

AN EXAMINATION OF FEDERAL REVENUES DE-  
RIVED FROM ENERGY DEVELOPMENT ON FED-  
ERAL AND INDIAN LANDS AS WELL AS FED-  
ERAL OFFSHORE AREAS AND PROGRAMS THAT  
SHARE THOSE REVENUES WITH STATE, LOCAL  
AND TRIBAL GOVERNMENTS AND TESTIMONY  
ON S. 2418 AND S. 2666

---

HEARING  
BEFORE THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

---

NOVEMBER 7, 2019

---



Printed for the use of the  
Committee on Energy and Natural Resources

Available via the World Wide Web: <http://www.govinfo.gov>

---

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

LISA MURKOWSKI, Alaska, *Chairman*

JOHN BARRASSO, Wyoming	JOE MANCHIN III, West Virginia
JAMES E. RISCH, Idaho	RON WYDEN, Oregon
MIKE LEE, Utah	MARIA CANTWELL, Washington
STEVE DAINES, Montana	BERNARD SANDERS, Vermont
BILL CASSIDY, Louisiana	DEBBIE STABENOW, Michigan
CORY GARDNER, Colorado	MARTIN HEINRICH, New Mexico
CINDY HYDE-SMITH, Mississippi	MAZIE K. HIRONO, Hawaii
MARTHA MCSALLY, Arizona	ANGUS S. KING, JR., Maine
LAMAR ALEXANDER, Tennessee	CATHERINE CORTEZ MASTO, Nevada
JOHN HOEVEN, North Dakota	

BRIAN HUGHES, *Staff Director*

KELLIE DONNELLY, *Chief Counsel*

JOHN CROWTHER, *Senior Counsel*

NICK MATIELLA, *Professional Staff Member*

SARAH VENUTO, *Democratic Staff Director*

SAM E. FOWLER, *Democratic Chief Counsel*

ELLIOT HOWARD, *Democratic Professional Staff Member*



# CONTENTS

## OPENING STATEMENTS

	Page
Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska .....	1
Manchin III, Hon. Joe, Ranking Member and a U.S. Senator from West Virginia .....	3
Cassidy, Hon. Bill, a U.S. Senator from Louisiana .....	6
Barrasso, Hon. John, a U.S. Senator from Wyoming .....	10

## WITNESSES

Gould, Gregory J., Director for the Office of Natural Resources Revenue, U.S. Department of the Interior .....	11
Brower, Jr., Hon. Harry, Mayor, North Slope Borough, Alaska .....	23
Comay, Laura B., Specialist in Natural Resources Policy, Congressional Research Service .....	29
Kline, Jr., Kyle R. "Chip," Executive Assistant to the Governor of Louisiana for Coastal Activities, and Chairman of the Board for the Louisiana Coastal Protection and Restoration Authority .....	39
Luthi, Randall, Chief Energy Advisor, Office of Governor Mark Gordon (Wyoming) .....	51

## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

American Fly Fishing Trade Association, et al.: Letter for the Record .....	76
American Wind Energy Association: Letter for the Record .....	152
Association of Oregon Counties: Letter for the Record .....	154
Barrasso, Hon. John: Opening Statement .....	10
Brower, Jr., Hon. Harry: Opening Statement .....	23
Written Testimony .....	25
Responses to Questions for the Record .....	98
Bureau of Land Management, U.S. Department of the Interior: Statement for the Record .....	12
Cassidy, Hon. Bill: Opening Statement .....	6
Chart entitled, "Disbursements of Federal Energy Leasing Revenue, 2018" created by CRS using data from ONRR .....	8
Clean Water Action, et al.: Letter for the Record .....	67
Comay, Laura B.: Opening Statement .....	29
Written Testimony .....	31
Responses to Questions for the Record .....	102
County Supervisors Association: Letter for the Record .....	155
Gould, Gregory J.: Opening Statement .....	11
Written Testimony .....	19
Responses to Questions for the Record .....	89
Kline, Jr., Kyle R. "Chip": Opening Statement .....	39

# IV

	Page
Kline, Jr., Kyle R. “Chip”—Continued	
Chart entitled “Marine Cadastre National Viewer / Pipeline Density Comparison (Retrieved 7/18/19),” created by BOEM .....	40
Written Testimony .....	42
Responses to Questions for the Record .....	110
Large-scale Solar Association:	
Letter for the Record dated July 22, 2019 .....	69
Letter for the Record dated November 4, 2019 .....	156
Luthi, Randall:	
Opening Statement .....	51
Written Testimony .....	53
Responses to Questions for the Record .....	112
Manchin III, Hon. Joe:	
Opening Statement .....	3
McSally, Hon. Martha:	
List of Endorsements for the Public Land Renewable Energy Development Act of 2019 .....	66
Murkowski, Hon. Lisa:	
Opening Statement .....	1
National Association of Counties:	
Letter for the Record .....	71
Outdoor Industry Association:	
Statement for the Record .....	72
S. 2418, the COASTAL Act .....	113
S. 2666, the Public Land Renewable Energy Development Act of 2019 .....	124
Trout Unlimited:	
Letter for the Record .....	73
Western Governors’ Association:	
Letter for the Record dated August 19, 2019 .....	78
Letter for the Record dated November 5, 2019 .....	159
(The) Wilderness Society:	
Letter for the Record .....	174

**AN EXAMINATION OF FEDERAL REVENUES  
DERIVED FROM ENERGY DEVELOPMENT ON  
FEDERAL AND INDIAN LANDS AS WELL AS  
FEDERAL OFFSHORE AREAS AND PRO-  
GRAMS THAT SHARE THOSE REVENUES  
WITH STATE, LOCAL AND TRIBAL GOVERN-  
MENTS AND TESTIMONY ON S. 2418 AND  
S. 2666**

---

**THURSDAY, NOVEMBER 7, 2019**

U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:07 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

We are here this morning for three closely related purposes. First, we will examine federal revenues that are generated from energy development on our federal lands, Indian lands and federal offshore areas. Secondly, we will explore how that revenue is distributed among federal programs and shared with the state, local and tribal governments. And then finally, we will hear testimony on two measures that would boost revenue sharing from onshore renewable as well as offshore development. Both of the bills under consideration are sponsored by members of this Committee. Senator Cassidy has introduced S. 2418, which is the COASTAL Act, and Senator McSally has introduced S. 2666, which is the Public Land Renewable Energy Development Act.

As a co-sponsor of the COASTAL Act, I want to thank Senator Cassidy for introducing legislation that would bring revenue sharing for coastal producing states into parity with onshore development. Congress laid the foundation for offshore revenue sharing through the passage of the Gulf of Mexico Energy Security Act, GOMESA, back in 2006. At that time, the bill did not include Alaska. The COASTAL Act that we are considering now would establish a revenue sharing program that would include Alaska.

At the current time, our offshore production is pretty minimal and, therefore, any returns to the state are equally minimal. It is important to address this at this time. In fact, some of us would say it is well, well overdue in terms of timing to address it. The COASTAL Act would do for Alaska what it does for other producing states, such as those in the Gulf of Mexico, in terms of being able to provide offshore revenue sharing for the state to help meet a number of critical purposes including the protection of our coasts, assistance for villages that are grappling with the effects of climate change, the development of lower cost and clean energy generation which is so important for us in the state as well as assistance for our university system and just all that comes with our efforts to turn our non-renewable resources into long-term assets.

To me, offshore revenue sharing is a matter of simple fairness. The Beaufort and the Chukchi Seas, and Cook Inlet are American waters by virtue of Alaska and Alaska alone. We build the infrastructure and provide the public services that are needed for responsible development, but we also bear the impacts. And as we have heard Senator Cassidy say many, many, many times before this Committee that for those who shoulder much of that burden, it is only right that they should share in a greater opportunity for the benefit.

So let's talk about some of the benefits from revenue sharing. A few weeks ago, the Department of the Interior announced that it distributed over \$11.6 billion in revenue from natural resources production in FY 2019. That is significantly higher than last year's disbursement of \$8.9 billion. Much of it will be reinvested back into our public lands, waters, and Native American and rural communities. For example, this year \$2.4 billion went to the states and local governments that host energy development. Another \$1.1 billion was dispersed to Native American tribes and tribal members that undertake resource extraction on Native American lands, and \$1.7 billion in mineral royalties and hydropower revenue went to the Reclamation Fund which supports federal dam and irrigation systems that move and store precious water supplies across the West.

We talk a lot in this Committee about the Land and Water Conservation Fund (LWCF) and all that it provides, and programs like the American Battlefield Protection Program, the Forest Legacy Program and the Cooperative Endangered Species Conservation Programs. But LWCF, I think those of us who know and understand the program, is really one of the biggest beneficiaries of offshore energy development. Since the 1990s nearly all revenue credited annually to LWCF has been from Outer Continental Shelf receipts. LWCF also receives additional mandatory appropriations under GOMESA. During FY 2018, the LWCF stateside program received \$76 million from GOMESA leases. These substantial revenues only exist because we are the world's top producer of oil and gas. In recent years we have seen new ideas emerge for how to allocate the revenues that result from our production, whether to address the parks maintenance backlog or to help with the recovery of wildlife. But we have also seen proposals to cut off federal oil and gas production and some would suggest cut it off immediately

without any consideration of the economic consequences which would prevent us from addressing those needs.

So as we push for the development of new and cleaner technologies which, I think, we certainly encourage that here in this Committee, including our renewable energies, we also have to consider what it means for federal revenue disbursements. When we think about our solar assets, our wind assets, I think we recognize that when you look to what they have generated in terms of revenues, they are a mere fraction of the billions of dollars that are generated by oil and gas. So when we think about the benefits of LWCF and how LWCF has been structured, certainly historically, I think it is important to keep these considerations in mind.

We will have an opportunity to review some of the proposals that Senator McSally has outlined in her legislation to create streamlined permitting for renewables while sharing revenues from renewable energy development with local governments.

We have a lot to talk about here today. I am glad that we have witnesses today who are from both state and local governments that are the beneficiaries of federal revenue sharing programs and who can help explain what these revenues actually mean for them. I look forward to hearing how they would support or how they do support communities with the funds that they receive with the development in their backyard.

I also want to particularly thank Mayor Brower. He has come a pretty long way, from the "top of the world" as we say in Utqiagvik, formerly known as Barrow, but we know it is a long haul and we appreciate the fact that you have made this journey to be with us today to share your comments.

With that, I will turn to Senator Manchin, then we will have an opportunity to introduce, more fully, all of our witnesses today.

**STATEMENT OF HON. JOE MANCHIN III,  
U.S. SENATOR FROM WEST VIRGINIA**

Senator MANCHIN. Thank you, Chairman Murkowski. I appreciate it very much and all of you all attending and making an effort to be here. I have been where you come from, Mayor, and you have come a long way and we appreciate that effort you have made.

Today we are discussing two revenue sharing bills which Senator Murkowski has mentioned: Senator Cassidy's bill, the COASTAL Act, and Senator McSally's bill, the Public Land Renewable Energy Development Act.

My home State of West Virginia is a small state and we have more private land than federal land, so I am trying to understand, get up to speed, on all these issues and it is really quite fascinating. As a result, West Virginia receives very little of the revenue that we are going to be discussing today. In 2018, West Virginia received \$93,000 for the whole year. So you can imagine.

I will explain to you why I have a hard time understanding all this. However, we are similarly situated as some of my colleagues on the Committee who do receive the lion's share when it comes to federal revenue sharing and that we are rich in natural resources. Coal and, more recently, natural gas have provided funds to my state for a long time. Today these resources are still a key

source of revenue for our state budget through the collection of severance taxes collected from coal and natural gas operations.

The model for disbursement in West Virginia, and I was Governor for two terms so we did this in such a fair manner, we just treated all 55 counties the same as if they would have been the producing counties. A lot of them were not producing anything, but they are all part of our great state.

We are part of this great country. We get very little of any of this, and this is owned by the people of the country. So I am very interested in this process now that I know more about it. It has been very enlightening.

Each year the Department of the Interior's Office of Natural Resources Revenue, which is the ONRR, collects billions of dollars in rents, royalties and bonus bids from oil and gas leases on federal lands and waters. The geographic location of these leases determines the disbursement of the royalty after it is collected which makes no sense to me at all but that is the way they do it. So I don't know when that bill was written or that law and who got that in.

In Fiscal Year 2019 the ONRR disbursed a total of \$11.6 billion of both offshore and onshore revenue, \$11.6 billion. We got \$93,000.

There are significant differences between how revenues from leases on onshore and offshore lands are divided up, and I think it is important that we examine both of these contracts and constructs. The Chairman and I have had conversations regarding the importance of revenue sharing to coastal states, particularly because of the impact of the offshore energy production to a coastal state's infrastructure. I get it. It all makes sense.

As we know, before the Gulf of Mexico Energy Security Act, or GOMESA as we know it, became law, 100 percent of the oil and gas revenues beyond the first three miles of federal waters went to the U.S. Treasury, reflecting the belief that these resources are federal resources and revenue raised from their extraction must benefit all taxpayers because it is federal, not state owned. GOMESA established the first revenue sharing program for waters managed by the Department of the Interior in the Outer Continental Shelf which will be referred to as the OCS. Today, four states receive 37.5 percent share of the revenue from the federal Gulf of Mexico or Outer Continental Shelf.

Now 27 percent of the revenue is from the fourth through sixth nautical mile, which we call 8(g) Zone that was, I think, back in the '50s or '60s, I understand. But what they did, just common sense, they went to get 100 percent for three, give us three more. Well, we will take 27 percent because we got nothing before. One hundred percent of nothing is nothing, so they got 27. That is how that one was explained to me, how that one came about. So that total alone is \$223 million of those four states in Fiscal Year 2019. This is in addition to the states already receiving 100 percent of the revenue from the first three nautical miles which are considered state waters or part of the state boundary.

Under GOMESA, LWCF, which is Land and Water Conservation Fund, also receives 12.5 percent of the qualified federal Outer Continental Shelf revenue beyond the 8(g) Zone which, as I just said, is another 200 miles out.

Onshore revenue sharing is governed by a different law. And while I know that this Committee has examined the difference between how onshore and offshore revenues were handled in the past, I think that issue is worthy of additional attention from this Committee. The primary distinction between the two is that onshore lands are contained entirely within a state's borders while leases offshore are not within a state border.

Onshore and offshore energy development also have different histories with different leasing systems under the management of different bureaus within the Department. With that history in mind, changing the policy for how revenues are disbursed from federal lands and waters, whether it be onshore or offshore, requires a factual understanding of the complexities of the broader energy market and should not be done without careful analysis.

It is also important that we make sure that these resources are being properly managed by the Federal Government in the first place. Over the last few years, both the Bureau of Land Management, BLM, and the Bureau of Ocean Energy Management (BOEM), have come up short in ensuring the taxpayers receive fair market value for the resources extracted from the public lands and waters those agencies are responsible for managing. In September the Government Accountability Office, or GAO, published a report discussing how the BOEM conservatively estimates the values of the lands it leases and even lowers the evaluation of these lands to justify when it awards the bids. I repeat, it justifies lowering the evaluation when it awards bids.

I have also long been concerned about the unnecessary venting and flaring of natural gas on public lands which we do not do when it is an individual or it is a private company because that is a value. So we are venting on private lands. When gas is vented, you all know what I am talking about there, and flared for purely economic reasons, that gas never makes it to the market, the royalty is never collected and not one of us benefit at all and they give me the excuse that there are no pipelines because they don't have a gathering system. We can fix that. But we should not be venting this on one easy way to increase revenues to ensure that the most gas possible reaches the market and a royalty is collected that will require conversation about pipeline infrastructure which we will do. But these are important conversations because reducing venting and flaring on public lands is not only a taxpayer fairness issue to all of us, it is a positive step toward addressing climate change. It is a big win-win for all of us.

We are a nation that has been blessed with vast natural resources that have helped make our nation the superpower it is today and hopefully will remain. While we enjoy these abundant federal resources, discussion of how the revenue should be shared is an extremely important one. I look forward to discussing these two different proposals.

Thank you, Madam Chairman.

The CHAIRMAN. Thank you, Senator, I appreciate that. It is clear that these are issues that are important, important to the regions, important to the country, but also understanding where one another comes from—

Senator MANCHIN. Sure.

The CHAIRMAN. —is what will allow us to be able to really address the intricacies and the complexities.

I am going to ask Senator Cassidy to speak briefly to his bill. Senator Barrasso has indicated that he would like to make the introductions for Mr. Luthi this morning which we are happy to have him do.

I would like to acknowledge the presence of our friend to the Committee here, Senator Mary Landrieu, from Louisiana. Senator Landrieu occupied the position of both Ranking Member and Chairman of this Committee and certainly made this issue a priority of hers and her state and Senator Cassidy has stepped right into that.

Senator Cassidy, if you would like to speak to your bill that you have introduced and that I have co-sponsored, the COASTAL Act, and then we will allow for introduction of our guests.

**STATEMENT OF HON. BILL CASSIDY,  
U.S. SENATOR FROM LOUISIANA**

Senator CASSIDY. Thank you, Madam Chair.

First let me say I enjoyed Senator Manchin's comments but there are some things that are a little misleading, and not that you intended to.

Senator MANCHIN. Not at all.

Senator CASSIDY. But I think it needs to be clarified.

Senator MANCHIN. I appreciate that. I thought it was very factual, but I appreciate the—

Senator CASSIDY. It was, it was, absolutely, but Louisiana and the four Gulf Coast states do not get 37.5 percent of everything produced out there. There is a cap of \$500 million—

Senator MANCHIN. I understand that. And have you all hit that cap yet?

Senator CASSIDY. —and it is also production after a certain date—after a certain point in time. So it is not the entire—

Senator MANCHIN. Sure.

Senator CASSIDY. —and I will show a graph.

We are always a little puzzled that federal waters are federal land but federal land within a state boundary is not federal land for the purposes of how we do this.

Senator MANCHIN. I understand.

Senator CASSIDY. That always seems, hmm, a distinction without a difference.

Senator MANCHIN. Within the boundaries?

Senator CASSIDY. Yes.

So that said—to continue with my formal remarks.

Thank you, Madam Chair, for calling this hearing.

Protecting revenues that go to Louisiana and other Gulf Coast states increasing the share we receive for coastal restoration, hurricane and flood protection is one of my top priorities on this Committee. In our state by our state constitution we use that money to rebuild our coastline, a coastline which has eroded in large measure because the Mississippi River was levied for the benefit of inland ports. And when you have a levying of a river which distributes sediment and therefore helps to build and rebuild for the benefit of the tributaries of the Mississippi River, there seems to be some equity involved in terms of helping our state rebuild. It also



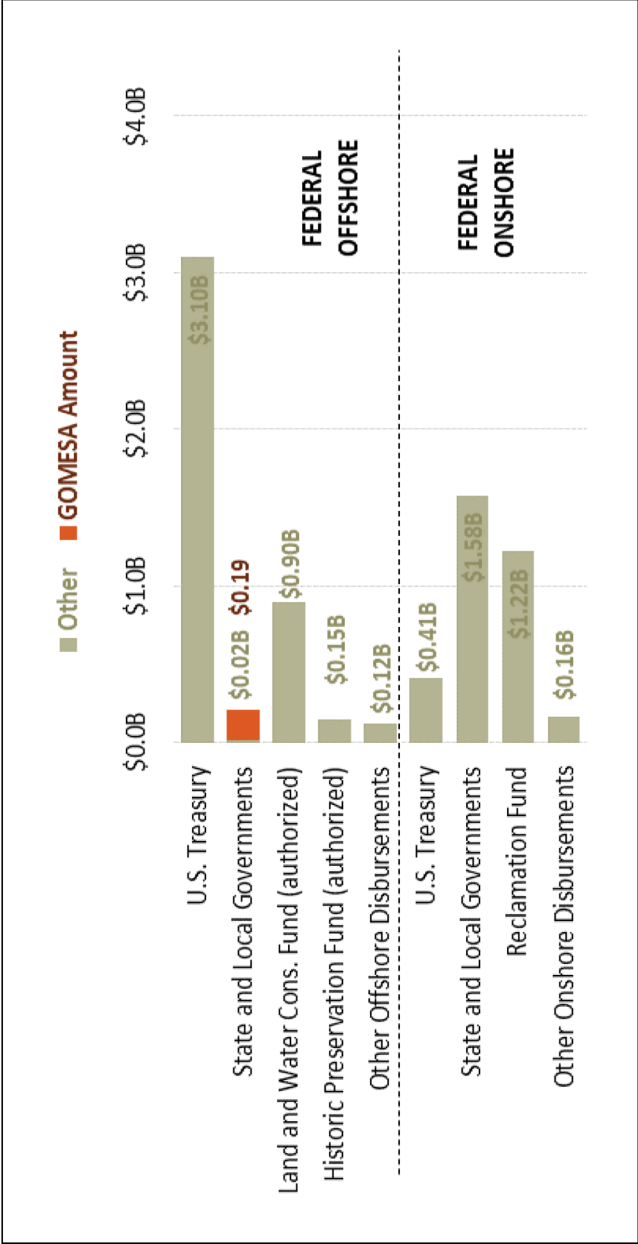
is common sense because if we get whacked by a hurricane the Federal Government ends up spending a lot of money to rebuild that which was whacked.

I have introduced legislation with others on this Committee, the Conservation of America's Shoreline Terrain and Aquatic Life, or the COASTAL Act, which is part of today's hearing, to create a more equal revenue sharing treatment for states producing offshore energy revenue, a kind of equivalent, if you will, to those that produce onshore. Now for context, the Gulf accounts for approximately 16 percent of the nation's crude oil supply and 3 percent of the nation's natural gas. Recently, the EIA reported energy production in the Gulf set a record of 1.8 million barrels per day with forecast that production will continue increasing as other offshore facilities come online and technology evolution allows existing sites to become more efficient and productive.

In 2018, Interior dispersed almost \$9 billion to the federal Treasury, state and local governments, tribes and the Bureau of Reclamation from onshore and offshore energy production and funds such as the Land and Water Conservation Fund, a historic preservation fund, also receive funding. But let's just, kind of, break this down.

[Showing Disbursements of Federal Energy Leasing Revenue, 2018 chart.]

# Disbursements of Federal Energy Leasing Revenue, 2018



Source: Figure created by CRS using data from ONRR

Note: 100 percent of revenue collected on Native American lands (\$1.2B in 2018) sent back to tribes, nations, and individuals.

Note: Federal Disbursement for State and Local Government from GOMESA are FY17 generated revenues

Senator CASSIDY. So here we see—above here is the federal offshore, below is the federal onshore. We can see that offshore that the federal—the U.S. Treasury has received about \$3.1 billion over this timeframe. This is GOMESA there—quite a small fraction of the total amount of money disbursed. Here is the Land and Water Conservation Fund as authorized and the Historic Preservation Fund as authorized and other offshore disbursements.

But here is the onshore. The Treasury gets \$0.41 billion but state and local governments get almost \$1.6 billion with Reclamation funds getting 1.2 and then other onshore disbursements.

It should also be noted that in the Land and Water Conservation Fund a significant amount of this goes to states with onshore federal lands so they are not only receiving roughly 50 percent share of the revenue from onshore, but they are also receiving dollars from the Land and Water Conservation Fund. And so, if you will, this is, you are getting it here and you are getting it there and sometimes there is righteous indignation when you say that is not fair.

I would argue that if we are going to have this, we should have this as roughly equivalent. I am not saying take from here, but I am saying allow the coastal states to use their dollars to rebuild the coastline which in large measure has been lost in pursuit of policies which benefit inland states.

I will also say in yesterday's testimony it mentioned in New Mexico that these funds can be used for school programs and roads and other capital expenses. In our state, it is substantially dedicated to coastal restoration. Again, more limitations.

So just to repeat. States and local governments receive roughly 50 percent of the federal revenues derived from onshore oil and gas and the federal land in that state. And then, Gulf Coast states share 37.5 percent from offshore energy production.

The COASTAL Act seeks to address obvious inequity, removing an existing cap on the amount of dollars shared among the four Gulf States and the Land and Water Conservation Fund raising the percent of offshore revenue that can be shared by the Gulf States in eligible areas from 37.5 to 50 percent. It protects offshore dollars from sequestration and makes leases entered into between 2000 and 2006 eligible for revenue sharing in the future. Currently, again, only revenues after 2006 are considered eligible. It creates a separate revenue sharing for the state with the largest amount of coastline which is Alaska.

My state is dealing with a land loss crisis, threatening ecosystems and communities, economies and way of life. Again, as I mentioned, in Louisiana's constitution the funds we receive from revenue sharing go to protecting and rebuilding our coastline.

I believe Chairman Kline will speak specifically to this but all my Gulf colleagues and I are looking for is equity and the ability to strengthen environmental protection efforts. The states are producing the revenues. The states know how to allocate the dollars in ways that will benefit our states and also our nation.

Thank you for holding the hearing. I look forward to hearing from our witnesses.

The CHAIRMAN. Thank you, Senator.

I will go ahead and turn to my colleague, Senator Barrasso, for his introduction of Randall Luthi and then I will introduce the rest of the panel.

Senator Barrasso.

**STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Well, thank you very much, Madam Chairman. Thank you for holding this important hearing.

It is really a pleasure to introduce my friend and colleague, Randall Luthi. And I will tell you, Madam Chairman, that when I say, colleague, he and I spent time together in the Wyoming legislature. I was a Member, and he was the Speaker of the House. So he was, really, a good friend and now he is the Energy Advisor to Wyoming Governor Mark Gordon.

An attorney, a rancher, former Speaker, he has fought and brought considerable insight and experience to the Governor's office. Prior to joining the Governor's office, Randall was President of the National Offshore Ocean Industries Association. He served in the Department of the Interior as the Director of the Minerals Management Service and as Deputy Director of the Department's Fish and Wildlife Service.

So I had the pleasure of serving with him in the legislature for many years. I am proud to continue to work with him and so grateful for his friendship and working together with him on behalf of the people of Wyoming.

Welcome, Randall, and we all look forward to your testimony.

Mr. LUTHI. Thank you, Senator.

The CHAIRMAN. Thank you, Senator. Certainly, Mr. Luthi, you have been no stranger to this Committee. We have seen you in your various capacities before, so welcome back.

We are also joined this morning by Mr. Gregory J. Gould, who is the Director of the Office of Natural Resources and Revenue at the U.S. Department of the Interior. We appreciate what you do at Interior.

I mentioned my friend and a leader from the North Slope Borough, Mayor Harry Brower. He has been a leader in so many different areas, not only as Mayor of our North Slope Borough but a significant whaling captain in his own right and truly a significant voice in our northern part of the state.

Ms. Laura Comay is the Specialist in Natural Resources Policy and Natural Resources in Earth Sciences Section at CRS, the Congressional Research Service. We appreciate you being here and providing a little bit of historical perspective here.

Mr. Kline has been mentioned. Kyle "Chip" Kline, Jr. is the Director of Coastal Activities for Governor John Bel Edwards from Louisiana and is the Chairman of the Louisiana Coastal Protection and Restoration Authority Board. We welcome you and your input this morning.

And of course, Mr. Luthi, welcome.

With that, we will commence with your opening statements. We would ask that you try to limit your comments to about five minutes. Your full statements will be included as part of the record

and then we will have an opportunity to share in a little bit of back and forth here this morning.

Mr. Gould, if you would like to start off, please.

**STATEMENT OF GREGORY J. GOULD, DIRECTOR FOR THE OFFICE OF NATURAL RESOURCES REVENUE, U.S. DEPARTMENT OF THE INTERIOR**

Mr. GOULD. Chairman Murkowski, Ranking Member Manchin and members of the Committee, I'm honored to be here today to discuss S. 2418, the COASTAL Act of 2019. I would also like to submit this written testimony from BLM on Section 2666 since I plan to focus my work today on COASTAL Act.

The CHAIRMAN. We will include that as part of the record. Thank you.

Mr. GOULD. Thank you.

[BLM testimony on S. 2666 follows.]

**Statement for the Record  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Committee on Energy and Natural Resources  
Hearing on  
“S. 2666, Public Land Renewable Energy Development Act”  
November 7, 2019**

Chairman Murkowski, Ranking Member Manchin, and Members of the Committee, thank you for the opportunity to provide the Bureau of Land Management’s (BLM) views on S. 2666, the Public Land Renewable Energy Development Act (PLREDA), which seeks to promote and expedite the development of geothermal, wind, and solar energy projects on Federal lands and to provide economic certainty to the renewable energy industry.

The BLM recognizes the sponsor’s work to encourage the development of renewable energy on public lands, as well as address feedback from industry regarding the BLM’s management of our renewable energy program. The BLM supports many of the goals of S. 2666, PLREDA, and would like to work with the Committee and the sponsor on technical changes to achieve the bill’s intent to promote and expedite the development of renewable energy on public lands.

**Renewable Energy on Public Lands**

The BLM is a key contributor to the Administration’s America First Energy plan, an “all of the above” strategy which includes renewable energy. The BLM oversees development on public lands of three primary renewable energy sources: solar, wind, and geothermal. To date, the BLM has approved over 125 renewable energy projects with the potential to provide nearly 18,000 megawatts (MW) of generation capacity. Wind and solar projects on public lands have created approximately 9,000 construction and operation jobs since 2011 and generated over 22 million dollars in revenue in FY 2018. In the same time period, geothermal energy accounted for an additional 15 million dollars in revenue. Laws enacted in most western states require energy companies to supply a portion of their energy from renewable resources. As a result, the BLM anticipates a continued interest in public lands for renewable energy development.

Solar and wind energy development projects on BLM-managed public lands are authorized as rights-of-way (ROWs) under Title V of the Federal Land Policy and Management Act (FLPMA). The applicant is required to pay the Federal Government’s costs in processing the ROW application, and all projects require review under the National Environmental Policy Act (NEPA). Geothermal development projects are authorized via the issuance of leases and the approval of drilling permits and utilization plans under the Geothermal Steam Act of 1970, as amended.

**S. 2666, Public Land Renewable Energy Development Act**

S. 2666, the Public Land Renewable Energy Development Act, seeks to promote and expedite the development of geothermal, wind, and solar energy projects on Federal lands by establishing

priority areas for solar, wind, and geothermal; codifying a renewable energy coordination office within the Department of the Interior; and outlining interagency coordination procedures. S. 2666 also establishes a renewable energy goal of 25 gigawatts of electricity from renewable energy projects on public lands by 2025. Further, the bill establishes a new disposition of revenues for receipts from solar and wind authorizations, and reestablishes the expired special account and distribution provisions for revenues from processing geothermal energy authorizations. Additionally, S. 2666 allows for limited “grandfathering” of project owners to pay the rental and fees at the rates in effect before the effective date of the BLM’s Wind and Solar rulemaking, and revises how the BLM determines base rental rates. Lastly, the bill allows for noncompetitive geothermal leasing for co-production of geothermal energy to a lessee with a producing oil and gas well, and for noncompetitive leasing of parcels adjacent to existing leases that have a valid discovery under certain conditions to the lessee of the proven lease.

#### **Land Use Planning, Environmental Review & Permit Coordination (Sections 3-6)**

S. 2666 (section 3) requires the BLM to establish, review, and modify within certain timeframes priority and other “variance” areas for geothermal, wind, and solar energy development. Additionally, the bill (section 4) directs that in some cases additional review under the NEPA may not be required for proposed renewable energy projects if the Secretary determines the analysis conducted under the relevant Programmatic Environmental Impact Statement (PEIS) is sufficient. Finally, the bill (section 5) establishes a renewable energy permit coordination office and requires the Secretary to enter into a Memorandum of Understanding with Secretaries of Agriculture and Defense to help improve coordination for permitting renewable energy projects.

#### *Analysis*

The BLM supports the goal to simplify and expedite the development of renewable energy projects on public lands. As noted in the bill, the BLM, through its land use planning process, completed wind, geothermal, and solar energy PEIS documents in 2005, 2008, and 2012 respectively. The BLM Wind and Solar Rule also established “designated leasing areas,” as preferred locations for solar or wind energy development. The geothermal planning effort identified lands on both BLM-managed public lands and National Forest System lands that are available and open for geothermal leasing, together with appropriate protective stipulations or use limitations.

The BLM notes that the agency has existing authority to identify preferred locations for wind and solar projects. The BLM is reviewing potentially available solar energy development areas, as contemplated in the 2012 Solar PEIS and Record of Decision (ROD). For example, the BLM is currently evaluating a proposed plan amendment in Nevada for the Dry Lake East area that considers identifying new or expanded Solar Energy Zones.

In addition, the BLM supports efforts to continue to streamline lengthy and unnecessarily burdensome environmental reviews. Under this Administration, the Department and the BLM have made it a priority to improve its environmental review and permitting authorization procedures for energy and infrastructure projects. One such example is Secretary’s Order (S.O.) 3355 (*Streamlining National Environmental Policy Act Reviews and Implementation of*

*Executive Order 13807*), which provides a number of internal Departmental directives to increase efficiency of environmental reviews, including setting page and time limit goals on all NEPA analysis. We appreciate Congress's focus on addressing unnecessarily burdensome requirements, and would like to work with the sponsor and Committee on authorizing other methods to streamline environmental reviews, including consideration of potential Categorical Exclusions for renewable energy similar to those in the Energy Policy Act of 2005 (PL-109- 58, Section 30)

Finally, while we support the goal to expedite permitting and interagency coordination as outlined in the bill, we would like to retain the flexibility to adjust these offices in the future to adapt to emerging renewable energy workloads. The BLM already has an existing Renewable Energy program within its Energy, Minerals, and Realty Management Directorate and would like to work with the Committee on making technical changes to make this section more effective.

**Increasing Economic Certainty for Renewable Energy Development on Public Lands (Sections 6-9)**

S. 2666 (section 6) establishes the rate of increase for rent for wind and solar authorizations once the initial base rent is determined, and provides criteria for determining how and when rents can be reduced. The bill also (section 7) allows for limited grandfathering to certain project owners that applied for a ROW on or before the effective date of the Wind and Solar Rule, and would permit them to pay the rents and fees in effect before the date of the rule making. Section 8 establishes a goal of 25 gigawatts of electricity from wind, solar, and geothermal energy projects by not later than 2025. Further, the bill (section 9) establishes a new deposition of revenues for receipts from solar and wind authorizations. Under the bill, until December 2039, 25 percent would be allocated to the States; 25 percent to the Counties; 35 percent to Renewable Energy Resource Conservation Fund (the Fund); and 15 percent to the U.S. Treasury to be made available to facilitate the processing of permits. After 2040 the distribution changes and 40 percent of the revenues would go into the Fund and 10 percent would go to the U.S. Treasury. The Secretary would be permitted to make amounts in the Fund available to other Federal and State agencies for protection and restoration of important wildlife habitat and corridors and water resources; securing recreational access to Federal lands; and carrying out activities authorized under the Land and Water Conservation Fund.

*Analysis*

Under FLPMA, (section 504g) the BLM is required to collect Fair Market Value (FMV) for all ROW authorizations on public lands. We have concerns with section 6 of the bill as written, as it would eliminate the BLM's discretion to increase, or decrease, wind or solar rental rates to match market fluctuations in land values over the 30-year term of a grant. In order to receive FMV over the lifespan of a project, the BLM updates its rent schedule every five years, indexed to changes in agricultural land values collected by the U.S. Department of Agriculture.

The BLM recognizes the concerns raised by some grant holders regarding disproportionately high rents in Southern California, and would be interested in working with Congress on technical modifications to the current rent schedule structure. Further, the BLM does not generally object



to criteria identified in section 6 that could inform rental rate determinations for wind and solar. Some of the criteria listed are already in BLM regulations and would be redundant. The BLM would like to work with the Committee on technical changes to make this section more effective while still receiving FMV for land use.

While the BLM is committed to reducing unnecessary burdens on industry and recognizes the increasing costs associated with the development of renewable energy on public lands, the BLM does not support the grandfathering (i.e. exempting) of existing projects and applications as proposed in section 7. Similar to the concerns outlined above, the BLM has concerns that “grandfathering” all existing projects or applications to fixed payments, at 2016 rates, would be inconsistent with the requirements of FLPMA to collect FMV for use of the public lands. The BLM is currently working on regulatory and administrative alternatives for potential rent adjustments. Both the BLM and the Forest Service would like to work with the Sponsor and the Committee on making technical changes to make this section more effective.

Additionally, the BLM notes that all revenues from solar and wind energy authorizations on public lands currently go to the U.S. Treasury. We do not support the diversion of solar and wind energy receipts and have concerns with the potential long-term costs associated with such diversion. The BLM would like to work with the sponsors and the Committee to determine how best to achieve the overall goal of this title, while ensuring that U.S. taxpayers receive fair market value for these resources.

Finally, under existing authorities, the BLM currently collects full cost recovery as costs are incurred throughout the wind and solar application process. Due to the difficulty in estimating the total cost for processing an application up front, the Department recommends continuing its current cost recovery process instead.

