

HJR

26

<TARGET><BILL>HJR 26</BILL><SUBJECT>HJR
26</SUBJECT><COMM>SRES28</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 2/24/14

FURTHER: Rules

DATE TURNED
IN TO OFFICE: 2/26/14

Resources Committee considered HOUSE JOINT RESOLUTION NO. 26

HJR 26-OFFSHORE OIL & GAS REVENUE SHARING

Urging the United States Congress to provide a means for consistently and equitably sharing with all oil and gas producing states adjacent to federal outer continental shelf areas a portion of revenue generated from oil and gas development on the outer continental shelf to ensure that those states develop necessary infrastructure to support outer continental shelf development and preserve environmental integrity.

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LEG			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	French			X	
	McGuire	✓			
	Micciche	✓			
Cliff Bishop	BISHOP	✓			
Anna Fairclough	FAIRCLOUGH	✓			
CHAIR:	Biessel	✓			

ALASKA STATE LEGISLATURE

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Juneau, AK 99801-1182
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REPRESENTATIVE DAN SADDLER

To: Sen Cathy Giessel, Chair, Senate Rules Committee
From: Rep. Dan Saddler, Co-Chair, House Resources Committee *DRS*
Date: 2/19/2014
Re: Bill Hearing Request: HJR 26

I respectfully request a Senate Resources Committee hearing (pending referral) of HJR 26: Offshore Oil & Gas Revenue Sharing at your earliest possible convenience.

HJR 26 was reported out of the House Resources Committee today, is expected to be on the House Calendar on Friday, February 21st, and should be introduced in the Senate and referred to the Senate Resources Committee on Monday, February 24th.

Please find the attached documents relating to HJR 26:

- HJR 26 Version N
- HJR 26 Sponsor Statement
- Fiscal Note (LAA)
- OCS States Letters
- BPC Revenue Sharing 101
- FAIR Act
- FAIR Act Summary

If you have any questions, please don't hesitate to contact me or my staff assigned to the bill, Trevor Fulton, at (907) 465-3768.

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REPRESENTATIVE DAN SADDLER

Sponsor Statement

House Joint Resolution 26 – Relating to OCS Revenue Sharing

House Joint Resolution 26 urges the United States Congress to extend outer continental shelf (OCS) revenue sharing to all coastal states, including Alaska, where OCS oil and gas development could occur.

Currently, the federal government shares with states 50 percent of all revenue collected from oil and gas development on federal onshore lands, 27 percent of all revenue collected from oil and gas development on federal near-shore (within three miles of the coastline) leases, and 37.5 percent of all revenue collected from oil and gas development on federal offshore leases in OCS areas of Gulf Coast states only. There is currently no provision for federal OCS revenue sharing in Alaska, which has more coastline, more rural communities, and less infrastructure than any other state.

Oil and gas development in federal areas – regardless of whether it is onshore, near-shore, or offshore – requires additional investment in state infrastructure and increases demand on state and local government resources. OCS revenue sharing would help provide funding for Alaska to build infrastructure such as marine ports, airports, utilities, and housing and enhance critical state services such as oil spill and emergency response and environmental monitoring and mitigation.

I urge you to join me in sending a strong message to Congress in support of federal revenue sharing for Alaska's OCS.

July 21, 2011

Chairman Jeff Bingaman
Senate Committee on Energy
and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Lisa Murkowski
Senate Committee on Energy
and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Bingaman and Murkowski:

As governors of coastal states, we write to express our strong support for legislation that would allow our states to receive a fair share of the revenues from energy generation and production in the Outer Continental Shelf (OCS). Revenue sharing may arise in the context of legislation considered this week by the Energy and Natural Resources Committee or legislation later considered on the Senate floor. We do not hold identical views on offshore energy, and we make no statement here on how such development should proceed. We are firmly united, however, in our position that any legislation to facilitate any form of energy production in the OCS must return a responsible portion of the attendant revenues to the appropriate coastal states.

There is more than sufficient cause to justify energy-related revenue sharing. Ocean energy development can place heightened demands on transportation services, the environment, ports, fuel supplies, pipeline and transmission corridors, public health and safety, and other infrastructural, social and natural resources. Last year's tragic offshore oil spill also showed that such development can carry real consequences – not for the inland states that ultimately use much of the energy being produced, but for the coastal states at water's edge.

If a responsible portion of the vast revenues from offshore generation and production are returned to our states, we would be far better prepared to mitigate the resulting risks and impacts. This is an equitable bargain, wherein the states that choose to pursue development receive a deserved portion of its rewards. In the absence of revenue sharing, it is possible that some coastal states could limit their offshore energy production, or even use their powers under existing federal laws to deny the rest of the nation access to the vast resources in the OCS. The American people could then lose out on substantial new energy production, government revenues, and employment opportunities at a time when all are desperately needed.

In addition to cause, there is also sufficient precedent to justify revenue sharing for offshore energy generation and production. Under the Mineral Leasing Act, landlocked states with energy production on federal lands are rightly entitled to roughly half of the associated revenues – and these revenues are derived from resources which belong to the entire nation, not any one state. In addition, 40 percent of these revenues are returned to western states through the Reclamation Fund. Those states are also rightly entitled to "Payments in Lieu of Taxes" (PILT), a federal-state partnership expressly designed to compensate for the impact that federal lands have on state tax bases.

