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Energy and Mineral Issues in the FY2006 Budget Reconciliation Bill

name redacted
Analyst in Energy Policy
Resources, Science, and Industry Division

Summary

Several resource issues that are designed to generate revenue for the federal Treasury have been proposed for the FY2006 budget reconciliation bill. The most controversial of these provisions recommended by the House Resources Committee and Senate Energy and Natural Resources Committee would open part of the Arctic National Wildlife Refuge (ANWR) for oil and gas development. The House panel also approved a provision that would allow coastal states to "opt out" of the current offshore oil and gas development moratoria, increase fees for hardrock mining and patents, dispose of certain federal lands, and begin an oil shale and tar sands leasing program.

The House Rules Committee, however, approved a closed rule (H.Res. 542) for the budget reconciliation package, including an amendment that would remove from the bill, the ANWR and OCS provisions described above. On November 18, 2005, the House approved its version of the budget bill, H.R. 4241, passed as S. 1932 (without the ANWR and OCS provisions), by a vote of 217-215.

The Congressional Budget Office estimates offsetting receipts from resource development on federal lands in the House-approved bill to be $286 million and in the Senate version to be $2.66 billion between 2006-2010. This report will be updated.

Several resource provisions designed to generate revenue for the federal Treasury have been proposed for the FY2006 budget reconciliation bill. According to the Congressional Budget Office (CBO), potential offsetting receipts from resource development on federal lands under the House-approved bill (H.R. 4241, passed as S. 1932) would reduce "net direct spending" by $286 million over the 2006-2010 period. This amount of reduced spending is much lower than the $3.7 billion approved by the House Resources Committee because the ANWR and OCS provisions were removed from the final House version.

The House Rules Committee approved a closed rule (H.Res. 542) for the budget reconciliation package, including an amendment that would remove from the bill the ANWR and OCS provisions discussed below. On November 18, 2005, the House approved its version of the Budget Reconciliation bill (H.R. 4241) by a vote of 217-215. ANWR and OCS provisions were not included in the final bill.

Subtitles in the House-passed reconciliation package recommended by the Resources Committee would involve the following: increasing fees and other miscellaneous amendments for hardrock mining on federal lands (Subtitle A), sales of public land to mining claimants in Idaho and Nevada (Subtitle B), oil shale development (Subtitle C), and the sale of federal land (Subtitle D).

The two provisions removed from the bill would have opened up the Arctic National Wildlife Refuge (ANWR) for oil and gas development and offered coastal states the option of offshore oil and gas development in areas now under a leasing and development moratoria.

The Senate Energy and Natural Resources Committee, however, supported opening a part of ANWR as its only recommendation to the budget reconciliation bill. Arctic Coastal Plain Domestic Energy Reconciliation provisions in the Senate package would allow for oil and gas leasing within the coastal plain of the Arctic National Wildlife Refuge. CBO estimates that the Senate panel version would reduce spending by $2.66 billion. The Senate Budget Committee reported its reconciliation bill (S. 1932) on October 27.

Below is a listing and brief description of each subtitle of the Resources Committee recommendations that are contained in the House-passed bill, followed by a discussion of the two provision removed (ANWR and OCS) from the Resources Committee recommendation.

Mining Fees. Subtitle A of the House-passed bill would change the fee structure for minerals located and developed under the General Mining Law of 1872. The General Mining Law of 1872 is one of the major statutes that affects the federal government's land management policy. The law grants free access to individuals and corporations to prospect for minerals in public domain lands, and allows them, upon making a discovery, to stake (or "locate") a claim on that deposit. A claim gives the holder the right to develop the minerals and may be "patented" to convey full title to the claimant. Less than 2% of public lands managed by the Bureau of Land Management have been patented. A continuing issue is whether this law should be reformed, and if so, how to balance mineral development with competing land uses.

The right to enter the public domain and freely prospect for and develop minerals is the feature of the claim-patent system that draws the most vigorous support from the mining industry. Critics consider the claim-patent system a giveaway of publicly owned resources because of the small amounts paid to maintain a claim and to obtain a patent. Congress has imposed a moratorium on mining claim patents since FY1995.

The one-time location fee, now at $32 per claim, would increase to $100 per claim under the Resources bill. Required mineral development work (i.e. work required prior to a patent application) would increase from $500 per claim to $7,500 per claim and a new schedule of maintenance fees would be established. The patent application processing fee would increase from $250 for the first claim or site to $2,500 for the first claim or site. The charge of $50 for each additional claim would remain unchanged.

Patent fees, which allow for the transfer of title, would rise from $2.50 or $5 per acre to $1,000 per acre or fair market value, whichever is higher. Mineral examinations would not be required under certain circumstances and the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) would be amended to "facilitate the productive second use of lands used for mining and energy production."