#### **Geothermal Development on Public Lands (Sections 10-12)**

S.2666 (section 10) proposes to renew and maintain the disposition and distribution of geothermal revenues originally enacted in the Energy Policy Act of 2005, where 50 percent would be allocated to the States; 25 percent to the Counties; and 25 percent to the U.S. Treasury. S. 2666 (section 11) allows for noncompetitive geothermal leasing for co-production of geothermal energy to the holder of a producing oil and gas well, and section 12 permits noncompetitive leasing of parcels adjacent to existing leases that have achieved a paying well or other valid discovery to the lessee of the existing lease with the valid discovery of geothermal resources.

#### *Analysis*

The BLM appreciates the sponsor’s effort to facilitate co-production of geothermal energy from a producing oil and gas well as outlined in S. 2666 and would like to work with the sponsor and Committee on how best to achieve such a goal. However, the Administration has concerns with the bill’s revenue sharing proposal, which runs counter to the President’s FY 2020 Budget proposal to restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the U.S. Treasury.

We note that the co-production proposal is a complicated matter, and the BLM would need to draft new regulations and guidance for co-producing geothermal with oil and natural gas resources. The BLM generally supports maintaining competitive leasing processes for the development of Federal energy resources but recognizes that there may be situations in which non-competitive leasing may be appropriate. We would also like to work with the sponsor to ensure that the Department's Office of Valuation Services will have the appropriate discretion to determine the FMV of the resources to be leased, consistent with the DOI's standard valuation practices under any new statutory direction.

**Conclusion**

Thank you for the opportunity to provide this statement. We look forward to working with you to continue to adopt innovative solutions to reduce regulatory burdens on the development of domestic energy and its delivery to the American people.

Mr. GOULD. The COASTAL Act would change the current revenue sharing laws and provide additional revenue from energy production from the Outer Continental Shelf to coastal states. The Department of the Interior and the Administration are committed to ensuring that American taxpayers receive a fair return from the sale of these public resources.

The Department manages the public lands and federal waters that provide resources critical to the nation's energy security. The Office of Natural Resources Revenue, or ONRR, is responsible for the management of revenues associated with federal onshore, offshore and American Indian leases.

The lands and resources managed by the Department are vast. Onshore the 34 states where federal leases are located, over 25.5 million acres are currently under lease. Offshore, the Department has made almost 80 million acres available for development in each of the past five offshore lease sales. In the Gulf of Mexico there are over 13 million acres under active lease, and in Alaska there are an additional 275,000 acres under lease. These onshore and offshore lands are a huge economic engine. In Fiscal Year 2018, one quarter of domestic oil production, approximately 15 percent of natural gas production and close to half of U.S. coal production occurred on Interior-managed lands and waters.

In Fiscal Year 2016, ONRR disbursed \$6 billion. In Fiscal Year 2018, that number grew to \$9 billion, and in Fiscal Year 2019, disbursements exceeded \$11.6 billion, almost double the amount in Fiscal Year 2016.

The Fiscal Year 2019 disbursements included \$5.2 billion to the U.S. Treasury, \$1.7 billion to the Reclamation Fund, \$1.1 billion to American Indian tribes and individuals, \$1 billion to the Land and Water Conservation Fund, \$150 million to the Historic Preservation Fund and \$2.4 billion to state and local governments. Of the \$2.4 billion disbursed to state and local governments this year, \$2.2 billion was disbursed to states with onshore leases on federal lands and the remaining \$225 million was disbursed to states with leases on or adjacent to the Outer Continental Shelf.

Production of oil on federal lands and waters has also increased in the same time period. In Fiscal Year 2016, oil production totaled 749 million barrels. In Fiscal Year 2017, that number grew to 803 million barrels, and in Fiscal Year 2018, it exceeded 831 billion barrels—million barrels, excuse me—an increase of 11 percent from Fiscal Year 2016.

The U.S. Constitution gives Congress the power to enact laws governing the property belonging to the United States. Our federal resources are managed on behalf of the American people who all share in their ownership. There is a long history of Congress making and changing laws pertaining to these federal resources on behalf of the states, tribes, local governments and U.S. taxpayers. The Administration's policy is to promote clean and safe development of our nation's vast energy resources and it is ONRR's mission to collect, account for and verify natural resource revenues due to the states, American Indians and the U.S. Treasury.

Chair Murkowski, Ranking Member Manchin and members of the Committee, I thank you for inviting me here today and I'm

happy to answer any questions the Committee may have on the  
COASTAL Act of 2019.

Thank you.

[The prepared statement of Mr. Gould follows:]

**STATEMENT OF GREGORY J. GOULD  
DIRECTOR FOR THE OFFICE OF NATURAL RESOURCES REVENUE  
U.S. DEPARTMENT OF THE INTERIOR  
BEFORE THE  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
ON  
S. 2418, THE COASTAL ACT OF 2019  
NOVEMBER 7, 2019**

**Introduction**

Chairman Murkowski, Ranking Member Manchin, and members of the Committee, I am honored to appear before you today to discuss S. 2418, the Conservation of America's Shoreline Terrain and Aquatic Life (COASTAL) Act of 2019, which would change existing leasing and revenue sharing laws to provide additional funds from revenue generated by energy production from the Outer Continental Shelf (OCS) to states. The Department of the Interior and the Administration are committed to ensuring that American taxpayers receive a fair return from the sale of public resources.

The Department manages the public lands and federal waters that provide resources critical to the Nation's energy security. The Office of Natural Resources Revenue (ONRR) is responsible for the management of revenues associated with federal offshore, onshore, and American Indian leases, as well as revenues received as a result of offshore renewable energy efforts.

The lands and resources managed by the Department are vast. Onshore, in the 34 states where federal leases are located, over 25.5 million surface acres are currently under lease for oil and gas development. Offshore, the Department has made almost 80 million acres available for development in each of the past five offshore lease sales alone. In the Gulf of Mexico alone there are over 13 million acres under active lease, and in Alaska there are an additional 275 thousand acres under active lease. These onshore and offshore lands are a huge economic engine. In Fiscal Year (FY) 2018, one quarter of domestic oil production, approximately 15 percent of natural gas production, and close to half of U.S. coal production occurred on Interior-managed lands and waters.

On March 28, 2017, President Trump issued Executive Order 13783: Promoting Energy Independence and Economic Growth. The order declared that it is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same

time reducing regulatory burdens that unduly encumber energy production, constrain economic growth, and prevent job creation. Moreover, the prudent development of these natural resources is essential to ensuring the Nation's geopolitical security.

In FY 2016, Federal and American Indian energy and mineral resource revenues totaled \$6 billion. In FY 2018 that number grew to \$9.1 billion, and in FY 2019 it exceeded \$11.6 billion, almost double the revenues in FY 2016.

Production of oil and gas on federal lands and waters has also increased in the same time period. In FY 2016, oil production from Federal lands onshore and offshore totaled 749.1 million barrels (mmbbl). In FY 17 that number grew to 803.3 mmbbl, and in FY 2018 it exceeded 831.2 mmbbl, an increase of 10.9 percent over FY 2016.

At the same time, in FY 2019 ONRR disbursed \$5.20 billion to the U.S. Treasury; \$1.76 billion to the Reclamation Fund; \$1.14 billion to American Indian Tribes and individuals; \$1.0 billion to the Land and Water Conservation Fund (LWCF); \$150 million to the Historic Preservation Fund; and \$2.44 billion to state and local governments.

### **Background**

Congress initially addressed the interests of the coastal states in 1953 with passage of the Submerged Lands Act, giving title and ownership of what was then the federal seabed within three nautical miles of the coastline to the states (except Texas and western Florida, where it is nine nautical miles), along with the right to manage all of the natural resources within those boundaries. Following enactment of that Act, coastal states generally control decisions related to leasing and developing these lands, including the collection and distribution of all revenue, generated from mineral development from those lands. Under that Act, the federal OCS – which includes all submerged lands lying seaward of the state submerged lands boundary (three miles from the coastline) to 200 nautical miles from the coastline – remains under federal jurisdiction and development of resources from the federal OCS is managed by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA).

In 1986, through the amendment of section 8(g) of OCSLA, Congress provided to coastal states 27 percent of all revenues collected on federal oil and gas leases within three miles seaward of the state boundary established in the Submerged Lands Act.

Most recently, in 2006 Congress enacted the Gulf of Mexico Energy Security Act (GOMESA), which put in place revenue sharing considerations for producing coastal states along the Gulf of Mexico.

The GOMESA revenue sharing is split into two phases. During the first phase, which began in 2007 and lasted through 2017, 37.5 percent of all qualified OCS revenues, including bonus bids, rentals and production royalty, were shared among the Gulf oil and gas producing States of Alabama, Louisiana, Mississippi and Texas and their coastal political subdivisions from those new leases issued in the so-called “181 Area” in the Gulf’s Eastern planning area and the 181 South Area. An additional 12.5 percent of these same revenues were allocated to LWCF state grants.

The second phase of GOMESA revenue sharing began in Fiscal Year 2017, and it expands the definition of qualified OCS revenues to include receipts from all other Gulf of Mexico leases issued after December 20, 2006 from 2002–2007 Gulf of Mexico Planning Areas not subject to withdrawal or moratoria restrictions. Importantly, payments to Gulf Coast states and allocations to LWCF state grants in Phase 2 are collectively capped at \$500 million annually from FY 2017 through FY 2019; \$650 million annually from FY 2020 and FY 2021; and \$500 million annually from FY 2022 through FY 2055.

Disbursements to states resulting from onshore energy and mineral leases on Federal lands are covered separately by the Mineral Leasing Act of 1920. States with onshore leases on Federal lands receive approximately 50 percent of the value of the bonus bids, rents, and royalties from the federal lands contained within those states.

Of the \$2.44 billion disbursed to state and local governments in FY 2019, \$2.21 billion was disbursed to states with onshore leases on Federal lands and the remaining \$225.5 million was disbursed to states with leases on the OCS and the 8(g) zone bordering their state waters, with \$215.0 million in GOMESA disbursements and \$10.5 million in 8(g) disbursements.

#### **S. 2418, the COASTAL Act**

If enacted, S. 2418 would, generally, amend sections of the GOMESA that fall under section 9 of the OCSLA to require the Secretary of the Treasury to increase the deposit of GOMESA-qualified revenues derived from all rentals, royalties, bonus bids, and other sums payable to the

United States from energy development on the OCS in the Gulf of Mexico region into a special fund in the Treasury from 50 percent to 62.5 percent; the Secretary of the Interior would then be required to disperse an 80 percent share of these revenues to the GOMESA-eligible coastal states and their political subdivisions; the remaining 20 percent share of the revenues would be considered income to the LWCF for purposes of section 2 of that Act.

It would also amend section 102(9) of GOMESA to alter the current revenue-sharing provisions by transferring 12.5 percent of the funds currently going to the U.S. Treasury to the GOMESA-eligible coastal states and their eligible political subdivisions; and eliminate the current \$500 million cap on amounts distributed to the GOMESA-eligible coastal states and the LWCF beginning in FY 2020.

In addition, S. 2418 would exclude GOMESA disbursements from the sequestration requirements under the Balanced Budget and Emergency Deficit Control Act of 1985.

Finally, Title II of S. 2418 further amends section 9 of the OCSLA by adding revenue sharing provisions from OCS leases for the state of Alaska beginning in FY 2021, requiring the Secretary of the Treasury to deposit 42.5 percent of revenues derived from all rentals, royalties, bonus bids, and other sums payable to the United States from energy development on the Alaska OCS into a special fund in the U.S. Treasury, to be distributed by the Secretary to the State of Alaska, and 7.5 percent of those revenues into a special fund in the Treasury to be distributed by the Secretary to the eligible coastal political subdivisions of Alaska. The Administration notes the amendments to GOMESA and the OCSLA would come at a substantial cost to the Treasury.

### **Conclusion**

The U.S. Constitution gives Congress the power to enact laws respecting the property belonging to the United States. Our federal resources are managed on behalf of the American people, who all share in their ownership and speak through their elected leaders in Congress. There is a long history of Congress making and changing rules pertaining to these federal resources on behalf of the states, tribes, local governments, and U.S. taxpayers. The Administration's policy is to promote clean and safe development of our Nation's vast energy resources. I am happy to answer any questions that the Committee might have.



The CHAIRMAN. Thank you, Mr. Gould.  
 Mayor Brower, welcome and we appreciate your comments this morning.

**STATEMENT OF HON. HARRY BROWER, JR., MAYOR,  
 NORTH SLOPE BOROUGH, ALASKA**

Mr. BROWER. Thank you.

Senator Murkowski, Senator Manchin and members of the Committee, thank you very much for giving me the opportunity to speak to you this morning, inviting me to speak about legislation that would establish offshore oil and gas revenue sharing for Alaska and our coastal communities.

My name is Harry Brower, Jr. I live in Utqiagvik, Alaska, and I serve as the Mayor of the North Slope Borough, the largest municipality in the United States in size. North Slope Borough stretches more than 600 miles from east to west. It's home to eight Iñupiat villages, the Prudhoe Bay oil field, the National Petroleum Reserve, and the Arctic National Wildlife Refuge.

It is appropriate that I have an opportunity to talk to you today about revenue sharing for coastal communities. In Alaska, November 7 is Eben Hopson Day. Eben Hopson was a leader among the Iñupiat people of Alaska in the 1960s, at a time when the Iñupiat people were joined with Alaska Natives from around the state to fight for our native land claims.

Over the past 150 years, the North Slope of Alaska, land inhabited by Iñupiat people for thousands of years, has been sold and divided to serve many interests. The United States bought Alaska from Russia in 1867. In 1923, the United States set aside 23 million acres of the North Slope—an area the size of Maine—as Naval Petroleum Reserve No. 4. Today, that area is called the National Petroleum Reserve—Alaska, or NPR-A, and it is home to four of our villages.

In 1960, the Department of the Interior set aside the Arctic National Wildlife Range which, in 1980, became the Arctic National Wildlife Refuge, or ANWR. ANWR covers an area the size of South Carolina, and it was set aside for conservation without the consent of the Kaktovikmiut—the Native people who are from that place.

Alaska became a state in 1959, and the Federal Government granted the new state an entitlement to 102 million acres of land. In 1968, oil was discovered in Prudhoe Bay and the state selected the land around Prudhoe Bay over objections of Native people who had inhabited the place.

In 1971, Congress passed the Alaska Native Claims Settlement Act which allows Alaska Natives to take title to millions of acres of land around the state. However, on the North Slope, the state had already selected the area around Prudhoe Bay. The Federal Government had already set aside the NPR-A and Arctic National Wildlife Refuge. These areas were not made available for selection by Native people.

Because the federal and state governments had already claimed the oil and gas resources on the North Slope, the late Eben Hopson worked with our Iñupiat leaders to create the borough, a home-rule municipality, that would give our people the ability to tax onshore oil and gas infrastructure and thereby benefit from the resources

being developed in our backyard. Our ability as local government to derive some benefits from oil and gas development has, for almost 50 years, supported health clinics, schools, water and sewer infrastructure in our villages, a tribal college and police and emergency services, services that most Americans take for granted.

In a speech he gave in 1976, Eben Hopson talked about a discovery by the Federal Government of natural gas near Utqiagvik, which was formerly called Barrow. The Federal Government had created the National Petroleum Reserve in 1923 and, within the Reserve, the Navy established a small research facility near Point Barrow. Exploratory drilling led to a discovery of the natural gas in 1949 and a gas field was developed near the community. Natural gas was used to heat federal buildings like the hospital, the BIA School and the Navy buildings. The government did not allow the community of Barrow to use the gas to heat their homes. In his speech, Eben spoke about the long, frustrating 12-year struggle to get permission to hook up our homes in Barrow to natural gas mains that crisscross Barrow through our backyards. Although it sounds incredible today, the government refused to let the residents of Barrow use the natural gas that comes from our own backyard to heat our homes. It took an Act of Congress in 1963 to allow the Native people of Barrow to buy their own natural gas back from the Federal Government.

The Arctic Ocean is a place where we have hunted for whales and walrus, seals, for thousands of years. If, someday, oil and gas resources are developed in the Arctic Ocean, those offshore resources, just like onshore oil and gas resources, will come out from our backyard. The development of that resource is going to have an impact on our communities. It is only fair that some of the revenue from the development should be reinvested in long-term survival of our communities.

Congress has already authorized revenue sharing in other federal laws. The Mineral Leasing Act authorized revenue sharing from onshore mineral development. The Gulf of Mexico Energy Security Act authorizes revenue sharing from offshore oil and gas development in the Gulf.

Whatever each of you, as individual Members of Congress, may think about oil and gas development, it would be unconscionable to oppose legislation that extends offshore oil and gas revenue sharing to Alaska to provide a fair share of resource revenue to communities that are impacted.

I would like to thank Senator Murkowski for her leadership on this issue. I urge members of the Committee to act on this legislation.

Quyanaqpak for an opportunity to speak to you today.

Thank you.

[The prepared statement of Mr. Brower follows:]

**Testimony of Harry Brower, Jr.  
Mayor, North Slope Borough, Alaska  
November 7, 2019**

**Before the  
Committee on Energy and Natural Resources  
United States Senate**

**Hearing on Issues and Legislation Related to Energy Development on  
Federal Land**

Chairwoman Murkowski, Senator Manchin, and Members of the  
Committee:

Thank you for inviting me to speak to you about federal legislation that  
would establish offshore oil and gas revenue sharing for Alaska and our  
coastal communities.

My name is Harry Brower, Jr. I live in Utqiagvik, Alaska (formerly Barrow,  
Alaska) and I serve as the Mayor of the North Slope Borough, the largest  
municipality in the United States by size.

The North Slope Borough covers an area the size of Wyoming, stretching  
more than 600 miles from the U.S.-Canada border in the east to the western  
border of Alaska, across the Beaufort and Chukchi Seas. The Borough is  
home to eight Inupiat villages, the Prudhoe Bay oil field, the National  
Petroleum Reserve-Alaska, and the Arctic National Wildlife Refuge.

The majority of Borough residents are Inupiat. We depend on 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 this subsistence way of life to our coastal communities goes  
beyond the need for food. Our unique Inupiat culture, our traditions, and  
our links to our ancestors and history are tied to our subsistence lifestyle, to  
our custom of sharing with others, and to celebrating our connection to the  
land and the ocean. If oil and gas resources are someday developed in the  
Arctic Ocean adjacent to Alaska, those resources will come from our back  
yard—from a place that has sustained our people for thousands of years.

It is appropriate that this Committee should consider oil and gas revenue sharing for Alaska's coastal communities today. In Alaska, November 7<sup>th</sup> is Eben Hopson Day.

Eben Hopson was a leader among the Iñupiat people of Alaska in the 1960s, at a time when the Iñupiat people were joining with Alaska Natives from around the state to fight for our Native land claims.

Over the last 150 years, the North Slope of Alaska—land inhabited by the Iñupiat people for thousands of years—has been parceled out to serve the interests of government, industry, and conservation.

The United States bought the territory of Alaska from the Russians in 1867.

In 1923, the United States set aside 23 million acres of the North Slope—an area the size of Maine—as the Naval Petroleum Reserve No. 4. Today, that area is called the National Petroleum Reserve-Alaska, or NPR-A, and industry and conservation groups continually fight to advance competing interests in the Petroleum Reserve.

In 1960, the Department of the Interior set aside the Arctic National Wildlife Range, which, in 1980, became the 19 million acre Arctic National Wildlife Refuge, or ANWR. ANWR covers an area roughly the size of South Carolina. Whatever you may think about current proposals to develop oil and gas resources in ANWR, that area has long been claimed by the United States and outside groups for conservation without the consent of the Kaktovikmiut—the Native people who are from that place.

Alaska became a state in 1959, and the Federal Government granted the new state an entitlement to 102 million acres of land. In 1968, oil was discovered at Prudhoe Bay, and the State selected the land at Prudhoe Bay over the objections of the Native people who had inhabited that place.

In 1971, Congress passed the Alaska Native Claims Settlement Act. This Act allowed Alaska Natives to select and take Western title to 44 million acres of land around the state. However, on the North Slope, the State had already selected Prudhoe Bay and the Federal Government had already set aside the NPR-A and ANWR, even though these places had for thousands of years been home to the Iñupiat people of the North Slope.

Because the Federal and State governments had already claimed Iñupiat land and resources, Eben Hopson worked with other Iñupiat leaders to create the North Slope Borough, a home-rule municipality that gave our people the ability to tax oil and gas infrastructure and thereby benefit from the resources being developed in our back yard.

Tax revenues collected by the Borough have for almost 50 years enabled the Borough to provide basic services to the eight villages on the North Slope. Oil and gas tax revenues support health clinics, schools, our tribal college (the only tribal college in Alaska), water and sewer infrastructure, search-and-rescue services, and other essential services in all of our villages.

In a speech he gave in 1976, Eben Hopson talked about the discovery by the Federal Government of natural gas near Utqiaġvik, formerly Barrow.

The Federal Government had created the Naval Petroleum Reserve in 1923 and, within the Reserve, the Navy established a small research facility near Point Barrow. Exploratory drilling led to the discovery of natural gas in 1949, and a gas field was developed near the community. Natural gas was used to heat federal buildings like the hospital, the BIA school, and the Naval Arctic Research Laboratory. But the Navy did not allow the community of Barrow to use the gas to heat their homes.

In his speech, Eben spoke about the “long, frustrating, 12-year struggle to get permission to hook our homes in Barrow to gas mains that crisscrossed Barrow through our back yards.” Although it sounds incredible today, the Navy refused to let the residents of the Native village use the natural gas that came from our own back yard to heat our homes. It took an act of Congress, in 1963, to allow the Native people of Barrow to buy their own natural gas back from the Federal Government.

The Arctic Ocean is a place where we have hunted for whales and walrus and seals for thousands of years. If, someday, oil and gas resources are developed in the Arctic Ocean, that offshore resource—just like onshore oil and gas resources—will come from our back yard. The development of that resource will have an impact on our communities. It is only fair that some of the revenue from that development should be reinvested in the long-term survival of our communities.

Congress has already authorized resource revenue sharing throughout the United States. The Mineral Leasing Act provides for revenue sharing from onshore mineral development. The Gulf of Mexico Energy Security Act provides for revenue sharing from offshore oil and gas development.

Whatever each of you as individual Members of Congress may think about oil and gas development, it would be unconscionable to oppose legislation that would extend offshore oil and gas revenue sharing to Alaska and provide a fair share of revenue from the development of Arctic resources to impacted coastal communities.

I support S. 2418 as a model that provides a share of revenues to Alaska and to coastal political subdivisions located within 200 miles of resource development. In the past, similar legislation has established an 80/20 revenue split between the State and coastal political subdivisions, and I urge the Committee to continue to support that approach.

I urge the Members of this Committee to act on this legislation. This legislation establishes fair and equitable revenue sharing for states and coastal communities impacted by development. Its passage is long overdue.

I want to thank Senator Murkowski for her leadership on this issue. Senator Murkowski has worked tirelessly with leaders from the North Slope and other regions of Alaska to develop federal legislation that invests in the preservation and wellbeing of our communities well into the future.

Quyanaqpak for the opportunity to speak to you today.

The CHAIRMAN. Quyanaqpak, Mayor.  
Ms. Comay, welcome.

**STATEMENT OF LAURA B. COMAY, SPECIALIST IN NATURAL  
RESOURCES POLICY, CONGRESSIONAL RESEARCH SERVICE**

Ms. COMAY. Thank you. Chairman Murkowski, Ranking Member Manchin and members of the Committee, good morning.

My name is Laura Comay, and I'm a Specialist in Natural Resources Policy at the Congressional Research Service. As requested by the Committee, my testimony will focus on the revenue sharing provisions of the two bills under discussion. CRS takes no position on these bills or on other policy matters. My testimony draws on my own area of specialization which is federal management of offshore energy and on the input of other CRS colleagues who cover onshore energy and broader energy policy issues. I will discuss each bill in turn.

S. 2418 would make changes to offshore oil and gas revenue sharing in the Gulf of Mexico and Alaska. Title I would amend the Gulf of Mexico Energy Security Act which governs offshore revenue sharing with four Gulf producing states—Alabama, Louisiana, Mississippi and Texas—and with the state grant program of the Land and Water Conservation Fund. The bill would provide for a higher portion of the revenues to be shared with the states.

It would do this first by expanding the set of leases eligible for revenue sharing. GOMESA currently applies only to leases entered into since the law's enactment in December 2006. This includes approximately 60 percent of active leases in the Gulf but many of these newer leases are not producing. The bill would broaden the qualified leases to include those entered into since October 2000.

Second, the bill would increase the percentage of qualified revenues shared with the states. Currently, states get 37.5 percent of the revenues while 12.5 percent are shared with the LWCF program and the remaining 50 percent are deposited in the General Fund of the Treasury. S. 2418 would change those percentages so that 50 percent of the revenues would be shared with the states and 37.5 percent would go to the Treasury. The 12.5 percent for the LWCF would remain the same.

Also currently, the revenue sharing in most of the Gulf is capped at \$500 million annually for most years through Fiscal Year 2055. The bill would eliminate this cap. It also would exempt the state share from budget sequestration. Collectively, these changes would have the effect of increasing the portion of Gulf revenue shared with the states while decreasing the share going to the U.S. Treasury.

Title II of S. 2418 would establish an offshore revenue sharing program in the Alaska region similar in many ways to GOMESA's program for the Gulf, though with some differences. Whereas current law provides for all Alaska revenues to go to the U.S. Treasury, except for projects near state waters, the bill would direct that these revenues be split at 50 percent to the Treasury and 50 percent to the state and its coastal political subdivisions. The state share could be used for purposes similar to those in GOMESA such as coastal restoration and infrastructure projects to mitigate im-

pacts of offshore development and also for some purposes not covered in GOMESA.

The changes could have relatively limited fiscal impacts in the near-term because Alaska has many fewer leases than the Gulf and generates much less revenue. Future offshore revenues in the region are uncertain and would depend on many factors.

The second bill, S. 2666, would make changes in Section 9 related to onshore revenue sharing from solar and wind energy siting on public lands. As agreed with the Committee, CRS testimony focuses on this revenue sharing provision and does not cover other aspects of the bill. The bill would require that the Bureau of Land Management and the Forest Service disburse 25 percent of solar and wind revenues to states, 25 percent to counties and the remainder to two programs established in the bill to facilitate permitting and promote conservation and recreational access.

BLM and the Forest Service administer wind and solar projects through rights-of-way under the Federal Land Policy and Management Act. Almost all the current projects are on BLM lands. The revenues from solar and wind siting include rents and fees.

Currently other than fees retained by both agencies for cost recovery, BLM rents and fees are deposited to the U.S. Treasury. Forest Service rents and fees are subject to the agency's general revenue sharing requirements whereby 25 percent of average gross revenue over seven years is shared with counties. The remainder of Forest Service revenues go to the Treasury. Under S. 2666, no revenue would go to the general Treasury as the state sharing and the new programs, the two new programs, would account for 100 percent of the funding.

This concludes my remarks. Thank you and I look forward to responding to any questions.

[The prepared statement of Ms. Comay follows:]





**Testimony of Laura B. Comay,**  
**Specialist in Natural Resources Policy for the Congressional Research Service,**  
**Before the Senate Committee on Energy and Natural Resources,**  
**Hearing on “Issues and Legislation Related to Energy Development on Federal Land,”**

**November 7, 2019**

Chairman Murkowski, Ranking Member Manchin, and Members of the Committee, good morning. The Congressional Research Service (CRS) appreciates the opportunity to testify about the legislation under discussion today and about revenue sharing from offshore and onshore energy development on federal lands. My name is Laura Comay, and I am a Specialist in Natural Resources Policy for CRS. The focus of my testimony, as requested by the committee, is on the revenue-sharing provisions of S. 2418 (related to offshore oil and gas development in the Gulf of Mexico and Alaska) and the revenue-sharing provisions of S. 2666 (related to solar and wind energy development on onshore federal lands). In accordance with our enabling statutes, CRS takes no position and makes no recommendations on these bills or on other legislative or policy matters. My testimony draws on my own area of specialization at CRS—federal management of offshore energy activities on the U.S. outer continental shelf—and on the input of other CRS colleagues who cover onshore energy development and broader energy policy issues.

### **S. 2418 and Offshore Oil and Gas Revenue Sharing**

S. 2418, the Conservation of America's Shoreline Terrain and Aquatic Life Act, would make changes to offshore oil and gas revenue distribution for two regions of the U.S. outer continental shelf (OCS), the Gulf of Mexico region and the Alaska region. The collection and distribution of federal revenues from offshore oil and gas activities are governed by several laws. The Outer Continental Shelf Lands Act (OCS Lands Act, 43 U.S.C. §§1331-1356b), which applies broadly throughout the OCS, authorizes the Department of the Interior (DOI) to collect bonus bids, rents, royalties, and other fees or payments from offshore oil and gas leasing. Under this law, revenues generated from projects located within 3 nautical miles of state waters are shared with coastal states at a rate of 27% (a provision sometimes referred to as “Section 8(g)” revenue sharing based on its placement in the law).<sup>1</sup> Other than Section 8(g) revenue sharing, the OCS Lands Act directs that all federal revenues from offshore leasing be deposited to the U.S. Treasury as miscellaneous receipts.<sup>2</sup>

Two subsequent laws specified certain dispositions of the offshore revenues that go to the U.S. Treasury under the OCS Lands Act. First, the Land and Water Conservation Fund Act (LWCF Act, 54 U.S.C. §200302) directed that up to \$900 million annually in offshore oil and gas revenues be deposited into the

<sup>1</sup> 43 U.S.C. §1337(g). For tracts lying partially within the 3-nautical-mile zone, a portion of revenues corresponding to the portion of the tract that falls within that zone is shared at the rate of 27%.

<sup>2</sup> *Ibid.*

Land and Water Conservation Fund (LWCF) for purposes including federal land acquisition and grants to states for outdoor recreation.<sup>3</sup> Second, the National Historic Preservation Act (NHPA; 54 U.S.C. §303102) provided for annual deposits of \$150 million from offshore oil and gas revenues to the Historic Preservation Fund (HPF) to carry out the act's historic preservation purposes.<sup>4</sup> In addition, a more recent statute, the Gulf of Mexico Energy Security Act of 2006 (GOMESA, P.L. 109-432, 43 U.S.C. §1331 note), established a new state revenue-sharing framework to operate alongside the Section 8(g) revenue sharing. GOMESA provided for revenues from specified leases in the Gulf (outside the Section 8(g) area) to be shared with the states of Alabama, Louisiana, Mississippi, and Texas at a rate of 37.5%, as well as with the state grant program funded by the LWCF at a rate of 12.5%.<sup>5</sup>

### *Gulf of Mexico Revenue-Sharing Changes in S. 2418*

Title I of S. 2418 would amend GOMESA by making several changes to its revenue-sharing program for leases in the Gulf. First, the bill would expand GOMESA's definition of "qualified" OCS revenues that are to be shared with the states and the LWCF. Under the current "Phase II" of GOMESA, which began in FY2017, the geographic area of GOMESA revenue sharing encompasses nearly all parts of the Gulf (outside the Section 8(g) area) that are not under a leasing moratorium. Despite this widespread geographic range, some Gulf leases do not qualify for any revenue sharing under GOMESA, because the law applies only to leases that were entered into on or after the date of GOMESA's enactment (December 20, 2006). It appears from leasing data maintained by the Bureau of Ocean Energy Management (BOEM) that approximately 61% of the more than 2,500 active leases in the Gulf of Mexico were entered into on or after that date and thus would qualify for revenue sharing under GOMESA's current terms.<sup>6</sup> S. 2418 would broaden the qualified leases to include any leases entered into on or after October 1, 2000. Based on the BOEM data, this would appear to increase the percentage of qualifying leases to approximately 66%.<sup>7</sup> These percentages represent a snapshot, because the numbers of active leases on either side of the qualifying date will change over time as existing leases terminate and new leases are entered into.

It is unclear how much additional revenue might be available to states and the LWCF as a result of the proposed increase in the number of covered leases. Revenue amounts vary from lease to lease, based on the volume of production from each lease, the prices for which commodities are sold, and the royalty terms of the lease, among other factors. Data are not publicly available on revenues generated from the 2000-2006 leases in previous years. Further, past revenues may not be a guide to future amounts, because

<sup>3</sup> The funding is available only if appropriated in discretionary appropriations. For more information on the LWCF, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by Carol Hardy Vincent.

<sup>4</sup> This funding, like the LWCF funding, is available only if appropriated in discretionary appropriations. For more information on the HPF, see CRS Report R45800, *The Federal Role in Historic Preservation: An Overview*, by Mark K. DeSantis.

<sup>5</sup> Unlike the main funding provided by the LWCF Act, the LWCF state grant funds provided by GOMESA are available without further appropriation (i.e., as mandatory funding). As discussed below, a cap applies to the revenue shares for both the states and the LWCF.

<sup>6</sup> CRS calculations from BOEM Data Center, "Lease Area Block Online Query," at <https://www.data.boem.gov/Leasing/LeaseAreaBlock/Default.aspx>; and from CRS communication with BOEM Office of Legislative Affairs, November 1-3, 2019. Data as of November 3, 2019. Includes leases with status codes "Primary" (a lease within the initial 5-, 8-, or 10-year contract), "Prod" (a lease held by production of a mineral), and "Unit" (a lease, or portion thereof, included in an approved unit agreement). Also see BOEM, "Combined Leasing Report, as of October 1, 2019," at <https://www.boem.gov/Combined-Leasing-Statistics-October-2019/>. CRS calculations exclude 9 leases that were entered into after GOMESA's enactment but do not qualify for GOMESA revenue sharing because they fall within the Section 8(g) revenue-sharing area, which is not eligible for GOMESA revenue sharing. Three additional leases, which CRS included in the calculation, lie partly in the Section 8(g) area.

<sup>7</sup> Ibid. The calculation excludes 13 leases lying within the Section 8(g) revenue-sharing area, and includes 5 leases lying partly within that area.

revenues from an individual lease may vary significantly from year to year, especially in the context of volatile oil and gas prices.

S. 2418 also would increase, for all leases covered by GOMESA, the percentage of qualified revenues that are shared with the states of Alabama, Louisiana, Mississippi, and Texas and their “coastal political subdivisions” (CPSs).<sup>8</sup> Currently, GOMESA provides for 37.5% of qualified revenues to be shared with these states and CPSs, and for 12.5% of the qualified revenues to be shared with the LWCF state grant program. The remaining 50% of qualified revenues are deposited in the General Fund of the U.S. Treasury. Additionally, for revenues from the Phase II areas (where the large majority of Gulf oil and gas production occurs), the amount that can be shared with the states/CPSs and LWCF combined is capped at \$500 million annually through FY2055, except in FY2020 and FY2021, when the cap is \$650 million.<sup>9</sup> S. 2418 would eliminate the cap entirely after FY2019, and also would change the sharing percentages so that 50% of qualified revenues would be shared with the states and their CPSs, while 37.5% would go to the General Fund of the U.S. Treasury. The 12.5% going to the LWCF state grant program would remain the same. The bill also would potentially affect shared revenues by amending the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) to provide that GOMESA revenues shared with the states and CPSs would not be subject to sequestration orders issued under that statute.

The proposed changes would increase the proportion of revenues shared with the states and CPSs, and would correspondingly decrease the share going to the U.S. Treasury. To illustrate, in the two years since the start of GOMESA Phase II, totals of \$188.0 million (FY2018) and \$214.9 million (FY2019) were shared with the states/CPSs. Had the revenue-sharing percentage for the states/CPSs in those years been 50% rather than 37.5%, the state/CPS shares would have been approximately \$250.7 million and \$286.6 million, respectively, with correspondingly lower deposits to the U.S. Treasury. During those years, an elimination of the cap would not have contributed to a change in revenue amounts, because revenues were not sufficient for the cap to be invoked. The most recent projections published by DOI, in the Department’s FY2020 budget justification, suggest that the caps would not be invoked through at least FY2023 under current law. (For FY2024, the final year projected, DOI estimates that the collective state and LWCF share from qualified leases would be \$500.1 million, so the cap would reduce this amount to \$500.0 million.)<sup>10</sup> These DOI budget projections could change in response to future developments, such as changes in oil and natural gas prices. Over the long term, added state revenues attributable to elimination of the cap are uncertain and would depend on many factors, including oil and gas prices, federal offshore leasing policies, and industry investment decisions.

In addition to changing the structure for revenue distribution, S. 2418 would change the purposes for which states and CPSs are allowed to use GOMESA revenues. Currently the law provides five allowed uses for the revenues:

1. Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.
2. Mitigation of damage to fish, wildlife, or natural resources.

<sup>8</sup> GOMESA (P.L. 109-432, Section 102(10)) defines a *coastal political subdivision* as a political subdivision of a Gulf producing state that lies at least partly within the state’s coastal zone (as defined in the Coastal Zone Management Act of 1972, 16 U.S.C. 1453) and is not more than 200 nautical miles from the geographic center of any leased tract.

