

HJR

24

Sectional Analysis for HJR 24

House Joint Resolution 24 is sponsored by Reps. Thompson, Herrmann, Binkley, Hurley, Martin, Gruenberg, Sund, Grussendorf, Jenkins, Navarre, Taylor, Koponen, Uehling and Cato.

This resolution expresses the sponsors' concerns for the impact of outer continental shelf development activities defined in terms of dependent fishery resources, the fragile nature of the shoreline, and the social and economic problems of rapid growth and contractions.

HJR 24 evokes the precedence of the Mineral Leasing Act of 1920 to mitigate impact by the federal government on States not only with coastal shorelines, but other States so impacted.

Additionally, the bill requests funding for the conversion of on shore facilities, including docks and harbors developed to support the OCS leasing program, for use by the fishing industry after leasing programs are completed.

This bill was prepared with the knowledge of the bills introduced by Senator Ted Stevens and Representative Don Young, but does not specifically endorse these bills. This is a generic endorsement for the principals involved.



ISER RESEARCH SUMMARY

Institute of Social and Economic Research, University of Alaska

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OCS Revenue Sharing in Alaska

Congress in 1984 proposed to share a maximum of 4 percent of federal petroleum revenues from the Outer Continental Shelf (OCS) with Alaska and the other coastal states—a share that would fall far short of the 25 percent or more of resource revenues that states receive from all other federal lands.

This is one of the findings of a recent report by the University of Alaska's Institute of Social and Economic Research. The report, prepared for the Office of the Governor, compares federal revenue-sharing programs for onshore lands with proposed levels of OCS revenue sharing. OCS lands are currently the only public lands from which the federal government keeps all resource revenues—but Congress came close to enacting an OCS revenue-sharing plan last year and will likely consider such plans again.

Existing Revenue-Sharing Programs for Federal Lands

State and local governments have long argued that they should be compensated for federal ownership of land within or adjacent to their boundaries. They feel they deserve compensation because federal ownership of land costs them control of the land and resources and because federal land is immune from state and local taxation. The federal government has accepted some of these arguments, and over the past 80 years has established a number of programs under which state and local governments collect substantial revenues from federal lands.

In its two largest revenue-sharing plans, the federal government distributes to affected states 25 percent of logging and other revenues from national forests and 50 percent of federal mineral-leasing revenues.¹ In addition to these and other programs that share resource revenues, federal "payment in lieu of taxes" programs attempt to replace actual or

potential revenues lost by local governments because they are unable to tax federal lands. These programs provide a steady stream of revenue to local governments affected by activities on adjacent federal lands, even if the lands produce no current revenues.

In 1982, the 12 western states containing most federal lands (including Alaska but not Hawaii) received over 800 million dollars in shared resource revenues and an additional 76 million dollars in payments in lieu of taxes.

OCS Revenue-Sharing Proposals

Over the past decade when the federal government has stepped up its OCS leasing program, coastal states have argued for a share of OCS revenues to help them pay for the increased costs that can accompany this national energy program. These costs include increased costs of services resulting from a sharp increase in population and potential environmental costs of oil spills or other industrial accidents. States have maintained that the federal government should compensate them with a significant share of the development revenues from oil production on the OCS, just as it has historically compensated state and local governments for developments on other federal lands.

In 1984, a conference committee of both houses of Congress agreed on an OCS revenue-sharing bill, although Congress ultimately failed to enact it. Under that bill, 4 percent of OCS revenues would be set aside each year, up to a ceiling of \$300 million (the ceiling would increase slightly after 1985). Some of this money would be allocated to various coastal programs, and the remainder would be divided among coastal states under a complicated formula. No state could receive more than 15 percent of available revenues each year and would pass on one-third of what they received directly to local governments.

Potential Alaska Production and Revenues

Alaska may have a lot at stake in the federal government's ultimate decision on OCS revenue sharing. Although there have as yet been no commercial

¹Under the National Forest Revenue Act of 1908, states receive 25 percent of receipts from national forests located within their borders, and then must pass these revenues on to county governments. The Mineral Leasing Act of 1920 provides states with 50 percent of federal receipts from onshore mineral leases (although Alaska, through a special provision, receives 90 percent of most onshore mineral revenues).

discoveries on the Alaska OCS, most analysts believe the region will yield a number of huge fields, most likely in both the Beaufort and Bering Seas.