We appreciate that bipartisan leaders in recent Congresses have supported revenue sharing. Congress acknowledged its importance through the enactment of the Gulf of Mexico Energy Security Act of 2006, which directs 37.5 percent of federal revenues from a number of federal OCS leases to neighboring Gulf States. States received a total of less than \$866,000 for production in 2010 under this act for hosting offshore production. Comparatively, states shared in over \$2,000,000,000 for

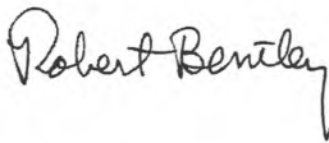
Senators Bingaman and Murkowski
July 21, 2011
Page 2

production on federal lands within their states. Further, both law and the current administration's programs provide for a 27.5 percent state revenue sharing provision for federally-leased offshore wind power.

Should Congress consider legislation that facilitate greater energy development in the OCS, it is important – and entirely possible – to ensure that the benefits of such development accrue to both the nation as a whole and coastal states. The best mechanism to accomplish that goal is revenue sharing, which will ensure that coastal states are both incentivized and equipped to facilitate safer, more responsible, and more efficient development of all forms of offshore energy while recognizing the historic contribution of states that fueled this nation's economy.

We thank you for considering our perspective.

Sincerely,



Governor Robert J. Bentley
Alabama



Governor Haley Barbour
Mississippi




Governor Sean Parnell
Alaska



Governor Nikki Haley
South Carolina



Governor Bobby Jindal
Louisiana



Governor Robert F. McDonnell
Virginia

cc: Members of the Senate Energy and Natural Resources Committee

Written Testimony

**Testimony of Charlotte Brower
Mayor, North Slope Borough, Alaska
February 19, 2014**

**Before the
House Natural Resources Committee
Alaska State Legislature
Legislative Hearing on HJR26**

Chairman Saddler, Chairman Feige, and Members of the Committee:

Good afternoon. My name is Charlotte Brower. I am honored to be the Mayor of the North Slope Borough, the wife of a whaling captain, and am blessed with six children and twenty-five grandchildren.

Thank you for the opportunity to speak on HJR26, a resolution urging the United States Congress to provide for sharing with local areas the revenue from oil and gas development on our outer continental shelf.

On July 23rd of this past summer, I was invited to testify before the US Senate Energy Committee in support of S. 1273, known as the “Fixing America’s Inequities with Revenues Act of 2013”, or “FAIR Act”.

Today I am here before you to express support for HJR26 as a way to help secure passage of measures like S. 1273 in Washington DC. By working together as Alaskans, we need to send a message for receiving a fair and equitable distribution of revenues that come from energy development on our outer Continental Shelf (OCS).

Congress should pass legislation to ensure that State and local governments will have resources to keep up with infrastructure requirements, expand emergency response and search and rescue capabilities, take an active role in oil spill preparedness, and work to maintain healthy communities and a healthy ecosystem.

The North Slope Borough is the largest municipality in the United States, encompassing over 94,000 square miles, including more than 8,000 miles of Arctic coastline along the Beaufort and Chukchi Seas.

The majority of North Slope residents are Iñupiat Eskimos. We are heavily dependent upon marine mammals (such as bowhead and beluga whales, seals and walrus) to sustain our physical health and our cultural and spiritual well-being. The importance of Subsistence in our coastal communities and marine environment goes beyond the need for food. Our unique Iñupiat culture, our traditions and our

links to our ancestors and history, are also tied to our Subsistence lifestyle, to our custom of sharing with others, and to celebrating our connection to the land and the ocean.

We are always mindful of the critical need to protect the environment and preserve our culture and our resources. However, we also recognize that our ability to continue to provide even basic services to our communities depends upon revenue from the oil and gas industry, which today primarily operates on state land in our region. Without these revenues, the North Slope Borough would not be able to maintain the airstrips, healthcare facilities, water and sewer, search and rescue or other services we provide in our villages.

What many people in the Lower 48 do not understand is that the infrastructure enjoyed today by other coastal states – paved roads, deep water ports, and modern communications – those don't exist on the North Slope.

Most people do not understand the challenges Alaska's rural governments face. As one example, a gallon of milk costs \$10 today in Barrow. That same gallon of milk might cost \$18 or more in some of our villages. Other food items such as fresh fruits and vegetables are even more expensive relative to the Lower 48, or even

other parts of Alaska. Why? Because the cost of transportation in our region is very high. And now imagine the cost to the North Slope Borough for new roads, upgrades to airstrips, new health care facilities, or new sewer or water or gas lines that must be built through permafrost.

We also face threats to the infrastructure we have in place today. With the Arctic Ocean now ice-free for a longer period every spring and fall, storms are eroding the land around some of our villages - in some cases over 5-6 feet per year. Once moderate storm consumed more than a million dollars in response costs from our Borough. Over the last ten years, the coastline near Barrow has receded toward an old landfill that holds tens of thousands of barrels of Navy and Air Force waste. Ten years ago, the ocean was 200 feet away from the landfill – now it is 120 feet away.

Coastal erosion also threatens Barrow's "utilidor" system, which is an underground system of tunnels designed to protect the city's utilities from the cold. This system provides indoor plumbing to our residents and eliminates the need for outhouses and water delivery by truck. And like most other things in the Arctic, it is very expensive.

I would also note that the oil and gas industry, researchers, and federal agencies, including the U.S. Coast Guard, all use our local infrastructure – our airports and roads and hospitals. We welcome people to our community, and we were grateful for the Coast Guard's presence in Barrow during the 2012 drilling season, but Congress must recognize the cost to our community of maintaining and expanding critical infrastructure as industry develops offshore resources.

There is also a great deal of scientific research needed to understand how best to mitigate the impact of oil and gas development on the Arctic environment, and the North Slope Borough can and should be a part of that effort.

The last thing I would like to emphasize is the role of State and local governments in emergency preparedness associated with offshore energy development, including oil spill response. Let us pray that our Good Lord will prevent the need, but in the event of an emergency it will be the brave men and women from the North Slope Borough Search & Rescue Department and the Alaska Department of Public Safety troopers and village VPSO's who will most likely be first on the scene.

