 15, 1983 AASHTO JOURNAL.)

FHWA's action affects the four states differently. For Alabama, the bigger trucks will be prohibited on almost all non-Interstate roads; in Georgia, the mileage is cut from 2,909 to 49; in Pennsylvania, the designated route system is reduced from 2,221 miles to 498 miles of federal-aid primary routes; and in Vermont, the tandem-trailer trucks will continue to be prohibited on all roads except the Interstate system.

continued...

American Association of State Highway And Transportation Officials

EXECUTIVE OFFICE: 444 N. Capitol Street, N.W., Suite 228 Washington, D.C. 20001 Telephone (202) 624-8800

Francis B. Francois, Executive Director

The Coalition of Northeastern Governors (CONEG) has urged President Reagan to suspend the new FHWA regulations which allow twin-trailer trucks on major stretches of northeastern roads and highways. In an April 18 letter to Reagan, a copy of which is attached, CONEG said FHWA's list of designated highways "far exceeds anything we, or our transportation officials, expected."

In addition, the board of directors of the Northeast Association of State Highway and Transportation Officials adopted a resolution this week urging suspension of the FHWA regulations on the bigger trucks. A copy of the resolution is attached (See related story).

UMTA BUDGET HEARINGS RESUME IN HOUSE

The Urban Mass Transportation Administration (UMTA) resumed its discussion of the fiscal year 1984 budget request before the House Appropriations Subcommittee on Transportation on April 19 and 20.

UMTA Administrator Arthur Teele Jr., said the administration wants to defer additional new rail starts for one year to adequately fund rail modernization and bus capital needs. Of the \$1.1 billion in proposed capital transit funds derived from the hike in the federal gasoline tax, only about \$638 million is uncommitted. Funding needs for proposed new rail starts in Houston, Los Angeles, Atlanta and Santa Clara far exceed available federal funding, he said.

Teele reiterated his opposition to transit operating assistance, and countered claims that the Reagan administration has reneged on promises made during adoption of the Surface Transportation Assistance Act of 1982. Proposed transit capital funding for fiscal year 1984 is 43 percent higher than fiscal year 1982 levels, he added.

PROPOSED TRANSIT CUTS COULD JEOPARDIZE JOBS

The Reagan administration's proposed transit cuts in fiscal year 1984 could jeopardize more than 82,000 jobs, according to the American Public Transit Association (APTA).

"The administration's surprise move to cut funds from the fiscal year 1984 budget takes back the jobs expected to flow from more than \$1 billion in new funds to transit via the new gas tax," said Jack R. Gilstrap, APTA executive vice president. He was quoted in the April 15 issue of APTA's Passenger Transport magazine.

The Reagan administration has proposed cutting about \$926 million in federal transit aid in fiscal year 1984, including \$598 million in transit operating subsidies. APTA discusses the impact on employment of transit investments in a recent study, "Employment Impact of Transit Capital Investment and Operating Expenditures."

continued...

For each \$100 million spent for capital projects, some 7,400 to 8,000 direct and indirect jobs are generated, while more than 9,600 direct and indirect jobs are generated by the same amount spent for operating subsidies, according to the APTA report.

SENATE PANEL VOTES ON AMTRAK FUNDS

The Senate Commerce Committee voted this week to authorize \$750 million in funds for Amtrak for fiscal year 1984, which is about \$68 million more than the Reagan administration requested.

Amtrak officials believe the authorized funds will be sufficient to operate all the trains in the system. The Reagan administration requested a reduction in capital expenditures. The Senate panel this week also agreed to allow the Treasury Department to forgive about \$1 billion in debt owed by Amtrak to the government on previous loans for capital projects.

TASK FORCE RECOMMENDS DOT CHANGES

A presidential advisory panel released a draft report Monday recommending \$4.6 billion in cost savings and revenue benefits over three years for the Department of Transportation.

This draft was included in the second round of cost-cutting reports on federal agencies prepared by the President's Private Sector Survey on Cost Control. The 327-page report on DOT will be considered by a task force subcommittee at a public meeting in May.

Among the draft recommendations for DOT are:

- Combine the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA).
- Reduce the DOT regions from 10 to six.
- Combine into a Land Transportation Safety Administration the safety functions of FHWA, the Federal Railroad Administration, UMTA and the National Highway Traffic Safety Administration.
- Simplify environmental regulations relating to FHWA highway construction.
- Create an organization within the transportation secretary's office to establish and monitor overall research and development.
- Consolidate the FHWA program categories into Interstate Construction, Interstate Resurfacing, Restoration, Rehabilitation and Reconstruction, primary, secondary, urban, safety, forest highways, public lands highways, emergency relief, highway safety, research and development and Interstate substitution.

continued...

- Implement multi-year funding for major highway programs under contract authority.
- Increase transferability to states of Highway Trust Fund accounts.
- Close air traffic control towers that handle low volumes of traffic.
- Recoup from boat owners the full cost of Coast Guard services.
- Improve UMTA grant management and fiscal controls by installing a computerized management information system.

The task forces of businessmen working under the 161-member panel have released 11 of the 38 task force reports, for a cumulative total of about \$86 billion in savings and \$18 billion in new revenues.

MBE PROVISIONS PROBED DURING SEMINAR

The proposed Minority Business Enterprise (MBE) provisions received mixed reviews Thursday from state officials and private contractors during a seminar by the American Road and Transportation Builders Association.

While some state officials were optimistic they could carry out the requirement that 10 percent of federal-aid highway funds be spent on MBEs, others were not so confident because of the magnitude of the program. Private contractors questioned whether the goals could be met by states which lack an adequate minority population.

The seminar served as a forum for discussing how to implement the MBE requirement. Attending the session were representatives from the Federal Highway Administration, congressional committees, private industry, minority groups and state transportation agencies.

During the session, concerns were raised that data were not available to assess the availability of MBE contractors nationwide. AASHTO has surveyed its member departments to obtain such information. A copy of the survey, which includes responses from 40 states, is being sent to AASHTO member departments this week.

Recognizing the lack of sufficient national data in the minority contracting area, Senate congressional staff asked the General Accounting Office to gather such information. This also would include Minority Women Enterprises.

NEW INFRASTRUCTURE SURVEY RELEASED

Streets, roads, sidewalks and curbs are among the public facilities most in need of major repair in cities and towns, according to one of the most extensive surveys of the nation's deteriorating infrastructure.

continued...

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continued...

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MBE PROVISIONS PROBED DURING SEMINAR

The proposed Minority Business Enterprise (MBE) provisions received mixed reviews Thursday from state officials and private contractors during a seminar by the American Road and Transportation Builders Association.

While some state officials were optimistic they could carry out the requirement that 10 percent of federal-aid highway funds be spent on MBEs, others were not so confident because of the magnitude of the program. Private contractors questioned whether the goals could be met by states which lack an adequate minority population.

The seminar served as a forum for discussing how to implement the MBE requirement. Attending the session were representatives from the Federal Highway Administration, congressional committees, private industry, minority groups and state transportation agencies.

During the session, concerns were raised that data were not available to assess the availability of MBE contractors nationwide. AASHTO has surveyed its member departments to obtain such information. A copy of the survey, which includes responses from 40 states, is being sent to AASHTO member departments this week.

Recognizing the lack of sufficient national data in the minority contracting area, Senate congressional staff asked the General Accounting Office to gather such information. This also would include Minority Women Enterprises.

NEW INFRASTRUCTURE SURVEY RELEASED

Streets, roads, sidewalks and curbs are among the public facilities most in need of major repair in cities and towns, according to one of the most extensive surveys of the nation's deteriorating infrastructure.

continued...