Figure 1 shows how hypothetical federal OCS royalties might compare with the state's petroleum revenues derived from state leases on the North Slope (most of projected state petroleum revenues). Both North Slope state and OCS revenues in Figure 1 are based on development scenarios that assume moderate oil prices, with production occurring from both the Beaufort and Bering Seas before the turn of the century. We emphasize that these projected OCS revenues are conditional on discovery and development of reserves of a particular size, and are intended just to show the scale these revenues could reach.²

The graph in Figure 1 shows that government OCS royalties could reach \$1 billion annually (in 1984 dollars) by the mid-1990s, and that by the late 1990s they could exceed the state's North Slope petroleum revenues—which are expected to decline, after adjusting for inflation. Recent Congressional proposals for dividing up those OCS revenues would put almost all of them into the federal treasury and yield the State of Alaska a small amount—perhaps on the order of \$20 to \$30 million annually.

On the other hand, if Congress would agree to share OCS revenues in the same proportions as it shares other federal resource revenues, Alaska could stand to collect OCS revenues on a scale 10 times larger—perhaps in the neighborhood of \$200 to \$500 million annually by the end of the century. Assuming that huge oil reserves are in fact discovered on the Alaska OCS in the coming years, the State of Alaska

²The OCS royalty projections are based on oil development scenarios published by the Minerals Management Service, U.S. Department of the Interior. They assume a constant real well-head price of \$25 per barrel for Bering Sea oil and \$15 per barrel for Beaufort Sea oil, with an average royalty share of one-sixth. Figure 1 does not include any potential state or federal revenues from natural gas.

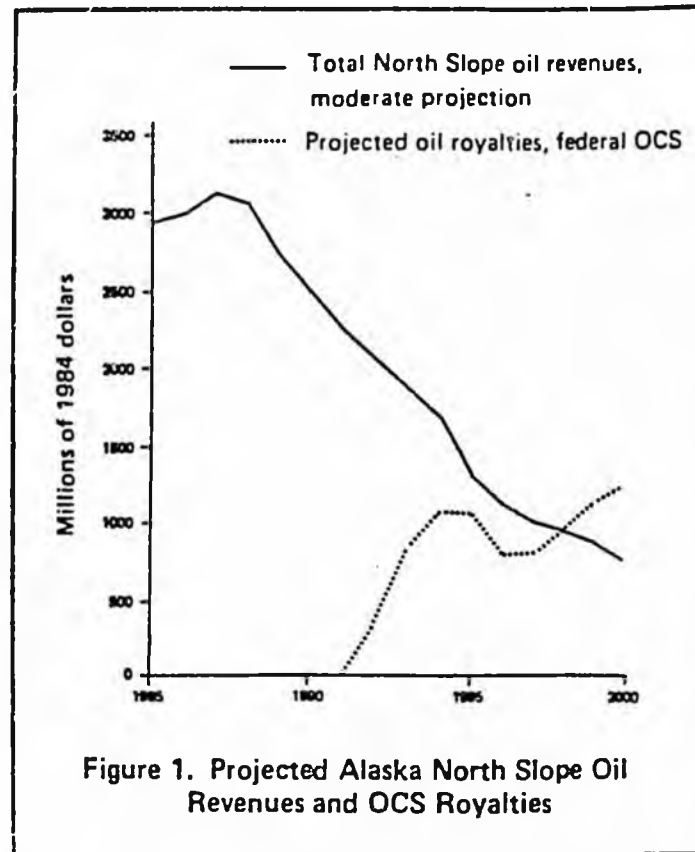


Figure 1. Projected Alaska North Slope Oil Revenues and OCS Royalties

has an important stake in persuading the federal government to share OCS revenues as generously as it has shared resource revenues from other federal lands.

This Research Summary is based on Sharing Revenues from the Outer Continental Shelf and Other Federal Lands, 44 pp., prepared for the Office of the Governor, State of Alaska, by Matthew Berman and Karen White of the Institute of Social and Economic Research. Copies of this report are available for reproduction costs of 10 cents per page from ISER, 707 A St., Suite 206, Anchorage, Alaska 99501, telephone 278-4621.

1 (a) the term "coastal State" means any State of
2 the United States in, or bordering on, the Atlantic, Pa-
3 cific, or Arctic Oceans, the Gulf of Mexico, the Long
4 Island Sound, or one or more of the Great Lakes, and
5 includes the Commonwealth of Puerto Rico, the Virgin
6 Islands, Guam, the Northern Mariana Islands, the
7 Trust Territory of the Pacific Islands, and American
8 Samoa;

9 (b) the term "unit of local coastal government"
10 means—

11 (1) the government of any county, parish,
12 borough, municipality, town, village, or township,
13 which is a unit of general government below the
14 State (determined on the basis of the same princi-
15 ples as are used by the Bureau of the Census of
16 the Department of Commerce for general statisti-
17 cal purposes) and which governs a geographical
18 area located entirely in a coastal State and locat-
19 ed on or adjacent to a coastline, or within an area
20 impacted by operations conducted pursuant to this
21 Act, as determined by the Secretary; and