<sup>9</sup> P.L. 115-97, Section 20002, amended GOMESA to raise the cap to \$650 million for FY2020 and FY2021.

<sup>10</sup> DOI, *Budget Justifications and Performance Information, Fiscal Year 2020: Office of the Secretary, Department-Wide Programs*, Table 6, p. MLR-15, at [https://www.doi.gov/sites/doi.gov/files/uploads/fy2020\\_os\\_budget\\_justification.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/fy2020_os_budget_justification.pdf). The projections refer to revenues that would be collected in each fiscal year. Under GOMESA, revenues collected in a given fiscal year are shared with the states and the LWCF in the following fiscal year.

3. Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.
4. Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.
5. Planning assistance and the administrative costs of complying with GOMESA. (No more than 3% of a state or CPS's total revenues may be used for this purpose.)

S. 2418 would add a sixth allowed use: "Planning, engineering, design, construction, operations, and maintenance of one or more projects that are specifically authorized by any other Act for ecosystem restoration, hurricane protection, or flood damage prevention." Potential examples of projects that might be covered under the new use would be authorized Army Corps of Engineers projects that match the stated purposes.<sup>11</sup> The proposed new use does not appear to be specific to coastal projects, thus potentially allowing for GOMESA funds to be spent in some cases on congressionally authorized projects within the Gulf producing states that may be distant from the coast. Uses of the funds would still have to comply with any other applicable federal and state laws.<sup>12</sup>

#### *Alaska Revenue-Sharing Changes in S. 2418*

Title II of S. 2418 would establish an offshore revenue-sharing program in the Alaska region similar to GOMESA's program for the Gulf, although with some differences. The proposed Alaska program would apply to all federal offshore oil and gas leases in the Alaska region, except for near-shore leases subject to Section 8(g) revenue sharing (within 3 nautical miles of state waters).<sup>13</sup> In other words, the program would apply to leases from which revenues currently would go entirely to the U.S. Treasury. Under the new program, revenues from the eligible leases would be split, with 50% going to the U.S. Treasury, 42.5% to the State of Alaska, and 7.5% to Alaska's CPSs, defined as "county-equivalent subdivision[s]" lying at least partly in Alaska's coastal zone (as defined in the Coastal Zone Management Act of 1972, 16 U.S.C. 1453) and within 200 nautical miles of a leased tract on the Alaska OCS. The bill also would include as a CPS any "municipal subdivision" that the state determines is a "significant staging area for oil and gas servicing, supply vessels, operations, suppliers, or workers," thus potentially allowing for some inland areas to be defined as CPSs and receive a share of revenues. Ten percent of the CPS share (0.75% of total revenue) would be reserved for these municipal subdivisions. S. 2418 would allow the state and CPSs to use the shared revenues for purposes similar to those in GOMESA, and would also allow some uses not included in GOMESA, including planning and assistance to build "healthy and resilient communities," installation and operation of energy systems that reduce costs and greenhouse gas emissions, programs at state higher education institutions, and any other uses that the Alaska governor, with approval of the state legislature, determined to be appropriate.

A state/CPS revenue share of 50%, as proposed in S. 2418 for both Alaska and the Gulf producing states, would be similar to the revenue percentage that states typically receive under the Mineral Leasing Act (MLA, 30 U.S.C. §191) for onshore oil and gas revenue sharing from federal lands in their state.<sup>14</sup> Stakeholders have debated the extent to which federal offshore oil and gas revenues should be shared with

<sup>11</sup> For more information on Corps projects authorized in periodic Water Resources Development Acts, see CRS In Focus IF11322, *Water Resources Development Act: Primer*, by Nicole T. Carter and Anna E. Normand. The projects typically have a federal-nonfederal cost share.

<sup>12</sup> For example, Louisiana's state constitution (Article VII, Section 10.2(E)) contains requirements for the uses of federal funds from OCS activities.

<sup>13</sup> Section 8(g) areas also are excluded from Gulf of Mexico revenue sharing under GOMESA.

<sup>14</sup> Alaska is an exception under the MLA, in that it generally receives 90% of all revenues collected on public domain leases, although separate statutes specific to certain areas—including the National Petroleum Reserve in Alaska (NPR-A) and the Coastal Plain of the Arctic National Wildlife Refuge (ANWR)—provide for a 50% revenue share with the state from leases in those areas (42 U.S.C. §6506a(l); 16 U.S.C. §3143 note).

coastal states at similar percentages to onshore revenues. Some states have contended that a comparable revenue share from federal offshore activities is needed to mitigate environmental impacts of offshore development to their coasts and to maintain the necessary support structure for the offshore oil and gas industry. Some other stakeholders have advocated that revenues from federal waters should be used for broader federal purposes, such as deficit reduction or federal conservation programs with a nationwide scope. In the case of the revenue changes proposed in S. 2418 for both Alaska and the Gulf, the tradeoff would be reductions in funding going to the U.S. Treasury; that is, the higher state share would come from revenues currently being deposited to the Treasury as miscellaneous receipts.

The current context for the proposed Alaska program is significantly different than that for the Gulf, in that federal oil and gas leasing on the Alaska OCS currently generates relatively little revenue compared with the Gulf. Alaska has 54 active federal offshore leases (in contrast to the 2,500+ leases in the Gulf), and annual revenues from those leases have ranged between \$5.3 million and \$11.2 million over the past three fiscal years (FY2017-FY2019), in contrast with Gulf revenues that exceeded \$3 billion in each of those years.<sup>15</sup> With respect to potential future revenues from new leases on the Alaska OCS, any near-term revenues would likely come from bonus bids, as new offshore leases in the region have been estimated to take up to three decades to reach production, given ice-constrained exploration seasons, infrastructure challenges, and regulatory complexity.<sup>16</sup> The extent of future revenues from the Alaska OCS would be influenced by many factors, one of which is judicial action related to President Obama's indefinite withdrawal of large portions of the Beaufort and Chukchi Sea planning areas from leasing consideration, under presidential authority provided by Section 12(a) of the OCS Lands Act (43 U.S.C. §1341(a)).<sup>17</sup> Because the Beaufort and Chukchi Seas are estimated to hold the highest oil and gas resource potential in the region, congressional, administrative, and judicial decisions for this area would strongly influence future Alaska OCS revenues.

### **S. 2666, Section 9, and Onshore Solar and Wind Revenue Sharing<sup>18</sup>**

Section 9 of S. 2666, the Public Land Renewable Energy Development Act of 2019, would require that revenues from solar and wind development on specified onshore federal lands be shared with states and counties, and also would require that some of the revenues be set aside for a program to facilitate renewable energy permitting and for a fund to enhance resource conservation and recreational access in areas where renewable energy projects are located. As previously agreed, CRS testimony focuses on this revenue-sharing provision of S. 2666 and does not cover other aspects of the bill, such as those related to land use planning, environmental review, permit coordination, geothermal leasing, and determination of rental rates for onshore renewable energy projects on federal land. CRS is available to follow up with the committee on any questions on these other aspects of the bill after the hearing.

<sup>15</sup> Alaska total active leases are from BOEM, Combined Leasing Report, as of October 1, 2019, at <https://www.boem.gov/Combined-Leasing-Statistics-October-2019/>. Gulf of Mexico total active leases are from BOEM Data Center, "Lease Area Block Online Query," at <https://www.data.boem.gov/Leasing/LeaseAreaBlock/Default.aspx> (see footnote 6 for additional information), and reflect some leases issued after October 1, 2019. Revenue amounts are from the Office of Natural Resources Revenue (ONRR), "Federal Revenue Data," at <https://revenuedata.doi.gov/explore/revenue/>.

<sup>16</sup> See, e.g., National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources*, 2015, and *Supplemental Assessment*, 2019, at <https://www.npcarcticreport.org/>.

<sup>17</sup> In March 2019, the U.S. District Court for the District of Alaska vacated President Trump's modification of President Obama's withdrawal, ruling that the OCSLA does not give the President authority to revoke prior presidential withdrawals under Section 12(a). *League of Conservation Voters v. Trump*, 363 F.Supp.3d 1013 (D.Alaska 2019).

<sup>18</sup> This portion of the testimony was prepared in collaboration with Marc Humphries, CRS Specialist in Energy Policy.



### *Authorizations for Onshore Federal Solar and Wind Energy Projects*

The general statutory framework for solar and wind energy development on federal lands is contained in Title V of the Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. §§1701 et seq.), particularly in its provisions for right-of-way (ROW) grants (43 U.S.C. §§1761-1772).<sup>19</sup> The law's ROW provisions apply to the Bureau of Land Management (BLM) in DOI and the Forest Service (FS) in the Department of Agriculture. Title V of FLPMA authorizes the Secretary of the Interior (managing BLM lands) and the Secretary of Agriculture (managing FS lands) to "grant, issue or renew rights-of-way over, upon, under or through" their administered lands for "systems for generation, transmission and distribution of electric energy."<sup>20</sup> BLM manages 246 million acres of public lands under FLPMA's multiple-use mission, which generally includes livestock grazing, energy and mineral development, recreation, timber production, watershed protection, and wildlife and fish habitat, among others. FS manages the 193 million acres of the National Forest System, also under a multiple-use mission, including livestock grazing, energy and mineral development, recreation, timber production, watershed protection, and wildlife and fish habitat.<sup>21</sup> BLM and FS each administer ROWs on their respective lands (in contrast to the administration of subsurface resources, where BLM manages leasing and development for all federal subsurface lands, covering more than 700 million acres.)

For all energy development, BLM and FS go through a land use planning process to identify lands that could be made available for leasing, ROW grants, or special use permits (as applicable to each agency). Under BLM regulations,<sup>22</sup> the agency may identify in its land use planning documents "designated leasing areas" (DLAs), which are preferred locations for solar or wind energy competitive leasing. The regulations include two competitive leasing systems for ROWs for renewable energy projects, one within the DLAs and one outside the DLAs. BLM uses a lease as the ROW instrument within DLAs.<sup>23</sup> Within the DLAs, lease sales are held by BLM on its own initiative or by nomination. The competitive bidding system includes at least a minimum cash bid (with possibly a bonus bid), rents, and capacity fees. Under FLPMA, BLM is generally required to receive fair market value for the use of federal lands. Bidding may be by any type of competitive system, such as sealed bid, oral auction, or electronic bidding. Minimum bids are established by BLM on a sale-by-sale basis. The initial lease inside the DLA is for a term of 30 years.

BLM also may accept applications for solar and wind ROW grants in areas outside of DLAs or may offer such areas competitively on its own initiative.<sup>24</sup> According to DOI, the current regulations were established in part to facilitate the development process and to create incentives to promote solar and wind energy within the DLAs.<sup>25</sup>

Revenues from solar and wind ROWs on BLM lands include rents and fees. Rent is calculated by multiplying the number of acres of the ROW by the annual per-acre zone rate, established in a rent schedule for solar and wind energy.<sup>26</sup> In addition to the acreage rent, BLM charges a megawatt (MW)

<sup>19</sup> The term *right-of-way* is defined in FLPMA (43 U.S.C. §1702) as "an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in subchapter V of this chapter."

<sup>20</sup> 43 U.S.C. §1761(a)(4). Lands designated as wilderness are excluded from the authority for ROWs.

<sup>21</sup> Multiple-Use and Sustained-Yield Act of 1960, P.L. 86-517, 16 U.S.C. §§528-531.

<sup>22</sup> 43 C.F.R. Part 2800.

<sup>23</sup> 43 C.F.R. §2809. Also see BLM, "Solar Energy Program: Right-of-Way (ROW) Authorizations," at <http://blmsolar.anl.gov/program/authorization-policies/row-authorizations/>.

<sup>24</sup> 43 C.F.R. §2804. Also see BLM, "Solar Energy Program: Right-of-Way (ROW) Authorizations," at <http://blmsolar.anl.gov/program/authorization-policies/row-authorizations/>.

<sup>25</sup> 81 *Federal Register* 92122, December 19, 2016.

<sup>26</sup> The Solar and Wind Energy Rent Schedule is available at BLM Instruction Memorandum Number 2017-096, *Acreage Rent*

capacity fee based on the approved MW capacity of the solar or wind authorization. The fee is calculated by taking the approved megawatt capacity of the solar or wind project times a calculated MW rate.<sup>27</sup> These acreage rents and MW capacity fees are deposited in the U.S. Treasury and are not shared with the states. Also, BLM generally collects fees associated with application processing and other administrative costs for wind and solar ROWs, which are retained by the agency on a cost recovery basis under FLPMA.

The Forest Service does not have regulations that specifically address solar and wind energy ROWs, so its laws and regulations generally applicable to ROWs would apply to solar or wind projects.<sup>28</sup> Applicants seeking to make use of FS lands for such a project would apply for a special use permit under the generally applicable regulations for such authorizations. According to FS's policy guidance for wind energy permitting, the agency may charge land use rental fees and processing and monitoring fees for wind energy permits.<sup>29</sup> The processing and monitoring fees are retained by the agency to cover the costs of performing those activities.<sup>30</sup> The land use rental fees are subject to existing FS statutory revenue-sharing requirements, which provide for 25% of the average gross revenue generated over the previous seven years to be shared with the counties containing those lands and to be used for road and school purposes.<sup>31</sup> The remainder of the land use rental fee would go to the U.S. Treasury.<sup>32</sup>

#### *S. 2666 Provisions on Solar and Wind Energy Revenue*

S. 2666 would establish requirements for BLM and FS to disburse revenue derived from solar and wind energy projects to the states (25%) and counties (25%) from which the energy was produced.<sup>33</sup> It also would establish a permit processing improvement program and a Renewable Energy Resource Conservation Fund. Until 2040, the permit processing improvement program would receive 15% of the revenues from solar and wind and the Renewable Energy Resource Conservation Fund would receive 35% of the funds. After 2040, the permit program would receive 10% of revenues and the fund 40%. Because the proposed provisions would collectively account for 100% of the revenues, no revenue would be allocated to the General Fund of the U.S. Treasury.

The bill would require that the state and county shares of solar and wind revenues be used in a manner consistent with uses specified for mineral leasing revenues in Section 35 of the MLA (30 U.S.C. §191). The MLA directs that revenue shares shall be used by states and their subdivisions "as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service." S. 2666 further specifies that the revenue shares

---

*and Megawatt Capacity Fees (years 2016-2021) for Solar and Wind Energy ROW Grants and Leases*, September 14, 2017, <https://www.blm.gov/policy/im-2017-096>.

<sup>27</sup> The MW rate is calculated by taking the net capacity factor times MW/hour price times the rate of return required times the number of hours per year.

<sup>28</sup> See 36 C.F.R. 251 Subpart B, "Special Uses."

<sup>29</sup> Forest Service Handbook (FSH) 2709.11, Chapter 70. The first utility-scale wind project on FS lands began operations in 2017.

<sup>30</sup> 36 C.F.R. §251.58(c)-(d).

<sup>31</sup> 16 U.S.C. §500. Congress has at times authorized an alternative to the revenue-sharing payment under the Secure Rural Schools and Community Self-Determination Act (SRS, P.L. 106-393, 16 U.S.C. §§7101-7153). For more information on SRS, see CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*.

<sup>32</sup> FS does not have comparable guidance specific to solar energy projects.

<sup>33</sup> If the revenue is derived from land spanning multiple counties, then the 25% county share would be split according to the percentage of the land in each county. It is unclear how the revenue-sharing provisions in S. 2666 would interact with existing FS revenue-sharing requirements under 16 U.S.C. §500.

to counties would be additional to any payments received by the county under the Payments in Lieu of Taxes (PILT) program.<sup>34</sup>

The Renewable Energy Resource Conservation Fund established by the bill would be available at the Secretary of the Interior's discretion to federal, state, local, and tribal agencies in regions hosting renewable energy projects on federal lands. The funding could be used for restoring and protecting fish and wildlife habitat or water resources, or for preserving and improving recreational access to federal lands and waters.

## Conclusion

This concludes my prepared remarks. Thank you for the opportunity to testify, and I look forward to responding to any questions you may have. If additional research and analysis related to this issue would be helpful, my CRS colleagues and I stand ready to assist the committee.

---

<sup>34</sup> It is unclear how this PILT provision would interact with the existing statutory formula for issuing PILT payments. For more information on PILT, see CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by Katie Hoover.

---



The CHAIRMAN. Thank you, Ms. Comay.  
Mr. Kline, welcome to the Committee.

**STATEMENT OF KYLE R. "CHIP" KLINE, JR., EXECUTIVE ASSISTANT TO THE GOVERNOR OF LOUISIANA FOR COASTAL ACTIVITIES, AND CHAIRMAN OF THE BOARD FOR THE LOUISIANA COASTAL PROTECTION AND RESTORATION AUTHORITY**

Mr. KLINE. Well, thank you, Madam Chair and Ranking Member Manchin for allowing me to testify on the issue of revenue sharing and on the merits of the COASTAL Act. Particularly I would like to thank you, Madam Chair, and Senator Bill Cassidy, for sponsoring this important legislation.

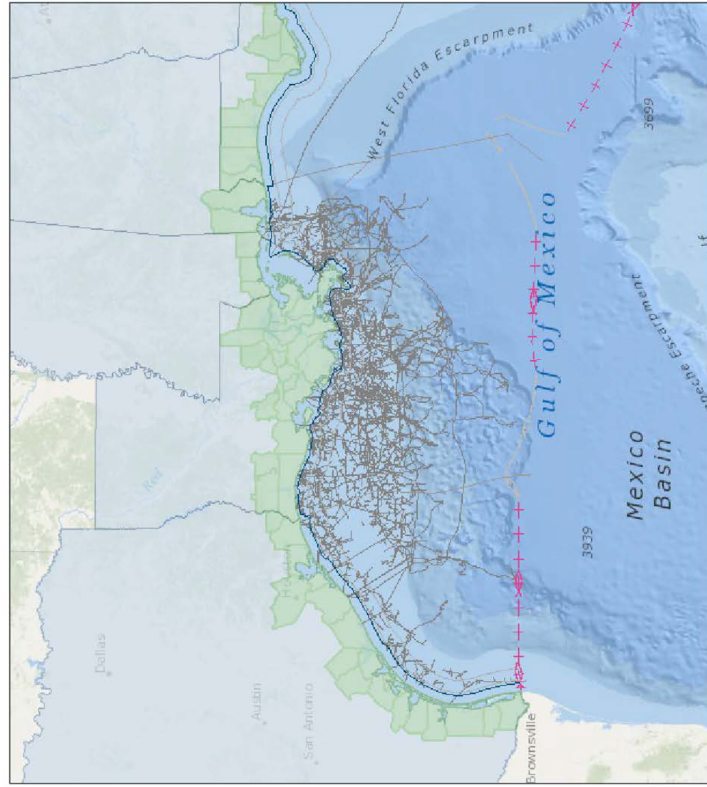
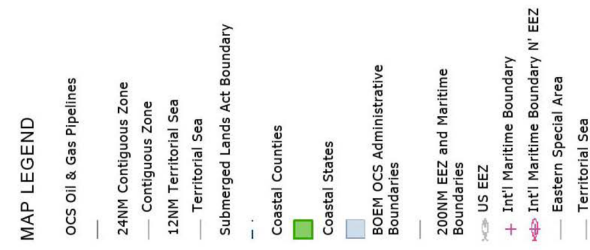
Federal lands located within inland states and federal waters on the Outer Continental Shelf produce energy that yield resources that are used for the benefit of all Americans. However, the Federal Government relies on the states for these activities to be successful. The passage of the Mineral Lands Leasing Act in 1920 determined that the Federal Government needed to share revenues derived from oil and gas production with the states if the states were going to be successful in providing these services.

Under this legislation, inland producing states share 50 percent of revenues generated from all leases on federal land and their allowable uses have expanded to include any governmental activity of the state. This generous revenue sharing has become extremely important to the states. In fact, according to a Department of the Interior press release issued just last week, in Fiscal Year 2019 the Federal Government returned \$1.1 billion to the State of New Mexico from oil and gas production on federal lands there. To be clear, we support this revenue sharing for inland producing states.

However, in the mid-19, excuse me, in the mid-20th century when federal mineral production moved offshore, no similar revenue share was provided to the coastal states. It was not until the passage of GOMESA in 2006 did the Federal Government provide any amount of revenue sharing for coastal states. Despite this arrangement, the four Gulf states have provided the same governmental services that support this activity as the onshore states. Coastal states also provide and support the vast and extensive infrastructure needed to transport this energy across the nation including highways, ports and pipeline corridors. All of these activities have helped generate hundreds of billions of dollars into the federal Treasury.

Madam Chair, I would like to draw your attention to the map just behind me here that shows the thousands of miles of pipelines that cut across our coastline and through our coastal wetlands.

[Showing Pipeline Density Comparison Map]



Mr. KLINE. These pipelines are essential if federal offshore oil and gas is to get to the people, communities and industries of America that rely on this energy. Louisiana is proud of our working coast and our contribution to the nation's energy needs; however, this important energy production for our nation comes at a cost to our state. The construction and maintenance of these pipelines has contributed to the loss of coastal wetlands and that land loss, in turn, places that pipeline infrastructure at greater exposure to environmental conditions and storm surge.

Today, GOMESA applies to just five percent of the total production in the Gulf of Mexico. It provides for revenue sharing only on leases since 2006. Half of that revenue produced from those leases remains with the federal Treasury and the remaining 50 percent is further subdivided by the Land and Water Conservation Fund, the four Gulf producing states and their 42 political subdivisions. And these revenues, as Senator Cassidy mentioned, are capped at \$375 million. The COASTAL Act addresses this disparity by applying revenue sharing to a larger portion of the federal OCS production in the Gulf. It increases the portion of the revenue that is shared with the Gulf States to 50 percent rather than the current 37.5 percent.

These changes would achieve for the GOMESA states of Louisiana, Mississippi, Alabama, Texas and for the State of Alaska uniformity in revenue sharing with those states that are governed by the Mineral Lands Leasing Act. In Louisiana, as mandated both by federal law and more importantly by our state constitution, we have committed all GOMESA funds to the protection and restoration of our coast and to the implementation of our state's Coastal Master Plan. Louisiana's Coastal Master Plan is our framework for making difficult decisions. It is a tool based on the best available science and used to confront the analytical challenges of a complex coastal environment. It takes into account uncertain future environmental conditions, multiple project types and diverse community needs. It is our guidebook for implementing meaningful restoration and protection projects.

The bottom line, Madam Chair, is that we are being responsible with the dollars that are returned to us from oil and gas production. We are reinvesting these dollars back into our coast and building projects that protect our homes, our communities, our businesses, our environment, our way of life and the very infrastructure that continues to help fuel this nation.

Thank you very much.

[The prepared statement of Mr. Kline follows:]

Testimony of  
Kyle R. "Chip" Kline, Jr.  
Executive Assistant to the Governor of Louisiana for Coastal Activities

Before the  
Senate Energy and Natural Resources Committee  
Hearing on  
"Issues and Legislation Related to Energy Development on Federal Land"

November 7, 2019

Kyle R. "Chip" Kline, Jr.  
 Executive Assistant for Coastal Activities for the State of Louisiana  
 Chairman of the Board for the Coastal Protection and Restoration Authority

Chairman Murkowski, Ranking Member Manchin, and members of the committee, thank you for inviting me to participate in today's hearing. I appreciate the opportunity to offer a state's perspective on federal revenue sharing, and to speak in support of the Conservation of America's Shoreline Terrain and Aquatic Life Act (COASTAL Act), S.2418. On behalf of the State of Louisiana, thank you, Madam Chairman, and Senator Cassidy for being the lead sponsors of this important legislation.

My name is Chip Kline and I am the Governor's Executive Assistant for Coastal Activities for the State of Louisiana and the Chairman of the Board for the Coastal Protection and Restoration Authority (CPRA). The CPRA Board is the official policy-setting body guiding our state's comprehensive response to the rapid loss of wetlands and coastal ecosystems and the increasing threat of storm surge faced by our coastal communities and economies. Our Board is made up of nine separate state agencies from the Department of Wildlife and Fisheries to the Departments of Economic Development and Insurance. We also have 11 additional seats for regional representatives, such as parish presidents and the heads of levee districts, and for two members of the Louisiana Legislature.

The CPRA Board was formed in the aftermath of Hurricanes Katrina and Rita that resulted in the loss of nearly 2,000 lives, the destruction of 250 square miles of coastal wetlands, and caused over \$200 billion in damages to homes, businesses, and infrastructure in our state. These disasters were a turning point for Louisiana. We stepped away from the siloed approach of dealing with wetland loss in one department and hurricane protection in another in favor of a comprehensive, integrated approach under one roof. Protection and restoration, after all, are two sides of the same coin and both are essential if we are to maintain the cultural and economic riches found along our coast into the future. Leadership of this effort is vested in the Governor's Executive Assistant for Coastal Activities who also serves as Chairman of the CPRA Board.

Louisiana's tool in this all-important fight is the Coastal Master Plan. The Coastal Master Plan is our state's 50 year, at least \$50 billion plan to protect our coastal areas and begin to reverse the 2,000 square miles of coastal wetlands loss that we have experienced since 1930. The Coastal Master Plan is revised by the Coastal Protection and Restoration Authority every six years through a scientific and public process. The Plan is then approved by our legislature. The Coastal Master Plan is our framework for making difficult decisions. It is a tool to confront the analytical challenges of a complex coastal environment, a 50 year planning horizon, uncertain future environmental conditions, multiple project types, and diverse community needs. It is our guidebook for implementing meaningful restoration and protection projects while recognizing that there is no single, optimal solution: near-term and long-term needs must be addressed, different stakeholders need different things from the coast, and both restoration and flood protection solutions each have their place. Our coast is a "working coast" across which hundreds of pipelines carry federal oil and gas from the Outer Continental Shelf to and through our state to serve people, communities and industries across our nation. Madam Chairman, I would like to introduce for the record a map showing the density of pipelines from the OCS to and through our state, which is attachment 1 to this testimony.

The Coastal Master Plan is also something very concrete. It is a list of 124 projects that, when fully implemented, we believe will reduce flood damage by \$150 billion and maintain or build 802 square miles of coastal wetlands by the end of its 50 year planning horizon. This plan contains massive commitments to flood protection structures like the Morganza to the Gulf levee system and enhanced protection for the Greater New Orleans area. It provides for \$6 billion in investments in home elevations, flood proofing and buyouts. And it demands ecosystem restoration projects at a scale not being attempted anywhere else in this country. A major contributing factor for much of our coastal loss is the failure to provide a means for river sediment to return to our coastal wetlands periodically when the Mississippi River was leveed by the federal government following the devastating Mississippi River flood of 1927. Thus, we intend to dredge and place sediment to restore thousands upon thousands of acres of wetlands and barrier islands across our coast and to reconnect coastal ecosystems to the land building power of the Mississippi River through sediment diversions. Taken together, this integrated approach to ecosystem restoration and hurricane protection provides us with the chance to preserve the attributes of coastal Louisiana that are important to our people and the nation as a whole even in the face of increased sea level rise, continued subsidence, and more intense hurricanes.

No plan means very much if it is not funded for implementation. That is why today I am here to express our state's full support for S. 2418, the Conservation of America's Shoreline Terrain and Aquatic Life, or COASTAL Act. The COASTAL Act builds on the important work of former Senator Mary Landrieu and others who, also in the wake of Hurricanes Katrina and Rita, finally succeeded in establishing revenue sharing for a portion of the federal oil and gas revenues derived from the Outer Continental Shelf of the Gulf of Mexico through the Gulf of Mexico Energy and Security Act of 2006, or GOMESA. The revenue sharing in GOMESA is based on the federal policy precedent established by the revenue sharing contained in the Mineral Lands Leasing Act of 1920. The original act provided revenue sharing for roads and schools that Congress knew would be needed to support the development of minerals from federal lands located in the various states. Later the act was amended to allow the revenue sharing funds to be spent for any government purpose. I understand that the State of New Mexico received over \$1.1 billion in revenue sharing in FY2019 and those funds represent 20% of the state's budget for their coming fiscal year.

Unfortunately, GOMESA does not apply to all federal oil and gas production in the Gulf of Mexico but only about 5% of the production, and 37.5% of the revenue from that small portion of the Gulf production is shared with the four gulf coast states, not 50% as in the Mineral Lands Leasing Act – and the GOMESA revenue sharing is subject to a combined cap of \$375 million as opposed to no cap on sharing in the Mineral Lands Leasing Act of 1920. Madam Chairman, I would be remiss if I did not report that Louisianans believe this disparity of treatment is grossly unfair and they do not accept the excuse that the federal budget rules prevent greater sharing with the gulf coast states. This disparity of treatment is particularly unacceptable in light of the scientific proof that the pipeline activities across our coast – activities that are needed to bring federal OCS oil and gas ashore – have contributed to our coastal wetlands loss.

GOMESA recognizes that there is a balance to be struck between the economic and energy benefits of developing mineral resources on public lands and the environmental toll that those activities inevitably entail. Louisiana is proud to be one of the states that fuels this nation, but accessing and producing these resources has contributed to coastal impacts that jeopardize our ecosystems and populations. It should also be noted that as our coastal environments weaken the facilities and pipeline infrastructure that brings those energy resources onshore also grow more exposed to waves, storm surge, catastrophic storms, and continued environmental degradation.

GOMESA established two phases for revenue sharing, Phase I was very limited in terms of which leases qualified for revenue sharing and only returned \$36.7 million in total to all four Gulf Producing States and their 42 political subdivisions over the entire 10-year Phase I period. This \$36.7 million in disbursements was from a period in which the Gulf of Mexico OCS created \$68 billion in revenues for the federal treasury.<sup>i</sup>

Phase II of GOMESA began in federal fiscal year 2017, and the first checks arrived to States like mine in May of 2018. Thanks to a larger geography of leases eligible for revenue sharing, Phase II has produced \$402.9 million for Gulf States and Political Subdivisions in just two years. Of this \$402.9 million, Louisiana's share has been approximately \$177.6 million. Relative to the roughly \$8.1 billion in revenue collected from the entire Gulf of Mexico over the same two years,<sup>ii</sup> the rate of revenue sharing for Gulf States is around 5%. While this is a welcome and much needed improvement over the 0% shared before GOMESA, and the 0.07% shared during Phase I of GOMESA, we are still a long way from the 50% sharing of all revenues for inland producing states provided by the Mineral Lands Leasing Act of 1920. Additionally, the Mineral Lands Leasing Act of 1920 has no cap on the amount of federal funds that can be shared.

GOMESA is a critical funding stream for our efforts to implement the Coastal Master Plan. Louisiana, by constitutional amendment authored by Louisiana State Senator Reggie Dupre, and adopted through a state-wide vote in 2006, has committed all GOMESA funds to CPRA's trust fund to be spent exclusively on coastal protection and restoration activities. Now that we have entered Phase II of GOMESA and our receipts from GOMESA have increased, we are able to make stronger investments in Coastal Master Plan priority projects. In January of this year, our Governor pledged around \$300 million over the next three years to coastal projects contained in the Master Plan and supported strongly by local levee districts and parishes.

One project that is now able to move forward is the construction of a permanent closure structure across Bayou Chene in St. Mary Parish. During high water events on the Atchafalaya River, backwater flooding through Bayou Chene can impact portions of five parishes in south central Louisiana. Because of this danger, Bayou Chene has been closed in an emergency fashion during the floods of 2011, 2016, and again in this historic flood year. Before coastal Louisiana was threatened by Hurricane Barry, the emergency closure at Bayou Chene held back 1-2 feet of water from entering surrounding parishes that were already being impacted by high water from other directions. When Hurricane Barry pushed additional water up Bayou Chene, the structure prevented 4.5 feet of water from entering the region protecting people, assets, and infrastructure. GOMESA has allowed us to commit \$80 million for the construction of a permanent structure across Bayou Chene that can be opened and closed during emergencies rather than relying on temporary fixes.

GOMESA is also providing resources that CPRA is investing in levee systems in Terrebonne and Lafourche Parishes through a project known as "Morganza to the Gulf". This year Hurricane Barry brought storm surges of 9-11 feet to the Terrebonne and Lafourche areas, levels not seen since 2005 during Hurricane Rita. Thanks to state and local investment since 2005, numerous improvements have been made to the levee systems protecting these communities with dramatic effects. In 2005, Hurricane Rita resulted in the flooding of 11,000 homes. In Hurricane Barry, with a similar storm surge, only 12 homes flooded. GOMESA has allowed us to commit additional funds to further enhance the protection for this region of our coast.

In Texas, GOMESA funding has supported the development of the 2019 Texas Coastal Resiliency Master Plan, the second installment of their statewide plan to ensure that the ecology and economy of their coast is protected and promoted in a sustainable manner. This plan recommends 123 Tier 1 projects at a total cost of \$5.4 billion that include actions to restore and sustain beaches and dunes, protect coastal communities from storm surge, enhance rookery islands and oyster reefs, manage the delta, conduct watershed planning, and prevent coastal shoreline erosion and wetlands loss among others.<sup>iii</sup>

Coastal oyster resources have been a major focus of the State of Mississippi's GOMESA investments to date. Through its oyster plant project over 60 million oysters on shell or crushed concrete were placed into the Mississippi Sound to enhance the future growth of oysters. A second project added cultch material to repair a diminishing oyster population in Western Mississippi Sound, Eastern Mississippi Sound, and the Biloxi Bay areas. Earlier this year, Gov. Ivey of Alabama committed to 15 projects totaling \$28.7 million utilizing GOMESA funds.<sup>iv</sup> Among those projects are efforts to conduct research pertaining to algal blooms and sediment; recreational and public access improvements, habitat protection; and education and stewardship.

Implementing coastal restoration and protection projects on the scale required to effectively mitigate the risk we face along the Gulf Coast and provide the foundation for future sustainability is extremely difficult, and GOMESA is an indispensable tool in that fight.

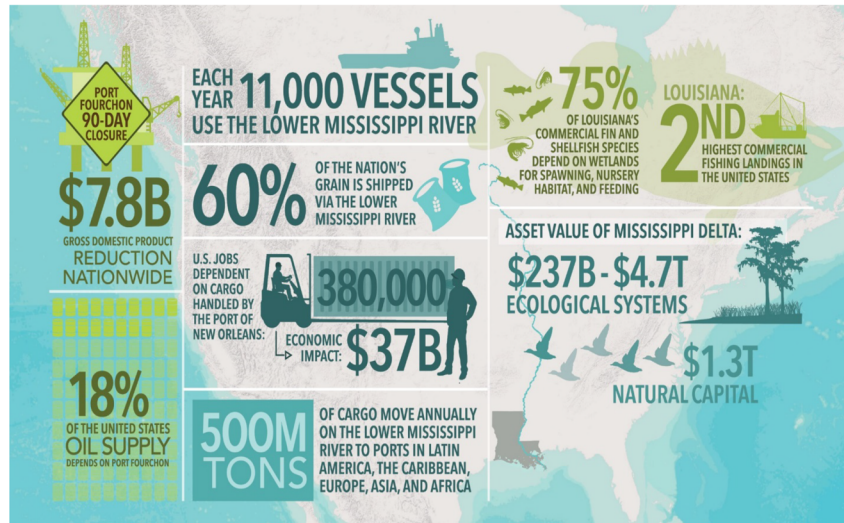
Madam Chairman, increasing the GOMESA revenues to be shared with the Gulf Coast is crucially important if Louisiana is to have the funds necessary to implement our ambitious plan to save our coast. This is the largest environmental restoration project in the nation and is likely to continue to be at least one of the largest for the next 50 years. Clearly, our coastal loss problem has been exacerbated by the activities across our coast that are necessary to support the federal offshore mineral development activity and the infrastructure needed to bring federal OCS oil and gas ashore. In addition to the sharing precedent created by the Mineral Lands Leasing Act of 1920, the federal government, we believe, has a responsibility to help us mitigate the damage to our state created by the federal mineral development occurring off our coast. We have no choice but to be a platform for this federal activity and we, of course, cannot tax the federal oil and gas that moves through our state in interstate commerce. Sharing a larger portion of the federal revenue derived from this activity off our coast will allow us to mitigate the onshore effects of that activity. Because of the restrictions in GOMESA, disbursements to Gulf States are about 5% of total federal OCS revenues compared to the 50% that inland states operating under the Minerals Leasing Act receive. We do not begrudge these states for those revenues or seek to reduce what they receive, but we do believe the contributions of the Gulf of Mexico and Gulf Producing States warrant the same or similar treatment by the federal government. Madam Chairman, I would like to draw your attention and the attention of the Committee to the graph that is attachment 2 of my testimony that shows the huge disparity in revenue sharing between the inland states and the gulf states.

Counties and parishes along the Gulf of Mexico that benefit from GOMESA have a population of 9.2 million people according to 2016 estimates of the Census Bureau.<sup>v</sup> Our coast is also home to vast energy and ecological resources and serves the entire nation as a crucial pathway for trade and commerce. The four gulf states that are adjacent to federal OCS oil and gas development are home to ten of the top twenty ports in the nation including four of the top five. Our region is a major leader in oil and gas development and pipeline transportation producing approximately 17% of the domestic supply



of crude oil and 5% of total U.S. dry natural gas production. We host over half of the country's oil refineries and service more than 90% of the nation's federal offshore energy production.