In summary, the people of the North Slope live in one of the most undeveloped regions in our nation. Investments must be made in the infrastructure necessary to ensure that OCS development can be conducted safely and responsibly. And the burden of providing such infrastructure should not fall solely on the people that have the most to lose in case of an oil spill.

Thank you for sponsoring HJR26 to help the people of the North Slope Borough send this message to the United States Congress.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HJR 26
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HJR26-LEG-SESS-02-18-14
Title: OFFSHORE OIL & GAS REVENUE SHARING
Sponsor: SADDLER
Requester: House Resources

Department: Alaska Legislature
Appropriation: Legislative Operating Budget
Allocation: Session Expenses
OMB Component Number: 782

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial Version

Prepared By:	Jessica Geary, Finance Manager	Phone:	(907)465-6626
Division:	Legislative Affairs Agency	Date:	02/18/2014 11:00 AM
Approved By:	Pamela Varni, Executive Director	Date:	02/18/14
Agency:	Legislative Affairs Agency		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. HJR 26

Analysis

This Legislative has zero fiscal impact on the Legislative Affairs Agency.

LIBRARY OF CONGRESS SUMMARY

The summary below was written by the Congressional Research Service, which is a nonpartisan division of the Library of Congress.

7/10/2013--Introduced.

Fixing America's Inequities with Revenues Act of 2013 or FAIR Act of 2013 - Amends the Outer Continental Shelf Lands Act (OCSLA) to direct the Secretary of the Interior to deposit into a special account in the Treasury 37.5% of all revenues payable to the United States from oil, natural gas, and alternative and renewable energy on the outer Continental Shelf (OCS).

Instructs the Secretary to disburse such revenues (with certain exceptions) according to this formula: (1) 27.5% of such revenues to coastal states and coastal political subdivisions, and (2) 10% of the revenues to coastal states that establish funds in their treasuries to support projects relating to alternative or renewable energy, energy research and development, energy efficiency, or conservation.

Prescribes requirements for allocating such revenues to coastal states and their coastal subdivisions, with a special rule for Alaska. Limits the allocable share of each coastal state to the revenues collected from a leased tract located no more than 200 nautical miles from the coastline of the state and within the state's OCS region.

Requires the Secretary of the Treasury to disburse 50% of all revenues derived from all rentals, operating fees, royalties, bonus bids, rights-of-way, and other amounts payable to the United States from the development of alternative or renewable onshore energy sources to the state within whose boundaries the energy source is located.

Amends the Gulf of Mexico Energy Security Act of 2006 to: (1) redefine qualified OCS revenues, (2) prescribe requirements for the disposition of qualified OCS revenues into a special account in the Treasury, and (3) revise the formula for allocating federal funds among the Gulf producing states.

113TH CONGRESS
1ST SESSION

S. 1273

To establish a partnership between States that produce energy onshore and offshore for our country with the Federal Government.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2013

Ms. MURKOWSKI (for herself, Ms. LANDRIEU, Mr. BEGICH, and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a partnership between States that produce energy onshore and offshore for our country with the Federal Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fixing America’s In-
5 equities with Revenues Act of 2013” or the “FAIR Act
6 of 2013”.

7 **SEC. 2. DISTRIBUTION OF REVENUES TO COASTAL STATES.**

8 Section 9 of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1338) is amended to read as follows:

1 **“SEC. 9. DISPOSITION OF REVENUES.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ALTERNATIVE AND RENEWABLE EN-
4 ERGY.—The term ‘alternative and renewable energy’
5 means energy derived from a wind, solar, or ocean
6 (including tidal, wave, and current) source.

7 “(2) COASTAL POLITICAL SUBDIVISION.—The
8 term ‘coastal political subdivision’ means a county-
9 equivalent subdivision of a coastal State all or part
10 of which—

11 “(A) lies within the coastal zone (as de-
12 fined in section 304 of the Coastal Zone Man-
13 agement Act of 1972 (16 U.S.C. 1453)); and

14 “(B) the closest point of which is not more
15 than 200 nautical miles from the geographical
16 center of any leased tract.

17 “(3) COASTAL STATE.—

18 “(A) IN GENERAL.—The term ‘coastal
19 State’ means a State with a coastal seaward
20 boundary within 200 nautical miles distance of
21 the geographical center of a leased tract in an
22 outer Continental Shelf region adjacent to the
23 State.

24 “(B) EXCLUSION.—The term ‘coastal
25 State’ does not include a coastal State, the ma-

1 jority of the coastline of which is subject to a
2 leasing moratorium.

3 “(4) DISTANCE.—The terms ‘distance’ and ‘dis-
4 tances’ mean minimum great circle distance and dis-
5 tances, respectively.

6 “(5) LEASED TRACT.—The term ‘leased tract’
7 means a tract or other area leased or made available
8 for the exploration, development, or production of
9 oil, natural gas, or alternative or renewable energy.

10 “(6) LEASING MORATORIUM.—The term ‘leas-
11 ing moratorium’ means any State or Federal prohi-
12 bition on the development of oil, natural gas, and al-
13 ternative and renewable energy sources, including
14 preleasing, leasing, and related activities, on the
15 outer Continental Shelf.