22 (2) the Metlakatla Indian Community and the
23 recognized governing body of any Indian tribe in
24 any coastal State except Alaska, which performs
25 substantial governmental functions and which gov-

1 erns a geographical area located entirely in a
2 coastal State and located on or adjacent to a
3 coastline, or within an area impacted by oper-
4 ations conducted pursuant to this Act, as deter-
5 mined by the Secretary;

6 (c) the term "coastline" means the line of ordi-
7 nary low water along the portion of the coast which is
8 in direct contact with the open sea, or with any of the
9 Great Lakes, and the line marking the seaward limit of
10 inland waters;

11 (d) the term "Governor" means the Governor or
12 chief executive officer of any coastal State, or the indi-
13 vidual or entity designated by the Governor to exercise
14 the powers granted to such Governor or chief execu-
15 tive officer under this subsection;

16 (e) the term "Secretary" means the Secretary of
17 the Treasury; and

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

1 likely to be, sited, constructed, expanded, or operated
2 in, or in close proximity to, the coastal zone of any
3 coastal State because of technical requirements:

4 (1) The term includes, but is not limited to:

5 (i) electric generating plants; (ii) facilities associat-
6 ed with the transportation, transfer, or storage of
7 coal; (iii) petroleum refineries and associated fa-
8 cilities; (iv) gasification plants; (v) facilities associ-
9 ated with the transportation, conversion, treat-
10 ment, transfer, or storage of liquefied natural gas;
11 (vi) oil and gas facilities, including platforms, as-
12- ssembly plants, storage depots, tank farms, crew
13 and supply bases, and refining complexes; (vii) fa-
14 cilities, including deepwater ports, for the transfer
15 of petroleum; (viii) facilities used for alternative
16 ocean energy activities, including those associated
17 with ocean thermal energy conversion; and (ix)
18 pipelines, transmission facilities, and terminals
19 which are associated with any of the foregoing.

20 (2) For the purposes of this paragraph, the
21 siting, construction, expansion, or operation of any
22 coastal-related energy facilities shall be "in close
23 proximity to the coastal zone of any coastal
24 State" if such siting, construction, expansion, or

1 operation has, or is likely to have, a significant
2 effect on such coastal zone.

3 COASTAL RESOURCE AND ECONOMIC DEVELOPMENT FUND

4 SEC. 3(a). Upon enactment, the Secretary shall estab-
5 lish a fund in the Treasury of the United States to be known
6 as the Coastal Resource and Economic Development Fund
7 (hereafter referred to as the "Fund").

8 (b) The amount to be deposited annually in the Fund
9 shall be the greater of \$150,000,000 or 3 per centum (not to
10 exceed \$350,000,000) of revenues from bonuses and royalties
11 deposited annually in the Treasury of the United States pur-
12 suant to section 9 of the Outer Continental Shelf Lands Act
13 (43 U.S.C. 1338).

14 DISPOSITION OF GRANTS FROM FUND

15 SEC. 4(a)(1). During the fiscal year ending September
16 30, 1986, and during each fiscal year ending after September
17 30, 1986, the Secretary shall pay to the Governor of each
18 coastal State and to each unit of local coastal government,
19 from sums deposited in the Fund during that fiscal year pur-
20 suant to section 4, an amount certified to the Secretary by
21 the Secretary of the Interior pursuant to subsections (b) and
22 (c), and an amount certified to the Secretary by the Secretary
23 of Commerce pursuant to subsection (d).

24 (2) For the purposes of this subsection, 85 per centum of
25 the total moneys in the Fund for payments to coastal States

1 shall be based on calculations in subsection (b), and 15 per
2 centum of the moneys in the Fund shall be paid in accordance
3 with subsection (c).

4 (b)(1) Pursuant to subsection (a), the Secretary of the
5 Department of the Interior shall certify an amount to be paid
6 to each coastal State based on the ratio of the sum of (A) and
7 (B) in relationship to the total sum available to be disbursed
8 to all other States as follows—

9 (A) a maximum of 2.8 per centum of the Federal
10 bonus revenues deposited in that fiscal year from each
11 tract leased after the date of enactment of this Act;

12 (B) a maximum of 4.2 per centum of the Federal
13 royalty revenues deposited in that fiscal year from pro-
14 duction under development plans approved after the
15 date of enactment of this Act; and

16 (2) For a tract within two hundred and fifty miles of
17 only one coastal State, the coastal State may receive the
18 maximum amount of bonus and royalty revenues available for
19 distribution if the tract is immediately adjacent to the outer
20 edge of the coastal State's territorial sea. For tracts between
21 three and two hundred and fifty miles from the coastal
22 State's territorial sea, the maximum amount of revenues cer-
23 tified shall decrease linearly from the full amount available to
24 50 per centum of the maximum amount available.