The Gulf of Mexico is simultaneously a natural treasure that is home to 15.6 million acres of wetlands that are crucial for 97%, by weight, of commercially harvested fish and shellfish caught by U.S. fishermen in the Gulf of Mexico. Additionally, our wetlands serve as buffers against storm damage and sea level rise for communities, provide habitat for birds and wildlife, improve water quality, and support the tourism, hunting, and fishing sectors of all of our economies.



Through the enhancements to GOMESA provided in the COASTAL Act you can empower states to make investments to protect the people, economy, and natural environment of the Gulf Coast. Rather than being a top down approach to mitigating coastal risk, GOMESA enables Gulf States to implement projects in areas and ways that we see fit. We can build levees where the risk is highest, not just in the location of the last flood. We can fund nature-based defenses. And we can spend to elevate homes or repair critical infrastructure directly damaged by land loss. This is a funding stream that allows for the proactive mitigation of disaster risk and reduces the necessity, and far costlier injections of federal funds after a disaster.

America's economy is stronger and more energy-secure because of the resources on the Gulf of Mexico's Outer Continental Shelf (OCS). But without the communities and environments along the Gulf Coast these resources and the infrastructure that brings them to shore would be stranded. GOMESA is a funding stream that allows states on the Gulf Coast and counties and parishes to invest in their own resilience. A more equitable distribution of qualified OCS revenues, like those provided in the COASTAL Act, would allow the nation to continue to benefit from the energy resources off our coast while allowing us to address proactively a national crisis and looming liability through investments in the

restoration and fortification of coastal ecosystems and flood protection systems. In the end, the best way to protect America's energy resources is to restore and protect the coastlines that are home to those resources.

## ENDNOTES

---

<sup>i</sup> Natural Resources Revenue Data. Revenues from federal offshore, offshore Gulf of Mexico, all commodities from Fiscal Years 2007 to 2016. <https://revenue.data.doi.gov/explore/revenue/>

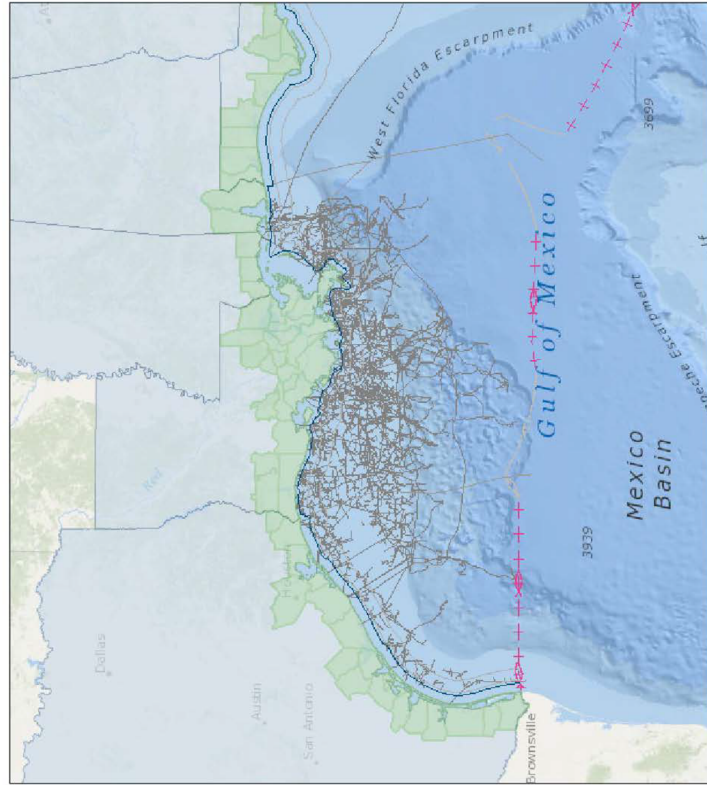
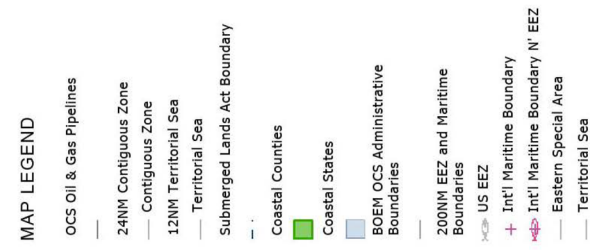
<sup>ii</sup> Natural Resources Revenue Data. Revenues from federal offshore, offshore Gulf of Mexico all commodities from Fiscal Years 2017 and 2018. <https://revenue.data.doi.gov/explore/revenue/>

<sup>iii</sup> <https://glo.maps.arcgis.com/apps/Cascade/index.html?appid=fe70f162c30b4531ae01ce0f8c96a790>

<sup>iv</sup> "Governor Ivey Announces Initial Approval of GOMESA Projects." Office of the Governor. May 17, 2019.

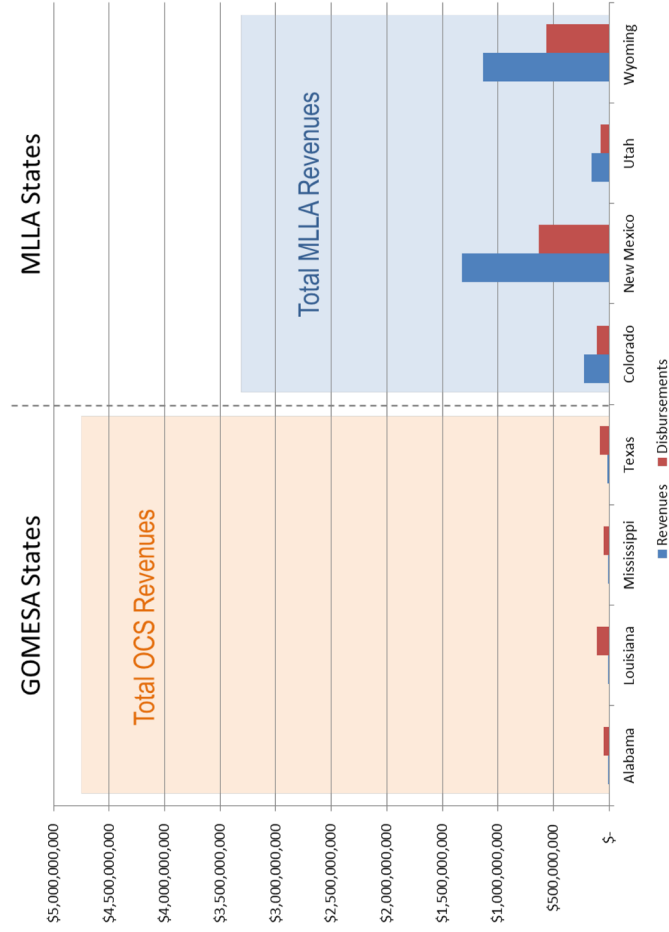
<https://governor.alabama.gov/press-releases/governor-ivey-announces-initial-approval-of-gomesa-projects/>

<sup>v</sup> <https://www.census.gov/library/stories/2018/08/coastal-county-population-rises.html>



## Federal Mineral Revenue Sharing

FY 2018



NOTE: The data used in this graph is from the web site of the Office of Natural Resources Revenue (ONRR) of the Department of the Interior. The Gulf of Mexico revenue is the total revenue derived from federal oil and gas development off the coasts of the GOMESA states. Individual state data is not provided on the ONRR web site. MLLA state revenue is presented by state on the ONRR web site.

July 12, 2019

The CHAIRMAN. Thank you, Mr. Kline.  
Mr. Luthi, welcome.

**STATEMENT OF RANDALL LUTHI, CHIEF ENERGY ADVISOR,  
OFFICE OF GOVERNOR MARK GORDON (WYOMING)**

Mr. LUTHI. Thank you very much and I appreciate the kind introduction of Senator Barrasso but it did make me realize that when I probably first started my dealings with your Committee, I was much taller and my hair was much browner but it's always good to be here.

Good morning, Madam Chairman Murkowski, Ranking Member Manchin and members of the Committee. I'm Randall Luthi, Chief Energy Advisor for Governor Gordon. On behalf of the Governor, thank you for the opportunity for me to meet with you and discuss with you some of my favorite things which are Wyoming, energy and revenue sharing. Governor Gordon sends his best regards and he is appreciative of the Committee's efforts to work with the states.

Wyoming is an energy producing state. Wyoming ranks third in total energy production. It ranks eighth in both oil and natural gas production. The oil and gas industry is the single largest economic driver in the state with the contribution of more than \$5 billion to the annual GDP and supplies over 46,000 jobs. Wyoming is the number one producer of coal supplying approximately 40 percent of the nation's coal supply, employs over 5,000 people and provides 11 percent of the nation's electricity.

Now, while this isn't a topic of today's hearing, coal should remain an important part of that energy mix and we can do that through CO<sub>2</sub> reducing technologies such as carbon capture. On the non-traditional side, Wyoming has several wind farms and a commercial scale solar installation. Plans are underway to build one of the largest wind farms in the world in Southern Wyoming. In total, Wyoming exports 300 trillion BTUs of energy every year.

Now the preferred energy fuel source for electricity is changing. And while I am concerned that the "Black Friday" like stampede toward non-traditional sources will likely actually result in Black-Out Fridays, the future is clear. There's going to be more solar and wind. Recently, a large utility company revealed its resource plan which included early and untimely closure of Wyoming coal-fired plants. The replacement power will be 1,800 megawatts of solar and about 2,000 megawatts of wind, most of which will be built in Wyoming.

Governor Gordon believes that a broad array of energy resources is the best guarantee for a consistent, reliable and affordable electricity delivery system. We plan to continue our legacy as an energy leader and enjoy a good neighbor relationship with the Federal Government. The Public Land Renewable Energy Development Act is a good base upon which to maintain and enhance that good neighbor relationship.

Thank you, Senator McSally, thank you, Senator Heinrich, for introducing the bill. We do have a few minor suggestions.

We suggest that the language be clarified that when the Secretary determines the most appropriate areas that that come only after good faith consultation with the states. Said consultation

should be more than just a check of the box function and, of course, preferably through the Office of the Governor. Grandfathering projects that are not completed but have based their business model on current fees and taxes is also very important. We appreciate the bill's efforts to do so.

While solar and wind projects are considered renewable, the habitat impacts are not remote, they're a real cost to state and local governments. Per megawatt their footprint is far larger than coal, gas or nuclear power plants. Solar installations result in a single use of large swaths of land. Governor Gordon recognizes that roughnecks, engineers, hunters, four-wheel enthusiasts and true environmentalists are often the same person or at least in the same family. Multiple uses of public land has great support in Wyoming.

At the end of their life decommissioning of renewable energy projects often result in non-useable blades being taken to landfills, long periods of attempted regrowth, and disposal issues for batteries. Over the life of the projects the job and tax revenue connected with these projects do not compare with the number of jobs and tax available through traditional sources of energy. Thus, the revenue sharing portions of the bill is very key.

Wyoming is not new to revenue sharing. The current revenue sharing is 48 percent which I very subtly point out should be 50 percent—subtle, let me underline subtle there—and it was actually introduced by former Senator Cliff Hansen. New Mexico and Wyoming are usually the largest recipients. New Mexico received \$1 billion recently and Wyoming over \$640 million. Something is a little wrong with that picture, but we can talk about that another time.

The Committee should consider a revenue sharing formula identical to the current oil and gas formula or could do so. The earmarking at 35 percent of the fund to account for habitat promotion for hunting and fishing is great, and we suggest the best distribution mechanism would be directly to local and state organizations. If a new federal program is established, it's very likely those funds will not only miss the bullseye, but the entire target of what works.

As an example, the Wyoming Wildlife Trust Fund has been in existence for 15 years. It does projects like underpasses and overpasses over highways so wildlife is able to avoid traffic all together. It also provides revenue sharing with other programs in cooperation with Wyoming landowners and other landowners. Existing programs such as Partners for Fish and Wildlife also have a good record of working with the states and they are usually underfunded. They should be considered in the distribution scheme. In addition, any development or land disturbance has unintended consequences and generally that refers to the introduction of invasive species. So it's important to allow maximum flexibility, whatever the distribution plan, to allow funds to the local solutions such as control of invasive species.

In summary, Governor Gordon generally is supportive of the proposed legislation and looks forward to working with all of you as it goes forward.

Thank you very much.

[The prepared statement of Mr. Luthi follows:]

*Randall Luthi*  
*Chief Energy Advisor*  
*Governor Mark Gordon, Wyoming*

TESTIMONY BEFORE THE SENATE ENERGY AND  
NATURAL RESOURCES COMMITTEE  
NOVEMBER 7, 2019

MADAM CHAIRMAN MURKOWSKI, RANKING MEMBER MANCHIN, MEMBERS OF THE COMMITTEE, I'M RANDALL LUTHI, CHIEF ENERGY ADVISOR FOR GOVERNOR MARK GORDON. ON BEHALF OF THE GOVERNOR, THANK YOU FOR THE OPPORTUNITY TO MEET WITH YOU AND DISCUSS A FEW OF MY FAVORITE THINGS: WYOMING, ENERGY AND REVENUE SHARING. MY COMMENTS WILL FOCUS ON THE WIND AND SOLAR PORTIONS OF THE PROPOSED BILL S. 2666.

GOVERNOR GORDON SENDS HIS BEST REGARDS AND IS MOST APPRECIATIVE OF THE COMMITTEE'S EFFORTS TO WORK WITH THE STATES ON THIS AND A VARIETY OF OTHER ISSUES.

WYOMING IS AN ENERGY PRODUCING STATE. OF THE STATES, WYOMING IS THIRD IN TOTAL ENERGY PRODUCTION. IT RANKS 8TH IN BOTH OIL AND NATURAL GAS PRODUCTION. IN 2017, WYOMING PRODUCED 88 MILLION BARRELS OF CRUDE OIL, THE HIGHEST PRODUCTION IN 25 YEARS. MUCH OF THAT NEW PRODUCTION IS DUE TO FRACKING. IN 2018, 78 PERCENT OF THE OIL AND GAS PERMITS APPROVED WERE FOR HORIZONTAL WELLS.

THE OIL AND GAS INDUSTRY IS THE SINGLE LARGEST ECONOMIC DRIVER IN THE STATE, WITH A CONTRIBUTION OF OVER \$5 BILLION TO THE ANNUAL GDP. OIL AND GAS PROVIDES OVER 46,000 WYOMING JOBS.

WYOMING IS THE NUMBER ONE PRODUCER OF COAL, SUPPLYING APPROXIMATELY 40% OF THE NATION'S COAL, SHIPPING TO 26 OTHER STATES. WYOMING COAL EMPLOYS OVER 5000 PEOPLE AND PROVIDES 11% OF THE NATION'S ELECTRICITY.

ON THE NON-TRADITIONAL SIDE, WYOMING IS HOME TO SEVERAL WIND FARMS, AND AT LEAST ONE COMMERCIAL SCALE SOLAR INSTALLATION. PLANS ARE UNDERWAY TO BUILD ONE OF THE LARGEST WIND FARMS IN THE WORLD IN SOUTHERN WYOMING.

WYOMING EXPORTS 300 TRILLION BTUS OF ENERGY EVERY YEAR.

NO SURPRISE TO ANY OF YOU HERE, THE PREFERRED ENERGY FUEL SOURCE FOR ELECTRICITY IS CHANGING. WHILE I AM CONCERNED THAT THE "BLACK FRIDAY" LIKE STAMPEDE TOWARDS ONLY NON-TRADITIONAL FUELS WILL LIKELY RESULT IN ACTUAL BLACK-OUT FRIDAYS, THE TREND IS MORE SOLAR AND WIND GENERATED POWER SOURCES. JUST A FEW WEEKS AGO, A LARGE UTILITY COMPANY REVEALED ITS RESOURCE PLAN, WHICH INCLUDED EARLY AND UNTIMELY CLOSURE OF WYOMING COAL FIRED PLANTS. THE REPLACEMENT POWER WILL BE 1800 MEGAWATTS OF SOLAR AND ABOUT 2000 MEGAWATTS OF WIND - MOST OF WHICH TO BE BUILT IN WYOMING.

GOVERNOR GORDON BELIEVES A BROAD ARRAY OF ENERGY SOURCES IS THE BEST GUARANTEE OF A CONSISTENT, RELIABLE AND AFFORDABLE ELECTRICITY DELIVERY SYSTEM. WHILE NOT A TOPIC OF TODAY'S HEARING, COAL SHOULD REMAIN AN IMPORTANT PART OF THAT MIX. THAT IS POSSIBLE THROUGH CO2 REDUCING TECHNOLOGIES SUCH AS CARBON CAPTURE.

WYOMING IS ABOUT 48% FEDERALLY OWNED. DUE TO THE AMOUNT OF OPEN LAND AVAILABLE, WIND AND SOLAR DEVELOPERS WILL LOOK TO FEDERAL LANDS UPON WHICH TO PLACE NEW PROJECTS. GOVERNOR GORDON RECOGNIZES THAT



ROUGHNECKS, WIND ENGINEERS, HUNTERS, 4-WHEEL ENTHUSIASTS AND TRUE ENVIRONMENTALISTS ARE OFTEN THE SAME PERSON. MULTIPLE USES OF PUBLIC LAND HAS GREAT SUPPORT IN WYOMING.

WE PLAN TO CONTINUE OUR LEGACY AS AN ENERGY LEADER AND LOOK FORWARD TO A COOPERATIVE, GOOD NEIGHBOR RELATIONSHIP WITH THE FEDERAL GOVERNMENT AND THE WISE, EFFICIENT DEVELOPMENT OF ENERGY SOURCES.

THE PUBLIC LANDS RENEWABLE ENERGY DEVELOPMENT ACT IS A GOOD BASE UPON WHICH TO MAINTAIN AND ENHANCE THAT GOOD NEIGHBOR RELATIONSHIP. THANK YOU, SENATORS MCSALLEY AND HEINRICH FOR DRAFTING THE BILL.

WE HAVE A FEW MINOR SUGGESTIONS. I SUGGEST THE LANGUAGE BE MODIFIED SO THAT THE SECRETARY DETERMINES THE MOST APPROPRIATE AREAS FOR DEVELOPMENT ONLY AFTER GOOD FAITH CONSULTATION AND COOPERATION WITH THE STATES. SAID CONSULTATION SHOULD BE MEANINGFUL, NOT JUST A CHECK THE BOX FUNCTION, PREFERABLY THROUGH THE OFFICE OF THE GOVERNOR. SUCH COOPERATION WILL REDUCE CONFLICTS WITH CURRENT USES OF PUBLIC LANDS, WHETHER THAT BE RECREATIONAL, WILDLIFE HABITAT, GRAZING, SCENIC OR OTHER ENERGY AND MINERAL DEVELOPMENT.

GRANDFATHERING PROJECTS THAT ARE NOT COMPLETED, BUT HAVE BASED THEIR BUSINESS MODEL ON CURRENT FEES AND TAXES IS ALSO VERY IMPORTANT. WE APPRECIATE THE BILL'S EFFORTS TO DO SO.

WHILE SOLAR AND WIND PROJECTS ARE CONSIDERED RENEWABLE AND LESS COSTLY TO THE UTILITY COMPANY, THE HABITAT IMPACTS ARE NOT RENEWABLE. THERE ARE REAL COSTS TO STATE AND LOCAL GOVERNMENTS. PER MEGAWATT, THEIR

FOOTPRINT IS FAR LARGER THAN COAL, GAS OR NUCLEAR POWER PLANTS. THAT LARGER FOOTPRINT HAS THE POTENTIAL TO IMPACT EXISTING MULTIPLE-USES, INCLUDING, BUT NOT LIMITED TO, VITAL SAGE GROUSE HABITAT, BIG GAME MIGRATION CORRIDORS, BAT POPULATIONS, EAGLES, OTHER RAPTORS AND RECREATION.

FOR EXAMPLE, SOLAR INSTALLATIONS RESULT IN SINGLE USE OF LARGE SWATHS OF LAND.

AT THE END OF THEIR LIFE, DECOMMISSIONING OF RENEWABLE ENERGY PROJECTS OFTEN RESULT IN NON-REUSABLE BLADES BEING TAKEN TO LANDFILLS AND LONG PERIODS OF ATTEMPTED REGROWTH AND DISPOSAL ISSUES OF BATTERIES.

ON THE ECONOMIC SIDE, ONCE THE CONSTRUCTION IS COMPLETE, THE JOBS AND TAX REVENUE CONNECTED WITH THESE PROJECTS DO NOT COMPARE WITH THE NUMBER OF JOBS AND THE AMOUNT OF TAX REVENUE FROM MOST TRADITIONAL SOURCES OF ENERGY.

THUS, THE REVENUE SHARING PORTION OF THE BILL IS KEY TO ITS SUCCESS.

WYOMING IS NOT NEW TO REVENUE SHARING. THE CURRENT REVENUE SHARING OF 49% (WHICH I SUBTELEY POINT OUT SHOULD BE 50%) WAS ESTABLISHED BY FORMER WYOMING SENATOR CLIFF HANSEN. NEW MEXICO AND WYOMING ARE USUALLY THE LARGEST RECIPIENTS OF THE SHARED ONSHORE BIDS, RENTS AND ROYALTIES. JUST LAST WEEK, NEW MEXICO RECEIVED OVER \$1 BILLION AND WYOMING OVER \$640 MILLION.

THE COMMITTEE COULD CONSIDER A REVENUE SHARING FORMULA IDENTICAL TO THE CURRENT OIL AND GAS FORMULA.

THE EARMARKING OF 35% TO FUND THE CONSERVATION OF HABITAT AND PROMOTION OF RECREATION SUCH AS HUNTING AND FISHING IS VERY COMMENDABLE. WE SUGGEST THAT THE BEST DISTRIBUTION MECHANISM BE DIRECTLY TO LOCAL AND STATE ORGANIZATIONS. IF A NEW FEDERAL PROGRAM IS ESTABLISHED, THOSE FUNDS WILL LIKELY NOT ONLY MISS THE BULLS-EYE, BUT THE ENTIRE TARGET OF WHAT WORKS. LOCAL AND STATE ORGANIZATIONS KNOW WHAT IS NEEDED AND WHAT IS IMPORTANT TO THEM.

FOR EXAMPLE, THE WYOMING WILDLIFE TRUST FUND HAS BEEN IN EXISTENCE FOR ALMOST 15 YEARS. IT HAS A PROVEN TRACK RECORD OF PROJECTS THAT MAKE A DIFFERENCE. FOR EXAMPLE, THIS FUND HAS BEEN USED TO CONSTRUCT HIGHWAY UNDER AND OVER PASSES, WHICH ALLOW WILDLIFE TO COMPLETELY AVOID TRAFFIC, AND HABITAT PROGRAMS THAT LEVERAGE OTHER FUNDS RESULTING IN MAXIMUM BENEFIT AND PROMOTE COOPERATION WITH PRIVATE LANDOWNERS.

EXISTING PROGRAMS SUCH AS PARTNERS FOR FISH AND WILDLIFE HAVE A GOOD RECORD OF WORKING WITH THE STATES AND ARE USUALLY UNDER-FUNDED. THAT EXISTING PROGRAM SHOULD BE CONSIDERED IN THE DISTRIBUTION PLAN.

IN ADDITION, ANY DEVELOPMENT AND LAND DISTURBANCE HAS UNINTENDED CONSEQUENCES, INCLUDING, BUT NOT LIMITED TO INTRODUCTION OF INVASIVE SPECIES. IT IS IMPORTANT TO ALLOW MAXIMUM FLEXIBILITY, WHATEVER THE DISTRIBUTION PLAN, TO ALLOW FUNDS FOR LOCAL SOLUTIONS SUCH AS CONTROL OF INVASIVE SPECIES.

IN SUMMARY, GOVERNOR GORDON IS GENERALLY SUPPORTIVE OF THE PROPOSED LEGISLATION AND LOOKS FORWARD TO WORKING WITH YOU TO ASSURE MEANINGFUL COORDINATION AND A FAIR REVENUE DISTRIBUTION.

I AM HAPPY TO ATTEMPT TO ANSWER ANY QUESTIONS.

The CHAIRMAN. Thank you, Mr. Luthi. Thank you all for your comments this morning and your input to this very important conversation.

Mayor Brower, I so appreciate you giving the detail of the history that we have seen in Alaska and, most particularly, up in our North Slope with the federal ownership of lands and how those lands, whether it was within NPR-A or over on the Eastern side in the wildlife refuge area where, effectively, the Federal Government came in without much discussion to those that have lived there for generations, for thousands of years, and determined that these federal lands would be available for the Federal Government with no sharing with the people within the regions.

As you have pointed out, this measure that we have in front of us today is, in part, to help address that lack of parity, that lack of sharing and to recognize some of the challenges that a borough like the North Slope Borough faces. You have shared with us by way of comparison the size that you are dealing with—eight villages across an area of 600 miles. The National Petroleum Reserve, the size of the State of Maine, the 1002 area within ANWR, or excuse me, the ANWR area the size of the State of California.

When you think about how services are provided, each one of those eight communities is an isolated community. There is no road, as we all know, connecting the eight, so that you have any level of efficiencies. Everything from search and rescue to the power generation within the communities, the transportation facilities, small airstrips, everything has to be unique and really self-contained. These are truly islanded communities and as such, being in the part of the state, the part of the country that they are, very, very expensive.

You have outlined very briefly some of the benefits that revenue sharing can help provide, everything from the operation of clinics to schools to water and sewer to police and public safety to a tribal college to emergency services. Can you share some of the threats that you are seeing from an infrastructure perspective across the Borough due to the coastal and erosion issues that you effectively have to respond to because they are threatening the people within the communities? And share with us how the Borough deals with the cost of providing for these infrastructure upgrades or whatever may be needed to help facilitate these communities to remain safe in their homes.

Mr. BROWER. Thank you, Chairman Murkowski. I think these are very important subjects to cover as you have identified in the oral comments and in the written comments provided. The areas I could immediately start communicating on is the coastal erosion that's really prevalent in our coastal communities—Point Hope, Wainwright, Barrow, Kaktovik.

We're losing land to the ocean because of the continuous wave action, coastal erosion, the less ice presence is causing more coastal erosion in an accelerated pace. The funds that the Borough provides for these measures to try to protect the communities is very costly, in the millions, millions of dollars that we provide to these communities to build up a small sea wall for the time that it's being impacted from the small storms. We have a sea wall that we built out of these super sacks, that's what we identify them as, as

we learned them in the use by the industry to build their islands and filling them with gravel to retain that gravel and minimizing the effect of coastal erosion to several of our villages.

So these are things that—and extracting gravel to fill those sacks is very costly, and placing these sacks in the areas of importance. We've had a military base up in Utqiagvik, the Naval Arctic Research Lab was provided, had a station there and based out, several miles out of the community. It even had a large landfill that it had developed to put its waste into this landfill over time, debris of all sorts and hazardous waste, in a sense, that were placed in this landfill. Now that landfill is near encroachment of the coastal erosion, constantly, constantly getting closer. Madam Chair, I was in your office several years ago about the observations that we were dealing with in terms of that. If that ever gets exposed and breaches that site, there's contamination to the Arctic Ocean and significant issues will arise from that breach of that landfill site. And it's a military site. It's very important to continue that conversation, but we do not quite have the resources to identify, to help minimize that coastal erosion impact that's all along down our North Slope coastline.

We hope—

The CHAIRMAN. Well, Mayor, my time is expired. But what you are speaking to is a very, very present threat. This is not something that could be expected decades from now.

Mr. BROWER. Yeah.

The CHAIRMAN. But the impact to the waste site, what we have seen with the threat to the water and sewer infrastructure—

Mr. BROWER. Yes.

The CHAIRMAN. —there in Utqiagvik.

My Ranking Member here, Senator Manchin, was with me in Utqiagvik and knows that that airstrip is not the original strip. This is a new runway that has had to be built because of the coastal erosion there.

I will come back for a second round and we will have further discussion on this, but these are very important to put on the record.

Senator Manchin.

Senator MANCHIN. Thank you, Madam Chairman. Thank you, all, again.

This question would probably be to Mr. Gould and maybe Ms. Comay could speak on this and then I will have other questions too.

Both the Mineral Leasing Act and the Outer Continental Shelf Lands Act were put in place to establish leasing systems for resource extraction on our federally-managed public lands. Both bills establish royalties and other requirements to ensure our public lands are not a total free-for-all, and these resources can be made available at times of national need. I understand all of that.

My question would be, with that in mind, if you all could speak to what the reasoning was for giving the states a 50 percent share in the Mineral Leasing Act compared to the 37.5 percent for GOMESA? As a public policy you might be able to tell me a little more about that.

Mr. GOULD. I was not privy to those discussions, obviously, and what we do at ONRR is we ensure that whatever that law says,

we will collect and disburse appropriately according to those laws. The underlying reasoning for why those laws were passed or how that came about, that's not something that we are involved in or were involved in, so——

Senator MANCHIN. Do you have any comment on the fairness of that or the inequality or equality of that?

Mr. GOULD. I don't have any comment on that, no, not from my position as Director of ONRR.

Senator MANCHIN. Gotcha.

Ms. Comay?

Ms. COMAY. So Senator, the question about the Mineral Leasing Act would probably be better for some of my colleagues who cover the onshore energy side to address.

In terms of GOMESA's provisions for the 37.5 percent revenue share, as is the case today, some of the issues that were debated at that time are some of the ones that we've talked about. On the one hand, the environmental impacts to coastal states of hosting offshore development and the investments that they make in infrastructure. On the other hand, the position of some that the fact that the waters are not in the state would make a difference in terms of the type of revenue sharing that might occur.

Senator MANCHIN. Okay.

Mr. Kline, you might be able to answer this one for me. I understand the Coastal Master Plan was created to help restore coastlines in your state through coordinating—I have spent some time in your state, and I enjoyed it very much. Under the Louisiana State Constitution, all the funds that the state receives under GOMESA go toward the Coastal Master Plan, I understand. Are GOMESA funds the only federal funds that are going toward projects under Louisiana Coastal Master Plan or do you all have state funds matching it or how do you handle that?

Mr. KLINE. Yes, sir.

So currently the only recurring source of revenue that we receive from the Federal Government comes from the Gulf of Mexico Energy Security Act. We do have state funds, state revenues that are also derived from mineral production on state lands and state water bottoms as well as the last three years, the State of Louisiana has run budget surpluses and the Governor has allocated state dollars to the Coastal Trust Fund for hurricane protection and coastal restoration projects across our coast.

Senator MANCHIN. Is there a certain amount on an annual basis, like your GOMESA fund, that all goes toward that I understand, but does the state match up or try to match each year as much as possible or just what they have available?

Mr. KLINE. As much as we can, yes, sir.

Historically, that's typically about \$35 million per year depending on the production on state land and state water bottoms, but again, as I've mentioned, in addition to the mineral revenues derived on state lands and state water bottoms, we have, last year, Governor Ebberts allocated an additional \$55 million in state dollars and this year we have been asked to put together a proposal of up to \$120 million for hurricane protection and coastal restoration projects across our coast.

Senator MANCHIN. Mr. Gould, I am concerned about the unnecessary venting and flaring, I think you heard me in my opening statement, of methane from oil and gas operations on public lands. And as I have said, these are public resources and when it is vented or flared, the taxpayers lose out and so does the environment. Pound for pound, the comparative impact of methane is more than 25 times greater than carbon dioxide over a 100-year period. So what steps is the Department of the Interior taking to reduce the unnecessary flaring?

Mr. GOULD. So from the environmental impacts, I can't speak to that, that would be done by the Bureau of Land Management when they work with the companies on that.

Senator MANCHIN. Well, you know it is not healthy, right? I mean, it is just common sense that it is not healthy.

Mr. GOULD. Of course.

Senator MANCHIN. Okay.

Mr. GOULD. And the revenue part of it though, is something that we do work closely with the Bureau of Land Management on, and we work with them to do analysis of whether or not it's avoidably lost or not.

Senator MANCHIN. Do you have any estimation on how much we are losing, how much is being flared on federal lands?

Mr. GOULD. Right now, we don't but we are working closely with the Bureau of Land Management to get those numbers so that we can accurately collect it—

Senator MANCHIN. Could you get that? That doesn't seem like a hard number to get because you don't have much production and we know how much flaring, based on production, so that would not be hard to calculate.

Mr. GOULD. We're working with them on those numbers. They have to go through and see what is avoidable and not in the production process. So those numbers have to be backed out.

Senator MANCHIN. What timeframe do you think, maybe, we could get those answers?

Mr. GOULD. We are working with them right now and we're hoping to have those answers here soon.

Senator MANCHIN. Okay, well, let's say, by the end of the month?

Mr. GOULD. I'll work with BLM to see what we can do about getting—

Senator MANCHIN. Okay, I will have one of my staff members work directly with you, sir.

Mr. GOULD. We'd be happy to work with the Committee on that.

Senator MANCHIN. Thank you.

The CHAIRMAN. Thank you.

Senator Cassidy.

Senator CASSIDY. Mr. Kline, I will be speaking with you.

First, again, obviously we are in the Senate, and we always want to stick up for our home state and so everybody says that your state's problems are unique and of national significance. But in this case, I think, I am being more than a homer, I think I have actually got something to say to that and you can give chapter and verse. But as I understand, we have lost land in Louisiana relative to sea level rise greater than the entire State of Delaware.

I think I also know the Central Gulf has the greatest amount of elevation loss, relative sea level rise, in the entire nation. So Grand Isle, a barrier island off our coast, for example, has lost, I think, is it nine feet or six feet of elevation?

Mr. KLINE. Approximately eight feet, in between there, yes, sir.

Senator CASSIDY. Yes, eight feet. Whereas the Florida coastline and Pensacola has been in the order of inches. Now this is, in part, in large measure because of the levying of the Mississippi River after the 1927 flood and—what is John's last name, the guy that wrote "Rising Tide"?

Mr. KLINE. John Barry.

Senator CASSIDY. John Barry—I hate to say that, this week was us playing Alabama—but, you know, about how that was done for the benefit of inland ports.

Now, all that said, let me also complement you because when Sheldon Whitehouse, our colleague from Rhode Island, came down, he said that our Coastal Master Plan was the best developed of any state in the nation. I know that has been going under three administrations at least, but just congratulations to the State.

Now, all that to say, let's establish that this is not just of local or regional significance, but also of national. Can you tell us what national energy assets would be affected should we continue to have unabated coastal loss?

Mr. KLINE. First of all, Senator, Go Tigers, big game this weekend.

Senator, whenever we talk about the national economic assets that are housed in Coastal Louisiana, I always like to start with Port Fourchon. Port Fourchon is on the front lines of coastal erosion and land loss in our state. It is a port that services 90 percent of the oil and gas production in the Gulf of Mexico.

You also have the Louisiana Offshore Oil Port which transports 70 percent of the oil produced in the Gulf of Mexico. We have two sites in coastal Louisiana which serve as our strategic—housing for our Strategic Petroleum Reserves which house hundreds of millions of barrels of oil for emergency situations in our coast and, excuse me, across our country. Our LNG facilities rank fourth in the entire globe. We have major refineries across coastal Louisiana that refine the material that is produced on and off the coast.

Senator CASSIDY. By the way, if you include the coastal area on the Mississippi River, I would guess that in the United States there is no higher concentration of those making the refined plastics and petroleum products that we need to create jobs and power in modern economy.

Mr. KLINE. That is exactly right, Senator, yes.

Senator CASSIDY. So, and that is leading off, if you will, I think after Alaska, we have the greatest amount of seafood production in the United States as well.

Then let me ask you this, because you will know this. What is the general flood elevation in the region of our state where these energy assets and seafood industries are located?

Mr. KLINE. So flood elevations vary across our coast, Senator, but typically, the flood elevation across coastal Louisiana is just above five feet above sea level. Now there are areas across our coast where, for example, the City of New Orleans, that is probably close



to five feet below sea level. And so, the risk, as a result of those elevations, is that our coastal communities, if we experience a hurricane similar to the one of Hurricane Katrina or Hurricane Rita, our coastal communities could see a storm surge of anywhere from 1 to 15 feet.

Senator CASSIDY. Now if you rebuild coastline and you have those wetlands, if you will, as a bumper against that Cat 4 hurricane coming on shore——

Mr. KLINE. Yes, sir.

Senator CASSIDY. ——how does that help diminish the impact of that hurricane?

Mr. KLINE. So coastal restoration and hurricane protection go hand in hand. When you restore the natural environment, your natural buffer, your natural wetlands and your marshlands and your ecosystems, you are taking the pressure off of your inland hurricane protection systems. So when we're restoring our environment, that is really our first line of defense in coastal Louisiana——

Senator CASSIDY. I remember some statistic for every mile of coastline you take a Cat 4 down to a Cat 3.

Mr. KLINE. Well, for every acre of wetland that you create or build, you knock down a storm surge by a certain percentage.