16 “(7) OUTER CONTINENTAL SHELF REGION.—
17 The term ‘outer Continental Shelf region’ means—

18 “(A) the Alaska outer Continental Shelf
19 region;

20 “(B) the North Atlantic planning area (as
21 described in the 2012–2017 Outer Continental
22 Shelf Oil and Gas Leasing Program);

23 “(C) the Mid-Atlantic planning area (as
24 described in the 2012–2017 Outer Continental
25 Shelf Oil and Gas Leasing Program);

1 “(D) the South Atlantic planning area (as
2 described in the 2012–2017 Outer Continental
3 Shelf Oil and Gas Leasing Program);

4 “(E) the Gulf of Mexico outer Continental
5 Shelf region; or

6 “(F) the Pacific outer Continental Shelf
7 region.

8 “(8) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of the Interior.

10 “(b) COASTAL STATE REVENUE SHARING FOR
11 OUTER CONTINENTAL SHELF ENERGY SOURCES.—

12 “(1) IN GENERAL.—Subject to the other provi-
13 sions of this section, for fiscal year 2014 and each
14 subsequent fiscal year—

15 “(A) the Secretary of the Interior shall de-
16 posit in a special account in the Treasury, 37.5
17 percent of all revenues derived from all rentals,
18 royalties, bonus bids, and other sums due and
19 payable to the United States from the develop-
20 ment of oil, natural gas, and alternative and re-
21 newable energy on the outer Continental Shelf;
22 and

23 “(B) the Secretary shall, in accordance
24 with subsection (b), disburse—

1 “(i) 27.5 percent of the revenues de-
2 scribed in subparagraph (A) to coastal
3 States and coastal political subdivisions;
4 and

5 “(ii) 10 percent of the revenues to
6 coastal States that establish funds in the
7 treasuries of the coastal States to support
8 projects and activities relating to alter-
9 native or renewable energy, energy re-
10 search and development, energy efficiency,
11 or conservation.

12 “(2) EXCLUSIONS.—The revenues described in
13 paragraph (1) do not include—

14 “(A) the qualified outer Continental Shelf
15 revenues described in the third proviso under
16 the heading ‘OCEAN ENERGY MANAGEMENT’
17 under the heading ‘BUREAU OF OCEAN EN-
18 ERGY MANAGEMENT’ of title I of the Depart-
19 ment of the Interior, Environment, and Related
20 Agencies Appropriations Act, 2012 (division E
21 of Public Law 112–74; 125 Stat. 994);

22 “(B) revenues from the forfeiture of a
23 bond or other surety securing obligations other
24 than royalties, civil penalties, or royalties taken
25 by the Secretary in-kind and not sold; or

1 “(C) revenues generated from leases—
2 “(i) subject to—
3 “(I) section 8(g);
4 “(II) section 8(p)(2)(B); or
5 “(III) the Gulf of Mexico Energy
6 Security Act of 2006 (43 U.S.C. 1331
7 note; Public Law 109–432); or
8 “(ii) in the Gulf of Mexico before the
9 date of enactment of the Gulf of Mexico
10 Energy Security Act of 2006 (43 U.S.C.
11 1331 note; Public Law 109–432).

12 “(3) ALLOCATION AMONG COASTAL STATES
13 AND COASTAL POLITICAL SUBDIVISIONS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), for each fiscal year, the amount
16 made available under paragraph (1) from any
17 lease shall be allocated to each coastal State in
18 amounts (based on a formula established by the
19 Secretary by regulation) that are inversely pro-
20 portional to the respective distances between
21 the point on the coastline of each coastal State
22 that is closest to the geographic center of the
23 applicable leased tract and the geographic cen-
24 ter of the leased tract.

1 “(B) LIMITATION.—The allocable share of
2 a coastal State is limited to the revenues col-
3 lected from a leased tract located no more than
4 200 nautical miles from the coastline of the
5 coastal State and within the outer Continental
6 Shelf region of the coastal State.

7 “(C) PAYMENTS TO COASTAL POLITICAL
8 SUBDIVISIONS.—

9 “(i) IN GENERAL.—The Secretary
10 shall pay 25 percent of the allocable share
11 of each coastal State, as determined under
12 subparagraph (A), to the coastal political
13 subdivisions of the coastal State.

14 “(ii) ALLOCATION.—The amount paid
15 by the Secretary to coastal political sub-
16 divisions shall be allocated to each coastal
17 political subdivision in accordance with
18 subparagraphs (B), (C), and (E) of section
19 31(b)(4).

20 “(iii) EXCEPTION FOR THE STATE OF
21 ALASKA.—For purposes of carrying out
22 this subparagraph in the State of Alaska,
23 of the amount paid by the Secretary to
24 coastal political subdivisions—

1 “(I) 90 percent shall be allocated
2 in amounts (based on a formula es-
3 tablished by the Secretary by regula-
4 tion) that are inversely proportional to
5 the respective distances between the
6 point in each coastal political subdivi-
7 sion that is closest to the geographic
8 center of the applicable leased tract
9 and the geographic center of the
10 leased tract; and

11 “(II) 10 percent shall be divided
12 equally among each county-equivalent
13 subdivision of the State of Alaska, all
14 or part of which lies within the coastal
15 zone (as defined in section 304 of the
16 Coastal Zone Management Act of
17 1972 (16 U.S.C. 1453)), that—

18 “(aa) is more than 200 nau-
19 tical miles from the geographic
20 center of a leased tract; and

21 “(bb) the State of Alaska
22 determines to be a significant
23 staging area for oil and gas serv-
24 icing, supply vessels, operations,
25 suppliers, or workers.”.

1 **SEC. 3. REVENUE SHARING FOR CERTAIN ONSHORE EN-**
2 **ERGY SOURCES.**

3 Section 35 of the Mineral Leasing Act (30 U.S.C.
4 191) is amended by adding at the end the following:

5 “(d) REVENUE SHARING FOR CERTAIN ONSHORE
6 ENERGY SOURCES.—The Secretary of the Interior shall
7 disburse 50 percent of all revenues derived from all rent-
8 als, operating fees, royalties, bonus bids, rights-of-way,
9 and other amounts due and payable to the United States
10 from the development of alternative or renewable onshore
11 energy sources to the State within the boundaries of which
12 the energy source is located.”.