1 (3) For tracts within two hundred and fifty miles of
2 more than one coastal State, the amount of revenues certified
3 shall be calculated as in paragraph (2) but divided among the
4 coastal States in a manner inversely proportional to their rel-
5 ative distances from the tract.

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

10 (c) Pursuant to subsection (a), the Secretary of the De-
11 partment of Commerce shall certify an amount to be paid to
12 each State based upon the ratio of the amount of coastal-
13 related energy facilities (including coal facilities) located
14 within that coastal State, in relationship to the amount of
15 coastal-related energy facilities located in all of the coastal
16 States, during the previous fiscal year.

17 (d)(1) From the amounts certified by the Secretaries of
18 the Departments of the Interior and Commerce, pursuant to
19 subsections (b) and (c), 50 per centum shall be distributed to
20 each coastal unit of local government as specified in this sub-
21 section.

22 (2) Each amount certified pursuant to paragraph (1) to
23 be paid during a fiscal year to a unit of local coastal govern-
24 ment shall be proportional, as much as possible, to the total
25 of all amounts certified pursuant to paragraph (1) to be paid

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

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

24 (f) Each fiscal year, each coastal State with a coastal
25 zone management plan that has been approved by the Secre-

1 tary of the Department of Commerce shall receive at least
2 \$2,500,000 under this section.

3 (g) If for any reason at the end of a fiscal year all sums
4 deposited into the Fund during that fiscal year are not fully
5 obligated and paid, the Secretary shall return such funds to
6 the general fund of the Treasury as miscellaneous receipts.

7 (h)(1) The Secretary shall ensure that an amount equal
8 to not less than 25 per centum of each amount paid to the
9 Governor of a coastal State during a fiscal year pursuant to
10 subsections (b) and (c) is used by such Governor for activities
11 including, but not limited to, activities relating to the man-
12 agement of coastal resources, scientific research, and fisheries
13 development, which the Governor determines are of assist-
14 ance to local coastal communities impacted by the operations
15 of this Act and, in the case of Alaska, that are located within
16 the boundaries of Coastal Resource Areas established pursu-
17 ant to the Alaska Coastal Management Act.

18 (2) The Secretary shall ensure that each amount paid to
19 a unit of local coastal government of a coastal State during a
20 fiscal year pursuant to subsection (d) is not used to replace
21 funds which such coastal State would provide to units of local
22 coastal government if such amount were not paid to the units
23 of local coastal government.

24 (3) The Secretary of the Treasury shall pay to the Gov-
25 ernor of the State of Alaska any amount certified by the Sec-

1 retary pursuant to subsection (d) to be paid to the unorga-
2 nized borough by the State of Alaska.

3 (i) An amount equal to one-fourth of the sums received
4 fiscally by the Governor of a coastal State under the provi-
5 sions of this Act shall be matched by the State in that same
6 fiscal year for the purposes of carrying out the provisions of
7 this Act.

8 (j)(1) The Secretary shall ensure that funds expended
9 under the Act are utilized for the purposes of enhancing the
10 environment and economic condition of the coastal area.
11 Such enhancement shall include, but not be limited to, fish
12 and wildlife conservation, port development, water resource
13 management, marine and estuary management, flood control
14 and navigation, erosion control and shore stabilization plan-
15 ning, and resource development planning.

16 (2) Any Governor of a coastal State, or any unit of local
17 coastal government, which the Secretary determines uses
18 any funds provided by this Act, for any activity inconsistent
19 with the purposes of this Act shall repay such moneys to the
20 Fund. If a Governor of a coastal State, or a unit of local
21 coastal government, does not repay funds required to be
22 repaid under this section, the Secretary may reduce the
23 amount of any future revenues provided under this subsection
24 by the amount of such required repayment.

1 AUTHORIZATION OF APPROPRIATIONS

2 SEC. 5. For the fiscal year ending on September 30,
3 1986, and for each fiscal year ending after September 30,
4 1986, there is authorized to be appropriated to the Secretary
5 of the Treasury such sums as may be necessary to carry out
6 section 4 of this Act, not to exceed \$350,000,000 per fiscal
7 year.