The joint survey by the National League of Cities and the U.S. Conference of Mayors, which includes responses from 809 cities, was the subject of a hearing Thursday on infrastructure legislation by the House Subcommittee on Economic Development.

While the cost of repairing the nation's urban infrastructure is estimated at nearly \$3 trillion, the actual cost of most priority public works projects in individual cities is "relatively modest, ranging from \$1 to \$5 million," according to the survey.

"This survey did not attempt to produce a total cost estimate -- a 'bottom line' -- for all infrastructure needs in America's cities," according to the report. "But this survey shows that a steady but manageable investment over a number of years could and would enable communities to start work on the capital assets ranked as highest priorities by the respondents."

More than 70 percent of the survey respondents indicated that major work was needed on the streets and roads in their cities; nearly 70 percent said that sidewalks and curbs also needed major repair. With regard to financing, more than half of the respondents said they needed state or federal aid to help pay for repairing streets, roads, bridges and overpasses, according to the survey.

The survey also revealed that investment in the nation's infrastructure would create jobs for the private sector. Most cities expect to use private contractors rather than public employees to do the work, according to the survey.

In separate action, the Staff Advisory Council of the transportation committee of the National Governors' Association (NGA) this week discussed developing a policy on the infrastructure problem. A draft infrastructure policy should be ready by the council's next meeting on June 15.

For information on the report, "Capital Budgeting and Infrastructure in American Cities: An Initial Assessment (April 1983)," contact Randy Arndt at the National League of Cities at (202) 626-3158 or Mike Brown at the U.S. Conference of Mayors at (202) 293-7133.

COMMENT PERIOD EXTENDED ON A-95 REVIEW

The Office of Management and Budget (OMB) has reopened the comment period on the Reagan administration's proposal to replace the A-95 review process with a system that returns more control to the state and local governments.

An executive order signed by President Reagan last July called for a new review process and procedures for federally-assisted programs and projects. The order, which was scheduled to take effect on April 30, will not be implemented until Sept. 30. The comment period on how OMB will carry out the regulations affecting DOT has been extended to May 19, according to an item in the April 21 Federal Register.

continued...

Comments on the proposed rulemaking for DOT should be sent to: Docket Clerk, OST, Docket No. 77, Department of Transportation, 400 7th Street, S.W., Room 10421, Washington, D.C. 20590. AASHTO member departments are requested to send AASHTO headquarters a copy of their comments.

NASHTO BOARD MEETS IN HARTFORD

Trucks and apportionment formulas for federal-aid highway funding were discussed at the meeting this week of the Northeast Association of State Highway and Transportation Officials (NASHTO) in Hartford, Conn.

The NASHTO board of directors adopted a number of resolutions, three of which are attached. One resolution opposes the Federal Highway Administration's designation of highways that can be used by the double-bottom trucks. (See related story). The states want to decide which roads can be safely travelled by these larger trucks, according to the resolution.

With regard to taxing trucks involved in Interstate commerce, the NASHTO board supported a possible national truck plate method of collecting fees. In addition, NASHTO backed the principal of using weight and distance to establish such uniform fees, which would be returned to the states on a pro rated basis.

On the issue of apportioning Interstate Resurfacing, Restoration, Rehabilitation and Reconstruction funds, the board supported the following formula: one-third lane miles, one-third diesel fuel consumption and one-third bridge needs. A copy of the resolution and possible apportionments under this formula are attached.

In other action, NASHTO elected its new officers. Lowell Bridwell of Maryland was elected president, George Campbell of Maine, vice president and George Boynton, secretary-treasurer. The 1984 NASHTO meeting will be held May 9-11, in Hershey, Penn. The following year, the meeting is set for Baltimore, April 21-23, 1985. The board also selected New Jersey as its 1986 convention site.

GAO REPORTS ON TRANSIT MAINTENANCE

Concerned that the nation lacks assurance that buses purchased with federal aid are properly maintained, the General Accounting Office (GAO) has urged the development of federal bus maintenance guidelines.

"Although the Department of Transportation has provided substantial funds to support bus purchases by local transit systems, it has not systematically monitored how well buses are maintained," according to a March 25 GAO report. After examining the maintenance activities of six major transit systems, GAO "found that buses did not always receive timely preventive maintenance."

continued...

GAO has proposed that the Urban Mass Transportation Administration (UMTA) adopt 1982 guidelines suggested by the American Public Transit Association (APTA). APTA has urged that "rigid federal maintenance standards should be avoided."

The report, "DOT Needs Better Assurance that Transit Systems are Maintaining Buses," (March 25, 1983), GAO/RCED-83-67, can be obtained from: the U.S. General Accounting Office, Document Handling and Information Services Facility, P.O. Box 6015, Gaithersburg, Md. 20760. Telephone: (202) 275-6241.

UNIFORM RELOCATION REGULATIONS PROPOSED

The Department of Transportation (DOT) has proposed a new government-wide rule for administering the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The proposed regulation, which has been sent to AASHTO member departments, would establish uniform federal procedures for treating persons displaced by federal or federally-assisted programs. Federal Highway Administration officials reviewed the proposal this week at the AASHTO Subcommittee on Right-of-Way Conference in San Antonio.

This proposal should not be confused with Sen. David Durenberger's bill, S.531, which would amend the Uniform Relocation Act. His bill was reported by Senate Governmental Affairs Committee last month (March 18, 1983 AASHTO JOURNAL.)

Comments on DOT's proposed rulemaking must be received by May 31, and should be sent to: Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th Street, S.W., Room 10241, Washington, D.C. 20590.

ADDITIONAL TRANSIT FUNDS APPORTIONED

The Department of Transportation (DOT) has now apportioned \$711.8 million of the \$779 million authorized for capital transit assistance (Section 9A program) in the current fiscal year.

Areas with populations under 200,000 are apportioned all of their funds. Areas with over 200,000 population receive 90.3 percent of their funds, with the final apportionment to be made by July 1. A copy of the table of apportionments has been sent to members of the AASHTO Standing Committee on Public Transportation.

SEN. DANFORTH INTRODUCES HIGHWAY SAFETY BILL

Chairman Jack Danforth (R-Mo.) of the Senate Subcommittee on Surface Transportation introduced legislation (S.1108) on Wednesday that proposes sweeping improvements in the nation's highway safety program.

continued...

S.1108 includes provisions on automobile and truck safety, drunk and drugged driving and handling of hazardous materials. Under the bill, automobile manufacturers would be required to install in cars beginning next September bumpers that withstand the impact of five miles per hour and non-lacerative windshields. The following September, air bags would be required in new cars.

The bill would authorize incentive grants for states that require the use of safety seats for children and those that adopt laws to deter drunk driving. S.1108 also would require commercial motor carriers to pass annual safety inspections. Under another provision, states would be eligible for grants to support enforcement of their hazardous materials transport regulations and emergency response programs.

HEARING SET ON MOVING HAZARDOUS MATERIALS

The House Government Activities and Transportation Subcommittee will hold a field hearing on April 25 in Chicago on the Department of Transportation's regulations regarding transport of hazardous materials.

The hearing, to be chaired by Rep. Cardiss Collins (D-Ill.), will focus on the movement of toxic chemicals and cargoes through Chicago and its suburbs.

REP. HOWARD PROPOSES DRIVER SAFETY CAMPAIGN

Chairman James Howard of the House Public Works and Transportation Committee has proposed funding a media campaign for driver safety by using a part of the money collected from the hike in the federal gas tax.