13 **SEC. 4. DISTRIBUTION OF REVENUES TO GULF PRODUCING**
14 **STATES.**

15 (a) DEFINITION OF QUALIFIED OUTER CONTI-
16 NENTAL SHELF REVENUES.—Section 102(9) of the Gulf
17 of Mexico Energy Security Act of 2006 (43 U.S.C. 1331
18 note; Public Law 109–432) is amended by striking sub-
19 paragraphs (A) and (B) inserting the following:

20 “(A) IN GENERAL.—The term ‘qualified
21 outer Continental Shelf revenues’ means all
22 rentals, royalties, bonus bids, and other sums
23 due and payable to the United States received
24 on or after October 1, 2013, from leases en-
25 tered into on or after the date of enactment of
26 Public Law 109–432 for the portions of the

1 Western Gulf of Mexico planning area, the Cen-
2 tral Gulf of Mexico planning area, and the
3 Eastern Gulf of Mexico planning area not sub-
4 ject to a leasing moratorium under section
5 104(a) of the Gulf of Mexico Energy Security
6 Act of 2006 (43 U.S.C. 1331 note; Public Law
7 109-432).

8 “(B) EXCLUSIONS.—The term ‘qualified
9 outer Continental Shelf revenues’ does not in-
10 clude—

11 “(i) the qualified outer Continental
12 Shelf revenues described in the third pro-
13 viso under the heading ‘OCEAN ENERGY
14 MANAGEMENT’ under the heading ‘BUREAU
15 OF OCEAN ENERGY MANAGEMENT’ of title
16 I of the Department of the Interior, Envi-
17 ronment, and Related Agencies Appropria-
18 tions Act, 2012 (division E of Public Law
19 112-74; 125 Stat. 994);

20 “(ii) the qualified outer Continental
21 Shelf revenues described in the third pro-
22 viso under the heading ‘OFFSHORE SAFETY
23 AND ENVIRONMENTAL ENFORCEMENT’
24 under the heading ‘BUREAU OF SAFETY
25 AND ENVIRONMENTAL ENFORCEMENT’ of

1 title I of the Department of the Interior,
 2 Environment, and Related Agencies Appro-
 3 priations Act, 2012 (division E of Public
 4 Law 112-74; 125 Stat. 995);

5 “(iii) revenues from the forfeiture of a
 6 bond or other surety securing obligations
 7 other than royalties, civil penalties, or roy-
 8 alties taken by the Secretary in-kind and
 9 not sold; or

10 “(iv) revenues generated from leases
 11 subject to subsection (g) or (p)(2)(B) of
 12 section 8 of the Outer Continental Shelf
 13 Lands Act (43 U.S.C. 1337).”.

14 (b) DISPOSITION OF QUALIFIED OUTER CONTI-
 15 NENTAL SHELF REVENUES.—Section 105 of the Gulf of
 16 Mexico Energy Security Act of 2006 (43 U.S.C. 1331
 17 note; Public Law 109-432) is amended—

18 (1) in subsection (a), in the matter preceding
 19 paragraph (1), by striking “shall deposit” and all
 20 that follows through the period at the end of para-
 21 graph (2)(B) and inserting the following:

22 “shall deposit—

23 “(1) in a special account in the Treasury—

24 “(A) 37.5 percent of qualified outer Conti-
 25 nental Shelf revenues, which the Secretary shall

1 disburse to Gulf producing States in accordance
2 with subsection (b); and

3 “(B) \$62,500,000, which the Secretary
4 shall disburse to provide financial assistance to
5 States in accordance with section 6 of the Land
6 and Water Conservation Fund Act of 1965 (16
7 U.S.C. 4601–8), which shall be considered in-
8 come to the Land and Water Conservation
9 Fund for purposes of section 2 of that Act (16
10 U.S.C. 4601–5); and

11 “(2) the remainder of qualified outer Conti-
12 nental Shelf revenues in the general fund of the
13 Treasury.”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) by striking “(1) ALLOCATION” and
17 all that follows through “subsection
18 (a)(2)(A)” in subparagraph (A) and insert-
19 ing the following:

20 “(1) ALLOCATION AMONG GULF PRODUCING
21 STATES.—

22 “(A) IN GENERAL.—Effective beginning in
23 fiscal year 2014, the amount made available
24 under subsection (a)(1)(A)”;

25 (ii) in subparagraph (A)—

- 1 (I) by inserting “each historical
- 2 lease site and the geographic center of
- 3 the historical lease site, as determined
- 4 by the Secretary” after “closest to the
- 5 geographic center of”; and
- 6 (II) by striking “the applicable
- 7 leased tract and the geographic center
- 8 of the leased tract”; and
- 9 (iii) by striking subparagraph (B);
- 10 (B) in paragraph (2), by striking “(2)”
- 11 and all that follows through “(C) HISTORICAL
- 12 LEASE SITES” and inserting “(B) HISTORICAL
- 13 LEASE SITES”;
- 14 (C) in paragraph (1)(B)(i) (as so redesign-
- 15 nated)—
- 16 (i) by striking “subparagraph (A)(ii)”
- 17 and inserting “subparagraph (A)”; and
- 18 (ii) by striking “December 31, 2015”
- 19 and inserting “December 31, 2012”;
- 20 (D) by redesignating paragraph (3) as
- 21 paragraph (2); and
- 22 (E) in paragraph (2) (as so redesignated),
- 23 in subparagraph (A), by striking “paragraphs
- 24 (1) and (2)” and inserting “paragraph (1)”;
- 25 and

1 (3) by striking subsection (f) and inserting the
2 following:

3 “(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED
4 QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

5 “(1) DISTRIBUTION TO GULF PRODUCING
6 STATES.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graphs (B) and (C), the total amount of quali-
9 fied outer Continental Shelf revenues distrib-
10 uted under subsection (a)(1)(A) shall not ex-
11 ceed \$500,000,000 for fiscal year 2014.