○

1 (1) it is in the interest of the United States, for
2 both economic and national security reasons, to provide
3 expeditious and orderly development of Outer Conti-
4 nental Shelf oil and gas resources;

5 (2) the primary benefits of the Outer Continental
6 Shelf Leasing Program accrue to the entire Nation in
7 the form of direct revenues and increased national
8 energy security;

9 (3) while State and local governments may benefit
10 from Outer Continental Shelf leasing activity, these
11 benefits are less pronounced and less direct than those
12 accruing to the Nation. Outer Continental Shelf oil and
13 gas activity often requires significant investment on the
14 part of State and local governments in planning for and
15 providing public services and facilities necessitated by
16 such activity;

17 (4) offshore energy development may cause ad-
18 verse environmental impacts throughout the coastal
19 areas of the United States and require States and local
20 governments to assume additional responsibilities at a
21 time when they do not possess the necessary financial
22 resources;

23 (5) because the revenues of the Outer Continental
24 Shelf Program are derived from the development of
25 nonrenewable offshore mineral resources, they should

1 be invested in management and scientific research ef-
2 forts to enhance the use, conservation, and understand-
3 ing of renewable ocean and coastal resources;

4 (6) the Mineral Leasing Act of 1920 and other
5 Federal lands leasing programs presently provide finan-
6 cial support to States affected by resource development
7 on onshore Federal lands, while no comparable Federal
8 program exists to provide such support to States affect-
9 ed by mineral extraction from the Outer Continental
10 Shelf;

11 (7) without Federal financial support, the capabil-
12 ity of States and localities to manage ocean and coastal
13 resources, as well as to participate as partners in the
14 Outer Continental Shelf Oil and Gas Leasing Program,
15 will be seriously diminished; and

16 (8) it is in the national interest to maintain sup-
17 port for State management of ocean and coastal re-
18 sources through activities in fisheries management,
19 coastal zone management, coastal energy impact as-
20 sistance, long-range scientific research, and other
21 ocean and coastal resource management programs.

22 DEFINITIONS

23 SEC. 103. For purposes of this title—

24 (1) "block grant" means a National Ocean and
25 Coastal Resources Management and Development
26 Block Grant;

1 (2) "coastal population" means that term as de-
2 fined in regulations issued on May 17, 1982, at 15
3 CFR Part 927;

4 (3) "coastal-related energy facilities" means any
5 equipment or facility that (A) is or will be used primar-
6 ily in the exploration for, or the development, produc-
7 tion, conversion, storage, transfer, processing, or trans-
8 portation of, any energy resource or for the manufac-
9 ture, production, or assembly of equipment, machinery,
10 products, or devices that are involved in any such
11 energy-resource activity, and (B) is, or is likely to be,
12 sited, constructed, expanded, or operated in, or in close
13 proximity to, the coastal zone of any State because of
14 technical requirements;

15 The term includes, (i) electric generating plants;
16 (ii) facilities associated with the transportation, trans-
17 fer, or storage of coal; (iii) petroleum refineries and as-
18 sociated facilities; (iv) gasification plants; (v) facilities
19 associated with the transportation, conversion, treat-
20 ment, transfer, or storage of liquefied natural gas; (vi)
21 oil and gas facilities, including platforms, assembly
22 plants, storage depots, tank farms, crew and supply
23 bases, and refining complexes; (vii) facilities, including
24 deepwater ports, for the transfer of petroleum; (viii) fa-
25 cilities used for alternative ocean energy activities, in-

1 cluding those associated with ocean thermal energy
2 conversion; and (ix) pipelines, transmission facilities,
3 and terminals associated with any of the foregoing.

4 For the purposes of this Act, the siting, construc-
5 tion, expansion, or operation of any coastal-related
6 energy facilities is "in close proximity to the coastal
7 zone of any State" if such siting, construction, expan-
8 sion, or operation has, or is likely to have, a significant
9 effect on such coastal zone.

10 (4) "coastal State" means the Commonwealth of
11 Puerto Rico and any State of the United States in, or
12 bordering on, the Atlantic Ocean, the Pacific Ocean,
13 the Arctic Ocean, the Gulf of Mexico, Long Island
14 Sound, or one or more of the Great Lakes;

15 (5) "coastal territory" means the Virgin Islands,
16 the Northern Mariana Islands, the Trust Territory of
17 the Pacific Islands, American Samoa, or Guam;

18 (6) "Fund" means the Ocean and Coastal Re-
19 sources Management and Development Fund;

20 (7) "Institute" means the National Coastal Re-
21 sources Research and Development Institute;

22 (8) "local government" means that term as de-
23 fined in section 304(11) of the Coastal Zone Manage-
24 ment Act of 1972 (16 U.S.C. 1453(11)) and, with re-
25 spect to the State of Alaska, the term includes unin-

1 average amount of all sums deposited in the Treasury of the
2 United States pursuant to section 9 of the Outer Continental
3 Shelf Lands Act (43 U.S.C. 1338) during the three previous
4 fiscal years.