Senator CASSIDY. Now, let me ask because, well, folks may not be aware, but I am aware, that three of the largest ports in the nation by tonnage are in South Louisiana. So for the farmer in Iowa to get his goods to the rest of the world then, at a competitive price, it is the Port of New Orleans, the Port of South Louisiana, et cetera, that allows that to happen.

Mr. KLINE. Yes, sir. Five of the top 15 ports are housed in coastal Louisiana.

Senator CASSIDY. Five of the top 15.

Now, I may have to ask Senator Landrieu to whisper into your ear, but I think we spent about \$20 billion on Hurricane Katrina, right?

Mr. KLINE. I would say well north of \$20 billion in a government response to Hurricane Katrina was well over, I think, \$100 billion in total response.

Now the Hurricane Protection System that was built about the Greater New Orleans area was somewhere in the neighborhood of about \$14 billion that was invested in that area, responding to that disaster.

Senator CASSIDY. I am out of time, but let's just say that if we spent \$100 billion in response, but instead we can have enhanced restoration which, in turn, will decrease the potential need for another \$100 billion so that goods from Iowa can get around the world and that oil and gas can get from wherever to wherever, that would be a wise, pennywise, investment.

Thank you, Mr. Kline.

I yield back.

The CHAIRMAN. Thank you, Senator.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

It occurs to me in your conversation with the Mayor and then, obviously, with respect to Louisiana as well, I had a chance to look

at the coastal erosion in Kaktovik and that is a fairly new dynamic. And in all of this, I think it bears considering the very real climate impacts because sea level rise is accelerating. When you overlay the impacts that the lack of ice has had on that coastal erosion, this is going to continue to accelerate and we are going to have to figure out how to deal with not only communities on the coast, but as the Mayor said, a legacy of all sorts of hazardous materials that currently sit in low-lying areas, all sort of infrastructure associated with energy production that are in low-lying areas. And that's going to cost an enormous amount of money. And it's going to take an enormous amount of creativity.

Mr. Gould, you are the unfortunate target of my questions because we don't have a witness from the BLM here today, so you are the best thing we have from DOI.

The BLM's written testimony expresses opposition to the revenue sharing portion of the Public Land Renewable Energy Development Act because of "concerns with the potential long-term costs of diverting those from the Treasury."

Now, the cost of that I estimate based on recent numbers to be about \$22 million per year. Yet in your testimony on the COASTAL Act you did not express concern about the long-term costs of greater revenue sharing of offshore oil and gas revenues.

Do you know what the projected long-term costs are for the COASTAL Act? And this is not a commentary on whether we should do it or not do it. I think it is addressing some very real concerns, but do you know what it costs?

Mr. GOULD. I do not have those numbers and those numbers are numbers that are done with the Bureau of Ocean Energy Management. So they do the long-term estimates. They look at the economic impacts.

Senator HEINRICH. Do you know enough to know whether they would be greater than or less than the \$22 million per year?

Mr. GOULD. They'd be greater than that, yeah, potentially.

Senator HEINRICH. My estimate is that—

Mr. GOULD. Again, I don't know that—

Senator HEINRICH. Well, I guarantee it.

We need to get all these things scored, but I am estimating it at roughly \$1 billion a year. So \$10 billion over the course of a ten-year budget window. Why is the Administration not concerned about those costs?

Mr. GOULD. At this point, I think, the BLM written testimony expressed their concerns. And then from ONRR's perspective, what we do is we take what you all feel is the best way to disperse revenue and then we make sure that we collect every dollar due and then disburse it according to the law.

Senator HEINRICH. Right. Well, I only bring that up because I think that appears to me to also speak to the issue of fairness that Senator Cassidy has brought up.

I would love to ask you some more questions about why the BLM has been so slow to move forward on development. We have had this "Smart-from-the-Start" program. Maybe Senator Cortez Masto can address some of this because Nevada seems to be the only place where we have really seen some progress in terms of those areas of roughly 700,000 acres that were designated as high-poten-

tial, lower-impact zones for renewable energy development. We have seen some good progress in Nevada. We have not seen that kind of progress in other Western states, and I would love to know from the BLM, why?

And then I would just make the point as I think a number of people have referenced how New Mexico is currently going through quite an increase in production and you see that in the revenues flowing.

We are also seeing an enormous issue with methane. And it is very frustrating for me to see the Department of the Interior roll back its methane rule when NASA documented the practically state-sized cloud of methane over the San Juan Basin in New Mexico. So if we are going to produce these energy resources, we have a public health responsibility to the communities where they are produced. It is very frustrating for me to see, when we have had states, including Wyoming, including Colorado, that have had to step up and fill that vacuum because the Department of the Interior hasn't done it, to see those rules rolled back. And I will tell you that, as a result, New Mexico is in the process of moving forward on rules because the Department has simply not met their responsibility to public health.

The CHAIRMAN. Senator Heinrich, thank you.

Senator McSally.

Senator MCSALLY. Thank you, Chairwoman Murkowski and Ranking Member Manchin, for holding this hearing today in part to talk about my bill with Senator Manchin, the Public Land Renewable Energy Development Act, and this is a really important bill for Arizona.

Renewable energy, particularly solar, is an incredible opportunity for Arizona. As I have said before, we have an abundance of two things: sunshine and open space. But in a state where nearly 70 percent of our land is controlled by the Federal Government, burdensome federal permitting processes and not competitive prices severely restrict our renewable energy potential.

Our bipartisan bill institutes a commonsense improvement to the permitting process to expedite the approval of solar, wind and geothermal projects on public land parcels where the type of development makes sense from an environmental and economic perspective. Most important though is the bill ensures states and counties with massive federal footprints receive a fair share of the revenue from the renewable energy produced on the public lands surrounding their communities. A portion of the revenue will be dedicated to conservation activities which will improve wildlife habitats and public land access for outdoor recreation.

There is a multitude of benefits that our bill delivers and we brought together a very diverse coalition of support from industry, state and local governments and environmental and recreation stakeholders. I have a list of nearly 50 endorsements this bill has earned from these organizations, and I would like to submit this list and several letters of support into the record.

The CHAIRMAN. They will be included.

[List of endorsements and letters of support for S. 2666 follow.]

## Endorsements

### Public Land Renewable Energy Development Act of 2019

#### Industry:

American Wind Energy Association  
 American Sportfishing Association  
 EDF Renewables  
 First Solar  
 Large-Scale Solar Association  
 NextEra  
 Power Company of Wyoming  
 Solar Energy Industries Association  
 Southern Company

#### State and Local Government:

National Association of Counties  
 Western Governors Association

#### Conservation and Environmental

##### Organizations:

American Fly Fishing Trade Association  
 American Sportfishing Association  
 American Woodcock Society  
 Angler Action Foundation  
 Association of Fish and Wildlife Agencies  
 Backcountry Hunters & Anglers  
 Bass Anglers Sportsman Society (B.A.S.S.)  
 California Waterfowl Association  
 Clean Water Action  
 Delta Waterfowl  
 Environment America  
 Fly Fishers International  
 Great Old Broads for Wilderness  
 League of Conservation Voters  
 Montana Environmental Information Center  
 National Audubon Society  
 National Deer Alliance

National Wild Turkey Federation  
 National Wildlife Federation  
 Natural Resources Defense Council  
 North American Falconers Association  
 Outdoor Industry Association  
 Pope & Young Club  
 Public Lands Foundation  
 Quality Deer Management Association  
 REI  
 Ruffed Grouse Society  
 Sierra Club  
 Theodore Roosevelt Conservation  
 Partnership  
 Trout Unlimited  
 Union of Concerned Scientists  
 Western Landowners Alliance  
 Wild Salmon Center  
 The Wilderness Society  
 Wildlife Management Institute

The Honorable Alan Lowenthal  
United States House of Representatives  
108 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Paul Gosar  
United States House of Representatives  
2057 Rayburn House Office Building  
Washington, D.C. 20515

July 25, 2019

Dear Chairman Lowenthal and Ranking Member Gosar,

On behalf of the undersigned organizations, we write to thank you for your continued leadership and support of the bipartisan Public Land Renewable Energy Development Act, H.R. 3794. As conservation and clean energy organizations, we are committed to supporting continued deployment of responsibly developed renewable energy in this country. Our public lands offer some of the nation's best solar, wind and geothermal resources, yet they currently contribute less than 5% of our nation's renewable energy. The Public Land Renewable Energy Development Act creates the opportunity to tap into these valuable renewable resources in a responsible way to help power our nation while protecting our natural and cultural heritage.

As with any development, not all areas are appropriate for renewable energy. This bill works to incentivize development in lower-conflict priority areas, while ensuring impacts to wildlife and habitat are avoided and minimized. This bill uses upfront planning and careful siting to identify appropriate areas for wind, solar and geothermal energy. As a result, not only does planning ahead improve the permitting time of projects while limiting impacts, the establishment of a Renewable Energy Coordination Office will help make more efficient permitting possible.

The Public Land Renewable Energy Development Act makes a strong commitment to ensure natural resource conservation is done in concert with building new infrastructure, while local communities receive economic benefits from development. Establishing a conservation fund will help restore and protect fish and wildlife habitat, help connect Americans to the outdoors and support local stewardship projects on our public lands. Putting revenue already collected from renewable energy to work for this purpose will link conservationists, recreationists and the renewable energy industry together. By creating this new fund, renewable energy will not only provide the pollution-free energy we need, it will create financial resources to improve the quality of our parks, rivers and trails.

This legislation is what our country needs as we transition to a clean energy future. As we shift away from fossil fuels, we must also shift how we site the energy we need and provide increased economic opportunity for communities currently dependent upon fossil fuel production and/or traditionally marginalized from economic opportunity.

We look forward to working with you on this legislation and appreciate your continued support.

Sincerely,

Clean Water Action  
Environment America  
Great Old Broads for Wilderness

League of Conservation Voters  
Montana Environmental Information Center  
National Audubon Society  
National Wildlife Federation  
Natural Resources Defense Council  
Sierra Club  
The Wildemess Society  
Union of Concerned Scientists

Cc: The Honorable Mike Levin



July 22, 2019

The Honorable Paul Gosar  
2057 Rayburn House Office Building  
Washington, DC 20515

The Honorable Mike Levin  
1626 Longworth House Office Building  
Washington, DC 20515

Dear Representatives Gosar and Levin,

On behalf of the Large-Scale Solar Association, I am writing in support of the Public Land Renewable Energy Development Act. The Large-Scale Solar Association is a non-partisan advocacy organization dedicated to supporting policy mechanisms that enable greater market penetration of utility-scale solar energy technologies. This legislation establishes a more stable, fair, and well-resourced approach to developing large-scale solar energy facilities on federal lands. Reducing the delays and uncertainty associated with the current permitting process will drive higher investment in large-scale solar energy projects on public land. In addition, this bill makes important reforms to the Bureau of Land Management's (BLM) approach to leasing land for renewable energy projects in order to make federal public lands cost-competitive with similar private land. This bill contains many provisions that will drive stronger investment in large-scale solar energy projects resulting in greater job creation, more competitive electricity prices, and reduced greenhouse gas emissions.

Solar energy is one of the lowest cost energy resources available today and is becoming an increasingly important part of America's energy mix. Today there are 242,000 million Americans employed in solar energy—compared with 93,000 in 2010. Currently, there are over 25,000 megawatts of large-scale solar energy in operation in the United States. As of March, of this year, BLM has approved 27 solar projects totaling approximately 10,000 megawatts of installed capacity on BLM administered land. Over the past decade solar energy technology has improved with higher efficiency and lower costs. Public lands are ideal for responsible solar energy development especially as demand for solar energy is growing in Western states where large proportions of the land are federally administered.

In order to help meet this demand, solar energy projects on BLM land need to be cost-competitive. Although the BLM's Solar and Wind Energy Rule, adopted by the previous Administration, was intended to support greater solar energy development on BLM managed land, it has resulted in rents that vastly exceed fair market value, unnecessary capacity fees that are not a feature of similar private lease contracts, and excessive bonding requirements.

The Public Land Renewable Energy Development Act provides BLM an improved legal framework that will support and enhance the bureau's current efforts to address these challenges. The bill constrains increases in rental rates by tying them to an economy wide inflation index, and creates mechanisms that enable the Interior Department to reduce rents and capacity fees in order to make federal public lands competitive with similar private land. The legislation also proposes important land use planning reforms that will make more federally administered land



available for solar energy project development, and establishes a national program to coordinate federal permits for renewable energy projects on federally administered land.

Enacting and implementing this bi-partisan bill would go a long way towards eliminating many of the hurdles that have made federally administered land less attractive to solar energy investment. The Large-Scale Solar Association and our members look forward to working with you and the other bill sponsors to enact this thoughtful, bipartisan legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Shannon Eddy", is written over a light gray circular background.

Shannon Eddy  
Executive Director, Large-scale Solar Association





October 22, 2019

The Honorable Martha McSally  
United States Senate  
404 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Martin Heinrich  
United States Senate  
303 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senators McSally and Heinrich:

On behalf of the National Association of Counties (NACo) and the 3,069 counties, boroughs and parishes we represent, I am writing to express our support of the Public Lands Renewable Energy Development Act (PLREDA). This legislation would extend royalties and lease income from solar and wind projects developed on federal lands to home states and counties.

Similar to existing revenue sharing models for alternative energy development, such as geothermal leasing, PLREDA would share revenues with states and counties. Revenue sharing arrangements with local governments are needed to support county operations impacted by local energy development and production. In addition, the bill provides reinvestment in BLM renewable energy programs and shares critical funds to sustain wildlife and recreational uses of nearby land.

Scores of counties nationwide have federal lands within their boundaries that have been developed or are suitable for alternative energy development. Counties have historically been indispensable advocates for the development of alternative energy production in the United States. Revenue sharing of alternative energy dollars with states and counties will contribute to the delivery of critical government services and the development of much needed capital improvement projects such as road maintenance, public safety and law enforcement, conservation easements, capital for leveraging federal and state resources and the stabilization of operations budgets during tough economic times.

As this nation moves closer to securing a balanced domestic energy portfolio, county governments are committed to working with the federal government as equal partners in the promotion of alternative energy development. The expansion of alternative energy industries will also support the creation of high paying jobs and sustain economic development in communities across the nation.

Again, NACo applauds the introduction of the Public Lands Renewable Energy Development Act of 2019 and respectfully requests swift passage of this legislation.

Sincerely,

Matthew D. Chase  
Executive Director  
National Association of Counties

**OIA Statement on Public Lands Renewable Energy Development Act**

Boulder, CO – November 7, 2019 – “Energy development on our public lands, including renewable energy, needs to be done in a manner that protects our public lands, water and wildlife while not negatively impacting the \$887 billion outdoor recreation economy,” said Patricia Rojas-Ungar, vice president of Outdoor Industry Association. “The Public Lands Renewable Energy Development Act (PLREDA) does this by identifying areas of low potential conflict with critical habitat and encouraging better planning to further support fish and wildlife species – among much more. We thank Sens. Martha McSally (R-AZ) and Martin Heinrich (D-NM) for introducing it while urging Congress to move it forward as quickly as possible.”



**Chris Wood**  
President & CEO

The Honorable Lisa Murkowski, Chair  
Senate Energy and Natural Resources Committee

The Honorable Joe Manchin, Ranking Member  
Senate Energy and Natural Resources Committee

November 6, 2019

**RE: Trout Unlimited Supports the Public Land Renewable Energy Development Act, S. 2666.**

Chair Murkowski, Ranking Member Manchin, and Members of the Committee:

Thank you, Chairman Murkowski and Ranking Member Manchin, for holding a hearing to examine the importance of programs that share or reinvest revenues derived from those projects with impacted communities and public land resources and to receive testimony on S.2666, the Public Land Renewable Energy Development Act.

Trout Unlimited strongly supports S.2666 and we urge members of the Committee to advance this bill to the floor for consideration by the full Senate. We deeply appreciate the leadership of bill sponsors, Senators McSally and Heinrich. We also extend a special thanks to Senators Risch and Tester for supporting the bill since its inception three Congresses ago. And, we thank Senators Udall, Gardner, Daines, and Bennet for their valuable support for the bill.

Many of Trout Unlimited's 300,000 members and supporters are trout and salmon anglers who invest time and resources on public lands, in pursuit of hunting and fishing opportunities. Trout Unlimited and its dedicated base of volunteers work in partnership with the federal agencies, states and counties to complete habitat conservation and restoration projects on public lands.

Public lands contain some of the most valuable trout and salmon habitat in the country. Millions of individuals visit public lands each year to hunt, fish, or recreate. In most Western states, public lands comprise more than 70 percent of the remaining available habitat for native trout, and virtually all the Nation's strongholds for native trout.

According to *Outdoor Recreation Roundtable*, the outdoor recreation economy accounted for 2.2% of U.S. GDP in 2016, making it one of the nation's largest economic engines. The Outdoor Industry Association calculates annual gross output of outdoor recreation at \$887 billion. Additionally, outdoor recreation accounted for 7.6 million jobs in 2016—levels on par with many critical industries in our nation.

---

**A mission to conserve, protect, & restore North America's coldwater fisheries and their watersheds.**

National Office: 1777 N Kent St., Suite 100, Arlington, VA 22209  
T: (703) 284-9403 F: (703) 284-9400 cwood@tu.org www.tu.org

These impressive statistics are fundamentally linked to public lands. According to a 2018 Pew Trust report on economic contributions of wildlife-related recreation on BLM lands, an estimated 8.1 million trips were made on BLM lands in 2016 for outdoor recreation. Collectively, fishing, hunting and wildlife-viewing on these Western public lands supported an estimated 26,500 jobs, provided \$1 billion in salaries, contributed \$3.3 billion in total economic output, and generated about \$243 million in federal taxes.

In some cases, federal lands also represent a reasonable setting for well-planned and properly mitigated renewable energy development projects. These projects could stimulate job growth, reduce carbon pollution, and contribute to the protection and restoration of fish and wildlife habitat on public lands for the benefit of current and future generations.

Balancing new development with protection of fish and wildlife values is essential.

The importance of balancing these multiple uses on public lands is a lesson we have learned the hard way. A key historical example is the 1872 mining law, through which we promoted one social good – expansion into the West through giving people access to mining – but failed to include the necessary provisions to ensure protection and restoration of impacted resources, particularly the funds to clean up abandoned mines. Now, we are looking to promote renewable energy development on public lands, but unlike the approach of the past, we are seeking to do so in a way that provides funding for mitigation and restoration.

PLREDA strikes the important balance between development of new, clean energy infrastructure and the conservation of our natural resources. By identifying priority areas for wind, solar and geothermal development, PLREDA encourages smart siting and efficient permitting of projects in places with high potential for energy and low impact on wildlife and habitat. Planning ahead for development in priority areas offers developers certainty for their project timelines and saves both time and money.

Further, the bill establishes a revenue sharing model that will support agency engagement, provide revenues to local counties and states, and uphold sportsmen's access to and conservation of fish and wildlife values on these lands. This revenue sharing model will build new partnerships for renewable energy by linking community and conservation goals to project deployment. With this approach, PLREDA will expand renewable development in a manner that minimizes impacts to and supports the outstanding cultural and economic benefits of hunting, fishing and recreation on our public lands.

**Revenue Sharing: PLREDA benefits states, counties and fish and wildlife through revenue sharing.**

PLREDA offers a way to offset unavoidable impacts on fish, wildlife, and water resources by creating a conservation fund derived from royalties and other revenues from public land wind and solar energy development. This fund is essential to our ability to maintain opportunities to hunt and fish on public lands, which are some of the best in the country. More importantly, it is a must-have tool for conserving critical habitat for fish and wildlife across the public landscape.

A survey by the Fish & Wildlife Service found that 103.7 million U.S. residents fished, hunted, or wildlife watched in 2016, and they spent \$156.9 billion on their activities. This is a large, and growing, contributor to our economy: between 2011 and 2016, there was a 16 percent increase in the total number of people participating in wildlife-related recreation in our country. We need high quality, accessible habitat to sustain this economic activity. The conservation fund created by the Public Land Renewable Energy Development Act would support the work needed to maintain our public land natural resource values.

The conservation fund would be used to support access and restoration for land and water resources in regions where renewable energy development takes place. For example, planting of riparian vegetation to minimize sedimentation and runoff into nearby streams and to provide nesting habitat for birds and game, or projects to enhance instream flow and habitat to support sensitive populations of native trout and salmon in the area.

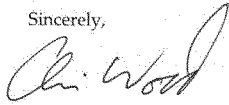
The Revenue Sharing approach will help to increase sportsmen's access to public lands. The model will also support states and counties and helps to ensure agency capacity to efficiently process the permitting program.

#### Conclusion

S.2666, PLREDA will allow us to develop energy resources, bolster local economies, diversify county revenue streams, improve hunting and fishing access and make public land fishing and hunting better than we found it. In addition to these merits, I again urge you to consider the bill's broad and bipartisan support and to find a path forward for it this year.

We applaud and support the bipartisan leadership Senators McSally and Heinrich as well as the long-standing leadership of the bipartisan co-sponsors of this bill, many of whom serve on this committee, and encourage you to advance this bill into law. We look forward to working with all of you to advance the Public Land Renewable Energy Development Act.

Sincerely,



Chris Wood

Attachment (1):

October 24, 2019 Letter of support for the Public Land Renewable Energy Development Act from 25 hunting, angling, landowner, and conservation organizations.

October 24, 2019

The Honorable Lisa Murkowski  
Chair  
Senate Energy and Natural Resources  
Committee  
304 Dirksen Senate Building  
Washington, DC 20510

The Honorable Raul Grijalva  
Chairman  
House Natural Resources Committee  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Joe Manchin  
Ranking Member  
Senate Energy and Natural Resources  
Committee  
304 Dirksen Senate Building  
Washington, DC 20510

The Honorable Rob Bishop  
Ranking Member  
House Natural Resources Committee  
1329 Longworth House Office Building  
Washington, D.C. 20515

**RE: Hunters and anglers support the Public Lands Renewable Energy  
Development Act (H.R. 3794 / S. 2666).**

On behalf of the undersigned hunting, angling, landowner, and conservation organizations we write in support of the Public Lands Renewable Energy Development Act (PLREDA). We are pleased that S. 2666 was recently introduced in the Senate with bipartisan sponsorship and that H.R. 3794 received broad, bipartisan support at the House Natural Resources Subcommittee on Energy and Minerals hearing on July 25<sup>th</sup>. We appreciate your interest in this important piece of legislation and seek your assistance to expeditiously advance this bill through your respective committees to ensure that PLREDA becomes law in the 116<sup>th</sup> Congress.

Our organizations represent hundreds of thousands of members who value the conservation of fish and wildlife habitat on public lands and often hunt, fish, and recreate on those lands. We understand the important role that public lands can and do play in supporting energy development. However, energy development must be done in a way that thoughtfully balances development with fish and wildlife habitat. PLREDA strikes this important balance between the development of new clean energy infrastructure and the conservation of our natural resources.

By identifying priority areas for wind, solar and geothermal development, PLREDA encourages smart siting and efficient permitting of projects in places with high potential for energy and low potential for conflicts with fish and wildlife habitat. Planning ahead for development in priority areas not only avoids impacts to fish and wildlife, but also offers developers certainty for their project timelines and saves both time and money.

Importantly, PLREDA also ensures communities benefit from renewable energy development by distributing a portion of the revenues generated to states and counties, and that a portion of revenues is dedicated to improving access to public land and for the conservation and enhancement of fish and wildlife habitat. In addition, the revenue sharing model laid out in the legislation will help permitting agencies advance renewable energy by

securing the necessary resources to efficiently manage, review and advance applications for new projects.

We believe this bill is an important step in advancing renewable energy while strengthening communities and conservation efforts benefitting hunters, anglers and outdoor recreation. We look forward to working with you to ensure its passage in the 116th Congress.

Sincerely,

- American Fly Fishing Trade Association
- American Sportfishing Association
- American Woodcock Society
- Angler Action Foundation
- Association of Fish and Wildlife Agencies
- Backcountry Hunters & Anglers
- Bass Anglers Sportsman Society (B.A.S.S.)
- California Waterfowl Association
- Delta Waterfowl
- Fly Fishers International
- National Deer Alliance
- National Wild Turkey Federation
- National Wildlife Federation
- North American Falconers Association
- Outdoor Industry Association
- Pope & Young Club
- Public Lands Foundation
- Quality Deer Management Association
- REI
- Ruffed Grouse Society
- Theodore Roosevelt Conservation Partnership
- Trout Unlimited
- Western Landowners Alliance
- Wild Salmon Center
- Wildlife Management Institute



DOUG BURGUM  
GOVERNOR OF NORTH DAKOTA  
CHAIR

KATE BROWN  
GOVERNOR OF OREGON  
VICE CHAIR

JAMES D. OGSBURY  
EXECUTIVE DIRECTOR

August 19, 2019

The Honorable Raul Grijalva  
Chairman  
Committee on Natural Resources  
House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Rob Bishop  
Ranking Member  
Committee on Natural Resources  
House of Representatives  
1329 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Collin Peterson  
Chairman  
Committee on Agriculture  
House of Representatives  
1301 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Michael Conaway  
Ranking Member  
Committee on Agriculture  
House of Representatives  
1010 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Grijalva, Chairman Peterson, Ranking Member Bishop, and Ranking Member Conaway:

The West is rich in solar, wind, and geothermal energy resources – many of which are located on federal lands. Western Governors support legislation that promotes responsible development of these resources and ensures states and counties are compensated for the use of local infrastructure and other services that support these projects. Western Governors urge your Committees to expedite consideration of [H.R. 3794](#), the Public Lands Renewable Energy Development Act of 2019. The Governors have submitted letters in support of this bipartisan legislation in the last three Congresses ([May 11, 2017 letter](#); [February 2, 2016 letter](#); and [March 26, 2013 letter](#)) and strongly support H.R. 3794.

Western Governors support: an all-of-the-above energy portfolio, including geothermal, solar, and wind energy; clear, efficient, transparent, and coordinated energy regulation and permitting; and energy policy that advances economic growth and protects the environment. Several elements of H.R. 3794 align with these policy goals, including identification of priority areas and targets for renewable energy production on federal lands, authorization of the use of programmatic and supplemental National Environmental Policy Act (NEPA) analysis, and establishment of permit coordination offices. Western Governors appreciate the bill's inclusion of Governors as potential signatories to intergovernmental agreements for expediting NEPA analysis and its requirement for the U.S. Department of the Interior (DOI) to coordinate with states on supplemental NEPA analysis.

Furthermore, the bill assures that the federal government provides states and counties with the resources necessary to offset the loss of tax revenue and local environmental and other impacts from renewable development on certain public lands within their borders (See WGA Policy Resolution [2017-02, States' Share of Royalties and Leasing Revenues from Federal Lands and Minerals and States' Role in Associated Federal Policy](#)). Western Governors also support the bill's reservation of a portion of revenues for permit processing by state agencies, as well as state protection and restoration of wildlife, habitat, and recreational access. This strikes the appropriate balance of safeguarding community infrastructure, natural resources, and other uses of public lands, while realizing the jobs, economic growth, and resources provided by energy development.

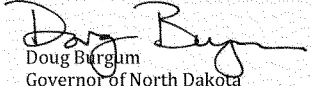


The Honorable Raul Grijalva  
 The Honorable Rob Bishop  
 The Honorable Collin Peterson  
 The Honorable Michael Conaway  
 August 19, 2019  
 Page 2

We encourage Congress to consider including National Forest lands and the U.S. Department of Agriculture (USDA) as part of the bill's revenue-sharing, NEPA, and permit requirements. Currently, H.R. 3794 requires USDA to meet the renewable energy production targets but does not require the Department to designate priority areas or establish permit coordination offices. In addition, National Forest lands are not encompassed within the definition of covered land; therefore, renewable energy projects on those lands would not be subject to the bill's NEPA provisions and would not contribute to the funds to compensate states and counties for renewable energy development within their borders. A previous version of this bill ([S. 1407](#)) included National Forest lands in the definition of covered lands. The exclusion of these lands in H.R. 3794 represents a missed opportunity.

Western Governors support H.R. 3794's facilitation of the responsible and efficient development of the West's solar, wind, and geothermal resources on federal lands and compensation to states and counties affected by that development. Please contact Western Governors if we can be of assistance in facilitating its enactment.

Sincerely,

  
 Doug Burgum  
 Governor of North Dakota  
 Chair, WGA

  
 Kate Brown  
 Governor of Oregon  
 Vice Chair, WGA

cc: The Honorable Alan Lowenthal, Chairman, Subcommittee on Energy and Mineral Resources  
 The Honorable Paul Gosar, Ranking Member, Subcommittee on Energy and Mineral Resources

Senator MCSALLY. Great, thank you.

Mr. Luthi, I appreciate you communicating overall general support for the idea of our bill. Wyoming, I think, shares similar challenges, not quite 70 percent. I think you are more like 48 percent or so federal land in Wyoming. So a large federal footprint can present the same challenges for you.

Can you share how you think the revenue sharing provisions of our bill can help local governments and ultimately benefit residents of states like yours and ours?

Mr. LUTHI. Madam Chairman, Senator McSally, thank you for that opportunity. And yes, Wyoming is already well acquainted with revenue sharing on the other energy types of resources. And currently, if you do just some rough calculation of our general budget, those resources directly from shared revenue resources are about, almost, 20 percent of the total state budget. So that's a big chunk.

Over 50 percent of the state's budget is connected with K through 12 education. So any revenue sharing that is allowed to come back either to the state or directly to the counties or cities is going to be used, I think, just for necessary programs because as you mentioned, projects do have impacts. They have economic benefits, but they also do have impacts.

And I think on the particulars, as I mention in my testimony, renewables as a rule have impacts up front. They also have construction costs which actually during construction you have some local benefits.

Senator MCSALLY. Jobs, yes.

Mr. LUTHI. But once that construction is gone, that's pretty much it both for the tax base and the overall economic benefit. So, and particularly on the area of wind and solar, revenue sharing would be particularly helpful to the local communities.

Senator MCSALLY. Got it, thanks.

So you think in areas like K through 12 it would really have an impact. And keep in mind, this revenue sharing is in addition to the Payment in Lieu of Taxes which these local communities are also really counting on.

Mr. LUTHI. Madam Chairman, Senator McSally, I would say if Arizona follows a similar distribution as Wyoming does which is actually left up to the legislature as a rule, K through 12 just takes the lion's share of almost any state budget. So it's definitely going to go to help benefit education.

Senator MCSALLY. Well, that is great to hear. Thanks for your perspective on that.

You also mention in your testimony that the energy worker, the sportsman, the environmentalist, they are often the same person or live in the same household, so you make a good point that we do have shared values. I think these Venn diagrams overlap. I don't think they are mutually exclusive. So do you see actually how our bill could help Western states strike that balance between conservation and economic opportunity and access and all those values that you shared are often summed up in the same person?

Mr. LUTHI. Madam Chairman, Senator McSally, absolutely. I think where you make the difference is, you know, nationally these kind of issues become very polarized. They're not polarized at the

local level because, again, it's often the very same person that works at a company and also wants to go fishing after work, hunting after work, take the four-wheeler. They appreciate the ability to have federal lands that truly are multiple use.

Senator MCSALLY. That is great. I agree with you. Thanks a lot, thanks for your time. I yield back.

The CHAIRMAN. Thank you, Senator.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. Thank you to the Chairwoman and Ranking Member for bringing these bills forward.

Mr. Gould, let me ask you very quickly about S. 2666, the Public Land Renewable Energy Development Act. It sets a renewable energy production goal for the Department of the Interior to permit 25 gigawatts of renewable energy on public lands by 2025. This year Nevada has taken steps to increase its own renewable energy goals by increasing its renewable portfolio standard to 50 percent by 2030.

With more than 80 percent of the land in Nevada being federally-managed, there will need to be more collaboration and work between stakeholders, industry and the BLM in order to meet this ambitious goal. Many in Nevada have said that they have a good working relationship with local BLM offices but admit, and I think this comes to some of the conversation my colleague, Senator Heinrich from New Mexico, was talking about. But what I hear is that BLM lacks staff resources and that has had an impact on renewable energy development in Nevada alone. I guess my question to you, is the Department of the Interior equipped with the necessary staff in its state and national offices to adequately address and process an influx of renewable energy project proposals?

Mr. GOULD. Senator, thank you for that question.

And from the Department's perspective I think we would be very happy to work with you and the Committee to make sure that the BLM has those discussions that are needed to have with the Congress in terms of making those resources available, if those resources are needed. So, I think, from my perspective at ONRR, we can't really answer questions related to the resources at BLM, but I know that the Department would be happy to work with the Committee.

Senator CORTEZ MASTO. I appreciate that, and I appreciate the position you are in as well. So thank you, and I look forward to that. I think for purposes of our conversation, particularly knowing that Nevada works with the BLM on a regular basis, I think there is a resource issue that we are willing to work with you on to address for not just purposes of Nevada but across the other states as well and for that benefit.

Let me jump back to Mr. Luthi. In your testimony, you also express support for provisions in S. 2666 but make some recommendations to improve the bill. Your recommendations include more consultation and cooperation between the Federal Government and the Office of the Governor in a given state to reduce conflicts. I am a big supporter of that.

Let me just ask you this, without the appropriate consultation among local and state stakeholders and the Federal Government,

what obstacles might projects on public lands in Wyoming experience?

Mr. LUTHI. Madam Chairman, Senator Cortez Masto, I'm somewhat speculating but, again, if you have full consultation from top to bottom—Federal Government, states, local communities—what it is going to hopefully avoid are those local issues that are important and things that you don't often see from the 30,000 foot level. That might be a migration corridor for antelope or deer, it might be a specific use for four-wheelers that most people wouldn't know about but is very important to the local community and it just gives the opportunity for the local community to have a say in what they think is important as we work with the Federal Government.

Nevada, like, well, even more so than Wyoming has a lot of public land, meaning owned by the Federal Government. So it becomes just so important to be a good neighbor. You've got to be able to talk across the fence line and understand where each other, where everyone is coming from.

Senator CORTEZ MASTO. I appreciate that because coming from a Western state as well, I think it is important. Listen, the federal employees live in our states, hopefully, and/or come in and have an impact and we want to develop good relations with them and hopefully they are always consulting and working with local and state government on issues that impact the individual states. So I appreciate your comments.

Thank you, Madam Chairwoman, for the hearing today. Thank you, all of you, for being here.

The CHAIRMAN. Thank you, Senator.

Senator HIRONO.

Senator HIRONO. Thank you, Madam Chair. Aloha to Senator Landrieu, thank you for being here. Thank you to all the testifiers.

I was noting your response, Mr. Luthi, to Senator Cortez Masto's questions, and I am really glad to know that in Wyoming you do talk with all of the affected entities so that you are able to make good decisions. I would expect and hope that that is what all of the states do.

This is a question for Mr. Kline. Both Louisiana and Hawaii are suffering from climate change and have considered management retreat plans in the face of the loss of land due to sea level rise and more intense storms caused by climate change.

According to a 2017 Hawaii Sea Level Rise Vulnerability and Adaptation Report, 3.2 feet of sea level rise will impact 6,500 homes and businesses, displace 20,000 residents and cause \$13 billion in property damage and losses. The estimate does not include damage to Hawaii's critical infrastructure because if you have ever been to Waikiki—have you?

Mr. KLINE. No, ma'am.

Senator HIRONO. It is one of the places that will be under water. It is a big part of our revenue generation.

In your testimony you describe how Senator Cassidy's bill would use federal revenues from offshore oil and gas revenues to help Louisiana, but Hawaii, Maine and many other states will get no money from this bill even though they are already dealing with sea level rise. How do you propose the United States fund coastal resil-

ience without effectively subsidizing the oil and gas emissions that help cause the sea level rise and ocean acidification in the first place?

Mr. KLINE. So, thank you for the question, Senator. And first of all, I think I would like for the Committee to know that the Coastal Master Plan absolutely takes into account climate change and utilizes the best available science. So I believe our coastlines have a lot of similarities between the two and similar sea level rise projections for coastal Louisiana as your state.

Oil and gas exploration in our state is a part of our economy and we have found a way to balance living with oil and gas production but also addressing the impacts of that production on our coast. And so, what we're saying is and why we're such proponents of this legislation is, if we're going to support that activity that is occurring off of our coast and if our coastline is providing access to those oil and gas revenues off of the Gulf of Mexico, then those dollars ought to be reinvested into our coastline to protect our communities, to protect our business, our way of life and to sustain the very infrastructure that allows for that production to take place to begin with.

Senator HIRONO. Excuse me for interrupting but what is going on in, with the oil and gas activities is causing sea level rise in places like Hawaii. So what do we get for—what kind of help can we get? Should we get? I mean, obviously, I think that we should get some of this help even if we are not right there in the Gulf.

Mr. KLINE. Well Senator, I would offer to you that you could go after the other 50 percent that goes into the Federal Treasury to help implement restoration projects in your state that could address the impacts of climate change. And so, the reason why we're here today, Senator, is that our state does suffer impacts due to oil and gas exploration.