12 “(B) CAP INCREASE FOR GULF PRODUCING
13 STATES.—In the case of the qualified outer
14 Continental Shelf revenues distributed to Gulf
15 producing States under subsection (a)(1)(A),
16 the cap on amounts specified in subparagraph
17 (A) shall be for—

18 “(i) fiscal year 2015, \$600,000,000;

19 and

20 “(ii) each of fiscal years 2016 through
21 2024, the applicable amount for the pre-
22 vious fiscal year increased by
23 \$100,000,000.

24 “(C) SUBSEQUENT FISCAL YEARS.—For
25 fiscal year 2025 and each fiscal year thereafter,

1 all qualified outer Continental Shelf revenues
2 made available under subsection (a)(1)(A) shall
3 be made available without limitation for alloca-
4 tion to the Gulf producing States in accordance
5 with subsection (b).

6 “(2) PRO RATA REDUCTIONS.—If paragraph (1)
7 limits the amount of qualified outer Continental
8 Shelf revenues that would be paid under subsection
9 (a)(1)(A)—

10 “(A) the Secretary shall reduce the amount
11 of qualified outer Continental Shelf revenues
12 provided to each recipient on a pro rata basis;
13 and

14 “(B) any remainder of the qualified outer
15 Continental Shelf revenues shall revert to the
16 general fund of the Treasury.”.

17 **SEC. 5. EFFECTIVE DATE.**

18 This Act and the amendments made by this Act take
19 effect on October 1, 2013.

○



BIPARTISAN POLICY CENTER

Revenue Sharing 101

Posted on:

Friday, August 16, 2013

How revenues are allocated under current law and how they could shift if recent Congressional proposals are enacted

By [Stuart Iler](#) and [David Rosner](#)

Revenue sharing has been a popular topic in Congress for years, and especially this summer, as a number of proposals have emerged detailing new methods and programs for disbursing revenue from energy projects located on federal lands and on the Outer Continental Shelf.

Following a U.S. Senate Committee on Energy and Natural Resources [hearing](#) last month to consider one such proposal, we, at the BPC Energy Project, discussed the various current sources of [federal and state revenues from natural resources](#), and how those revenues are disbursed. In this post, we 1) take a closer look at how revenues are both generated and allocated under existing law and 2) examine two select, recent legislative proposals that would change the allocation framework.

Revenue Allocation for Onshore Federal Lands

Oil and Natural Gas

Federal lands are leased to project developers through competitive auctions. If a particular auction draws no bids, or if all bids are below \$2 per acre, then the lands in question are offered for noncompetitive leasing on a first-come, first-served basis.¹

Beyond the price determined at auction (referred to as the “bonus bid”), project developers pay the federal government both royalties and annual rental fees. The royalty payment is 12.5 percent of the value of the oil and/or natural gas produced on the land. The rental fee is \$1.50 per acre for the first five years of the lease and \$2 per acre thereafter.²

Broadly speaking, revenues from oil and natural gas leases are distributed three ways: 50 percent to the states in which the projects are located,³ 40 percent to the U.S. Treasury’s Reclamation Fund, and the remainder to the Treasury’s General Fund.^{4,5}

Coal

In general, coal leasing follows a competitive bidding process similar to that for oil and natural gas. The Bureau of Land Management (BLM) solicits bids on eligible tracts of land and announces the winning bid contingent on the satisfaction of other lessee requirements.⁶ The winning bid must

also exceed the fair market value of the tract(s), which BLM determines prior to the lease sale and keeps confidential.⁷

As with oil and gas leases, royalty and rental payments must also be made in addition to the bonus bid determined at auction. The royalty rate is 12.5 percent of the value of surface-mined coal and 8 percent of the value of coal mined by underground methods. The rental fee is \$3 per acre.⁸

Disbursement of coal revenues follows the same structure specified by the MLA for oil and gas: 50 percent to the states in which the projects are located, 40 percent to the U.S. Treasury's Reclamation Fund, and the remainder to the Treasury's General Fund.⁹

Geothermal

Permitting for geothermal projects is also similar to that for oil and gas, employing both competitive and non-competitive leasing processes (where the non-competitive process comes into effect when lands are not successfully leased in a competitive manner).¹⁰ Lessees are also required to make rental and royalty payments. For competitive leases, the rental fee is \$2 per acre for the first year and then \$3 per acre for the next nine years, while for non-competitive leases, the rate is \$1 per acre for the first ten years. In both cases, the rental rate increases to \$5 per acre after the tenth year. When geothermal steam is used to produce electricity, royalty rates are about 1.75 percent of gross sales for the first 10 years and then approximately 3.5 percent after that.¹¹

Pursuant to the Energy Policy Act of 2005, geothermal revenues are shared between states (50 percent), counties (25 percent), and the federal government (25 percent).¹²

Wind and Solar

Under the Federal Land Policy and Management Act of 1976, project developers looking to site wind and solar projects on federal lands must seek a right-of-way from one of two managing agencies—either BLM or the U.S. Forest Service, depending on the location of the proposed project. Right-of-way applications are processed on a first-come, first-served basis and not through a competitive leasing process, like those described above.¹³ The right-of-way holder is also generally required to pay fair market value for use of the land, and under current law 100 percent of the revenues are retained by the federal government. The Forest Service's corresponding process—resulting in the issuance of "special use" permits¹⁴—has its own unique features, although many of its elements are similar to BLM's.¹⁵