Disposal of Public Lands. Under Subtitle B in the House-passed version, public lands in Nevada and Idaho would be conveyed to claimants under the General Mining Law of 1872. About 7,000 acres in Nevada would be transferred to the claimant for $500 per acre. In Idaho, about 520 acres would be transferred at $1,000 per acre.

Under subtitle D, several parcels of land would be made available for immediate sale at fair market value. Certain lands are conveyed to the District of Columbia, and there is a transfer of property from the District to the United States for administration by the Secretary of the Interior.

Oil Shale. Oil shale and tar sands amendments in Subtitle C of the House-approved bill would require the Secretary of the Interior to conduct lease sales, offering at least 35% of federal lands considered geologically suitable within the states of Colorado, Utah, and Wyoming. Royalty rates for the first 10 years would be set at 1%-3% of the gross value of production. Beyond 10 years, the rates would range from 6%-9% of production value. The Secretary could reduce the rates under certain circumstances. States would receive 50% of the revenues generated from oil shale and tar sand leases within that state. Of this 50%, local governments would receive a one-third share. In the first ten years of production, state and local governments would share an additional 80%of the receipts deposited with the federal Treasury. The royalty rates proposed for oil shale leasing would be much lower than the 12.5% for oil and gas leasing on public land. There are currently no oil shale leases in the United States.

Arctic Coastal Plain Domestic Energy. The ANWR coastal plain, east of present sites of oil production, is the virtually undisturbed home to a wide variety of plants and animals; several species there are protected by international treaties or agreements. This "1002 Area" is the calving grounds of a large caribou herd. It is also believed to be a promising U.S. oil prospect. Seismic studies and drilling outside the restricted area have led to estimates of a good chance of finding significant quantities of economically recoverable oil. However, because of the wide range of estimates and probabilities associated with finding oil, there is a good deal of uncertainty. In addition to oil estimates, there are a number of controversial environmental issues being debated. For a broader and detailed discussion on issues related to ANWR, see the CRS reports below.

(For more details on ANWR, see CRS Report RS22304, *ANWR and FY2006 Budget Reconciliation Legislation*, by (name redacted) and (name redacted); CRS Report RS21030, *ANWR Development: Economic Impacts* by (name redacted); and CRS Issue Brief IB10136, *Arctic National Wildlife Refuge: Controversies for the 109th Congress,* by (name redacted), Bernard Gelb and (name redacted)).

OCS Leasing and Revenues. The Outer Continental Shelf (OCS) moratoria, which prohibit leasing on most federal offshore lands, have been an important issue in the debate over energy security and the potential availability of additional domestic oil and gas resources. Congress has approved the moratoria for each of fiscal years 1982-2006 in the annual Interior Appropriations bill. The offshore leasing moratoria began with the FY1982 Interior Appropriations Act (P.L. 97-100), which prohibited new leases offshore of California. The imposition of other moratoria came about after many coastal states and environmental groups contended that leasing tracts in environmentally sensitive areas might lead to activities that could cause economic or irreversible environmental damage. Eventually the moratoria were expanded to include New England, the Georges Bank, the mid-Atlantic, the Pacific Northwest, much of Alaska, and a portion of the Eastern Gulf of Mexico. Because of environmental and economic concerns, Congress for the past two decades has supported annual moratoria on leasing and drilling in the OCS. This proposal would affect states along the Atlantic and Pacific coasts, the Gulf of Mexico, and Alaska.

The House Resources Committee's budget reconciliation package would have imposed a statutory leasing prohibition through June 30, 2012, on the OCS areas currently under moratoria and revoke the 1998 Clinton leasing prohibition that covers the same period. States could opt out of the leasing ban and receive 40%, over time, of OCS revenues. After June 30, 2012, states could petition for five-year moratorium extensions for OCS areas within 125 miles of their coastlines. States with offshore energy development have been seeking to receive a direct share of the federal revenues generated by those activities. Currently, the affected states receive some revenue from offshore oil and gas leases in federal waters. This is in contrast to states with onshore leases on federal lands, which receive a 50% direct share of the oil and gas leasing revenues.

The possibility of oil and gas production in offshore areas covered by the moratoria has sparked sharp debate in Congress. A proposal to require the Department of the Interior to conduct a comprehensive inventory of OCS oil and natural gas resources drew heated opposition, although it was ultimately included in the Energy Policy Act of 2005 (P.L. 109-58, Section 357). Opponents of the OCS inventory saw it as a first step toward lifting the OCS leasing moratoria. The House Resources budget reconciliation package would have also repealed the inventory requirement. (For more details on OCS issues see CRS Issue Brief IB10149, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by (name redacted)).