Senator HIRONO. Yes.

Mr. KLINE. And that's why we feel that we deserve a larger share of revenues that are coming from our coast and reinvesting them in our coast to address those issues.

Senator HIRONO. You are obviously advocating for Louisiana and that is fine and good. And I think what this Committee needs to do is to look at the impact of climate change and sea level rise affecting all of the states, including states like Hawaii, and you mentioned the 50 percent of the revenues. I have absolutely no idea how much of that would go to places like Hawaii and other states similarly situated. I would want to look at that, Madam Chair, and make sure that we have a fair allocation.

Another question for you. You do know that Louisiana's coastal loss has been exacerbated, you just talked about that, now by offshore oil and gas development. If oil and gas development has damaged coasts of Louisiana and other states, shouldn't the companies that made money from extracting oil and gas pay more to help restore the coast? I mean, why should the American people pay to offset the oil and gas company's impacts because, you know, there is the argument that there should be additional federal revenues to the Gulf States.

Mr. KLINE. So Senator, I would agree that oil and gas exploration is a contributing factor of land loss in our state; however,

it is not the overwhelming driver of land loss in coastal Louisiana. There are other factors at play that are contributing to that land loss.

Our Governor, Governor John Bel Edwards, has taken the position to pursue some of these oil and gas companies for the damage that they have done to our coast and to hold them responsible for some of that damage.

Senator HIRONO. Well, we probably should do more.

Madam Chair, I just want to shout out and thank Ms. Comay, to you and your colleagues at the Congressional Research Office, for the high quality of research that you provide to us. Mahalo to you.

Thank you, Madam Chair.

Senator CASSIDY. Madam Chair, could I just, at the discretion of Senator Cantwell, just make a 30 second clarification?

The CHAIRMAN. Go ahead, Senator.

Senator CANTWELL. You could make a five-minute questioning.

[Laughter.]

Senator CASSIDY. Thank you, Senator Cantwell.

By raising the cap under our bill there would be more money going to the Land and Water Conservation Fund, and so Hawaii would directly benefit.

I am also working with Senator Whitehouse on a revenue sharing bill related to wind energy because we also think that there should be an incentive for states to do that, and I believe Hawaii would benefit from that.

And by the way, as we are speaking of the equity, between the 50 percent that goes for onshore federal tax and 50 percent that goes for offshore, it may be that the Senator from Hawaii would want to look at that as a way to generate more dollars coming more directly to Hawaii.

Lastly, I will say the environmental standards used by our companies to develop oil and gas in the Gulf exceed by far that in developing countries. And so, since there is clearly a demand for fossil fuel for things like plastics, that would—I would rather be down where there is the higher environmental standards of our nation as opposed to those of, say, a country like Nigeria. But anyway, thank you for your——

The CHAIRMAN. Thank you, Senator.

Senator Cantwell, would you like to proceed or do you need a couple minutes?

Senator CANTWELL. Did the Chair have questions?

The CHAIRMAN. I will just ask a quick one here and give you a few minutes to formulate your thoughts. It kind of follows on this discussion between Senator Hirono and the points that Senator Cassidy has just raised. I noted in my opening statement that since the 1990s nearly all revenue credited annually to LWCF has been from the OCS receipts, I think, and LWCF also gets additional mandatory appropriations under GOMESA and I think we saw that in Senator Cassidy's chart that he had up there.

But I guess the question, and it may be directed to you, Ms. Comay, and maybe you, Mr. Gould, but some have suggested that we need to either dramatically restrict or even eliminate fossil fuel production in federal areas. I know several of the individuals that

are in the running for the Presidency right now, said look, the first thing I am going to do, the first thing that they would do, if elected, is to completely eliminate fossil fuel production on federal lands.

Tell me what happens then to programs like the Reclamation Fund or Land and Water Conservation Fund because right now, it is a correct statement is it not that they are getting their funding, funding that comes to LWCF to help with whether it is federal land acquisitions or whether it is stateside improvements, is coming from the offshore OCS receipts. Am I accurately stating that? Mr. Gould?

Mr. GOULD. Yes, thank you for the question, Madam Chair.

That's an accurate statement. Those, the \$900 million that goes into the fund and then the additional \$125 million that goes in from the GOMESA funds comes directly from the offshore. A very small percentage comes from motorboat fees and some federal land acquisition, but that's a very small percentage. Over \$850 million is deposited from the revenues that ONRR receives from the oil and gas industry in the Gulf of Mexico and the full \$125 million comes from that same fund.

The CHAIRMAN. So there has been some discussion around here. Last year we made permanent the authorization of the Land and Water Conservation Fund. That was something that many of us thought was an important thing to do in terms of permanent authorization. Now the discussion is mandatory funding for LWCF. But if you don't have these OCS receipts, how do you meet that, that now mandatory requirement?

Mr. GOULD. That's another good question. And again, it would have to be from some other place within Treasury that would have to then be appropriated funds for that mandatory part of the process and Ms. Comay—

The CHAIRMAN. Ms. Comay, any further comments on that?

Ms. COMAY. No, that seems correct, as Mr. Gould said the money currently for the LWCF comes almost entirely on both the mandatory state program side and the money coming in, the almost \$900 million under the LWCF Act, that's almost all from offshore revenues.

There are these other two sources, a couple of sources for the main LWCF funding, but they have not been sufficient to provide more than a very small fraction.

The CHAIRMAN. So then, when those who are not in the, they are not part of the GOMESA states, they are not producing states on the offshore, when they question whether or not there is any benefit that comes to them, it is a fair and accurate statement to say that with the LWCF funds that come and go out to all 50 states, that all 50 states enjoy the benefit from those receipts that are then made part of the LWCF distribution?

Mr. GOULD. That's correct.

The CHAIRMAN. Okay, okay.

Senator Cantwell, go ahead.

Senator CANTWELL. Thank you, Madam Chair.

On that point, I am sure you recognized our former colleague here in the audience who has played such a big role, but I want to just thank her for her continued long-time support of the Land

and Water Conservation Fund. She was always a very, very supportive member on those issues.

Mr. Kline, I think, and Mr. Gould, I have a few questions.

One, anytime we talk about expanding offshore drilling, I am reminded of those horrible pictures we saw from the Deep Water Horizon blowout preventer and the impact that it has had. There is a study that was released in August by a Louisiana University Marine Consortium. I am not sure all the people that were involved in that, but they found that decomposing oil from the 2010 spill was mimicking having problems with crustaceans and unfortunately it is showing lots of problems in those crab and shelling issues and parasites.

Are you familiar with this study and its impacts on marine life?

Mr. KLINE. I am not, Senator, to be honest. I'm not familiar with this study. Do you know what year it was issued?

Senator CANTWELL. Recently, recently, this is August. So, we will get that to you.

But I think part of the issue here is the unbelievable impacts that are still there related to oil. I know the Chair knows this well, because I have been with her up to Alaska and there are certain species that are still being impacted by the Exxon Valdez. These are long-term impacts, and we definitely want to make sure that we understand them as we discuss these issues.

Secondly, Mr. Gould, the Politico had a story about the Department of the Interior email, showed the Department considering using a regulatory loophole to free oil and gas companies from drilling standards created after the Deep Water spill. This was a big concern to me as it related to blowout preventers and the standards by which we wanted to make sure were there in the future on those kinds of hazards.

Career employees reportedly balked at being told by, you know, trying to raise these questions. Are you familiar with that incident and how do we protect the safety of our system and stop rolling back some of the provisions that Congress in a very bipartisan effort put in place after this accident?

Mr. GOULD. Thank you for that question. And no, I'm not familiar with the, those emails. We don't deal with the safety side. The Office of Natural Resource Revenue deals with the revenue side.

Senator CANTWELL. Okay.

I have a feeling you were sent here because you could answer the question that way so I get that you are not the person in charge, but these issues and rolling back provisions that, again, were just so necessary after the neglect, we just don't think the Administration is going in the right direction here and we are going to continue to voice our concerns, particularly as it relates to them moving forward. If we are going to have an Administration that is going to roll back safety procedures then, no, we are not going to be for expanding these ideas, and we definitely need to understand the science.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator.

Thank you for your comments this morning, the testimony that you have provided and the insight. Certainly for those of you who come from producing areas, as you do, Mayor Brower, as you do,



Mr. Kline, and certainly as you do, Mr. Luthi, different areas, whether it is offshore or onshore, a recognition that our federal lands have much to offer us. I think we recognize that.

We also recognize the incumbent responsibility that we have to make sure that as we gain the benefit from these lands, we do so wisely with solid stewardship. That is an important part of our responsibility as well.

But I think you have helped us start this conversation publicly about how we can ensure that the benefits that we receive from these lands and waters are shared fairly and that those benefits then are utilized whether it is as Mayor Brower has noted, to help with infrastructure that is threatened by erosion or the resources necessary to provide for search and rescue in an incredibly challenging landscape or as Mr. Kline has noted, the impacts that the State of Louisiana and other Gulf States are seeing.

It is very real and very challenging and a day-to-day reminder that while we access these extraordinary resources that we want and need and benefit from as a nation, there is a cost to that. And how we are able to balance that, how we are able to ensure that those who are providing so much for the good of the country, do not do so at greater sacrifice.

These are issues that need to be advanced in a conversation that is respectful of where one another comes from. I think you see on this Committee we have our Westerners and we have our Easterners and we have our far Westerners that are out on an island surrounded by the great ocean out there. How we are able to engage in these discussions is very, very important and know that we will continue in this dialogue going forward.

I appreciate the members of the panel being with us and the members of the Committee being with us.

I will note that votes have started, so we will go over and attend to those, but thank you all for being here today and for traveling some distances.

We stand adjourned.

[Whereupon, at 11:53 a.m. the hearing was adjourned.]

## **APPENDIX MATERIAL SUBMITTED**

---

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”

November 7, 2019

**Questions from Chairman Lisa Murkowski**

**Questions:** Could you please describe how funds to be shared under the Mineral Leasing Act, the Outer Continental Shelf Lands Act, the Gulf of Mexico Energy Security Act, or other revenue sharing provisions of federal law are treated under sequestrations under the Budget Control Act? What is the process for resolution and release of sequestered funds, and are any funds still subject to prior sequestrations?

**Response:** Congress enacted The Budget Control Act of 2011 (BCA, P.L. 112-25) amending the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA, P.L. 99-177), which established an automatic sequester process to reduce spending starting in 2013, if certain spending milestones were not met. The bill’s objective was to reduce the deficit by at least \$1.2 trillion over the period covering FY 2012-FY 2021. This timeframe was most recently extended through FY 2029 by the Bipartisan Budget Act of 2019 (P.L. 116-37). In the absence of legislation to reduce the deficit by at least \$1.2 trillion over the legislated time period, the BCA requires the annual sequester of funding from non-exempt mandatory programs. Interior has implemented the required annual sequestration reductions for all mandatory programs not explicitly exempted in statute from the automatic reductions, since 2013.

Implementing the sequestration reductions for most of Interior’s non-exempt activities is straight-forward and funds are returned to Treasury at the end of the year. However, Section 256(k)(6) of BBEDCA allows for a temporary reduction of budgetary resources in the fiscal year of sequestration in special, trust, and revolving fund accounts, with a determination of the availability of sequestered funding in future fiscal years based on the underlying statutory authority for the account. The BBEDCA does not make the receipts or collections available for obligation in subsequent fiscal years. Rather, the determination must be made by analyzing the underlying authorizing or appropriations laws which indicates whether sequestered funds are returned to the account the following year. Due to the complex nature of these determinations, the Department works closely with the Office of Management and Budget to develop and finalize them to ensure the sequester is correctly applied.

## Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing "To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666"

November 7, 2019

**Amounts Sequestered to Be Released in the following FY**

The underlying statutes for the funds listed below include identifiable mandatory appropriations authority applicable to the following fiscal year. ONRR releases sequestered funds for the following accounts in the subsequent fiscal year.

<b>Treasury Account Name</b>	<b>Treasury Account #</b>
Mineral Leasing and Associated Payments	14-5003
Payments to Oklahoma	14-5134
Geothermal Lease Revenues, Payments to Counties	14-5574

**Amounts Sequestered in FY 2019 to Be Withheld**

The underlying statutes for the funds listed below do not provide affirmative language authorizing expenditure in the subsequent fiscal year. ONRR maintains sequestered funds as unavailable budget authority in each Treasury account.

<b>Treasury Account Name</b>	<b>Treasury Account #</b>
Leases of Lands Acquired for Flood Control, Nav. & Allied Purposes	14-5248
National Forest Fund, Payments to States	14-5243
State's Share from Certain Gulf of Mexico Leases	14-5535
National Petroleum Reserve, Alaska	14-5045

For all sequestered accounts, ONRR maintains records indicating the amount withheld from each recipient.

## Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”  
November 7, 2019

**Questions from Ranking Member Joe Manchin III****Question 1: What steps is the Department of Interior taking to reduce the unnecessary venting and flaring from oil and gas leases on public lands?**

**Response:** As of October 2020, the BLM has largely reverted to Notice to Lessees-4A, Royalty or Compensation for Oil and Gas Lost (NTL-4A) guidance for venting and flaring. This change is the result of the October 8, 2020 order of the U.S. District Court for the District of Wyoming vacating all provisions of the Waste Prevention Rule pertaining to the loss of gas through venting, flaring, and leaks, and reinstating NTL-4A with respect to venting, flaring, and avoidably/unavoidably lost determinations. NTL-4A requires royalty payments for the avoidable loss of natural gas through venting and flaring.

The BLM is actively coordinating with internal and external stakeholders to ensure all relevant parties are aware of the rule changes. On October 23, 2020 the BLM, issued an Information Bulletin (IB-2021-003) to BLM personnel providing a status update on the regulations pertaining to the venting and flaring of gas. Further, the BLM will distribute letters to operators and tribes and provide a webinar for operators.

**Question 2: How much gas is being vented and flared on public lands?**

**Response:** The following table summarizes the reported volumes of gas vented and flared on federal and American Indian onshore land, and offshore on the Outer Continental Shelf, for the last four fiscal years:

**Vented/Flared Gas on Federal and Indian Lands**

Land Category	Fiscal Year				
	2015	2016	2017	2018	2019
Offshore (Federal)	10.96	9.81	9.93	10.62	11.87
Onshore (Federal and Indian)	40.62	28.66	32.78	50.21	74.68
<b>Total</b>	<b>51.57</b>	<b>38.47</b>	<b>42.72</b>	<b>60.83</b>	<b>86.55</b>

(all values in billion cubic feet)

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing "To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666"

November 7, 2019

**Question 3: Of the gas being currently being vented and flared on public lands, how much is unavoidable?**

**Response:** Following the Wyoming court ruling, BLM is coordinating with ONRR to determine the extent to which operators will need to amend Oil and Gas Operations Reports (OGOR) based on the vacating of the 2016 Methane Waste Prevention rule and reversion to NTL-4A. The BLM is currently unable to determine the overall volume of unavoidable vented and flared gas. The first month of venting/flaring of avoidable/unavoidable gas data since the return to NTL-4A will be in January 2021.

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”

November 7, 2019

**Questions from Senator Steve Daines**

**Question 1:** LWCF and our National Parks are very important to our Montana way of life. Do the bills before committee, S. 2418 and S. 2666, protect the revenue generated for programs like LWCF, and if passed into law under the Restore our Parks Act, the National Park Service Legacy Restoration Fund?

**Response:** S. 2418, the Conservation of America’s Shoreline Terrain and Aquatic Life Act (COASTAL Act) ensures that the LWCF continues to receive 12.5 percent of qualified revenues under the Gulf of Mexico Energy Security Act of 2006 (GOMESA) revenue-sharing provisions.

S. 2666, the Public Land Renewable Energy Development Act of 2019 promotes the establishment of a Renewable Energy Resource Conservation Fund, which would share revenues with state and local governments for the purposes of restoring and protecting fish and wildlife habitats and corridors for affected species, and water resources in areas affected by wind, geothermal or solar energy development; and preserving and improving recreational access to Federal land and water in affected regions.

**Question 2:** According to ONRR, Montana received approximately \$30 Million from onshore oil, gas and coal revenue in FY2019. This doesn’t include with tax revenue and jobs that Montana also gets from oil, gas and coal development that are the life blood for our rural counties. That \$30 million is solely from the 50% share that states receive under our current revenue sharing laws. Unfortunately, we saw that number decrease between 2009 and 2016, but we are seeing a consistent growth over the last couple of years. Everyone benefits when these revenue numbers grow. Conservation programs like LWCF, County governments struggling to pave roads, our school teachers in small rural towns and many more. The Public Lands Renewable Energy Development Act, which I am a cosponsor, helps grow the revenue sharing pie by including renewable energy sources in the mix. How else can we continue to increase revenue, both onshore and offshore, on our public lands?

**Response:** The growth of the energy sector is in part attributable to policy changes made under President Trump’s leadership. The Department has made several policy and administrative changes, directly supporting responsible energy development on public lands in accordance with President Trump’s Executive Order 13807; the Department issued Secretarial Order 3355 in accordance with this executive order, which implemented a new, streamlined process for infrastructure and energy projects.

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”

November 7, 2019

Interior-managed lands and waters produced 923 million barrels of crude oil, 4.6 trillion cubic feet of natural gas, and 322 million tons of coal in FY 2018, supporting an estimated \$151 billion in economic output and an estimated 643,000 jobs. National parks, national wildlife refuges, national monuments and other public lands managed by Interior hosted an estimated 486 million recreational visits in FY 2018, supporting an estimated \$58 billion in economic output and an estimated 452,000 jobs nationwide.



Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing "To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666"  
November 7, 2019

**Questions from Senator Bill Cassidy**

**Questions:** I see that LWCF had approximately \$130 million deposited from GOMESA eligible areas in FY19. Because GOMESA says LWCF can only receive up to \$125 million (12.5 percent), \$5 million must go back to Treasury. However, the bigger issue is that this suggests the cap was hit in FY19.

- Can you please confirm whether the cap was hit in FY19?
- How much will Gulf States receive in FY20 from revenues generated during FY19?

**Response:** The \$500 million cap, specified in GOMESA 105(f), was reached in FY 2019. As a result, the maximum of \$125 million was disbursed to the LWCF in FY 2019. The states and their coastal political subdivisions (CPS) receive their allocations in the year following the year of receipt per GOMESA. The states and their CPS will share the maximum of \$375 million to be disbursed in FY 2020 for the FY 2019 revenues.

The cap applies to the majority of GOMESA revenues, but revenue received from leases in the 181 Area in the Eastern Planning Area and the 181 South Area are disbursed above the cap. The states and their CPS will receive \$93,665.95 in FY 2020 for the FY 2019 revenues from those leases. In total, the states and their CPS will share \$375,093,665.95 in FY 2020, prior to any sequestration being applied.

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”  
November 7, 2019

**Questions from Senator John Hoeven**

**Question 1:** In North Dakota, our increased oil and gas production are directly attributable to innovative techniques including horizontal drilling, hydraulic fracturing, and Enhanced Oil Recovery (EOR). Earlier this year, the Energy & Environmental Research Center (EERC) at the University of North Dakota was awarded two DOE contracts totaling \$16 million to better develop enhanced oil recovery techniques.

**Can you further elaborate on the relationship between fossil energy research, increased energy production, and ultimately increased revenue to states, tribes, and the federal government alike?**

**Response:** Given the tremendous scale of the energy industry and the ubiquity of electricity, optimizing the responsible use of fossil fuels can help improve energy security and living standards. We defer to the Department of Energy regarding the role of fossil energy R&D in contributing to these objectives.

**Question 2:** Earlier this year, the State of North Dakota and the Mandan, Hidatsa, and Arikara Nation entered into a new contract over how energy revenue generated on tribal trust lands is shared, which is estimated to generate an additional \$33.6 million in revenue to the tribe over the next two years.

**Oil production on the Fort Berthold Indian Reservation for the month of August was 335,475 barrels of oil per day, about one-fifth of the state’s production.**

**Can you discuss the positive impacts that revenues generated from energy production on tribal lands has on those communities?**

**Response:** For fiscal year 2019, ONRR disbursed over \$1 billion dollars in royalty revenues from oil, gas, and coal mineral production to American Indian tribes and individual Indian mineral owners. This is more than double the disbursements paid in FY 2016. Additionally, BIA disbursed over \$34 million in other Indian mineral royalty-related revenue. The revenues disbursed to the 33 federally-recognized American Indian tribes and approximately 37,000 individual Indian mineral owners represent 100 percent of the royalty revenues received from energy and mineral production activities on Indian trust lands.

Mineral revenue is a critical source of funding for the American Indian communities that receive those royalties. The positive economic impact these funds have on tribes and mineral owner families cannot be overstated.

Questions for the Record

U.S. Senate Committee on Energy and Natural Resources

Hearing “To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666”

November 7, 2019

Many tribal governments rely on mineral royalty revenues to pay the salaries of their tribal government employees. The funds are used to cover government administrative costs, as well. Tribal governments may use the funds to build and maintain infrastructure, such as roads and bridges. Tribes may also use these revenues to provide healthcare and education, and support other critical community development programs, such as senior centers, public safety projects, and youth initiatives.

Individual mineral owners receive energy royalty revenues from production that occurred on their allotted lands. These lands may have been in their family for multiple generations and passed down throughout the years. Mineral owners and their families depend on those funds as part of their household income. In some instances, the mineral royalties are substantial enough to build new homes and provide for new family vehicles. And in most instances, mineral owners rely on the royalty income to help support raising children, heating homes, paying bills, and buying groceries. As a general statement, mineral royalties received by Individual Indian mineral owners are often necessary to sustain their livelihoods and to provide for a better quality of life.

U.S. Senate Committee on Energy and Natural Resources  
 November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666*  
 Questions for the Record Submitted to the Honorable Harry Brower

**Questions from Chairman Lisa Murkowski**

**Question 1:** Could you please describe how, if Outer Continental Shelf development moves forward, you expect the Borough and local governments to be involved in planning, building, maintaining, and/or operating necessary infrastructure – such as roads, ports, landfills, materials sites, and camp facilities – that are necessary to support development but are not in place today?

**Answer 1:** The North Slope Borough (NSB or Borough) currently provides water, waste water and solid waste collection and disposal services to support the oil and gas industry between the Canning and Colville rivers, and south to Latitude 70°. The Borough has recently invested nearly \$90 million to construct a new water/waste water treatment facility, which includes the ability to deliver hot water for drilling operations. The Borough operates the only permitted landfill for the oil and gas industry on the North Slope, which includes the capacity to handle Regulated Asbestos-Containing Material (RACM). The Borough also owns a 142 man camp in Prudhoe Bay that supports industry and necessary services for industry.

The North Slope Borough has recently designed and permitted two gravel mine sites. Mine Site F is scheduled to become operational this winter, and will support the Nanashuk development. Mine Site 3 is a pilot project—developed in coordination with the State of Alaska—located 6 miles south of Deadhorse on the Dalton Highway. This material source will be utilized to upgrade the road infrastructure in Prudhoe Bay area, as well as provide gravel needed to upgrade the northern portion of Dalton Highway. The NSB also leases land to support other aspects of oil and gas operations in Prudhoe Bay.

If Outer Continental Shelf development moves forward, the NSB certainly would expect to continue to provide water, sewer, landfill and other services, and to expand such utilities and other services to meet industry needs. The NSB may also be involved in the development of new roads and/or port facilities, but the scope of such efforts will be highly dependent on the location and nature of future development. We think it worth noting that while the Federal Government plays an important role in authorizing and permitting oil and gas development, it does not provide local governments like the Borough with the resources needed to facilitate such development.

**Question 2:** To supplement your testimony and the information you provided at the hearing, can you describe the coastal and erosion issues the Borough is facing, and the status and scope of work that is being undertaken to respond to these issues? Where do the funds to support the Borough's share of these costs come from?

**Answer 2:** Coastal erosion and other climate-related impacts have had an enormous impact on North Slope communities. For the sake of brevity, we will provide just a few examples of the issues the NSB is facing:

The community of Point Lay faces a wide range of problems associated with permafrost thaw and subsidence. Underground utilities are bending and breaking, resulting in major maintenance problems. Portions of the sewer system are being abandoned due to permafrost degradation and sewage holding tanks are being installed for individual homes so that sewage can be removed by truck. A fresh water lake, which

**U.S. Senate Committee on Energy and Natural Resources**  
**November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666***  
**Questions for the Record Submitted to the Honorable Harry Brower**

was used as the community's water source, drained due to melting permafrost, forcing the community to develop a new water source from a nearby river—not an insignificant challenge in a region where temperatures can drop below -70° F. This has resulted in significant expenditures by the Borough to protect or replace public infrastructure.

In Point Hope, the community has struggled with erosion challenges for decades. Point Hope was relocated in the 1970's due to the threat of flooding from coastal erosion. Most of the old town site has already been reclaimed by the ocean, and erosion continues to reclaim the remaining portion of old village. The Borough has committed significant resources over the years to slow erosion in Point Hope. A low budget rock revetment was put in place a few decades ago, but storms over the last several years have dispersed what remained. Sand bags have been utilized as well, but are no longer effective. The State of Alaska is currently in the process of realigning the airport due to erosion encroaching on northern end of the runway. This project is estimated at \$20 million. The NSB is currently working to identify new materials sources to support coastal erosion mitigation efforts. \$100,000 was expended to purchase supersacks alone for erosion control earlier this year.

Finally, anyone who has visited Utqiagvik, the Borough's largest community, within the last few months knows the community looks like it is under a state of siege. Thousands of super sacks have been piled against the coastline. The remnants of a HESCO basket wall, torn out during a storm last fall, protrude from an embankment that is now quickly eroding. Houses sit on the edge of that embankment. Access points to the city's underground utility system have been raised and reinforced. Roads, recently rebuilt after being damaged in past storms, are lined with sacrificial sand berms to help buffer the community against the next storm.

The NSB is spending \$7-8 million every year just for prevention and response costs in Utqiagvik. During storms, the surf pounds against sacrificial berms and heavy equipment operators are forced to operate along a thin strip of beach to push sand back into place, often operating their equipment in the storm surf.

The President declared major disasters for the NSB in 2015 and 2017 after relatively moderate storms washed out roads and damaged community infrastructure in Utqiagvik. A significant storm event could be truly disastrous for Utqiagvik. Recent storms have come dangerously close to breaching the city's only freshwater source and breaching the city's underground utility system. If sea water breaches Utqiagvik's underground utility system—as it nearly did in 2015—the NSB estimates that repair costs to those utilities alone could reach \$60 million or more. If potable water and sewer services are shut down for 4,500 people—particularly, as winter sets in—it will take an enormous amount of resources simply to provide for basic human needs until utilities and access to drinking water can be restored.

The Alaska District Office of the U.S. Army Corps of Engineers is in the process of completing the Barrow (Utqiagvik) Alaska Coastal Erosion Feasibility Study in which the Army Corps evaluates a number of alternative project designs that would alleviate coastal erosion and flooding in Utqiagvik. The Army Corps' Recommended Plan would reduce the risk of storm damages to Utqiagvik along approximately 5 miles of coastline. The estimated cost of the project is \$341,218,000. If this project is funded, the Borough will need

**U.S. Senate Committee on Energy and Natural Resources**

**November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666***  
**Questions for the Record Submitted to the Honorable Harry Brower**

to shoulder 35 percent of project costs. This is an enormous investment which will draw from much-needed public funds.

We note that the proposed project for Utqiagvik would protect local, state and federal assets, including federal legacy sites. The project would protect existing road and utility access to the U.S. Air Force's Long Range Radar Site at Point Barrow, protect the coastline adjacent to the former Naval Arctic Research Laboratory (currently home to the only Tribal College in Alaska), and protect the coastline adjacent to the Old Barrow Landfill, a site that was used as a disposal site by the Air Force and the Navy between the 1950s and 1981. In 1972 alone, the Navy dumped approximately 48,000 drums into the Old Barrow Landfill. Only a road and thin strip of beach now separates the ocean from the Landfill.

With regard to your final question, the bulk of the Borough's revenue derives from property taxes. Oil and gas properties account for more than 95 percent of the total property valuation. Therefore, a significant portion of the NSB funds used to support efforts to respond to erosion issues are ultimately derived from the production of oil and gas.

**Question 3:** Can you describe how the costs of basic services you are seeking to put in place for your communities, such as roads and internet access, are significantly higher in the North Slope Borough due to remoteness?

**Answer 3:** Although a formal, comparative analysis is not available, the cost of providing roads and other public services on the North Slope is significant higher—sometimes an order of magnitude higher—than the cost to provide those same services in other part of Alaska or in the Lower 48 states. The cost of providing public services in the Arctic is much higher due to such factors as remoteness, including lack of road access; our shortened construction season; and material (gravel/rock) availability. For example, the cost of building gravel roads is approximately \$3 million per mile and sometime higher. The cost of installing a new water/sewer connection generally ranges from \$200,000 - \$400,000 *per lot*.

In all, the Borough maintains \$4.2 billion in capital assets just to provide essential services for less than 10,000 residents. That is over \$420,000 per resident in municipal assets needed to provide electricity, sanitary facilities, clean water, and primary and secondary education facilities; all of which must be maintained and eventually replaced. Water and sewer utility assets account for 30 percent of those capital investments. Operating costs, (capital upgrades not included) for water and sewer utilities average over \$640 per household for each service, each month. Typically, all these costs would be borne by the rate payer; out of necessity, however, the Borough bears much of the operating costs in our region.

Housing, too, presents significant challenges in our region. Housing cannot be constructed for the appraised value of the home in seven out of eight of our communities and the margins for building to appraised value in our largest community (Utqiagvik) are less than 8 percent, presenting much more risk than building anywhere else in the United States. Without a viable housing market, with the average age of homes exceeding 30 years and with a rising shortage in safe housing, the Borough has been forced to provide

**U.S. Senate Committee on Energy and Natural Resources**  
**November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666***  
**Questions for the Record Submitted to the Honorable Harry Brower**

emergency heating and life/safety upgrades for some homes and is beginning to fund new public housing projects due to the lack of assistance from the Federal Government.

A comparative analysis with other municipalities, particularly those in the Lower 48 states, would likely substantiate the obvious: It costs a great deal more to provide basic services in the Arctic and, within our region, the Borough shoulders most of those costs, both to protect the health and safety of our residents, and so that residents can enjoy the same basic public services that most of the residents of other municipalities in the United States enjoy.



## MEMORANDUM

February 14, 2020

**To:** Senate Committee on Energy and Natural Resources  
Attention: Darla Ripchensky

**From:** Laura B. Comay, Specialist in Natural Resources Policy  
Charles S. Konigsberg, Analyst on Congress and the Legislative Process  
Bill Heniff Jr., Analyst on Congress and the Legislative Process  
Marc Humphries, Specialist in Energy Policy

**Subject:** Responses to Questions for the Record from the November 7, 2019, Hearing of the Senate Committee on Energy and Natural Resources, “Issues and Legislation Related to Energy Development on Federal Land”

This memorandum responds to the Questions for the Record (QFRs) submitted to CRS on November 12, 2019, by the Senate Committee on Energy and Natural Resources, following CRS testimony at a November 7, 2019, full committee hearing on “Issues and Legislation Related to Energy Development on Federal Land.” The committee submitted two QFRs to CRS, one from Chairman Lisa Murkowski, concerning budget sequestration of state-shared revenues from energy development on federal lands; and one from Senator Steve Daines, concerning the processes for permitting and revenue sharing for geothermal energy development on federal lands. The discussion below addresses the two questions. Please do not hesitate to contact CRS if we can be of any further assistance.

Information in this memorandum is drawn from publicly available sources and may be of general interest to Congress. As such, this information may be used in other CRS products.

**Question from Chairman Lisa Murkowski<sup>1</sup>**

**Question:** Could you please describe how funds to be shared under the Mineral Leasing Act, the Outer Continental Shelf Lands Act, the Gulf of Mexico Energy Security Act, or other revenue sharing provisions of federal law are treated under sequestrations under the Budget Control Act? What is the process for resolution and release of sequestered funds, and are any funds still subject to prior sequestrations?

The laws that govern budget sequestration are set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; P.L. 99-177), as amended by the Budget Control Act of 2011 (BCA; P.L. 112-25).<sup>2</sup> Section 250 of BBEDCA provides that “sequestration” is the “cancellation of budgetary

<sup>1</sup> Response prepared by Charles S. Konigsberg and Bill Heniff Jr., CRS Analysts on Congress and the Legislative Process; and Laura Comay, CRS Specialist in Natural Resources Policy. This response also draws on the expertise of Katie Hoover, CRS Specialist in Natural Resources Policy.

<sup>2</sup> Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), Title II of P.L. 99-177, Dec. 12, 1985, 99 Stat. 1037-



resources provided by discretionary appropriations or direct spending law.”<sup>3</sup> While sequestration is typically a permanent cancellation of spending, certain types of sequestration are temporary.

Revenue-sharing provisions of federal law are treated as direct (or “mandatory”) spending because the payments to states or localities are required by laws enacted outside the appropriations process. In every year since FY2013, BBEDCA, as amended by the BCA, has required an automatic annual sequestration of (nonexempt) mandatory spending. The automatic reductions are known as “Joint Committee reductions”; they were automatically triggered in 2012, when, by a specified deadline, a special joint committee did not produce and Congress did not enact long-term deficit reduction.<sup>4</sup> Under current law, the annual “Joint Committee” mandatory sequesters will continue through FY2029.

The annual Joint Committee mandatory sequester has consisted of uniform percentage reductions ranging from 5.1% to 7.3%, and is calculated by the Office of Management and Budget (OMB) according to a detailed statutory formula.<sup>5</sup> About three-quarters of federal mandatory spending is exempt from sequestration, but revenue sharing with the states from federal mineral leasing is subject to the annual Joint Committee mandatory sequester.

While BBEDCA generally requires the permanent cancellation of sequestered budget authority, a special rule in Section 256(k)(6) of BBEDCA (2 U.S.C. §906(k)(6)) provides that certain types of budget accounts can only be sequestered temporarily:

**Section 256(k) EFFECTS OF SEQUESTRATION.**

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (6)....

(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but *shall be available in subsequent years* to the extent otherwise provided in law. [emphasis added]

Consequently, when a budget account falls within this special rule, sequestration does not cancel the budget authority; rather, the budget authority becomes *temporarily unavailable in the sequester year*.

The process for resolution and release of sequestered funds is addressed in OMB Circular A-11, section 100.13:<sup>6</sup>

Generally, budgetary resources sequestered from an account are permanently cancelled, meaning they revert to the General Fund of the Treasury.

However, section 256(k)(6) of BBEDCA provides an exception for budgetary resources sequestered in revolving, trust, and special fund accounts.... These funds are temporarily reduced,

<sup>1</sup> 1101, 2 U.S.C. 900 et. seq.; also known as “Deficit Control Act” and originally known as “Gramm-Rudman-Hollings.” BBEDCA has been amended and extended several times, most significantly by the Budget Enforcement Act (BEA) of 1990 and most recently by the Budget Control Act of 2011. See <https://legcounsel.house.gov/Comps/Balanced%20Budget%20And%20Emergency%20Deficit%20Control%20Act%20Of%201985--%28Part%20C%29.pdf>.

<sup>3</sup> Budgetary resources refers to new budget authority, as well as carryover authority from prior years. See BBEDCA, §250(c)(6), 2 U.S.C. §900(c)(6).

<sup>4</sup> The BCA (P.L. 112-25) amended BBEDCA, establishing limits on discretionary spending for FY2012-FY2021, and requiring further automatic reductions in discretionary spending and sequestration of mandatory spending when Congress did not enact by a January 15, 2012, deadline \$1.2 trillion in deficit reductions.

<sup>5</sup> The statutory formula is provided in Section 251A of BBEDCA, and is explained in CRS Report R45941, *The Annual Sequester of Mandatory Spending through FY2029*, by Charles S. Konigsberg. OMB calculates the sequestration percentage by dividing the required reduction by the sequester base. For a sequestration of mandatory budgetary resources, the sequester base is defined as the sum of estimated outlays in the budget year and in the subsequent fiscal year from sequester base mandatory budget year resources in the baseline. OMB Circular A-11, 100.6.

<sup>6</sup> See <https://www.whitehouse.gov/wp-content/uploads/2018/06/s100.pdf>.

meaning that the money is not returned to the General Fund, but instead remains as an *unavailable balance* in the account where the funding was originally deposited [emphasis added].

Resources that have been temporarily reduced are not available for obligation during the fiscal year in which they are sequestered, but remain in the fund or account and may be available in subsequent years only to the extent provided in appropriations or authorizing language.

Resources that have been temporarily reduced will not be available in the subsequent year simply because funding is appropriated on a no-year ('available until expended') or multi-year basis.... [T]here must be statutory language that makes the unavailable funding in the account available in a subsequent year, such as an appropriation of all funding in the account (since sequestered funding from a prior year would constitute funding in the account, it would be made available by such an appropriation).