In a speech to the National Safety Council on April 6, Chairman Howard recommended dedicating 1/2 of 1 percent of the gas tax money or about \$45 million annually for a campaign emphasizing safe driving on the nation's highways, according to a press release from his office. He has not yet introduced legislation to that effect.

AASHTO RELEASES NEW PUBLICATION

AASHTO has just released a new publication, "Guide for the Design of Highway Occupancy Vehicle and Public Transfer Facilities - 1983."

Each AASHTO member department has been sent 10 copies of the new publication. Additional copies can be purchased from AASHTO headquarters for \$5 each, plus \$1.25 for postage and handling. Request Publication GHOV.

* * *

CONEG

COALITION OF NORTHEASTERN GOVERNORS

GOVERNOR THOMAS H. KEAN, Chairman
GOVERNOR WILLIAM A. O'NEILL, Vice-Chairman

DAVID D. ARNOLD
Executive Director

April 18, 1983

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to express our grave concern for the safety of the residents and motorists of our states in the northeastern region of the country. We believe the U.S. Department of Transportation has acted unwisely in administering those aspects of the Surface Transportation Act of 1982 pertaining to longer and wider trucks.

Federal law requires that the Department of Transportation consider safety before making decisions on appropriate routes. The U.S. Department of Transportation adopted implementing regulations which required consultation with the states before establishing these routes. Although the U.S. DOT did consult with states, they appear to have ignored our recommendations.

Eight states in our region--Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont--recommended that a total of 1,473 miles of non-interstate highways be identified as safe for the longer and wider trucks. The FHWA arbitrarily increased those recommendations by 4,685 miles. The Department's list of highways on which these trucks could travel far exceeds anything we, or our transportation officials, expected. It allows the longer, wider and heavier trucks on congested city streets in New York, Philadelphia and dozens of other cities in our region. It allows long, twin-trailer trucks on narrow rural highways and on some mountainous roads of such steep grades that smaller, lighter trucks are now barred because of safety concerns.

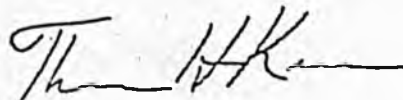
Mr. President
Page 2
April 18, 1983

It is our hope that you will ask the U.S. Department of Transportation to suspend its designation of these routes and consult further with the states before expanding upon the list of highways suggested by the states for use by the longer and wider trucks. We believe that the states' recommendations reflect vital safety concerns and that these recommendations must be taken into account in the final plan.

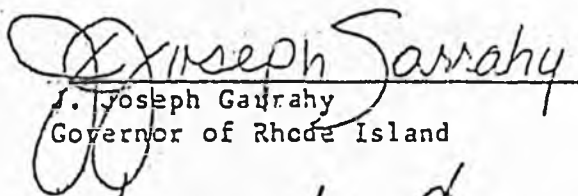
Sincerely,



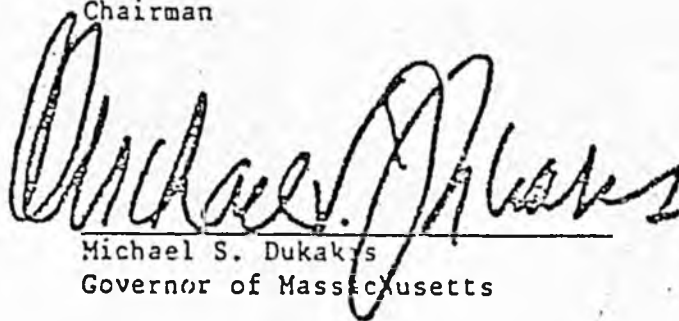
Dick Thornburgh
Governor of Pennsylvania
Lead Governor for Transportation



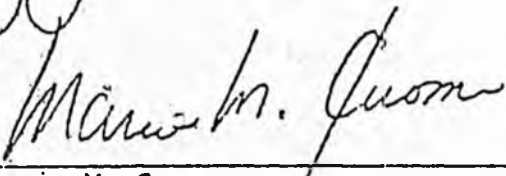
Thomas H. Kean
Governor of New Jersey
Chairman



Joseph Garrahy
Governor of Rhode Island



Michael S. Dukakis
Governor of Massachusetts



Mario M. Cuomo
Governor of New York

OK

NORTHEAST ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS

RESOLUTION

OPERATION OF "DOUBLE-BOTTOM" TRUCKS

- WHEREAS the Surface Transportation Act of 1982 (Public Law 97-424) required States to allow operation of tractors with double trailers no later than April 6, 1983;
- WHEREAS as a result of that Act States cannot set overall length limitations on tractor-semitrailer or tractor-semitrailer-trailer combinations;
- WHEREAS that Act requires that all States permit the operation of tractor-semitrailer-trailer combinations on the Interstate System and on other designated portions of the Federal-Aid Primary System;
- WHEREAS the stated intent of the Legislation is to provide for the needs of interstate commerce by granting appropriate access to highways built with Federal-aid financial assistance without compromising the safety of the traveling public and the structural integrity of the highway system (emphasis added);
- WHEREAS the Federal Highway Administration's February 3, 1983 policy statement further states that the States are most familiar with their highways systems, including the structural capacity of bridges and pavements, traffic volumes and unique climatic conditions;
- WHEREAS the Federal Highway Administration's February 3, 1983 policy statement further recognizes that the States are responsible for traffic regulation and enforcement;
- WHEREAS the Federal Highway Administration's February 3, 1983 policy statement further states that determination of highways for use by vehicles covered by the Act, the qualifying of Federal-Aid Primary System highways for such use, and the determination of "reasonable access" shall reside at the State level;
- WHEREAS the Secretary of Transportation, without consultation with the States, has instituted extensive changes in federal policy regarding semitrailer and trailer lengths in commercial motor vehicle operation on certain highway systems;
- WHEREAS such actions were taken without regard to State concerns regarding safety and structural integrity of highway systems within the individual States;
- NOW THEREFORE BE IT RESOLVED that NASHITO oppose the action taken by the Secretary of Transportation in instituting these policies in such a unilateral manner;

NASHTO Resolution
Operation of "Double-bottom" Trucks
Page 2

BE IT FURTHER RESOLVED that NASHTO urge suspension of continued implementation of the policies regarding tractor-~~semi~~ trailer and tractor-semitrailer-trailer operation included in the Act until such time as the Secretary of Transportation has full opportunity to hear and consider the concerns of the States regarding the effects of such policies on safety and pavement integrity within those States;

BE IT FURTHER RESOLVED that NASHTO actively pursue the adoption of policies permitting State determination of highways to be opened to use by the commercial motor vehicles covered in the Surface Transportation Act of 1982, including Congressional action as necessary.

NORTHEAST ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS

RESOLUTION

TAXING OF INTERSTATE TRUCKING

- WHEREAS the Surface Transportation Act of 1982 instituted changes in the fee structures assessed against those who spend substantial portions of their total travel in interstate trucking;
- WHEREAS NASHTO States are concerned with fair payment by all trucks for their use of highways in member States and nationally;
- WHEREAS responsible studies have clearly shown that cost responsibilities for highways vary with both the weight and distance carried;
- WHEREAS the present system of fees offers barriers to the free flow of interstate commerce;
- WHEREAS the existing multiplicity of permits required for interstate operation and the inconsistency of fee structures and amounts creates considerable confusion and delay to the consistent, speedy collection of those fees;
- WHEREAS charges in fee structures and amounts charged by individual States often create reciprocity and collection problems for other States;
- WHEREAS a consistent fee structure among the States levied against those who spend substantial portions of their total travel in interstate trucking would improve efficiency of interstate operation and ease fee collection and auditing by the States;
- NOW THEREFORE BE IT RESOLVED that NASHTO support study and possible implementation of a National Truck Plate method of fee collection preempting States taxation of trucks substantially engaged in interstate commerce and providing uniform issuance of all normal permits and operating authorities and uniform collection of fees associated with those permits and authorities;
- BE IT FURTHER RESOLVED that NASHTO support the principal of using weight and distance in establishment of any such fees, with those fees to be returned to the States on a pro rated basis depending upon the usage in each State by interstate carriers paying those fees. Such funds to be distributed in block grant formulas.