5 (2) The amount deposited in the Fund in fiscal year
6 1985 shall not exceed \$300,000,000. Beginning in fiscal
7 year 1986, and in each fiscal year thereafter, the amount
8 deposited in the Fund shall not exceed 105 per centum of the
9 amount deposited in the Fund in the prior fiscal year.

10 (c) As provided in advance by appropriation Acts, the
11 Secretary shall use the total amount of any amounts deposit-
12 ed in the Fund during each fiscal year to carry out the pur-
13 poses of, and in accordance with, the provisions of sections
14 105 and 108 of this title.

15 NATIONAL OCEAN AND COASTAL RESOURCES

16 MANAGEMENT AND DEVELOPMENT BLOCK GRANTS

17 SEC. 105. (a) Subject to the provisions of section 104(c)
18 and this section, for fiscal year 1986 and for each subsequent
19 fiscal year, the Secretary shall provide to each State a na-
20 tional ocean and coastal resources management and develop-
21 ment block grant from amounts paid into the Fund during
22 such fiscal year under section 104(b).

23 (b)(1) No State may receive a block grant for a fiscal
24 year unless such State has submitted to the Secretary a
25 report for such fiscal year that—

1 (A) specifies the proposed allocation by such State
2 of the block grant among coastal zone management ac-
3 tivities, coastal energy impact activities, living marine
4 resource activities, and natural resource preservation,
5 enhancement, and management activities under section
6 106(a); and

7 (B) describes each proposed activity receiving
8 funds provided by the block grant and the amounts
9 proposed to be expended for each activity.

10 (2) In order to be eligible to receive a block grant pursu-
11 ant to this Act and before submitting the report required
12 under paragraph (1), each State shall provide opportunities
13 for the public to review and comment on the report and shall
14 hold at least one public hearing on such report at a site in the
15 State convenient for encouraging maximum public participa-
16 tion.

17 (c) A block grant shall not be paid from the Fund to a
18 State until the State has established a trust fund for the re-
19 ceipt of such grant.

20 (d) The amount of each block grant provided under sub-
21 section (a) shall be determined by the Secretary under a for-
22 mula established by the Secretary which gives equal consid-
23 eration to each of the following criteria:

24 (1) For each State, the equal combination of—

1 (A) the amount of actual leasing with respect
2 to oil and gas which is carried out under the
3 Outer Continental Shelf Lands Act (43 U.S.C.
4 1331 et seq.) during the previous fiscal year
5 which occurs within the Outer Continental Shelf
6 planning area to which such State is adjacent; and

7 (B) the volume of oil and gas produced from
8 Outer Continental Shelf acreage leased by the
9 Federal Government which is first landed in such
10 State during the previous fiscal year.

11 (2) For each State, any proposed oil and gas lease
12 sales specified by the Outer Continental Shelf Leasing
13 Program prepared under section 18(a) of the Outer
14 Continental Shelf Lands Act (43 U.S.C. 1344(a)) and
15 scheduled to occur within the Outer Continental Shelf
16 planning area to which such State is adjacent.

17 (3) The coastal-related energy facilities (including
18 coal facilities) located within each State during the pre-
19 vious fiscal year. For any State for which the Secre-
20 tary has not approved a Coastal Zone Management
21 Program under section 306 of the Coastal Zone Man-
22 agement Act of 1972 (16 U.S.C. 1455), this criterion
23 shall be reduced by 50 per centum. The amounts re-
24 sulting from such reduction shall be reallocated propor-
25 tionately, under this paragraph, among States for

1 which the Secretary has approved such a management
2 program.

3 (4) The shoreline mileage of each State for which
4 the Secretary has approved a Coastal Zone Manage-
5 ment Program under section 306 of the Coastal Zone
6 Management Act of 1972 (16 U.S.C. 1455).

7 (5) The coastal population of each State for which
8 the Secretary has approved a Coastal Zone Manage-
9 ment Program under section 306 of the Coastal Zone
10 Management Act of 1972 (16 U.S.C. 1455).