Revenue Allocation on the Outer Continental Shelf

The Submerged Lands Act of 1953 provides states with the rights to the natural resources (and associated revenues) of submerged lands within 3 nautical miles of their coasts. For Texas and the western coast of Florida, this jurisdiction extends 9 miles.¹⁶ Beyond states' jurisdiction, submerged lands are administered by the federal government for 200 nautical miles (and sometimes more), in accordance with accepted international law.¹⁷ These lands are commonly referred to as the Outer Continental Shelf (OCS). On behalf of the federal government, the Bureau of Ocean Energy Management (BOEM) is responsible for oil, gas, and other mineral leasing within this territory.¹⁸

Oil and Natural Gas

Oil and gas revenue sharing with states is dictated primarily by two laws: the Outer Continental Shelf Lands Act (OCSLA) and the Gulf of Mexico Energy Security Act (GOMESA) of 2006. OCSLA is concerned with leases located just past states' coastal boundaries within the first 3 nautical miles of federal jurisdiction—also known as the "8(g) zone."¹⁹ The 1986 OCS Lands Act Amendments require that 27 percent of revenues from federal leases in the 8(g) zone be shared with the affected states. For certain other OCS leases, GOMESA stipulates that 37.5 percent of all revenues be shared with the four Gulf States—Alabama, Louisiana, Mississippi, and Texas—and their coastal political subdivisions (CPS's). GOMESA also requires that 12.5 percent of such revenues be allocated to the Land and Water Conservation Fund (LWCF), which helps states and local governments with recreation and conservation goals. A second phase of revenue sharing is initiated under GOMESA beginning in Fiscal Year 2017. For Fiscal Years 2016 through 2055, a \$500 million per-year cap is placed on the revenue allocated to states, their CPS's, and the LWCF, though the cap does not apply to areas associated with GOMESA's first phase.^{20,21}

Wind

EPACT05 amended OCSLA to address offshore wind development on federal lands. Although final authority over development rests with the Secretary of the Interior, BOEM is responsible for evaluating wind energy projects on the OCS.

EPACT05 also directs BOEM to share 27 percent of offshore wind revenues with affected states. A final rulemaking issued by the Department of the Interior in 2009 provides specifics on the method of allocation, based on the projects' locations, states' coastlines, and states' coastal boundaries. Under this framework, it is possible that multiple states may share the revenues from a single project.²²

Recent Select Revenue Sharing Legislation

In February 2013, Senator Jon Tester (D-MT) reintroduced The Public Land Renewable Energy Development Act of 2013 (S. 279), which proposes to make the process for onshore federal solar and wind permitting more like that for oil, natural gas, and geothermal. The bill received bipartisan support from 7 cosponsors,²³ and would establish a competitive process (first through a pilot program) to lease eligible wind and solar sites to qualified bidders. It would also create a "Renewable Energy Resource Conservation Fund"²⁴ within the Treasury to offset the impacts of renewable energy development on communities.

Under the proposed bill, 35 percent of solar and wind revenues would be deposited into the conservation fund, 15 percent would be used to aid BLM in renewable permit processing, and the remainder would be shared among the states and counties within which the projects are located (25 percent each).

In July 2013, Senator Lisa Murkowski (R-AK) introduced the Fixing America's Inequities with Revenues Act of 2013 (the FAIR Act of 2013) with 3 Democratic cosponsors.²⁵ The bill includes provisions that apply to both onshore and offshore energy production on federal lands. For onshore lands, half of the revenues from renewable energy production would be shared with states, as is currently done for oil, gas, coal, and geothermal. For offshore lands, 37.5 percent of revenues from all sources – both fossil and renewable – would be shared with states. The FAIR

Act would also gradually lift GOMESA's \$500 million per-year cap on revenue sharing and accelerate the commencement of its second phase from 2017 to 2013.²⁶

For renewable energy projects, the FAIR Act is similar to S. 279 in that it increases the proportion of revenues from onshore renewable energy development that would be shared with states. However, the FAIR Act is broader in scope – addressing multiple energy sources as well as offshore production – while S. 279 includes provisions to more specifically direct the federal government's share of funds.

How Revenues from Energy Production on Federal Lands Are Allocated

		Share of Revenue			
		Federal ²⁷	State	County	Total
Current Law	Oil and Gas, Onshore	50%	50%	—	100%
	Coal	50%	50%	—	100%
	Geothermal	25%	50%	25%	100%
	Wind and Solar, Onshore	100%	—	—	100%
	Oil and Gas, Offshore ²⁸	62.5% to 73%	27% to 37.5%	Varies	100%
	Wind, Offshore	73%	27%	—	100%
S. 279 (Proposed)	Solar and Wind	50%	25%	25%	100%
FAIR Act (Proposed)	All Types, Onshore	50%	50%	—	100%
	All Types, Offshore	62.5%	37.5%	—	100%

¹ Adam Vann, U.S. Congressional Research Service, *Energy Projects on Federal Lands: Leasing and Authorization*, February 2012, <http://www.fas.org/sqp/crs/misc/R40806.pdf>.

² Ibid.

³ Two percent of the states' share (1 percent of the total) is retained by the Treasury to cover the

administrative costs of the leasing program.

⁴ U.S. Government Accountability Office, *Leasable Minerals on Federal and Indian Lands: Volume, Value, and Revenue*, June 2012, <http://www.gao.gov/assets/660/650122.pdf>.