D R A F TNORTHEAST ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALSRESOLUTIONINTERSTATE 4R APPORTIONMENT FORMULA

- WHEREAS: NASHTO is previously on record supporting a usage - based formula to apportion Interstate 4R funds (through adoption of the NGA/AASHTO position on new Federal highway legislation);
- WHEREAS: The passage of the 1982 Surface Transportation Assistance Act left unresolved the issue of a more equitable distribution of Interstate 4R funds;
- WHEREAS: The adverse effects of truck traffic, extreme weather, and the particular geography of an area, combined with the size and extent of the system have the greatest impact on states' abilities to maintain their Interstate highways;
- WHEREAS: Current apportionment factors such as vehicle miles of travel do not reflect the weight and size of vehicles (trucks);
- WHEREAS: Diesel fuel usage should be considered as a reasonable surrogate for truck traffic, since no credible national data base for truck traffic exists;
- WHEREAS: Bridge data, including data on deficient bridges and bridge needs, serve as a surrogate for environmental and geographical (terrain) conditions as well as for the impact of meteorological conditions;
- WHEREAS: Lane miles, another current apportionment factor, is an adequate measure of the size and extent of the Interstate Highway System;
- NOW THEREFORE BE IT RESOLVED THAT: NASHTO supports the following formula for the apportionment of Interstate 4R funds: 1/3 Lane Miles, 1/3 Diesel Fuel Consumption, 1/3 Bridge Needs;
- BE IT FURTHER RESOLVED THAT: the recommended formula ensures that no state, including the District of Columbia, receives less than 1.0% of the total apportionment.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1992
 SEC. 137 STUDY ON APPORTIONMENT FACTORS
 INTERSTATE 4R PROGRAM
 PERCENT DISTRIBUTION OF KEY FACTORS
 AND RECOMMENDED FORMULA

TABLE 11

STATE	CURRENT 4R FACTOR	EXISTING FACTORS		STATEWIDE FUEL CONSUMPTION		INTERSTATE BRIDGES (INCLUDING TOLL ROADS)			FORMULA
				LM	VMT	DIESEL	GAS	TOTAL NUMBER	NEEDS
		W/10%CAP	ACTUAL						1/3 Diesel
ALABAMA	1.72	1.92	1.53	1.96	1.81	2.16	.15	.12	1.24
ALASKA	.83	1.36	.23	.10	.17				1.00
ARIZONA	2.17	2.71	1.59	1.54	1.29	3.39	.10	.08	1.34
ARKANSAS	1.15	1.27	1.04	1.62	1.11	1.28	2.30	1.82	1.60
CALIF.	9.58	7.22	12.81	8.24	10.62	7.23	2.51	1.98	5.55
COLORADO	1.96	2.22	1.72	1.12	1.44	1.88	.17	.13	1.08
*CONN.	.95	.70	1.29	.73	1.27	1.43	9.76	7.70	3.45
*DEL.	.50	.08	.13	.25	.29	.19	0	0	1.00
*D.C.	.50	.04	.10	.10	.17	.14	.94	.75	1.00
FLORIDA	3.17	2.84	3.68	3.76	4.70	2.96	7.23	5.70	4.27
GEORGIA	3.36	2.98	3.96	3.53	2.76	2.18	2.52	1.99	2.79
HAWAII	.50	.13	.30	.11	.30	.19	.10	.08	1.00
IDAHO	.96	1.37	.50	.30	.42	.88	.20	.16	1.00
ILLINOIS	3.81	3.85	3.90	4.31	4.37	3.76	4.96	3.91	4.05
INDIANA	2.64	2.42	3.00	3.93	2.55	3.04	1.59	1.25	2.45
IOWA	1.41	1.74	1.06	2.02	1.31	1.34	1.07	.84	1.49
KANSAS	1.16	1.48	.80	1.64	1.18	1.83	.50	.39	1.12
KENTUCKY	1.92	1.82	2.11	1.85	1.69	1.42	1.31	1.04	1.54
LA.	1.71	1.68	1.80	2.08	2.06	2.16	3.08	2.43	2.11
*MAINE	.50	.60	.18	.40	.49	.45	.09	.07	1.00
*MARYLAND	1.54	1.07	2.16	1.37	1.88	1.35	3.99	3.14	1.98
*MASS.	1.29	1.01	1.68	1.28	2.20	1.86	5.90	4.66	2.53
MICHIGAN	3.41	3.13	3.88	2.35	3.87	2.13	.07	.05	1.71
MINN.	1.84	2.01	1.69	1.73	1.84	1.30	1.83	1.44	1.72
MISS.	1.26	1.55	.94	1.59	1.16	1.44	.38	.30	1.09
MISSOURI	2.86	2.78	3.05	2.58	2.41	2.27	1.84	1.45	2.22
MONTANA	1.59	2.55	.48	.73	.42	1.45	.63	.49	1.21
NEBRASKA	.91	1.15	.65	1.13	.72	.68	.03	.02	1.00
NEVADA	.84	1.16	.47	.53	.48	.82	.01	.01	1.00
*NEW HAMP.	.50	.44	.30	.20	.39	.70	.53	.42	1.00
*NEW JER.	1.30	.97	1.74	2.33	3.05	1.28	2.45	1.93	1.84
NEW MEX.	1.68	2.30	.99	1.03	.71	2.17	.77	.56	1.25
*NEW YORK	3.65	3.55	3.91	2.62	5.25	3.46	10.00	29.03	4.99
N. CAR.	1.78	1.79	1.84	2.76	2.77	1.43	3.49	2.75	2.48
N. DAK.	.86	1.35	.30	.59	.35	.44	.06	.05	1.00
OHIO	4.27	3.50	5.36	5.05	4.59	4.46	.70	.55	2.85
OKLAHOMA	1.52	1.56	1.52	2.34	1.74	2.19	.12	.09	1.24
OREGON	1.57	1.72	1.43	1.58	1.23	1.40	.80	.63	1.27
*PENNA.	2.93	2.76	3.23	4.75	4.36	3.59	7.23	5.70	4.55
*RHODE IS.	.50	.24	.34	.18	.36	.30	2.20	1.74	1.00
S. CAR.	1.52	1.73	1.31	1.63	1.49	1.66	.79	.62	1.28
S. DAK.	1.04	1.55	.45	.52	.34	.97	.32	.25	1.00
TENN.	2.68	2.53	2.96	2.83	2.29	2.63	2.31	1.82	2.37
TEXAS	7.79	7.72	8.17	9.50	7.82	11.70	6.19	4.88	7.23
UTAH	1.49	1.91	1.03	.80	.65	1.30	.04	.03	1.00
*VERMONT	.51	.73	.26	.22	.23	.62	.11	.09	1.00
VIRGINIA	2.60	2.47	2.85	2.62	2.48	2.64	1.05	.83	1.39
WASH.	2.16	1.89	2.56	1.53	1.80	1.56	4.52	3.56	2.45
W. VIR.	.78	.93	.61	.80	.79	1.17	.71	.56	1.00
WISC.	1.46	1.41	1.57	2.10	1.93	1.76	2.22	1.75	1.77
WYOMING	1.37	2.09	.54	.74	.35	1.95	.20	.16	1.00
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Note: Recommended Formula Includes 1.0% Floor

* Denotes NASHTO States

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 27, 1983
3:07 p.m.