Resources that have been temporarily reduced will also not be available in a subsequent year to the extent statutory language states that only funds from a specific fiscal year are appropriated (assuming that the sequestered funds were not provided in that fiscal year).

OMB, in conjunction with agencies, determines which resources become available in a subsequent fiscal year.

Therefore, when revenues required to be shared with states are sequestered under the Section 256(k)(6) special rule, the sequestered amounts are not cancelled but are temporarily unavailable; and the sequestered amounts are then made available when there is underlying statutory authority to do so. OMB, in conjunction with the agency—in this case, the Department of the Interior (DOI)—determines when statutory language requires that temporarily sequestered resources be made available in a subsequent year.

Following is a listing of accounts under the Mineral Leasing Act (MLA), the Gulf of Mexico Energy Security Act (GOMESA), and similar revenue-sharing laws that have been subject to temporary sequestration under the Section 256(k)(6) special rules since FY2013.<sup>7</sup> The discussion of each account shows the uniform percentage reductions and *estimated* sequester amounts at the time OMB transmitted its annual *Joint Committee Reductions* reports to Congress (contemporaneous with transmittal of the President's budget for the upcoming fiscal year).<sup>8</sup> OMB Circular A-11, Section 100.10, clarifies that actual amounts sequestered on the first day of the new fiscal year may vary from the amounts estimated in the *Joint Committee Reductions* report:

There are certain programs where the amount of the sequestrable budgetary resource depends on factors that can only be estimated at the time a sequestration report is prepared, for example when the amount of sequestrable budget authority is determined by the amount of receipts collected in the same fiscal year.... In cases such as these, where the actual amount of the sequestrable budgetary resource can vary from the baseline estimate used to prepare the sequestration report due to the nature of the program, OMB may direct agencies to achieve the reduction by multiplying the sequestration percentage by the actual amount of sequestrable budgetary resources, as opposed to multiplying by the estimate of budgetary resources reflected in the report.

With respect to the question of whether relevant statutes required the release of sequestered funds from these accounts in a subsequent year, or whether they are still subject to prior sequestrations (that is, remain unavailable), OMB, in conjunction with the department, makes the final determination. In order to fully address this question, it may be necessary to seek further information from OMB on release of those amounts.<sup>9</sup>

<sup>7</sup> CRS has identified the four budget accounts discussed below as meeting the criteria for sequestration of revenue-sharing funds from mineral leasing under the Section 256(k)(6) special rules for sequestration. Not included are payments to coastal states under Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)), which are derived from oil and gas leases lying within 3 nautical miles of state waters. It is CRS's understanding that the state payments under Section 8(g) have not been subject to sequestration (CRS communication with DOI Office of Natural Resources Revenue, December 5, 2019).

<sup>8</sup> Based on CRS's review of information provided in the annual *Appendix* to the President's Budget, in some years final sequestration amounts and implementation of sequestration may have varied from OMB's initial estimated projections.

<sup>9</sup> There is no official reporting of final sequestration amounts or whether (or when) temporarily sequestered amounts "pop up"

**Mineral Leasing and Associated Payments:** Under the Mineral Leasing Act (MLA), states generally receive 50% of federal revenues generated from mineral production occurring on federal lands within that state's boundaries, although Alaska receives a 90% share.<sup>10</sup> OMB classifies these revenues as "special and trust fund receipts,"<sup>11</sup> making the revenues eligible for temporary sequestration under Section 256(k)(6) of BBEDCA. Following are the uniform percentage reductions and estimated sequester amounts at the time Congress transmitted its *Joint Committee Reductions* reports to Congress (in millions of dollars):<sup>12</sup>

- FY2013: 5.1% reduction, projected to result in a temporary sequester of \$109 million;
- FY2014: 7.2% reduction, projected to result in a temporary sequester of \$154 million;
- FY2015: 7.3% reduction, projected to result in a temporary sequester of \$138 million;
- FY2016: 6.8% reduction, projected to result in a temporary sequester of \$130 million;
- FY2017: 6.9% reduction, projected to result in a temporary sequester of \$95 million;
- FY2018: 6.6% reduction, projected to result in a temporary sequester of \$98 million;
- FY2019: 6.2% reduction, projected to result in a temporary sequester of \$107 million;
- FY2020: 5.9% reduction, projected to result in a temporary sequester of \$166 million.

**Gulf of Mexico Energy Security Act:** The Gulf of Mexico Energy Security Act of 2006 (GOMESA, P.L. 109–432) provides that 37.5% of outer continental shelf revenues from certain leases be distributed to four coastal states (Alabama, Louisiana, Mississippi, and Texas) and their coastal political subdivisions based on an allocation formula and subject to a cap. OMB classifies these revenues as "special and trust fund receipts,"<sup>13</sup> making the revenues eligible for temporary sequestration under Section 256(k)(6) of BBEDCA. Following are the uniform percentage reductions and estimated sequester amounts at the time Congress transmitted its *Joint Committee Reductions* reports to Congress (in millions of dollars):<sup>14</sup>

---

(become available). The Government Accountability Office (GAO) reported in 2016 that "OMB staff said they do not tally the total amount of funds that 'pop up,' nor are they required to do so ... [and] said they do not aggregate government-wide data on the actual amounts sequestered nor are they required to do so ..." GAO, *Opportunities Exist to Improve Transparency of Progress Toward Deficit Reduction Goals*, summary, April 2016, <https://www.gao.gov/assets/680/676565.pdf>.

<sup>10</sup> Statutes relevant to certain areas within Alaska, including the National Petroleum Reserve-Alaska and the Arctic National Wildlife Refuge, provide for a 50% revenue share for Alaska from oil and gas leases within those areas (42 U.S.C. §6506a(f); 16 U.S.C. §3143 note).

<sup>11</sup> Budget of the United States, FY2020, Appendix, p. 661, <https://www.whitehouse.gov/wp-content/uploads/2019/03/appendix-fy2020.pdf>.

<sup>12</sup> Each of the following estimates are set forth in the *OMB Reports to the Congress on the Joint Committee Reductions* for the respective fiscal years, as follows. FY2013: [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/fy13ombjesequestrationreport.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjesequestrationreport.pdf); FY2014: [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/fy14\\_preview\\_and\\_joint\\_committee\\_reductions\\_reports\\_05202013.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/fy14_preview_and_joint_committee_reductions_reports_05202013.pdf); FY2015: [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/sequestration\\_order\\_report\\_march2014.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/sequestration_order_report_march2014.pdf); FY2016: [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/sequestration/2016\\_jc\\_sequestration\\_report\\_speaker.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/sequestration/2016_jc_sequestration_report_speaker.pdf); FY2017: [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/sequestration/2017\\_jc\\_sequestration\\_report\\_2017\\_house.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/sequestration/2017_jc_sequestration_report_2017_house.pdf); FY2018: [https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration\\_reports/2018\\_jc\\_sequestration\\_report\\_may2017\\_potus.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration_reports/2018_jc_sequestration_report_may2017_potus.pdf); FY2019: [https://www.whitehouse.gov/wp-content/uploads/2018/02/Sequestration\\_Report\\_February\\_2018.pdf](https://www.whitehouse.gov/wp-content/uploads/2018/02/Sequestration_Report_February_2018.pdf); FY2020: [https://www.whitehouse.gov/wp-content/uploads/2019/03/2020\\_IC\\_Sequestration\\_Report\\_3-18-19.pdf](https://www.whitehouse.gov/wp-content/uploads/2019/03/2020_IC_Sequestration_Report_3-18-19.pdf).

<sup>13</sup> Budget of the United States, FY2020, Appendix, p. 664, <https://www.whitehouse.gov/wp-content/uploads/2019/03/appendix-fy2020.pdf>.

<sup>14</sup> See footnote 12.

- (Note: according to the respective fiscal years' *OMB Report to the Congress on the Joint Committee Reductions*, there were no estimated sequestrable revenue-sharing payments for FY2013, FY2015, or FY2016.)
- FY2014: 7.2% reduction, projected to result in a temporary sequester of \$0.22 million;
- FY2017: 6.9% reduction, projected to result in a temporary sequester of \$0.14 million;
- FY2018: 6.6% reduction, projected to result in a temporary sequester of \$18 million;
- FY2019: 6.2% reduction, projected to result in a temporary sequester of \$17 million;
- FY2020: 5.9% reduction, projected to result in a temporary sequester of \$20 million.

**National Forests Fund, Payment to States:** Pursuant to the Act of May 23, 1908 (16 U.S.C. §500), 25% of the average revenues collected over the previous seven years from most revenue-generating activities—including onshore mineral leasing and production—on acquired national forest lands have been paid to the state in which the national forest resides.<sup>15</sup> A state's payment is based on national forest acreage. Where a national forest is situated in several states, an individual state payment is proportionate to its area within that particular national forest. The 25% payment is to be used for the benefit of the roads and schools of the county or counties containing the national forests.<sup>16</sup>

OMB classifies these revenues as “special and trust fund receipts,”<sup>17</sup> making the revenues eligible for temporary sequestration under Section 256(k)(6) of BBEDCA. Following are the uniform percentage reductions and estimated sequester amounts at the time Congress transmitted its *Joint Committee Reductions* report to Congress (in millions of dollars).<sup>18</sup> These figures reflect the estimated amount of sequestration that would have applied to the portion of the 25% payments associated with onshore mineral leasing and production from acquired national forests (not the total 25% payments made to counties containing national forest land).<sup>19</sup>

- FY2013: 5.1% reduction, projected to result in a temporary sequester of \$0.46 million;
- FY2014: 7.2% reduction, projected to result in a temporary sequester of \$1 million;
- FY2015: 7.3% reduction, projected to result in a temporary sequester of \$1 million;
- FY2016: 6.8% reduction, projected to result in a temporary sequester of \$1 million;
- FY2017: 6.9% reduction, projected to result in a temporary sequester of \$0.41 million;
- FY2018: 6.6% reduction, projected to result in a temporary sequester of \$1 million;
- FY2019: 6.2% reduction, projected to result in a temporary sequester of \$1 million;
- FY2020: 5.9% reduction, projected to result in a temporary sequester of \$1 million.

<sup>15</sup> “Acquired” lands are those that the United States obtained from a state or individual. By contrast, “public domain” lands consist of lands ceded by the original states or obtained from a sovereign nation. Revenues derived from mineral leasing and production on national forests reserved from the public domain are governed by the Mineral Leasing Act of 1920 (MLA).

<sup>16</sup> Alternatively, counties have had the option in some years to receive a payment pursuant to the Secure Rural Schools and Community Self-Determination Act (SRS; P.L. 106-393, 16 U.S.C. §§7101-7153) in lieu of the 25% payment. SRS payments were authorized in each year since FY2001 except for FY2017. For any given year (except FY2017), a county may have received either an SRS payment or a 25% payment. The SRS payments are not based on current revenue generation, but are based in part on historic revenue generation. As of the date of this CRS response, the authorization for SRS payments had expired.

<sup>17</sup> Budget of the United States, FY2020, Appendix, p. 663, <https://www.whitehouse.gov/wp-content/uploads/2019/03/appendix-fy2020.pdf>.

<sup>18</sup> See footnote 12.

<sup>19</sup> Also, the figures do not reflect payments under SRS; see footnote 16.

**Geothermal Lease Revenues, Payment to Counties:** The Energy Policy Act of 2005 (P.L. 109–58) amended Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019 et seq.), providing, with respect to revenues collected from geothermal leasing, that 50% of the revenues are to be paid to the state and 25% are to be paid to the county in which the leased lands or geothermal resources are located. OMB classifies these revenues as “special and trust fund receipts,”<sup>20</sup> making the revenues eligible for temporary sequestration under Section 256(k)(6) of BBEDCA. Following are the uniform percentage reductions and estimated sequester amounts at the time Congress transmitted its *Joint Committee Reductions* reports to Congress (in millions of dollars):<sup>21</sup>

- FY2013: 5.1% reduction, projected to result in a temporary sequester of \$0.20 million;
- FY2014: 7.2% reduction, projected to result in a temporary sequester of \$0.29 million;
- FY2015: 7.3% reduction, projected to result in a temporary sequester of \$0.29 million;
- FY2016: 6.8% reduction, projected to result in a temporary sequester of \$0.27 million;
- FY2017: 6.9% reduction, projected to result in a temporary sequester of \$0.28 million;
- FY2018: 6.6% reduction, projected to result in a temporary sequester of \$0.20 million;
- FY2019: 6.2% reduction, projected to result in a temporary sequester of \$0.25 million;
- FY2020: 5.9% reduction, projected to result in a temporary sequester of \$0.24 million.

#### Question from Senator Steve Daines<sup>22</sup>

**Question:** Montana has great potential for geothermal energy development, with hundreds of potential sites located throughout the state, many of which happen to be on federal land. Streamlining the process like we do in PLREDA and including geothermal energy as a qualifying resource was a priority of mine and can help expand this baseload, renewable energy in Montana and increase revenue to the state. How does the existing geothermal permitting and revenue sharing process work and how will PLREDA change that?

Geothermal energy development on federal lands is governed by the Geothermal Steam Act of 1970, as amended (P.L. 91-581, as amended; 30 U.S.C. §§1001 et seq.). The act sets forth detailed provisions regarding the issuance and administration of geothermal steam leases. The laws and regulations governing geothermal steam leasing and administration are similar to the principles and processes for oil and natural gas leasing on federal lands.

The Geothermal Steam Act, like the MLA, authorizes both competitive and noncompetitive leasing processes. Pursuant to Bureau of Land Management (BLM) regulations promulgated under the act, the competitive process begins when the BLM receives nominations for parcels to be auctioned from a qualified company or individual (43 C.F.R. §3203.10). Nominated areas may not exceed 5,120 acres unless the lease area includes an irregular subdivision. Qualified companies or individuals may request that nominated parcels be offered as a block for competitive leasing (43 C.F.R. §3203.11). Bidders must make a minimum acceptable bid of \$2 per acre. Lands offered at a competitive lease sale that receive no bids are made available for noncompetitive leasing for a two-year period beginning the first business day following the date of the lease sale (43 C.F.R. §3204.5(a)). Geothermal leases generally have an initial primary term of 10 years, with a number of extensions that can extend the term at the discretion of BLM (43 C.F.R. §3207.5). Lessees are required to make annual rental payments to BLM in accordance with

<sup>20</sup> Budget of the United States, FY2020, Appendix, p. 663, <https://www.whitehouse.gov/wp-content/uploads/2019/03/appendix-fy2020.pdf>.

<sup>21</sup> See footnote 12.

<sup>22</sup> Response prepared by Marc Humphries, CRS Specialist in Energy Policy; and Laura Comay, CRS Specialist in Natural Resources Policy. This response also draws on the expertise of Adam Vann, CRS Legislative Attorney; and Brandon Tracy, CRS Analyst in Energy Policy.



certain terms (43 C.F.R. §§3211.11-3211.16). Lessees also must make royalty payments on geothermal resources produced and sold from leases on federal lands (43 C.F.R. §3211.17). For electricity generated from leases issued on or after August 8, 2005, the royalty rate is 1.75% of gross sales for the first 10 years of production, and 3.5% thereafter (43 C.F.R. §3211.17(a)).

As with oil and natural gas leasing, a geothermal lease alone does not entitle the lessee to commence drilling and production. In order to conduct exploration for geothermal resources, the lessee must submit to BLM a Notice of Intent to Conduct Geothermal Resource Exploration Operations. BLM reviews and must approve the Notice of Intent (43 C.F.R. §3251.10). Exploration operations must be conducted in a manner that (1) protects the quality of surface and subsurface waters, air, and other natural resources; (2) protects the quality of cultural, scenic, and recreational resources; (3) accommodates other land uses; and (4) minimizes noise (43 C.F.R. §3252.11). Data collected during exploration operations must be shared with BLM (43 C.F.R. §3253.10). Lessees also must submit a geothermal drilling program and obtain a drilling permit before commencing drilling operations for geothermal resources on leased land (43 C.F.R. Subparts 3260-3261). Similar to exploration operations, drilling operations must be conducted in a manner that (1) protects the quality of surface and subsurface waters, air, and other natural resources; (2) protects the quality of cultural, scenic, and recreational resources; (3) accommodates other land uses; (4) minimizes noise; and (5) prevents property damage and unnecessary or undue degradation of the lands (43 C.F.R. §3262.11). BLM must comply with National Environmental Policy Act (NEPA; P.L. 91-190, 42 U.S.C. §4321 et seq.) requirements in evaluating applications for exploration and drilling permits, which may include preparation of a project-specific environmental assessment (EA) or environmental impact statement (EIS).<sup>23</sup> Lessees also must meet BLM's geothermal well abandonment requirements upon completion of operations (43 C.F.R. Subpart 3263).

Revenues from geothermal energy development on federal lands consist of bids, rents, and royalties, similar to revenues from oil and gas leasing on federal lands. The revenues are shared with states and counties, with the balance going to the U.S. Treasury (30 U.S.C. §1019; 30 U.S.C. §191). Except with respect to Alaska (which receives a 90% revenue share, with none going to counties), the Geothermal Steam Act directs that revenues from geothermal leasing on federal lands be shared at a rate of 50% to the states and an additional 25% to the counties in whose boundaries the leased lands or geothermal resources are located. (As with revenue shares from oil and gas leasing, the state share is subject to a 2% deduction for administrative costs [30 U.S.C. §191(b)].) The balance of 25% remains in the U.S. Treasury as miscellaneous receipts. State and county uses of the funds are to comply with the uses set forth in the MLA for mineral revenues, meaning that the shared revenues shall be used "as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service" (30 U.S.C. §191(a)).

S. 2666, the Public Land Renewable Energy Development Act of 2019 (PLREDA), would make several changes affecting the federal leasing and permitting process for geothermal energy on federal lands, as well as a change related to revenue uses. The bill sets an overall goal that federal land managers shall seek to authorize production of at least 25 gigawatts of electricity from wind, solar, and geothermal energy projects by the end of 2025.

With respect to leasing and permitting, the bill would direct the Secretary of the Interior, in consultation with the Secretary of Energy and within five years of the bill's enactment, to establish "priority areas" for geothermal energy projects on eligible federal lands (as well as priority areas for solar and wind

<sup>23</sup> Some activities related to the Notice of Intent to Conduct Geothermal Resource Exploration Operations are covered under NEPA categorical exclusions. See, e.g., U.S. Department of the Interior, "Existing Categorical Exclusions, U.S. Department of the Interior," at [https://www.doi.gov/sites/doi.gov/files/uploads/doi\\_and\\_bureau\\_categorical\\_exclusions.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/doi_and_bureau_categorical_exclusions.pdf).

projects).<sup>24</sup> These would be areas identified as “preferred location[s]” for renewable energy development. In addition to these priority areas, the bill would direct that other “variance areas” (those areas not explicitly identified during land use planning as being unsuited to renewable energy development) also be considered for renewable projects, including geothermal, “to the maximum extent practicable.”

The bill would address compliance with NEPA for geothermal energy projects (as well as solar and wind projects) on federal land. It would direct the Secretary of the Interior to supplement the 2008 programmatic environmental impact statement (PEIS) for geothermal energy development on federal lands (73 *Federal Register* 63430), including by incorporating any additional regional analyses completed after the PEIS was published.<sup>25</sup> (Similar requirements are included for solar and wind PEISs.) Then, if the Secretary determines that the PEIS as supplemented has provided “sufficient” analysis of a proposed renewable energy project, no further NEPA review of that project would be required. If the Secretary determines that a specific NEPA review is needed for an individual project, the bill would direct that this review rely on analysis already done in the PEIS “to the maximum extent practicable.”<sup>26</sup> Another bill provision would direct the Secretary of the Interior to establish a National Renewable Energy Coordination Office and corresponding state, district, or field offices to “improve permit coordination” for renewable energy projects on federal land. This would be accomplished, in part, by designating qualified staff with “expertise in the regulatory issues,” including preparation of NEPA analyses, biological opinions under Section 7 of the Endangered Species Act (16 U.S.C. 1536), permits under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and others.<sup>27</sup> The relevant laws are administered by different agencies both inside and outside the Department of the Interior.

Also, S. 2666 would make changes intended to facilitate coproduction of geothermal energy on existing oil and gas leases. Under the bill, federal lands with producing oil and gas leases would be available for geothermal leasing on a noncompetitive basis (i.e., to the holder of the oil and gas lease) if the Secretary determines that geothermal energy would be produced from the existing well(s). Separately, the bill also contains provisions to facilitate noncompetitive leasing of areas adjoining existing geothermal leases under certain terms, if “valid discoveries” of geothermal resources are made on these adjoining lands.

With respect to the disposition of revenues from geothermal leasing, S. 2666 would make a change through FY2022 affecting the 25% federal share of the revenues. Rather than being deposited as miscellaneous receipts in the Treasury, the bill would direct that the federal share through FY2022 be deposited in a separate account and used by the Secretary of the Interior to administer the Geothermal Steam Act. The funds would be available to the Secretary without further appropriation (i.e., as mandatory funding) and without fiscal year limitation. A similar disposition for the federal revenues was previously in force from 2005 through 2010 (42 U.S.C. 15873). The bill does not alter the current geothermal revenue-sharing split between the federal government and states and counties.

<sup>24</sup> Currently, BLM regulations pertaining to solar and wind energy development (but not geothermal) require the agency to identify “designated leasing areas” during the land use planning process, which are “preferred location[s] for solar or wind energy development that may be offered competitively” (43 C.F.R. §2801.5). These designated leasing areas would qualify as “priority areas” for solar and wind under S. 2666.

<sup>25</sup> Council on Environmental Quality (CEQ) regulations implementing NEPA allow for NEPA reviews to be carried out through a tiered process. As defined by CEQ (40 C.F.R. §1508.28), that process involves broad analysis of impacts of a proposed program, as in a PEIS, with subsequent narrower analysis when a site-specific project is proposed. The project-level analysis then incorporates by reference the broad analysis in a PEIS, and focuses on detail relevant to the specific proposal.

<sup>26</sup> It is difficult to determine the effects of these directives. The PEIS is typically prepared with the expectation that site-specific reviews of individual projects would be carried out, and project-specific impacts generally would not be known at the time a PEIS was prepared. Thus it is unclear whether analyses in the PEIS would be considered to be sufficiently detailed for any specific project.

<sup>27</sup> The listed statutory requirements include some applicable to federal agencies and some applicable directly to project sponsors.

U.S. Senate Committee on Energy and Natural Resources  
November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666*  
Questions for the Record Submitted to Mr. Kyle R. “Chip” Kline, Jr.

**Responses to Questions for the Record**

**Chairman Lisa Murkowski**

**Questions:** Could you please describe how funds to be shared with the State of Louisiana under the Mineral Leasing Act, the Outer Continental Shelf Lands Act, the Gulf of Mexico Energy Security Act, or other revenue sharing provisions of federal law have been treated under sequestrations under the Budget Control Act? What is the process for resolution and release of sequestered funds, and are any funds still subject to prior sequestrations?

**Answer:** Gulf of Mexico Energy Security Act (GOMESA) royalty payments from the Department of Interior to Alabama, Louisiana, Mississippi and Texas are subject to sequestration requirements under the Budget Control Act of 2011. As you know, GOMESA payments are already capped at \$375 million, divided among the four Gulf Coast states that are adjacent to federal offshore production. Additional reductions through sequestration, a federal process over which we, as a state, have no power, creates uncertainty for our state and has a negative impact on our ability to deploy resources toward critical restoration and hurricane projects. More resources, not fewer, are needed to combat coastal wetland loss for the benefit of our state and the entire nation.

Since we focus on the deployment of these resources we do not have expertise on the federal process for freezing and releasing sequestered funds.

**Senator Bill Cassidy**

**Question:** In 2017 former Secretary Zinke visited Louisiana and was amazed at the partnerships the State has with environmental organizations as well as industry. Can you describe the state partnerships with stakeholder environmental organizations and the role they have in the execution of the Master Plan?

**Answer:** Since the formulation of Louisiana’s first Master Plan in 2007 (which is updated and adopted by our state legislature every six years), we have worked tirelessly to engage with all stakeholders in the development of our roadmap for a sustainable coast. We believe a successful plan is not only built on sound science and engineering, but with local knowledge, input from a diverse range of coastal stakeholders and extensive dialogue with the public, including both business and environmental interests.

The Restore the Mississippi Delta coalition, whose membership includes the Environmental Defense Fund, the National Audubon Society, the National Wildlife Federation, the Lake Pontchartrain Basin Foundation, and the Coalition to Restore Coastal Louisiana are integral partners in our shared vision of combating our coastal land loss crisis and creating a resilient coast. These partners provide crucial outreach, education, and communications support. These groups also provide technical guidance, conduct original research, synthesize existing research to provide critical analyses and work with the academic scientific community and other NGOs.



**U.S. Senate Committee on Energy and Natural Resources**

**November 7, 2019 Hearing: *To Examine Federal Revenues Derived from Energy Development on Federal and Indian Lands as well as Federal Offshore Areas and Programs that Share those Revenues with State, Local and Tribal Governments; and to Receive Testimony on S. 2418 and S. 2666***  
**Questions for the Record Submitted to Mr. Kyle R. “Chip” Kline, Jr.**

Furthermore, we engage with the full spectrum of interests through the coastal stakeholder advisory group (Framework Development Team) as part of the development of the Coastal Master Plan as well as focus groups that represent our communities, landowners, recreational interests (wildlife and fisheries), and commercial activities (fisheries, navigation, and energy and industry). A wide range of stakeholders are also represented on other standing commissions and bodies, such as the Governor’s Advisory Commission on Coastal Protection, Restoration, and Conservation, that carry on the public conversation surrounding coastal issues on a regular basis. Additional coordination also continues with allied groups such as floodplain managers, hazard mitigation specialists, and other state agencies. Finally, we are continuing to try new ways to engage the public in order to better share information related to our changing landscape, the flood risk of communities, and new solutions to create a more resilient and sustainable coast.

U.S. Senate Committee on Energy and Natural Resources  
November 7, 2019 Hearing

Answers to written questions for the Record: Randall Luthi

Question 1: Could you provide a summary of how Wyoming uses funds shared under the Mineral Leasing Act, including any dedicated programs or accounts that are supported by these funds?

Answer: The funds shared under the Mineral Leasing Act are widely used to support vital state programs. Of the first \$200M received funds are distributed to the following:

- School Foundation Program
- Highway Fund
- Cities and Towns
- University of Wyoming
- Cities, Towns and Counties Capital Construction
- School; Capital Construction
- County Roads

Amounts over \$200M are distributed to the Budget Reserve Account (available for appropriation by the legislature) and the School Foundation Account (K-12).

Question 2: Could you please describe how funds to be shared with the State of Wyoming under the Mineral Leasing Act or other revenue sharing provisions of federal law have been treated under sequestrations under the Budget Control Act? What is the process for resolution and release of sequestered funds, and are any funds still subject to prior sequestrations?

During sequestration funds received through FMRS are reduced by a percentage on a monthly basis. They are usually reimbursed to the State in October of the following year. . The time value of that amount is lost until the funds are restored. Currently there are funds being withheld due to sequestration from the State's monthly payments.

116TH CONGRESS  
1ST SESSION

# S. 2418

To amend the Gulf of Mexico Energy Security Act of 2006 to modify a definition and the disposition and authorized uses of qualified outer Continental Shelf revenues under that Act and to exempt State and county payments under that Act from sequestration, to provide for the distribution of certain outer Continental Shelf revenues to the State of Alaska, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2019

Mr. CASSIDY (for himself, Ms. MURKOWSKI, Mr. KENNEDY, Mr. WICKER, Mr. JONES, and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To amend the Gulf of Mexico Energy Security Act of 2006 to modify a definition and the disposition and authorized uses of qualified outer Continental Shelf revenues under that Act and to exempt State and county payments under that Act from sequestration, to provide for the distribution of certain outer Continental Shelf revenues to the State of Alaska, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Conservation Of America’s Shoreline Terrain and Aquat-  
4 ic Life Act” or the “COASTAL Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—GULF OF MEXICO OUTER CONTINENTAL SHELF  
REVENUES**

Sec. 101. Definition of qualified outer Continental Shelf revenues.

Sec. 102. Disposition of qualified outer Continental Shelf revenues.

Sec. 103. Exemption of certain payments from sequestration.

**TITLE II—ALASKA OUTER CONTINENTAL SHELF REVENUES**

Sec. 201. Definitions.

Sec. 202. Disposition of qualified revenues in Alaska.

7 **TITLE I—GULF OF MEXICO**  
8 **OUTER CONTINENTAL SHELF**  
9 **REVENUES**

10 **SEC. 101. DEFINITION OF QUALIFIED OUTER CONTINENTAL**  
11 **SHELF REVENUES.**

12 Section 102(9)(A) of the Gulf of Mexico Energy Se-  
13 curity Act of 2006 (43 U.S.C. 1331 note; Public Law  
14 109–432) is amended—

15 (1) in clause (i)(II), by striking “and” after the  
16 semicolon;

17 (2) in clause (ii)—

18 (A) in the matter preceding subclause (I),  
19 by striking “fiscal year 2017 and each fiscal

1           year thereafter” and inserting “each of fiscal  
2           years 2017 through 2019”; and

3           (B) in subclause (III), by striking the pe-  
4           riod and inserting “; and”; and

5           (3) by adding at the end the following:

6                   “(iii) in the case of fiscal year 2020  
7                   and each fiscal year thereafter, all rentals,  
8                   royalties, bonus bids, and other sums due  
9                   and payable to the United States received  
10                  on or after October 1, 2019, from leases  
11                  entered into on or after October 1, 2000  
12                  for—

13                           “(I) the 181 Area;

14                           “(II) the 181 South Area; and

15                           “(III) the 2002–2007 planning  
16                   area.”.

17 **SEC. 102. DISPOSITION OF QUALIFIED OUTER CONTI-**  
18 **NENTAL SHELF REVENUES.**

19           (a) IN GENERAL.—Section 105(a) of the Gulf of  
20 Mexico Energy Security Act of 2006 (43 U.S.C. 1331  
21 note; Public Law 109–432) is amended—

22                   (1) in paragraph (1), by striking “50” and in-  
23                   serting “37.5”; and

24                   (2) in paragraph (2)—

1 (A) in the matter preceding subparagraph  
2 (A), by striking “50” and inserting “62.5”;

3 (B) in subparagraph (A), by striking “75”  
4 and inserting “80”; and

5 (C) in subparagraph (B), by striking “25”  
6 and inserting “20”.

7 (b) AUTHORIZED USES.—Section 105(d)(1) of the  
8 Gulf of Mexico Energy Security Act of 2006 (43 U.S.C.  
9 1331 note; Public Law 109–432) is amended by adding  
10 at the end the following:

11 “(F) Planning, engineering, design, con-  
12 struction, operations, and maintenance of 1 or  
13 more projects that are specifically authorized by  
14 any other Act for ecosystem restoration, hurri-  
15 cane protection, or flood damage prevention.”.

16 (c) LIMITATIONS ON AMOUNT OF DISTRIBUTED  
17 QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—  
18 Section 105(f) of the Gulf of Mexico Energy Security Act  
19 of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is  
20 amended—

21 (1) in paragraph (1)—

22 (A) by striking subparagraphs (B) and  
23 (C);

1 (B) in subparagraph (A), by striking the  
 2 semicolon at the end and inserting a period;  
 3 and

4 (C) beginning in the matter preceding sub-  
 5 paragraph (A), by striking “exceed—” and all  
 6 that follows through “for each” in subpara-  
 7 graph (A) and inserting the following: “exceed  
 8 \$500,000,000 for each”; and

9 (2) in paragraph (2), by striking “2055” and  
 10 inserting “2019”.

11 **SEC. 103. EXEMPTION OF CERTAIN PAYMENTS FROM SE-**  
 12 **QUESTRATION.**

13 (a) IN GENERAL.—Section 255(g)(1)(A) of the Bal-  
 14 anced Budget and Emergency Deficit Control Act of 1985  
 15 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after  
 16 “Payments to Social Security Trust Funds (28–0404–0–  
 17 1–651).” the following:

18 “Payments to States pursuant to section  
 19 105(a)(2)(A) of the Gulf of Mexico Energy Se-  
 20 curity Act of 2006 (Public Law 109–432; 43  
 21 U.S.C. 1331 note) (014–5535–0–2–302).”.

22 (b) APPLICABILITY.—The amendment made by this  
 23 section shall apply to any sequestration order issued under  
 24 the Balanced Budget and Emergency Deficit Control Act

1 of 1985 (2 U.S.C. 900 et seq.) on or after the date of  
2 enactment of this Act.

3 **TITLE II—ALASKA OUTER CONTI-**  
4 **NENTAL SHELF REVENUES**

5 **SEC. 201. DEFINITIONS.**

6 In this title:

7 (1) COASTAL POLITICAL SUBDIVISION.—The  
8 term “coastal political subdivision” means—

9 (A) a county-equivalent subdivision of the  
10 State—

11 (i) all or part of which lies within the  
12 coastal zone (as defined in section 304 of  
13 the Coastal Zone Management Act of 1972  
14 (16 U.S.C. 1453)) of the State; and

15 (ii) the closest coastal point of which  
16 is not more than 200 nautical miles from  
17 the geographical center of any leased tract  
18 in the Alaska outer Continental Shelf re-  
19 gion; and

20 (B) a municipal subdivision of the State  
21 that is determined by the State to be a signifi-  
22 cant staging area for oil and gas servicing, sup-  
23 ply vessels, operations, suppliers, or workers.

24 (2) INSTITUTION OF HIGHER EDUCATION.—The  
25 term “institution of higher education” has the



1 meaning given the term in section 102 of the Higher  
2 Education Act of 1965 (20 U.S.C. 1002).

3 (3) QUALIFIED REVENUES.—

4 (A) IN GENERAL.—The term “qualified  
5 revenues” means all revenues derived from all  
6 rentals, royalties, bonus bids, and other sums  
7 due and payable to the United States from en-  
8 ergy development in the Alaska outer Conti-  
9 nental Shelf region.

10 (B) EXCLUSIONS.—The term “qualified  
11 revenues” does not include—

12 (i) revenues generated from leases  
13 subject to section 8(g) of the Outer Conti-  
14 nental Shelf Lands Act (43 U.S.C.  
15 1337(g)); or

16 (ii) revenues from the forfeiture of a  
17 bond or other surety securing obligations  
18 other than royalties, civil penalties, or roy-  
19 alties taken by the Secretary in-kind and  
20 not sold.

21 (4) SECRETARY.—The term “Secretary” means  
22 the Secretary of the Interior.

23 (5) STATE.—The term “State” means the State  
24 of Alaska.

1 **SEC. 202. DISPOSITION OF QUALIFIED REVENUES IN ALAS-**

2 **KA.**

3 (a) IN GENERAL.—Notwithstanding section 9 of the  
4 Outer Continental Shelf Lands Act (43 U.S.C. 1338) and  
5 subject to the other provisions of this section, for fiscal  
6 year 2021 and each fiscal year thereafter, the Secretary  
7 of the Treasury shall deposit—

8 (1) 50 percent of qualified revenues in the gen-  
9 eral fund of the Treasury;

10 (2) 42.5 percent of qualified revenues in a spe-  
11 cial account in the Treasury, to be distributed by the  
12 Secretary to the State; and

13 (3) 7.5 percent of qualified revenues in a spe-  
14 cial account in the Treasury, to be distributed by the  
15 Secretary to coastal political subdivisions.

16 (b) ALLOCATION AMONG COASTAL POLITICAL SUB-  
17 DIVISIONS.—Of the amount paid by the Secretary to  
18 coastal political subdivisions under subsection (a)(3)—

19 (1) 90 percent shall be allocated among costal  
20 political subdivisions described in section 201(1)(A)  
21 in amounts (based on a formula established by the  
22 Secretary by regulation) that are inversely propor-  
23 tional to the respective distances between the point  
24 in each coastal political subdivision that is closest to  
25 the geographic center of the applicable leased tract

1 and not more than 200 miles from the geographic  
2 center of the leased tract; and

3 (2) 10 percent shall be divided equally among  
4 each coastal political subdivision described in section  
5 201(1)(B).

6 (c) TIMING.—The amounts required to be deposited  
7 under subsection (a) for the applicable fiscal year shall  
8 be made available in accordance with that subsection dur-  
9 ing the fiscal year immediately following the applicable fis-  
10 cal year.

11 (d) AUTHORIZED USES.—

12 (1) IN GENERAL.—Subject to paragraph (2),  
13 the State shall use all amounts received under sub-  
14 section (a)(2) in accordance with all applicable Fed-  
15 eral and State laws, for 1 or more of the following  
16 purposes:

17 (A) Projects and activities for the purposes  
18 of coastal protection, conservation, and restora-  
19 tion, including onshore infrastructure and relo-  
20 cation of communities directly affected by  
21 coastal erosion, melting permafrost, or climate  
22 change-related losses.

23 (B) Mitigation of damage to fish, wildlife,  
24 or natural resources.