11 (e) For purposes of paragraphs (4) and (5) of subsection
12 (d)—

13 (1) the Secretary shall be presumed to have ap-
14 proved the Coastal Zone Management Program of any
15 State if the Secretary determines that, in any fiscal
16 year, such State is making satisfactory progress toward
17 the development of a Coastal Zone Management Pro-
18 gram which will be approvable under section 306 of
19 the Coastal Zone Management Act (16 U.S.C. 1455).
20 Such presumption may be renewed only once and for a
21 period not to exceed one additional fiscal year if the
22 Secretary makes such determination under this subsec-
23 tion for such additional fiscal year; and

24 (2) a State shall not receive in excess of 30 per
25 centum of the amounts attributable to either criterion.

1 If any State would receive an allotment greater than
2 30 per centum, the Secretary shall reduce such allot-
3 ment to 30 per centum. The amounts resulting from
4 such reduction shall be reallocated proportionately
5 among these States that receive less than 30 per
6 centum of the amounts attributable to such criterion.

7 (f)(1) For States for which the Secretary has approved a
8 Coastal Zone Management Program under section 306 of the
9 Coastal Zone Management Act of 1972 (16 U.S.C. 1455), a
10 coastal State shall receive not less than 1.62 per centum, and
11 a coastal territory not less than one-half of 1 per centum, of
12 the total amount available for block grants under section
13 104(c) during any fiscal year.

14 (2) If, after the calculations required under subsection
15 (d), any coastal State or coastal territory is to receive a block
16 grant that is less than the respective minimum grant levels
17 established under paragraph (1), the Secretary shall increase
18 such State's block grant to the minimum level. Amounts nec-
19 essary to make such increases shall be derived by reducing
20 proportionately the block grant of each State which, as deter-
21 mined under subsection (d), exceeds the respective minimum
22 level under paragraph (1).

23 (3) For the purposes of the implementation of section
24 106(b), block grant levels may fall below the respective mini-
25 mum levels established under this section.

1 (g) If, after the calculations required under subsections
2 (d), (e) and (f), any State would receive a block grant which is
3 greater than 15 per centum of the funds appropriated under
4 section 104(c), the Secretary shall reduce such State's block
5 grant to 15 per centum. The amounts resulting from such
6 reduction shall be reallocated proportionately among States
7 receiving less than 15 per centum of such funds and more
8 than the minimum grant levels under subsection (f).

9 REQUIREMENTS ON THE USE OF BLOCK GRANTS

10 SEC. 106. Block grants provided to a State under sec-
11 tion 105(a) shall be used for the enhancement and manage-
12 ment of ocean and coastal resources and for the amelioration
13 of any adverse impacts that result from the siting, construc-
14 tion, expansion, or operation of coastal-related energy
15 facilities.

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

18 (1) activities of such State authorized by the
19 Coastal Zone Management Act of 1972 (16
20 U.S.C. 1451 et seq.);

21 (2) activities of such State pursuant to the
22 Coastal Energy Impact Program administered
23 under section 308 of the Coastal Zone Manage-
24 ment Act of 1972 (16 U.S.C. 1457);

1 (2) provide to its local governments allocations
2 from such block grant, taking into consideration the re-
3 sponsibilities of the local governments in carrying out
4 activities under section 106(a).

5 (b) In carrying out its responsibilities under subsection
6 (a)(2), the State shall give particular emphasis to the activi-
7 ties of local governments in—

8 (1) providing public services and public facilities
9 required as a result of the siting, construction, expan-
10 sion, or operation of coastal-related energy facilities;
11 and

12 (2) preventing, reducing, or ameliorating any un-
13 avoidable loss of valuable environmental or recreational
14 resources if such loss results from the siting, construc-
15 tion, expansion, or operation of coastal-related energy
16 facilities.

17 (c) In carrying out its responsibilities under this section,
18 each State shall provide no less than 33 $\frac{1}{3}$ per centum of
19 each block grant received under section 105(a) to its local
20 governments.

21 NATIONAL COASTAL RESOURCES RESEARCH AND
22 DEVELOPMENT INSTITUTE

23 SEC. 108. (a) The Secretary shall provide for the estab-
24 lishment of a National Coastal Resources Research and De-
25 velopment Institute to be administered in affiliation with the
26 Oregon State University Marine Science Center.

b) The Institute shall seek to conduct basic and applied research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including Arctic resources. Such activities shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on economic development and diversification and environmental protection of the Nation's coastal areas.

c) (1) The policies of the Institute shall be established and administered by a Board of Governors composed of—

(A) two representatives appointed by the Governor of Oregon;

(B) one representative appointed by the Governor of Alaska;

(C) one representative appointed by the Governor of Washington;

(D) one representative appointed by the Governor of California; and

(E) one representative appointed by the Governor of Hawaii.