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chair	Senator V. Fischer
Senator Ziegler, Vice Chair	Senator Mulcahy
Senator Eliason	Senator Sturgulewski

CALENDAR

SJR 25 Requesting that Birch Creek and Beaver Creek be removed from designation as wild rivers.

SJR 5 Relating to revenue sharing from Outer Continental Shelf oil and gas development.

HB 314 An Act making a special appropriation to the Legislative Affairs Agency for operation of the Joint Oil and Gas Committee; and providing for an effective date.

SJR 25

Bill Zyback, Fairbanks North Star Borough, supported the resolution, saying it is important to the overall economic development program for Interior Alaska.

Phil Holdsworth, Alaska Miners Association, supported the resolution. He said that Department of Environmental Conservation and the Environmental Protection Agency are currently looking at reclassifying streams, so the resolution is timely.

Brian Allen, Alaska Environmental Lobby, opposed the resolution, saying the streams are close to Fairbanks and provide a great deal of recreational activity. He was concerned about water quality in the streams.

Senator Ziegler moved to report the resolution out of committee with individual recommendations. The motion passed without objection.

SJR 5

Senator Ferguson recommended acceptance of the proposed committee substitute. He felt the resolution would help our Congressional delegation in their work to provide revenue sharing for communities involved in coastal zone management.

Senator Fahrenkamp explained Congressional action and how funding amounts are determined. There was discussion of the bill and the program. Senator Sturgulewski proposed an amendment to clarify the intent of the bill.

Senator Eliason moved to adopt the committee substitute, to include the amendment proposed by Senator Sturgulewski. The motion passed without objection.

Kurt Fredriksson, Office of Coastal Management, supported the bill. He clarified funding formulas and the status of the Congressional bills. He said the US Departments of Interior and Commerce are recommending passage of the program, and offered to provide additional information to the committee.

Senator Eliason moved to report Resources Committee Substitute for SJR 5 out of committee with individual recommendations. The motion passed without objection.

HB 314

Jim Palmer, Joint Oil & Gas Committee Aide, explained what the bill would fund.

Senator Mulcahy moved that Resources Committee Substitute for HB 314 be reported out of committee with individual recommendations. The motion passed without objection.

The meeting adjourned at 3:40 p.m.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SJR 5 Date on Bill: 1/18/83
 Title: Revenue Sharing/Outer Continental Shelf/Oil Gas
 Sponsor: Ferguson
 Requestor: Senate Community & Regional Affairs Committee

1. Estimated fiscal impacts on: Department of Community & Regional Affairs

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				-0-	-0-	-0-		
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: The passage of this resolution does not affect any State of Alaska programs. The resolution addresses pending federal legislation.

No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard Rainery *RR* Phone: 465-4703
 Division: Commissioner's Office Date: 2/10/83
 Approved by Commissioner: *[Signature]* Date: 2/18/83
 Department: Community & Regional Affairs

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83




Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Members, Senate Finance Committee

FROM: Senator Vic Fischer 

DATE: April 22, 1983

SUBJ: State CZM Budget and Federal OCS
Revenue Sharing

Concerned about potential effects of pending coastal zone management program cuts on prospective federal-state-local sharing of outer continental revenue sharing, I asked the state's Washington office to check into the matter. The response is attached.

The way things look now, the state stands to receive \$20-40 million under pending legislation. Between 50 and 90 percent of these funds, or \$10 to \$36 million, would depend on maintaining federal approval of Alaska's Coastal Management Program (ACMP).

At least 30 percent of the state's share must be passed through to local coastal communities. Loss of federal approval of ACMP could cost these communities between \$3 and \$12 million.

There are several factors which determine maintaining federal approvability. Among the more substantial ones are: maintaining an Office of Coastal Management (OCM) and a Coordinator on for OCM (or changing the Alaska Statute which requires this); providing adequate and visible support for the Alaska Coastal Policy Council; ensuring that State agency actions in the State's coastal areas are processed uniformly and are consistent with the ACMP; maintaining a single contact entity (or process) to perform the federal consistency function; and continuing progress in the development and approval of local programs. Of course, state budgetary actions are one way to measure the state's performance and commitment in these areas, particularly if existing federal grant funds are used to pay for some or all of these tasks.

I suggest that we take another look at page 111 in the DC&RA budget and make sure the state and communities don't lose millions of dollars in the long run by cutting out Coastal Policy Council staff and administrative support.

cc: Representative Al Adams, Chairman House Finance

Attachments



STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D. C.

April 21, 1983

LEGISLATIVE BRIEFING MEMORANDUM

TO: THE HONORABLE VIC FISCHER
Alaska State Legislature

FROM: *Bill Ross*
BILL ROSS
Associate Director

You have requested information regarding the status of pending federal legislation which would share a portion of Outer Continental Shelf Oil and gas receipts with coastal states, including Alaska. While it is too early to accurately predict final Congressional action (and a possible veto by the President due to the legislation's fiscal impact cannot be ruled out), the legislation is moving forward quickly through each House of the Congress. The Senate Commerce Committee completed markup today on its bill, S.800, and it has strong bi-partisan support. The House Merchant Marine and Fisheries Committee will complete markup on its version, H.R.5, next week, and it, too, is a bill that is supported strongly by both Democrats and Republicans.

I anticipate that full floor action by each House will occur in May. The conference to resolve differences would then happen in June; hopefully a bill will be on the President's before the July recess.

You have also inquired what the effect of maintaining federal approval of Alaska's Coastal Management Program (ACMP) would have on Alaska's share of OCS revenue sharing funds. I will give you broad estimates, since there are differences between S.800 and H.R.5, but you can use these ranges with certainty as the Legislature reviews the performance and annual budget of ACMP. Alaska will receive between \$20 and \$40 million annually if OCS revenue sharing is enacted into law. Between 50% - 90% of these funds (i.e., between \$10 and \$36 million) will be dependent upon maintaining a federally approved ACMP. Put another way, if the ACMP loses federal approval, Alaska's share of OCS revenue sharing funds would decrease by 50-90%.

At least 30% of the State's share must be passed through to local coastal communities. Thus, loss of federal approval for the ACMP

will cost local communities at least \$3 million (30% of 10 million) and up to \$12 million (30% of \$36 million) annually.

There are several factors which determine maintaining federal approvability. Among the more substantial ones are: maintaining an Office of Coastal Management (OCM) and a Coordinator on for OCM (or changing the Alaska Statute which require this); providing adequate and visible support for the Alaska Coastal Policy Council, ensuring that State agency actions in the State's coastal areas are processed uniformly and are consistent with the ACMF; maintaining a single contact entity (or process) to perform the federal consistency function; and continuing progress in the development and approval of local programs. Of course, State budgetary actions are one way to measure the State's performance and commitment in these areas, particularly if existing federal grant funds are used to pay for some or all of these tasks.

I hope that this answers your inquiry. Do not hesitate to contact me if you have any additional questions or concerns.

cc: JOHN KATZ
JAY HOGAN

Bill aimed at sharing feds' profits

Coastal states would benefit from offshore oil development

WASHINGTON (AP) — Legislation requiring the federal government to share its revenues from oil and gas development on the outer continental shelf with coastal states was approved by the Senate Commerce Committee today.

Under the bill introduced by Sens. Ted Stevens and Frank Murkowski of Alaska, 5 percent of such federal revenues would be earmarked for sharing with coastal states.