⁵ Vann, *Energy Projects on Federal Lands*, see note 1.

⁶ Ibid.

⁷ U.S. Department of the Interior, Bureau of Land Management, "Coal," accessed August 2, 2013, http://www.blm.gov/wo/st/en/prog/energy/coal_and_non-energy.print.html. Under federal regulations, no bid less than the fair market value will be accepted, and the Department reserves the right to reject any and all bids regardless of the amount. Only after a high qualified bid is accepted will a lease be awarded. See 43 C.F.R. §§3422.3-2; 3422.4.

⁸ Ibid.

⁹ GAO, *Leasable Minerals*, see note 4.

¹⁰ Timothée Nèron-Bancel, *Geothermal Energy Association, Geothermal Revenue Under the Energy Policy Act of 2005: Income Distribution at Federal, State, and County Levels*, December 2008, <http://geo-energy.org/reports/Geothermal Revenue Under the Energy Policy Act of 2005 Final.pdf>.

¹¹ GAO, *Leasable Minerals*, see note 4.

¹² Nèron-Bancel, see note 10.

¹³ A final rule published by BLM on April 30, 2013 allows it to temporarily "segregate" lands in a solar or wind right-of-way application, closing those lands to mining claims for an initial period of two years. See U.S. Department of Interior, Bureau of Land Management, "Land Management Rule Will Facilitate Renewable Energy Development on Public Lands," accessed August 9, 2013, http://www.blm.gov/wo/st/en/info/newsroom/2013/april/nr_04_29_2013.html.

¹⁴ As with BLM, the Forest Service does not have regulations that specifically address renewable energy development. Wind and solar projects would be classified as "special uses," and as such, potential developers would need to apply for a special use permit. If granted, permit holders would also need to pay annual rental fees. According to a CRS report published in February 2012, the "Forest Service does not currently authorize any such projects on its lands." See note 1: Vann, *Energy Projects on Federal Lands*.

¹⁵ U.S. Government Accountability Office, *Renewable Energy: Agencies Have Taken Steps Aimed at Improving the Permitting Process for Development on Federal Lands*, January 2013, <http://www.gao.gov/assets/660/651362.pdf>.

¹⁶ Bureau of Ocean Energy Management, "Federal Offshore Lands | BOEM," accessed August 2, 2013, <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Outer-Continental-Shelf/Federal-Offshore-Lands/Index.aspx>.

¹⁷ Bureau of Ocean Energy Management, "Outer Continental Shelf | BOEM," accessed August 2, 2013, <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Outer-Continental-Shelf/Index.aspx>.

¹⁸ Bureau of Ocean Energy Management, "Fair Market Value | BOEM," accessed August 2, 2013, <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/Fair-Market-Value/econFMV.aspx>.

¹⁹ Office of Natural Resources Revenue, "ONRR's Frequently Asked Questions – FAQs," accessed August 2, 2013, <http://statistics.onrr.gov/PDF/FAQs.pdf>.

²⁰ Bureau of Ocean Energy Management, "Gulf of Mexico Energy Security Act (GOMESA) | BOEM," accessed August 2, 2013, <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/Revenue-Sharing/Index.aspx>.

²¹ National Park Service, "State LWCF," accessed August 2, 2013, <http://www.nps.gov/lwcf/>.

²² Adam Vann, U.S. Congressional Research Service, *Wind Energy: Offshore Permitting*, October 2012, <http://www.fas.org/sqp/crs/misc/R40175.pdf>.

²³ As of August 9, 2013, these cosponsors are Senators Max Baucus (D-MT), Michael Bennet (D-CO), Martin Heinrich (D-NM), Dean Heller (R-NV), James Risch (R-ID), Mark Udall (D-CO), and

Tom Udall (D-NM). See the Library of Congress at <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:S.279:@@@P>. A companion bill – H.R. 596, also receiving bipartisan support – was introduced on February 8, 2013 by Representative Paul Gosar of Arizona.

²⁴ Per language in the proposed bill, this fund would be established for the purposes of "(i) addressing and offsetting the impacts of wind or solar development on Federal land...; (ii) securing recreational access to Federal land through an easement, right-of-way, or fee title acquisition from willing sellers for the purpose of providing enhanced public access to existing Federal land that is inaccessible or significantly restricted; and (iii) carrying out activities authorized under the Land and Water Conservation Fund Act of 1965..." See the Library of Congress at <http://thomas.loc.gov/cgi-bin/query/z?c113:S.279.IS:/>.

²⁵ As of August 9, 2013, these cosponsors are Senators Mark Begich (D-AK), Heidi Heitkamp (D-ND), and Mary Landrieu (D-LA). See the Library of Congress at <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:S.1273:@@@P>.

²⁶ Website of Senator Mary Landrieu (D-LA), "Senate Committee Holds Hearing on Landrieu FAIR Act | Mary Landrieu | U.S. Senator for Louisiana," accessed August 5, 2013, http://www.landrieu.senate.gov/?p=press_release&id=3885.

²⁷ Federal government revenues are directed to various end use activities. Specifically, revenues are directed to the Conservation Fund, the Reclamation Fund, the Land and Water Conservation Fund, as well as to the General Fund, and in some cases to a combination of these funds. In many cases, certain revenues are then disbursed back to states to fund land acquisition projects, maintenance and creation of recreation areas, and irrigation projects, among others. See the legal authorities mentioned in the text and the related federal regulations.

²⁸ Offshore oil and gas revenue allocations vary depending on the location of the lease sale area, whether or not the lease is within 3 nautical miles of the seaward boundary of a coastal state, and the date that the lease was issued. See the legal authorities mentioned in the text and the related federal regulations.