(2) The Board of Governors shall select and fund, on an annually competitive basis, research proposals, projects, and activities designed to promote the efficient and responsible economic development of ocean, coastal and Arctic resources.

1 (d)(1) The Board of Governors shall establish an Adviso-
2 ry Council composed primarily of specialists in ocean and
3 coastal resources from the academic community but which
4 shall include appropriate representation from ocean and
5 coastal user groups.

6 (2) To the maximum extent practicable, the Advisory
7 Council shall be composed of individuals from every coastal
8 region of the Nation.

9 (3) The Advisory Council shall advise the Board of Gov-
10 ernors on its recommendations regarding proposals, projects,
11 and studies which are presented to the Board of Governors.

12 (e) The Institute shall be administered by a Director
13 who shall be appointed by the chancellor of the Oregon
14 Board of Higher Education in consultation with the Board of
15 Governors. The Director shall report to the Board of Gover-
16 nors.

17 (f) The Secretary shall conduct an ongoing evaluation of
18 the activities of the Institute to ensure that funds received by
19 the Institute under this section are used in a manner consist-
20 ent with the provisions of this section.

21 (g) The Institute shall report to the Secretary on its
22 activities within two years after the date of enactment of this
23 Act.

24 (h) The Comptroller General of the United States, and
25 any of his duly authorized representatives, shall have access,

1 for the purpose of audit and examination, to any books, docu-
2 ments, papers, and records of the Institute that are pertinent
3 to the funds received under this section.

4 (i) Employees of the Institute shall not, by reason of
5 such employment, be considered to be employees of the Fed-
6 eral Government for any purpose.

7 (j) For the purposes of this section, there are authorized
8 to be appropriated from the Fund in each fiscal year an
9 amount equal to, but not more than, 1.5 per centum of the
10 amount appropriated under section 104(c) in such fiscal year,
11 commencing with fiscal year 1986.

12

AUDIT

13 SEC. 109. (a) Under regulations promulgated by the
14 Secretary, any State receiving a block grant under section
15 105(a) shall, for each fiscal year that it receives such grant,
16 submit to the Secretary a financial audit of the trust fund
17 established pursuant to section 105(c). The income derived
18 from such trust fund for each fiscal year shall be included in
19 the audit required by this section.

20 (b) Each audit submitted by a State under subsection (a)
21 shall—

22 (1) contain a statement of all funds provided by
23 the block grant received by such State for the fiscal
24 year;

1 (2) include a statement of all financial assistance
2 provided to such State's local governments pursuant to
3 section 107;

4 (3) be conducted by an entity which is independ-
5 ent of any agency or official administering or using
6 funds provided by such block grant; and

7 (4) be conducted in accordance with the financial
8 and compliance element of the standards for audit of
9 governmental organizations, activities, and functions
10 established by the Comptroller General of the United
11 States.

12 (c) After receiving a State's financial audit under this
13 section, the Secretary shall—

14 (1) make a preliminary evaluation of each audit
15 submitted pursuant to this section. If the Secretary de-
16 termines, in the preliminary evaluation of a State's
17 audit, that all or any part of the block grant has not
18 been used as required by this Act, the Secretary shall
19 publish notice of this finding in the Federal Register.
20 In addition, the Secretary may suspend, and place in
21 escrow, an amount from any future block grant which
22 is equivalent to the amount misused, pending final de-
23 termination pursuant to paragraph (3);

24 (2) provide the State with an opportunity for a
25 hearing; and

1 (3) make a final determination.

2 (d) If the Secretary makes a final determination under
3 subsection (c)(3) that all or any part of such funds were used
4 as required by this Act, the Secretary shall—

5 (1) provide in writing to the State the reasons for
6 the determination and the amount of funds misused;
7 and

8 (2) take appropriate action to recover an amount
9 equal to that determined to have been misused under
10 subsection (c), including the withholding of such
11 amount from a State's future block grant or the
12 amount which may have been suspended under subsec-
13 tion (c)(1).

14 (e) If no appeal of the final determination is filed within
15 sixty days following notification to the State of the final de-
16 termination, any funds withheld or recovered by the Secre-
17 tary under subsection (d)(2) shall be returned to the Fund.

18 (f) If an appeal of the final determination is filed within
19 the sixty-day period specified in subsection (e), any funds
20 withheld by the Secretary shall be held in escrow until such
21 time as a final determination is made of the appeal.

22 RULES AND REGULATIONS

23 SEC. 110. Within one hundred and eighty days of enact-
24 ment of this Act, the Secretary shall promulgate, pursuant to
25 section 553 of title 5, United States Code, after notice and
26 opportunity for participation by relevant Federal agencies,