Before approving the bill, the committee placed a 15 percent limit on the amount of funds any one state could receive from the total amount of federal money distributed.

Thirty percent of the amount each state received would have to go to local coastal communities most affected by offshore oil and gas development.

Stevens said the provision was necessary to assure local com-

munities that they will receive a portion of revenues from offshore development.

"Offshore development will continue to be delayed by lawsuits until the local people most affected are assured that they will have the funds to help offset the impact of this development," Stevens said.

"I would love to have members of this committee come to my state. You'd see communities where there are no roads, no docks, no facilities to handle population increases, and yet these villages could be 50 miles from one of the largest offshore petroleum deposits in the world."

Under current law, the federal government retains all revenues received from offshore hydrocarbon activities, although it does share revenues from mineral extraction on onshore federal lands.

The Stevens-Murkowski bill would allow the states to use the federal revenues for fisheries and ocean research, coastal management and conservation, roads, schools, ports and other facilities to support offshore development.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D. C.

March 23, 1983

TO: THE HONORABLE BILL SHEFFIELD
Governor of the State of Alaska .

THROUGH: *J.K.*
JOHN W. KATZ
Director State/Federal Relations
& Special Counsel to the Governor

FROM: *Bill Ross*
BILL ROSS
Policy Analyst

SUBJECT: Informational Paper on OCS-Revenue Sharing

On March 11, 1983 Senator Stevens and Murkowski introduced S.800 a bill which would share a small portion of federal Outer Continental Shelf oil and gas revenues with coastal states and territories. Although legislation such as this faces a rough and uncertain road to final enactment, the introduction of S.800 is a major step forward.

The salient features of S.800 are:

- (1) 5% of all OCS bonus and royalty revenues are to be shared in the form of block grants with coastal states and territories starting in federal FY 84. (Estimated total amount of grants is \$500 million yearly.)
 - (2) All coastal states are to share in the revenues - including the Great Lake's states.
 - (3) The Fund is not subject to the annual appropriation process - all proceeds are to be shared directly with states yearly.
 - (4) Each state's share is determined by this formula:
 - (A) 1.5% off the top to each state with a federally approved Coastal Zone Management Program. (Alaska's was approved in 1979.)
 - (B) The remaining funds (about 65%) are distributed accordingly - 50% oil and gas impact=
 - 25% actual production
 - 25% leasing activity
- 35% coastal population / Only states with
15% coastal population / approved CZM programs
eligible for these funds.

There is a sliding scale, "progressive" cap on any one state's share of the Fund. Alaska's share is reduced by about 1% of the Fund by this cap, to 8% of the fund or \$40 million yearly.

- (5) States must submit reports specifying the planned use of the funds. Some money must be spent in each of the following categories, with states determining the actual amounts:

- (A) living marine resources, including fisheries;
 - (B) coastal management planning and implementation;
 - (C) assessment and mitigation of OCS impact;
 - (D) long range coastal and ocean research and education;
and
 - (E) coastal infrastructure necessitated by OCS activity.
- (6) At least 40% of any state's block grant must be provided to local coastal governments.
- (7) States are subject to a post grant audit to ensure funds are spent properly.
- (8) A "National Coastal Resources Research and Development Institute" is established in Oregon and will receive 1% of the fund.

Hearings were held Thursday, March 17, in an attempt to move the bill quickly. Senator Hollings (D) (S.C.) introduced his bill on March 22. The delay of Holling's introduction has introduced confusion and a regrettable sense of partisan politics into this affair. Ability to work out differences quickly will be critical if OCS revenue sharing is to have a chance this year in the Senate. The major differences are that Hollings wants the amount to be granted to States from the fund to undergo the annual appropriations process (#3 above), and he would set specific percentages of a state's share (earmarking) that would have to be spent on eligible activities or uses (#5 above), such as coastal zone management. The latter issue is particularly contentious, since earmarking is what the Administration grumbles most loudly about while testifying against OCS revenue sharing.

This office has been working closely with Senate staff and the Coastal States Organization (CSO) to move the legislation forward. CSO testified March 17 on behalf of all States. They endorsed the concept of OCS revenue sharing, and urged quick action, thus skirting the potential partisan battle on the bills. We work behind the scenes, offering compromise language and setting strategy which can resolve differences. Our efforts are widely acknowledged as being the catalyst which sparks productive action on this issue.

The House has completed its hearings on H.R.5, which is identical to the bill which passed the House 261-134 last session. The House bill has a smaller total fund, does go through the appropriations process and does earmark funds. H.R.5 will be marked up soon, and will probably be brought to the House floor in May. We are in close contact with House staff, in anticipation of an eventual House-Senate conference on the legislation.

If you have additional questions or concerns, please contact me.

cc: Commissioner Lewis
Lennie Boston
Pete Spivey
Jay Hogan

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ORIGINAL.

January 28, 1983

TO: SENATOR FRANK FERGUSON

Attn: Mike Scott

FROM: David W. Freer

SUBJECT: Justification in Support of SJR 5, "Relating to Revenue Sharing from OCS Oil & Gas Development"

The issue of sharing revenue with Coastal states from OCS development has been before the Congress for several years. The traditional approach to sharing revenue has been along the lines of other long time federal revenue sharing programs; that is, return it to the State(s) and let them determine how to spend it.

However, there is a growing body of opinion that when sharing revenue as a result of OCS development that the affected local communities should directly benefit from the impacts, if any, deriving from the development and not have the State act as the administrator of the funds. There are six reasons for this approach:

1. Local governments are best able to determine the impacts and the needs deriving from these impacts.
2. Local governments are far more sophisticated and equipped with educated and trained personnel to handle such a revenue sharing program.
3. OCS impacted areas need the revenue sharing dollars for increased goods and services, not planning and studies. All too often, states fall into the habit of using revenue sharing for purposes other than that most necessary - assist the people most directly in need of services.
4. The current 5-year OCS program offshore Alaska will affect rural Alaskans the greatest - as a consequence, they will need the ~~subsidies~~ ^{flexibility} to have federally generated OCS revenue sharing funds directly at their disposal so they can meet the changes as a result of the development of an OCS area adjacent to their community.

Senator Frank Ferguson
January 28, 1983
Page Two

5. There currently is pending before the Congress OCS revenue sharing bill: H.R. 5, "To Establish an Ocean and Coastal Resources Management and Development Fund from which Coastal States shall receive block grants." This bill does not allow for funds to be directly passed through to local government units. Instead, Sec. 5(c) states: "Each Coastal State shall be encouraged to provide financial assistance under this title to units of local government within each state." Such discretionary authority certainly does not enhance the opportunity for local government units to receive necessary funds.
6. The Congress needs the message from Alaska, the State with the highest number of OCS lease sales scheduled over the next 5 years (16) that any OCS revenue sharing bill must incorporate language for direct passthrough. Without it, areas along the Alaska coastline, which may bear the brunt of OCS development may not have the resources to cope with those associated impacts.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
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ORIGINAL.

1 (1) it is in the interests of the Nation, for both
2 economic and national security reasons, to provide ex-
3 peditous and orderly development of Federal Outer
4 Continental Shelf oil and gas resources;

5 (2) such development may cause adverse impacts
6 throughout the Nation's coastal areas and require
7 States to assume additional responsibilities at a time
8 when they do not possess financial resources adequate
9 to respond to current economic and natural resource
10 management dislocations;

11 (3) since the revenues of the Outer Continental
12 Shelf are derived from the development of nonrenewa-
13 ble offshore mineral resources, they should be invested
14 in ocean and coastal resource management and scientif-
15 ic research efforts to enhance the use, conservation,
16 and understanding of coastal and ocean renewable and
17 other natural resources;

18 (4) the Mineral Leasing Act of 1920 and other
19 Federal lands leasing programs presently provide for
20 compensation to States affected by resource develop-
21 ment on interior Federal lands, while no comparable
22 Federal program exists to compensate coastal States
23 affected by mineral extraction from the Outer Conti-
24 nental Shelf;

1 (5) without Federal financial support, the capabili-
2 ty of coastal States to manage ocean and coastal re-
3 sources, as well as to participate as partners in the
4 Outer Continental Shelf oil and gas leasing program,
5 will be seriously diminished; and

6 (6) it is in the national interest to maintain sup-
7 port for State management of ocean and coastal re-
8 sources through programs in fishery management,
9 coastal zone management, coastal energy impact, long-
10 range scientific research infrastructure development,
11 and other natural resource management efforts.

12 DEFINITIONS

13 SEC. 3. For purposes of this Act, the term—

14 (1) "coastal State" means any State of the United
15 States in, or bordering on, the Atlantic Ocean, the Pa-
16 cific Ocean, the Arctic Ocean, the Gulf of Mexico,
17 Long Island Sound, or one or more of the Great
18 Lakes;

19 (2) "coastal territory" means any of the following:
20 the Commonwealth of Puerto Rico, the Virgin Islands,
21 Guam, the Commonwealth of the Northern Mariana Is-
22 lands, the Trust Territory of the Pacific Islands, or
23 American Samoa;

24 (3) "State" means any coastal State or coastal
25 territory;

1 (4) "Outer Continental Shelf" means all sub-
 2 merged lands lying seaward and outside of the area of
 3 "lands beneath navigable waters" as defined in section
 4 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)),
 5 and of which the subsoil and seabed appertain to the
 6 United States and are subject to its jurisdiction and
 7 control;

8 (5) "Secretary" means the Secretary of Com-
 9 merce;

10 (6) "local government" means that term as de-
 11 fined in section 304(11) of the Coastal Zone Manage-
 12 ment Act of 1972 (16 U.S.C. 1451 et seq.); and

13 (7) "tract" means the geographic and legal extent
 14 of a single lease area identified by the Secretary of the
 15 Interior which is within the Outer Continental Shelf.

16 OCEAN AND COASTAL DEVELOPMENT IMPACT ASSISTANCE

17 FUND

18 SEC. 4. (a) There is established in the Treasury of the
 19 United States a fund to be known as the Ocean and Coastal
 20 Development Impact Assistance Fund (hereinafter referred
 21 to as "the Fund").

22 (b) Beginning in fiscal year 1983, the Secretary of the
 23 Treasury shall—

24 (1) pay into the Fund not later than the end of each
 25 fiscal year an amount equal to 5 per centum of all

1 sums deposited in the Treasury of the United States
 2 pursuant to section 9 of the Outer Continental Shelf
 3 Lands Act (43 U.S.C. 1338) during each fiscal year;
 4 and

5 (2) determine for the preceding fiscal year the
 6 amount of money deposited into the Treasury of the
 7 United States pursuant to section 9 of the Outer Conti-
 8 nental Shelf Lands Act (43 U.S.C. 1338) derived from
 9 the bonus revenues from each tract, and maintain for
 10 each tract an account within the Fund corresponding
 11 to bonus revenues derived from each tract leased after
 12 October 1, 1983.

13 OCEAN AND COASTAL DEVELOPMENT IMPACT ASSISTANCE

14 BLOCK GRANTS

15 SEC. 5. (a) For fiscal year 1984 and for each subsequent
 16 fiscal year, the Secretary shall provide to each State an
 17 Ocean Development Impact Assistance block grant.

18 (b) No State may receive a block grant for a fiscal year
 19 unless such State has submitted to the Secretary a report for
 20 such fiscal year which—

21 (1) specifies the allocation by such State of the
 22 block grant among coastal zone management activities;
 23 coastal energy impact activities; living marine resource
 24 activities; and natural resources enhancement, re-

1 search, infrastructure development, education, and
2 management activities pursuant to section 6(a); and

3 (2) describes each activity receiving funds pro-
4 vided by the block grant.

5 (c) No block grant shall be paid from the Fund to a
6 State until the State has created a trust for the receipt of
7 such block grant.

8 (d) The amount of each block grant provided under sub-
9 section (a) for a fiscal year to a State shall be determined by
10 the Secretary under a formula established by the Secretary
11 which gives—

12 (1) to each coastal State with a coastal manage-
13 ment program approved pursuant to the Coastal Zone
14 Management Act of 1972 (16 U.S.C. 1451 et seq.) one
15 and one-half per centum of the amount of the Fund for
16 that fiscal year; and

17 (2) to each State an amount from the remainder
18 of the Fund determined by the Secretary under a for-
19 mula established by the Secretary which gives the fol-
20 lowing per centum consideration to each of the follow-
21 ing criteria:

22 (A) a 25 per centum consideration for the
23 amount of oil or gas produced during the previous
24 fiscal year in which the State had an interest,
25 pursuant to subsection (j);

1 (B) a 25 per centum consideration for the
2 amount of bonus revenues that were received in
3 the fiscal year prior to the fiscal year of disburse-
4 ments from the Fund which were derived from
5 tracts in which the State has an interest pursuant
6 to subsection (a);

7 (C) a 25 per centum consideration for the
8 amount of coastal population of the State; and

9 (D) a 15 per centum consideration for the
10 shoreline mileage of the State.

11 (e) Subparagraphs (C) and (D) of subsection (d)(2) shall
12 apply only if the State has a management program which is
13 approved under section 306 of the Coastal Zone Management
14 Act of 1972 (16 U.S.C. 1455).

15 (f) If, after the calculations required under subsections
16 (d), (f), and (g), any State would receive an amount which is
17 less than one-half of 1 per centum of the Fund in a fiscal
18 year, the Secretary shall increase the amount to such States
19 to one-half of 1 per centum of the Fund for that fiscal year.

20 (g) If, after the calculations required under subsection
21 (d), any State would receive an amount which is more than 6
22 per centum of the Fund in a fiscal year, the Secretary shall
23 reduce such States shares as follows:

24 (1) for any State calculated to receive an amount
25 greater than 6 per centum and less than 10 per

1 centum of the fund in a fiscal year, such States shall
 2 receive an amount of the Fund equal to 6 per centum
 3 plus three-fourths of their respective calculated amount
 4 greater than 6 per centum; and

5 (2) for any State calculated to receive an amount
 6 equal to or greater than 10 per centum of the Fund in
 7 a fiscal year, such States shall receive an amount of
 8 the Fund equal to 10 per centum plus one-third of
 9 their respective calculated amount greater than 10 per
 10 centum.

11 (h) The amount of the Fund in a fiscal year which is
 12 reduced from any State pursuant to subsection (g) shall be
 13 shared proportionally with all States which did not receive
 14 reduction, subject to subsection (i).

15 (i)(1) For purposes of this subsection, the term "share
 16 proportionally" means an increase in a State's block grant in
 17 proportion to such State's allocation calculated under subsec-
 18 tion (d), as compared with all other eligible States which did
 19 not receive reduction pursuant to subsection (g).

20 (2) The proportionate sharing of reduced funds with all
 21 eligible States shall be done on a reduced-State-by-reduced-
 22 State basis, sharing first the amount from the State with the
 23 smallest reduction required by this section.

24 (3) Any State which did not receive reduction of its
 25 amount of the Fund in a fiscal year pursuant to subsection (g)

1 shall be eligible to receive proportionally shared funds in a
 2 fiscal year if, prior to receipt of its share of any one State's
 3 reduced funds pursuant to paragraph (2), its total share of the
 4 Fund remains less than 6 per centum of the Fund.

5 (4) The Secretary shall reduce proportionately the block
 6 grants of all other States that are eligible to receive an
 7 amount that is greater than one-half of 1 per centum of the
 8 amount of the Fund.

9 (5) For purposes of this subsection, the term "reduce
 10 proportionately" means a reduction of a State's block grant
 11 in proportion to such State's allocation calculated under sub-
 12 section (d).

13 (j) For purposes of this section, a State has an interest
 14 in a tract if any part of the tract is within a linear distance of
 15 two hundred and fifty nautical miles from the base line from
 16 which the territorial sea is measured, as provided for in the
 17 Convention on the Territorial Sea and the Contiguous Zone
 18 (15 UST 1606; TIAS 5639).

19 (k) For those tracts in which more than one State has an
 20 interest pursuant to subsection (d), each State shall have a
 21 per centum interest inversely proportioned to the relative dis-
 22 tance between the closest point on the base line of each State
 23 to the closest part of such tract.

1 REQUIREMENTS ON THE USE OF BLOCK GRANTS

2 SEC. 6. (a) Block grants provided to a State pursuant to
3 this Act and any incomes derived from such block grant shall
4 be used for each of the following Outer Continental Shelf and
5 coastal development and management activities:

6 (1) living marine resources, including fisheries, re-
7 search, management, and enhancement;

8 (2) coastal management planning and implementa-
9 tion, as provided for under the Coastal Zone Manage-
10 ment Act of 1972 (16 U.S.C. 1451 et seq.);

11 (3) assessment and mitigation of impacts resulting
12 from Outer Continental Shelf or other energy activi-
13 ties;

14 (4) long-range coastal and ocean research and
15 education, and natural resource management; and

16 (5) capital infrastructure necessitated by coastal
17 energy development activities, as provided for pursuant
18 to the Coastal Zone Management Act of 1982 (16
19 U.S.C. 1451 et seq.).

20 (b) No less than 40 per centum of the block grant which
21 each State receives pursuant to this Act shall be provided by
22 each such State to its local governments to carry out the
23 activities provided under subsection (a).

24 (c)(1) The Secretary shall by contract establish a Na-
25 tional Coastal Resources Research and Development Insti-

1 tute (hereinafter in this section referred to as the "Institute")
2 to be administered in affiliation with the Oregon Institute of
3 Marine Science.

4 (2) The Institute shall conduct research, education, and
5 demonstration projects designed to promote the efficient and
6 responsible development of ocean and coastal resources, in-
7 cluding arctic resources, and the economic diversification of
8 our Nation's coastal areas. Included in such projects are bio-
9 logical, geological, genetic, and other scientific research ap-
10 plicable to the purposes of this section.

11 (3) The Secretary shall conduct an ongoing evaluation
12 of the activities of the Institute to ensure that funds received
13 by the Institute under this Act are used in a manner consist-
14 ent with the provisions of this section.

15 (4) The Institute shall report to the Secretary, on its
16 activities within two years after the date of enactment of this
17 Act. Such report shall include recommendations as to the
18 desirability of establishing satellite regional centers on the
19 Atlantic Coast, Gulf of Mexico, Great Lakes, and Alaska. No
20 more than one such center shall be established in any region.

21 (5) The Secretary shall, in fiscal year 1984 and each
22 fiscal year thereafter, make available to the Institute from
23 the Fund an amount equal to 1.5 per centum of the amounts
24 deposited in the Fund for that fiscal year. Such funds shall be
25 disbursed to the Institute by the Secretary of the Treasury:

1 *Provided*, That, upon the addition of any regional center or
 2 centers, the Secretary shall make available from the Fund an
 3 amount not to exceed 3.0 per centum. In no case shall the
 4 Secretary provide greater than 2.5 per centum for the pur-
 5 poses of this subsection.

6 (6) The Comptroller General of the United States, and
 7 any of his duly authorized representatives, shall have access
 8 for the purpose of audit and examination to any books, docu-
 9 ments, papers, and records of the Institute that are pertinent
 10 to the funds received under this section.

11 (7) Employees of the Institute shall not, by reason of
 12 such employment, be considered to be employees of the Fed-
 13 eral Government for any purpose.

14 ASSESSMENT AND AUDIT

15 SEC. 7. (a) Under regulations promulgated by the Secre-
 16 tary, any State receiving a block grant for a fiscal year under
 17 section (5)(a) must submit to the Secretary an assessment of
 18 the opening and closing balance of the trust fund established
 19 pursuant to section 5(c), and of the receipt and the expendi-
 20 ture of funds provided by the block grant and the income
 21 derived on the Trust Fund for each State fiscal year in which
 22 the State received a block grant pursuant to this Act within
 23 one hundred and twenty days following the close of such
 24 State fiscal year.

1 (b) Each assessment submitted by a State for a fiscal
 2 year under subsection (a) must contain an audit of all funds
 3 provided by the block grant received by such State for such
 4 fiscal year. Any audit contained in an assessment pursuant to
 5 this subsection shall be conducted by an entity which is inde-
 6 pendent of any agency or official administering or using
 7 moneys provided by such block grant and shall be undertaken
 8 in accordance with generally accepted accounting principles.

9 (c) Not later than ninety days after receiving a State's
 10 assessment, the Secretary shall make a preliminary evalua-
 11 tion of each assessment submitted pursuant to this subsec-
 12 tion. If the Secretary determines in the preliminary evalua-
 13 tion of a State's assessment that all or any part of the block-
 14 grant funds have not been used as required by this Act, the
 15 Secretary shall publish notice in the Federal Register of this
 16 finding. Not later than sixty days after publication of such
 17 notice, the State shall be provided an opportunity for a hear-
 18 ing. Not later than one hundred and fifty days after publica-
 19 tion of such notice, the Secretary shall make a final determi-
 20 nation. If the final determination is that all or any part of the
 21 block-grant funds were not used as required by this Act, the
 22 Secretary shall provide in writing to the State the reasons for
 23 the determination and the amount of funds misused. The Sec-
 24 retary shall withhold from a State's future block grants an

1 amount equal to that determined to have been misused pursu-
2 ant to this subsection.

3 (d) The determination of the Secretary pursuant to this
4 section shall be subject to judicial review only by an action
5 brought by the State or local government, or both, concerned
6 in the United States district court for the district of that
7 State.

8 (e) Any amount withheld pursuant to subsection (e),
9 upon completion of judicial review if applicable and if favora-
10 ble to such withholding, shall be returned to the Fund by the
11 Secretary.

12 RULES AND REGULATIONS

13 SEC. 8. The Secretary shall promulgate, pursuant to
14 section 553 of title 5, United States Code, after notice and
15 opportunity for participation by relevant Federal agencies,
16 State agencies, local governments, regional organizations,
17 port authorities, and other interested parties, both public and
18 private, such rules and regulations as may be necessary to
19 carry out the provisions of this Act.

○

STATE OF ALASKA
Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

February 4, 1983

POSITION PAPER

RE: SJR 5

SPONSOR: Senator Ferguson

Program Effect of Bill

Supports the provision of federal pass-through funds derived from Outer Continental Shelf revenues to communities impacted by OCS activities.

Comments

The Department supports this effort to make federal OCS revenues available to local government units that are or will be experiencing impacts as a result of OCS lease sales.

These funds are doubly important with the demise of the Coastal Energy Impact Program.

Matland