1 (C) Mitigation of the impact of outer Con-  
2 tinental Shelf activities through the funding of  
3 onshore infrastructure projects and related  
4 rights-of-way.

5 (D) Adaptation planning, vulnerability as-  
6 sessments, and emergency preparedness assist-  
7 ance to build healthy and resilient communities.

8 (E) Installation and operation of energy  
9 systems to reduce energy costs and greenhouse  
10 gas emissions compared to systems in use as of  
11 the date of enactment of this Act.

12 (F) Programs at institutions of higher edu-  
13 cation in the State.

14 (G) Other purposes, as determined by the  
15 Governor of the State, with approval from the  
16 State legislature.

17 (H) Planning assistance and the adminis-  
18 trative costs of complying with this section.

19 (2) LIMITATION.—Not more than 3 percent of  
20 amounts received by the State under subsection  
21 (a)(2) may be used for the purposes described in  
22 paragraph (1)(H).

23 (e) ADMINISTRATION.—Amounts made available  
24 under paragraphs (2) and (3) of subsection (a) shall—

- 1           (1) be made available, without further appro-
- 2           priation, in accordance with this section;
- 3           (2) remain available until expended; and
- 4           (3) be in addition to any amounts appropriated
- 5           under any other provision of law.

○

116TH CONGRESS  
1ST SESSION

# S. 2666

To promote the development of renewable energy on public land, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 2019

Ms. MCSALLY (for herself, Mr. HEINRICH, Mr. GARDNER, Mr. UDALL, Mr. DAINES, Mr. TESTER, Mr. RISCH, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To promote the development of renewable energy on public land, and for other purposes.

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 “Public Land Renew-  
5 able Energy Development Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED LAND.—The term “covered land”  
9 means land that is—

- 1 (A) public land; and
- 2 (B) not excluded from the development of
- 3 geothermal, solar, or wind energy under—
- 4 (i) a land use plan established under
- 5 the Federal Land Policy and Management
- 6 Act of 1976 (43 U.S.C. 1701 et seq.); or
- 7 (ii) other Federal law.
- 8 (2) EXCLUSION AREA.—The term “exclusion
- 9 area” means covered land that is identified by the
- 10 Bureau of Land Management as not suitable for de-
- 11 velopment of renewable energy projects.
- 12 (3) FEDERAL LAND.—The term “Federal land”
- 13 means—
- 14 (A) National Forest System land; and
- 15 (B) public land.
- 16 (4) FUND.—The term “Fund” means the Re-
- 17 newable Energy Resource Conservation Fund estab-
- 18 lished by section 9(c)(1).
- 19 (5) NATIONAL FOREST SYSTEM.—The term
- 20 “National Forest System” has the meaning given
- 21 the term in section 11(a) of the Forest and Range-
- 22 land Renewable Resources Planning Act of 1974 (16
- 23 U.S.C. 1609(a)).
- 24 (6) PRIORITY AREA.—The term “priority area”
- 25 means covered land identified by the land use plan-

1       ning process of the Bureau of Land Management as  
2       being a preferred location for a renewable energy  
3       project, including a designated leasing area (as de-  
4       fined in section 2801.5(b) of title 43, Code of Fed-  
5       eral Regulations (or a successor regulation)) that is  
6       identified under the rule of the Bureau of Land  
7       Management entitled “Competitive Processes,  
8       Terms, and Conditions for Leasing Public Lands for  
9       Solar and Wind Energy Development and Technical  
10      Changes and Corrections” (81 Fed. Reg. 92122  
11      (December 19, 2016)) (or a successor regulation).

12           (7) PUBLIC LAND.—The term “public land”  
13      has the meaning given the term “public lands” in  
14      section 103 of the Federal Land Policy and Manage-  
15      ment Act of 1976 (43 U.S.C. 1702).

16           (8) RENEWABLE ENERGY PROJECT.—The term  
17      “renewable energy project” means a project carried  
18      out on covered land that uses wind, solar, or geo-  
19      thermal energy to generate energy.

20           (9) SECRETARY.—The term “Secretary” means  
21      the Secretary of the Interior.

22           (10) VARIANCE AREA.—The term “variance  
23      area” means covered land that—

24                   (A) is not an exclusion area; and

25                   (B) is not a priority area.



1 **SEC. 3. LAND USE PLANNING; SUPPLEMENTS TO PRO-**  
2 **GRAMMATIC ENVIRONMENTAL IMPACT**  
3 **STATEMENTS.**

4 (a) **PRIORITY AREAS.**—

5 (1) **IN GENERAL.**—The Secretary, in consulta-  
6 tion with the Secretary of Energy, shall establish  
7 priority areas on covered land for geothermal, solar,  
8 and wind energy projects.

9 (2) **DEADLINE.**—

10 (A) **GEOHERMAL ENERGY.**—For geo-  
11 thermal energy, the Secretary shall establish  
12 priority areas as soon as practicable, but not  
13 later than 5 years, after the date of enactment  
14 of this Act.

15 (B) **SOLAR ENERGY.**—For solar energy,  
16 the Secretary shall establish additional priority  
17 areas as soon as practicable, but not later than  
18 3 years, after the date of enactment of this Act.

19 (C) **WIND ENERGY.**—For wind energy, the  
20 Secretary shall establish priority areas as soon  
21 as practicable, but not later than 3 years, after  
22 the date of enactment of this Act.

23 (b) **VARIANCE AREAS.**—To the maximum extent  
24 practicable, variance areas shall be considered for renew-  
25 able energy project development, consistent with the prin-  
26 ciples of multiple use (as defined in section 103 of the

1 Federal Land Policy and Management Act of 1976 (43  
2 U.S.C. 1702)).

3 (c) REVIEW AND MODIFICATION.—Not less fre-  
4 quently than once every 5 years, the Secretary shall—

5 (1) review the adequacy of land allocations for  
6 geothermal, solar, and wind energy priority and vari-  
7 ance areas for the purpose of encouraging new re-  
8 newable energy development opportunities; and

9 (2) based on the review carried out under para-  
10 graph (1), add, modify, or eliminate priority, vari-  
11 ance, and exclusion areas.

12 (d) COMPLIANCE WITH THE NATIONAL ENVIRON-  
13 MENTAL POLICY ACT.—For purposes of this section, com-  
14 pliance with the National Environmental Policy Act of  
15 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

16 (1) for geothermal energy, by supplementing  
17 the October 2008 final programmatic environmental  
18 impact statement for geothermal leasing in the  
19 Western United States, including by incorporating  
20 any additional regional analyses that were completed  
21 by Federal agencies after the date on which the pro-  
22 grammatic environmental impact statement was fi-  
23 nalized;

24 (2) for solar energy, by supplementing the July  
25 2012 final programmatic environmental impact

1 statement for the Solar Energy Program of the Bu-  
2 reau of Land Management, including by incor-  
3 porating any additional regional analyses that were  
4 completed by Federal agencies after the date on  
5 which the programmatic environmental impact state-  
6 ment was finalized; and

7 (3) for wind energy, by supplementing the July  
8 2005 final programmatic environmental impact  
9 statement for wind energy development, including by  
10 incorporating any additional regional analyses that  
11 were completed by Federal agencies after the date  
12 on which the programmatic environmental impact  
13 statement was finalized.

14 (e) NO EFFECT ON PROCESSING APPLICATIONS.—A  
15 requirement to prepare a supplement to a programmatic  
16 environmental impact statement under this section shall  
17 not result in any delay in processing an application for  
18 a renewable energy project.

19 (f) COORDINATION.—In developing a supplement re-  
20 quired by this section, the Secretary shall coordinate, on  
21 an ongoing basis, with appropriate State, Tribal, and local  
22 governments, transmission infrastructure owners and op-  
23 erators, developers, and other appropriate entities to en-  
24 sure that priority areas identified by the Secretary are—

- 1 (1) economically viable (including having access  
2 to existing or planned transmission capacity);  
3 (2) likely to avoid or minimize conflict with  
4 habitat for animals and plants, recreation, cultural  
5 resources, and other uses of covered land; and  
6 (3) consistent with section 202 of the Federal  
7 Land Policy and Management Act of 1976 (43  
8 U.S.C. 1712), including subsection (c)(9) of that  
9 section (43 U.S.C. 1712(c)(9)).

10 **SEC. 4. ENVIRONMENTAL REVIEW ON COVERED LAND.**

11 (a) IN GENERAL.—If the Secretary determines that  
12 a proposed renewable energy project has been sufficiently  
13 analyzed by a programmatic environmental impact state-  
14 ment conducted under section 3(d), the Secretary shall not  
15 require any additional review under the National Environ-  
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

17 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the  
18 Secretary determines that additional environmental review  
19 under the National Environmental Policy Act of 1969 (42  
20 U.S.C. 4321 et seq.) is necessary for a proposed renewable  
21 energy project, the Secretary shall rely on the analysis in  
22 the programmatic environmental impact statement con-  
23 ducted under section 3(d) to the maximum extent prac-  
24 ticable when analyzing the potential impacts of the  
25 project.

1 (c) RELATIONSHIP TO OTHER LAW.—Nothing in this  
2 section modifies or supersedes any requirement under ap-  
3 plicable law.

4 **SEC. 5. PROGRAM TO IMPROVE RENEWABLE ENERGY**  
5 **PROJECT PERMIT COORDINATION.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—The Secretary shall establish  
8 and implement, through the offices established under  
9 paragraph (2), a program to improve Federal permit  
10 coordination with respect to renewable energy  
11 projects on covered land.

12 (2) ESTABLISHMENT OF OFFICES.—To estab-  
13 lish and implement the program described in para-  
14 graph (1), and to carry out other necessary activi-  
15 ties, as determined by the Secretary, the Secretary  
16 shall establish—

17 (A) an office to serve as the National Re-  
18 newable Energy Coordination Office; and

19 (B) State, district, or field Renewable En-  
20 ergy Coordination Offices, for such time as the  
21 Secretary determines to be appropriate.

22 (b) MEMORANDUM OF UNDERSTANDING.—

23 (1) IN GENERAL.—Not later than 180 days  
24 after the date of enactment of this Act, the Sec-  
25 retary shall enter into a memorandum of under-

1 standing for purposes of this section, including to  
2 specifically expedite the environmental analysis of  
3 applications for projects proposed in a variance area  
4 or a priority area, with—

5 (A) the Secretary of Defense; and

6 (B) the Secretary of Agriculture.

7 (2) STATE PARTICIPATION.—The Secretary  
8 may request the Governor of any interested State to  
9 be a signatory to the memorandum of understanding  
10 under paragraph (1).

11 (c) DESIGNATION OF QUALIFIED STAFF.—

12 (1) IN GENERAL.—Not later than 30 days after  
13 the date on which the memorandum of under-  
14 standing under subsection (b) is executed, all Fed-  
15 eral signatories, as appropriate, shall identify for the  
16 National Renewable Energy Coordination Office es-  
17 tablished under subsection (a)(2)(A) and each Re-  
18 newable Energy Coordination Office established  
19 under subsection (a)(2)(B) 1 or more employees who  
20 have expertise in the regulatory issues relating to  
21 the office in which the employee is employed, includ-  
22 ing, as applicable, particular expertise in—

23 (A) consultation regarding, and prepara-  
24 tion of, biological opinions under section 7 of

1 the Endangered Species Act of 1973 (16 U.S.C.  
2 1536);

3 (B) permits under section 404 of the Fed-  
4 eral Water Pollution Control Act (33 U.S.C.  
5 1344);

6 (C) regulatory matters under the Clean Air  
7 Act (42 U.S.C. 7401 et seq.);

8 (D) the Federal Land Policy and Manage-  
9 ment Act of 1976 (43 U.S.C. 1701 et seq.);

10 (E) the Migratory Bird Treaty Act (16  
11 U.S.C. 703 et seq.);

12 (F) the preparation of analyses under the  
13 National Environmental Policy Act of 1969 (42  
14 U.S.C. 4321 et seq.);

15 (G) implementation of the requirements of  
16 section 306108 of title 54, United States Code  
17 (formerly known as section 106 of the National  
18 Historic Preservation Act);

19 (H) planning under section 14 of the Na-  
20 tional Forest Management Act of 1976 (16  
21 U.S.C. 472a); and

22 (I) the Act of June 8, 1940 (54 Stat. 250,  
23 chapter 278; 16 U.S.C. 668 et seq.) (commonly  
24 known as the “Bald Eagle Protection Act”).

1           (2) DUTIES.—Each employee assigned under  
2     paragraph (1) shall—

3           (A) be responsible for addressing all issues  
4           relating to the jurisdiction of the home office or  
5           agency of the employee; and

6           (B) participate as part of the team of per-  
7           sonnel working on proposed energy projects,  
8           planning, monitoring, inspection, enforcement,  
9           and environmental analyses.

10       (d) CLARIFICATION OF EXISTING AUTHORITY.—Sec-  
11     tion 307 of the Federal Land Policy and Management Act  
12     of 1976 (43 U.S.C. 1737) is amended by adding at the  
13     end the following:

14       “(h) DONATIONS.—The Secretary, in accordance  
15     with subsection (e), may accept donations from renewable  
16     energy companies working on public lands, including dona-  
17     tions to help cover the costs of environmental reviews.”.

18       (e) REPORT TO CONGRESS.—

19       (1) IN GENERAL.—Not later than February 1  
20     of the first fiscal year beginning after the date of en-  
21     actment of this Act, and each February 1 thereafter,  
22     the Secretary shall submit to the Committee on En-  
23     ergy and Natural Resources of the Senate and the  
24     Committee on Natural Resources of the House of  
25     Representatives a report describing the progress



1 made under the program established under sub-  
2 section (a)(1) during the preceding year.

3 (2) INCLUSIONS.—Each report under para-  
4 graph (1) shall include—

5 (A) projections for renewable energy pro-  
6 duction and capacity installations; and

7 (B) a description of any problems relating  
8 to leasing, permitting, siting, or production.

9 **SEC. 6. INCREASING ECONOMIC CERTAINTY.**

10 (a) IN GENERAL.—The Secretary shall consider the  
11 total amount paid in acreage rental rates, capacity fees,  
12 and other recurring annual fees in evaluating existing  
13 rates paid by renewable energy projects for the use of Fed-  
14 eral land.

15 (b) INCREASES IN BASE RENTAL RATES.—After a  
16 base rental rate is established on an issuance of a right-  
17 of-way authorization, for the entire term of the right-of-  
18 way authorization, any increase in the base rental rate  
19 shall be limited to the Implicit Price Deflator–Gross Do-  
20 mestic Product Index published by the Bureau of Eco-  
21 nomic Analysis of the Department of Commerce on the  
22 date of issuance of the right-of-way authorization.

23 (c) REDUCTIONS IN BASE RENTAL RATES.—The  
24 Secretary may reduce acreage rental rates and capacity

1 fees for existing and new wind and solar authorizations  
 2 if the Secretary determines—

3 (1) that the existing rates—

4 (A) exceed fair market value;

5 (B) impose economic hardships;

6 (C) limit commercial interest in a competi-  
 7 tive lease sale or right-of-way grant; or

8 (D) are not competitively priced compared  
 9 to other available land; or

10 (2) that a reduced rental rate or capacity fee is  
 11 necessary to promote the greatest use of wind and  
 12 solar energy resources, especially inside priority  
 13 areas.

14 **SEC. 7. LIMITED GRANDFATHERING.**

15 (a) DEFINITION OF PROJECT.—In this section, the  
 16 term “project” means a system described in section  
 17 2801.9(a)(4) of title 43, Code of Federal Regulations (as  
 18 in effect on the date of enactment of this Act).

19 (b) REQUIREMENT TO PAY RENTS AND FEES.—The  
 20 owner of a project that applied for a right-of-way under  
 21 section 501 of the Federal Land Policy and Management  
 22 Act of 1976 (43 U.S.C. 1761) on or before December 19,  
 23 2016, shall be obligated to pay with respect to the right-  
 24 of-way all rents and fees in effect before the effective date  
 25 of the rule of the Bureau of Land Management entitled

1 “Competitive Processes, Terms, and Conditions for Leas-  
2 ing Public Lands for Solar and Wind Energy Development  
3 and Technical Changes and Corrections” (81 Fed. Reg.  
4 92122 (December 19, 2016)).

5 **SEC. 8. RENEWABLE ENERGY GOAL.**

6 The Secretary and the Secretary of Agriculture,  
7 through management of public land and administration of  
8 Federal laws, shall seek to issue permits that, in total,  
9 authorize production of not less than 25 gigawatts of elec-  
10 tricity from wind, solar, and geothermal energy projects  
11 by not later than December 31, 2025.

12 **SEC. 9. DISPOSITION OF REVENUES.**

13 (a) DISPOSITION OF REVENUES.—Without further  
14 appropriation or fiscal year limitation, of the amounts col-  
15 lected as bonus bids, rentals, fees, or other payments  
16 under a right-of-way, permit, lease, or other authorization  
17 (other than under section 504(g) of the Federal Land Pol-  
18 icy and Management Act of 1976 (43 U.S.C. 1764(g)))  
19 for the development of wind or solar energy on covered  
20 land or National Forest System land—

21 (1) for the period beginning on January 1,  
22 2020, and ending on December 31, 2039—

23 (A) 25 percent shall be paid by the Sec-  
24 retary of the Treasury to the State within the  
25 boundaries of which the revenue is derived;

1           (B) 25 percent shall be paid by the Sec-  
2           retary of the Treasury to the 1 or more coun-  
3           ties within the boundaries of which the revenue  
4           is derived, to be allocated among the counties  
5           based on the percentage of land from which the  
6           revenue is derived;

7           (C) 15 percent shall be deposited in the  
8           Treasury and be made available to the Sec-  
9           retary to carry out the program established  
10          under section 5(a), including the transfer of the  
11          funds by the Bureau of Land Management to  
12          other Federal agencies and State agencies to fa-  
13          cilitate the processing of renewable energy per-  
14          mits on Federal land, with priority given to  
15          using the amounts, to the maximum extent  
16          practicable without detrimental impacts to  
17          emerging markets, to expediting the issuance of  
18          permits required for the development of renew-  
19          able energy projects in the States from which  
20          the revenues are derived; and

21          (D) 35 percent shall be deposited in the  
22          Fund; and

23          (2) beginning on January 1, 2040—

1           (A) 25 percent shall be paid by the Sec-  
2           retary of the Treasury to the State within the  
3           boundaries of which the revenue is derived;

4           (B) 25 percent shall be paid by the Sec-  
5           retary of the Treasury to the 1 or more coun-  
6           ties within the boundaries of which the revenue  
7           is derived, to be allocated among the counties  
8           based on the percentage of land from which the  
9           revenue is derived;

10          (C) 10 percent shall be deposited in the  
11          Treasury and be made available to the Sec-  
12          retary to carry out the program established  
13          under section 5(a), including the transfer of the  
14          funds by the Bureau of Land Management to  
15          other Federal agencies and State agencies to fa-  
16          cilitate the processing of renewable energy per-  
17          mits on Federal land, with priority given to  
18          using the amounts, to the maximum extent  
19          practicable without detrimental impacts to  
20          emerging markets, to expediting the issuance of  
21          permits required for the development of renew-  
22          able energy projects in the States from which  
23          the revenues are derived; and

24          (D) 40 percent shall be deposited in the  
25          Fund.

1 (b) PAYMENTS TO STATES AND COUNTIES.—

2 (1) IN GENERAL.—Amounts paid to States and  
3 counties under subsection (a) shall be used con-  
4 sistent with section 35 of the Mineral Leasing Act  
5 (30 U.S.C. 191).

6 (2) PAYMENTS IN LIEU OF TAXES.—A payment  
7 to a county under paragraph (1) shall be in addition  
8 to a payment in lieu of taxes received by the county  
9 under chapter 69 of title 31, United States Code.

10 (c) RENEWABLE ENERGY RESOURCE CONSERVATION  
11 FUND.—

12 (1) IN GENERAL.—There is established in the  
13 Treasury a fund, to be known as the “Renewable  
14 Energy Resource Conservation Fund”, which shall  
15 be administered by the Secretary, in consultation  
16 with the Secretary of Agriculture.

17 (2) USE OF FUNDS.—The Secretary may make  
18 amounts in the Fund available to Federal, State,  
19 local, and Tribal agencies to be distributed in re-  
20 gions in which renewable energy projects are located  
21 on Federal land, for the purposes of—

22 (A) restoring and protecting—

23 (i) fish and wildlife habitat for af-  
24 fected species;

1 (ii) fish and wildlife corridors for af-  
2 fected species; and

3 (iii) water resources in areas affected  
4 by wind, geothermal, or solar energy devel-  
5 opment; and

6 (B) preserving and improving recreational  
7 access to Federal land and water in an affected  
8 region through an easement, right-of-way, or  
9 other instrument from willing landowners for  
10 the purpose of enhancing public access to exist-  
11 ing Federal land and water that is inaccessible  
12 or restricted.

13 (3) PARTNERSHIPS.—The Secretary may enter  
14 into cooperative agreements with State, local, and  
15 Tribal agencies, nonprofit organizations, and other  
16 appropriate entities to carry out the activities de-  
17 scribed in subparagraphs (A) and (B) of paragraph  
18 (2).

19 (4) INVESTMENT OF FUND.—

20 (A) IN GENERAL.—Any amounts deposited  
21 in the Fund shall earn interest in an amount  
22 determined by the Secretary of the Treasury on  
23 the basis of the current average market yield on  
24 outstanding marketable obligations of the  
25 United States of comparable maturities.

1 (B) USE.—Any interest earned under sub-  
2 paragraph (A) may be expended in accordance  
3 with this subsection.

4 (5) REPORT TO CONGRESS.—At the end of each  
5 fiscal year, the Secretary shall submit to the Com-  
6 mittee on Energy and Natural Resources of the Sen-  
7 ate and the Committee on Natural Resources of the  
8 House of Representatives a report identifying—

9 (A) the amounts described in subsection  
10 (a) that were collected during that fiscal year,  
11 organized by source;

12 (B) the amount and purpose of payments  
13 made to each Federal, State, local, and Tribal  
14 agency under paragraph (2) during that fiscal  
15 year; and

16 (C) the amount remaining in the Fund at  
17 the end of the fiscal year.

18 (6) INTENT OF CONGRESS.—It is the intent of  
19 Congress that the revenues deposited and used in  
20 the Fund shall supplement (and not supplant) an-  
21 nual appropriations for activities described in sub-  
22 paragraphs (A) and (B) of paragraph (2).



1 **SEC. 10. PROMOTING AND ENHANCING DEVELOPMENT OF**  
 2 **GEOHERMAL ENERGY.**

3 (a) IN GENERAL.—Section 234(a) of the Energy Pol-  
 4 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-  
 5 ing “in the first 5 fiscal years beginning after the date  
 6 of enactment of this Act” and inserting “through fiscal  
 7 year 2022”.

8 (b) AUTHORIZATION.—Section 234(b) of the Energy  
 9 Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—  
 10 (1) by striking “Amounts” and inserting the  
 11 following:

12 “(1) IN GENERAL.—Amounts”; and

13 (2) by adding at the end the following:

14 “(2) AUTHORIZATION.—Effective for fiscal year  
 15 2020 and each fiscal year thereafter, amounts de-  
 16 posited under subsection (a) shall be available to the  
 17 Secretary of the Interior for expenditure, without  
 18 further appropriation or fiscal year limitation, to im-  
 19 plement the Geothermal Steam Act of 1970 (30  
 20 U.S.C. 1001 et seq.) and this Act.”.

21 **SEC. 11. FACILITATION OF COPRODUCTION OF GEO-**  
 22 **THERMAL ENERGY ON OIL AND GAS LEASES.**

23 Section 4 of the Geothermal Steam Act of 1970 (30  
 24 U.S.C. 1003) is amended—

25 (1) in subsection (c), by striking “The Sec-  
 26 retary” and inserting the following:

- 1 “(1) IN GENERAL.—The Secretary”;
- 2 (2) in subsection (b), by redesignating para-
- 3 graph (3) as paragraph (2) and moving the para-
- 4 graph so as to appear after paragraph (1) of sub-
- 5 section (c) (as designated by paragraph (1)); and
- 6 (3) in subsection (c) (as amended by para-
- 7 graphs (1) and (2)), by adding at the end the fol-
- 8 lowing:
- 9 “(3) LAND SUBJECT TO OIL AND GAS LEASE.—
- 10 “(A) DEFINITION OF LAND.—In this para-
- 11 graph, the term ‘land’ means land that—
- 12 “(i) is under an oil and gas lease
- 13 issued pursuant to the Mineral Leasing
- 14 Act (30 U.S.C. 181 et seq.) or the Mineral
- 15 Leasing Act for Acquired Lands (30
- 16 U.S.C. 351 et seq.);
- 17 “(ii) is subject to an approved applica-
- 18 tion for permit to drill; and
- 19 “(iii) from which oil and gas produc-
- 20 tion is occurring.
- 21 “(B) GEOTHERMAL ENERGY.—Land may
- 22 be available for noncompetitive leasing under
- 23 this section to the holder of an oil and gas lease
- 24 described in subparagraph (A)(i)—

1 “(i) if the Secretary determines that  
 2 geothermal energy will be produced from a  
 3 well that is producing or is capable of pro-  
 4 ducing oil and gas; and

5 “(ii) to provide for the coproduction of  
 6 geothermal energy with oil and gas.”.

7 **SEC. 12. NONCOMPETITIVE LEASING OF ADJOINING AREAS**  
 8 **FOR DEVELOPMENT OF GEOTHERMAL RE-**  
 9 **SOURCES.**

10 Section 4(e) of the Geothermal Steam Act of 1970  
 11 (30 U.S.C. 1003(e)) (as amended by section 11) is amend-  
 12 ed by adding at the end the following:

13 “(4) ADJOINING LAND.—

14 “(A) DEFINITIONS.—In this paragraph:

15 “(i) FAIR MARKET VALUE PER  
 16 ACRE.—The term ‘fair market value per  
 17 acre’ means a dollar amount per acre  
 18 that—

19 “(I) subject to subclause (II), is  
 20 equal to the market value per acre, as  
 21 determined by the Secretary—

22 “(aa) under regulations pro-  
 23 mulgated under this paragraph;

24 “(bb) taking into account  
 25 the data described in subpara-

1 graph (B)(iii) regarding a valid  
2 discovery under subclause (I) of  
3 that subparagraph; and

4 “(cc) not later than 180  
5 days after the date on which the  
6 Secretary receives an application  
7 for a lease under this paragraph;  
8 and

9 “(II) shall be not less than the  
10 greater of—

11 “(aa) 4 times the median  
12 amount paid per acre for all land  
13 leased under this Act during the  
14 preceding year; or

15 “(bb) \$50.

16 “(ii) INDUSTRY STANDARDS.—The  
17 term ‘industry standards’ means the stand-  
18 ards by which a qualified geothermal pro-  
19 fessional assesses whether downhole or  
20 flowing temperature measurements with  
21 indications of permeability are sufficient to  
22 produce energy from geothermal resources,  
23 as determined through flow or injection  
24 testing or measurement of lost circulation  
25 while drilling.

1           “(iii) QUALIFIED FEDERAL LAND.—  
2           The term ‘qualified Federal land’ means  
3           land that is available for leasing under this  
4           Act.

5           “(iv) QUALIFIED GEOTHERMAL PRO-  
6           FESSIONAL.—The term ‘qualified geo-  
7           thermal professional’ means an individual  
8           who is an engineer or geoscientist in good  
9           professional standing with at least 5 years  
10          of experience in geothermal exploration,  
11          development, or project assessment.

12          “(v) QUALIFIED LESSEE.—The term  
13          ‘qualified lessee’ means a person that is el-  
14          igible to hold a geothermal lease under this  
15          Act (including applicable regulations).

16          “(vi) VALID DISCOVERY.—The term  
17          ‘valid discovery’ means a discovery, by a  
18          new or existing slim hole or production  
19          well, of a geothermal resource that exhibits  
20          downhole or flowing temperature measure-  
21          ments with indications of permeability that  
22          are sufficient to meet industry standards.

23          “(B) AUTHORITY.—An area of qualified  
24          Federal land that adjoins other land for which  
25          a qualified lessee holds a legal right to develop

1 geothermal resources may be available for a  
2 noncompetitive lease under this section to the  
3 qualified lessee at the fair market value per  
4 acre, if—

5 “(i) the area of qualified Federal  
6 land—

7 “(I) consists of not less than 1  
8 acre and not more than 640 acres;  
9 and

10 “(II) is not already leased under  
11 this Act or nominated to be leased  
12 under subsection (a);

13 “(ii) the qualified lessee has not pre-  
14 viously received a noncompetitive lease  
15 under this paragraph in connection with  
16 the valid discovery for which data has been  
17 submitted under clause (iii)(I); and

18 “(iii) sufficient geological and other  
19 technical data prepared by a qualified geo-  
20 thermal professional has been submitted by  
21 the qualified lessee to the applicable Fed-  
22 eral land management agency that would  
23 lead individuals who are experienced in the  
24 subject matter to believe that—

1           “(I) there is a valid discovery of  
2           geothermal resources on the land for  
3           which the qualified lessee holds the  
4           legal right to develop geothermal re-  
5           sources; and

6           “(II) those geothermal resources  
7           extend into the adjoining areas.

8           “(C) REGULATIONS FOR DETERMINING  
9           FAIR MARKET VALUE.—The Secretary shall  
10          promulgate regulations establishing a procedure  
11          to determine fair market value per acre under  
12          subparagraph (A)(i)(I) for purposes of this  
13          paragraph.

14          “(D) ADMINISTRATION.—

15                 “(i) IN GENERAL.—The Secretary  
16                 shall—

17                         “(I) publish a notice of any re-  
18                         quest to lease land under this para-  
19                         graph;

20                         “(II) provide to a qualified lessee  
21                         and publish, with an opportunity for  
22                         public comment for a period of 30  
23                         days, any proposed determination  
24                         under this paragraph of the fair mar-  
25                         ket value per acre of an area that the

1 qualified lessee seeks to lease under  
2 this paragraph; and

3 “(III) provide to the qualified les-  
4 see and any adversely affected party  
5 the opportunity to appeal the final de-  
6 termination of the fair market value  
7 per acre of the area in an administra-  
8 tive proceeding before the applicable  
9 Federal land management agency, in  
10 accordance with applicable law (in-  
11 cluding regulations).

12 “(ii) LIMITATION ON NOMINATION.—  
13 After publication of a notice of request to  
14 lease land under this paragraph, the Sec-  
15 retary may not accept any nomination to  
16 lease that land under subsection (a) unless  
17 the request has been denied or withdrawn.

18 “(iii) ANNUAL RENTAL.—For pur-  
19 poses of section 5(a)(3), a lease awarded  
20 under this paragraph shall be considered a  
21 lease awarded in a competitive lease sale.

22 “(E) REGULATIONS.—Not later than 270  
23 days after the date of enactment of the Public  
24 Land Renewable Energy Development Act of



1           2019, the Secretary shall issue regulations to  
2           carry out this paragraph.”.

3 **SEC. 13. SAVINGS CLAUSE.**

4           Notwithstanding any other provision of this Act, the  
5 Secretary shall continue to manage public land under the  
6 principles of multiple use and sustained yield in accord-  
7 ance with title I of the Federal Land Policy and Manage-  
8 ment Act of 1976 (43 U.S.C. 1701 et seq.), including due  
9 consideration of mineral and nonrenewable energy-related  
10 projects and other nonrenewable energy uses, for the pur-  
11 poses of land use planning, permit processing, and con-  
12 ducting environmental reviews.

○



Thomas C. Kiernan  
CEO  
202.383.2557  
[tkiernan@awea.org](mailto:tkiernan@awea.org)  
[www.awea.org](http://www.awea.org)

November 8, 2019

The Honorable Lisa Murkowski  
Chair  
Senate Committee on Energy and Natural  
Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Joe Manchin  
Ranking Member  
Senate Committee on Energy and Natural  
Resources  
304 Dirksen House Office Building  
Washington, DC 20510

Chair Murkowski and Ranking Member Manchin,

On behalf of its members, the American Wind Energy Association (AWEA) submits this letter pertaining to the November 7<sup>th</sup> Energy and Natural Resources Committee legislative hearing. AWEA is a national trade association comprised of over 1,000 member companies representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers, and their advocates.

AWEA would like to express support for S. 2666, the "Public Land Renewable Energy Development Act (PLREDA) of 2019." America's public lands have extraordinary potential for renewable energy, but too often long permitting processes have acted as roadblocks. In some instances, permitting for renewables projects on federal lands can last years, and even up to a decade or more. PLREDA attempts to help solve this problem by expediting such permits if they fall within identified areas that have high potential for energy development and low impact on wildlife and habitat, as well as creating a revenue stream for processing such permits in these areas.

Below we offer some minor suggestions for how to improve the legislation.

1. **Variance areas.** AWEA recommends adding the following language to the definition of a variance area to be consistent with the House companion bill, H.R. 3794: "identified by the Secretary as potentially available for renewable energy development; and could be approved without an amendment to [the applicable land use plan established under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)]." Without this language a variance area would be required to go through the lengthy process for a land use plan amendment before being identified for renewable development, thus slowing down responsible development of renewable energy in potential variance areas for years.
2. **Revenue disposition/recycling.** AWEA recommends 15 percent of the revenue collected for the development of renewable energy on covered land should be made available to the relevant permitting agencies to facilitate the processing of renewable energy permits on Federal land for the life of the Act and not be reduced from 15 percent (to 10 percent) post 2040. As limited resources in agencies are often the reason for delays in the issuance of permits required for the development of renewable energy projects, these funds are critical for ensuring sufficient resources are available to expedite such projects.



Thomas C. Kiernan  
CEO  
202.383.2557  
[tkiernan@awea.org](mailto:tkiernan@awea.org)  
[www.awea.org](http://www.awea.org)

3. **Designated Leasing Areas.** AWEA supports adding the following language to be consistent with the House companion bill, H.R. 3794: "Designated Leasing Areas.—Rental rates and capacity fees for projects that are within the boundaries of a Designated Leasing Area but are not formally recognized as being in a Designated Leasing Area shall be equivalent to the rents and fees for new projects that are formally recognized as being in a Designated Leasing Area." Wind energy projects are penalized for not constructing projects within a designated leasing area (DLA), but there are currently no designated DLAs for wind. Therefore, this clarification would allow projects that have not yet been formally recognized as DLAs to receive the benefits of being within a DLA if the Secretary determines that they have high energy generation potential and low potential for conflicts with other resources.

Thank you again for your consideration of AWEA's position. Please reach out to Maggie Lemmerman ([mlemmerman@awea.org](mailto:mlemmerman@awea.org) or 202-552-8103) if you have any questions or would like to have further discussion on these issues.

Best Regards,

Thomas C. Kiernan



November 8, 2019

The Honorable Martin Heinrich  
United States Senate  
303 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Martha McSally  
United States Senate  
404 Russell Senate Office Building  
Washington D.C. 20510

Dear Senators Heinrich and McSally:

On behalf of the Association of Oregon Counties and the 36 counties we represent, I am writing to express our support of S. 2666, the Public Lands Renewable Energy Development Act (PLREDA). This legislation would extend royalties and lease income from solar, wind and geothermal projects developed on federal lands to home states and counties.

Similar to existing revenue sharing models for alternative energy development, such as geothermal leasing, PLREDA would share revenues with states and counties. Revenue sharing arrangements with local governments are needed to support county operations impacted by local energy development and production. In addition, the bill provides reinvestment in BLM renewable energy programs and shares critical funds to sustain wildlife and recreational uses of nearby land.

Scores of counties nationwide have federal lands within their boundaries that have been developed or are suitable for alternative energy development. Counties have historically been indispensable advocates for the development of alternative energy production in the United States. Revenue sharing of alternative energy dollars with states and counties will contribute to the delivery of critical government services and the development of much needed capital improvement projects such as road maintenance, public safety and law enforcement, conservation easements, capital for leveraging federal and state resources and the stabilization of operations budgets during tough economic times.

As this nation moves closer to securing a balanced domestic energy portfolio, county governments are committed to working with the federal government as equal partners in the promotion of alternative energy development. The expansion of alternative energy industries will also support the creation of high paying jobs and sustain economic development in communities across the nation.

Again, AOC applauds the introduction of the Public Lands Renewable Energy Development Act of 2019 and respectfully requests swift passage of this legislation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martha Schrader", is written over a horizontal line.

Martha Schrader  
Clackamas County Commissioner  
Association of Oregon Counties President

**UNITED COUNTIES. UNITED OREGON.**

1201 Court St., Suite 300 | Salem, OR 97301-4110 | 503.585.8351 | [www.oregoncounties.org](http://www.oregoncounties.org)



# County Supervisors ASSOCIATION of arizona

1905 W. Washington St., Ste. 100, Phoenix, AZ 85009  
(602) 252-5521 fax: (602) 253-3227

November 14, 2019

The Honorable Martha McSally  
U.S. Senate  
404 Russell Senate Office Building  
Washington, DC 20510

Dear Senator McSally:

We are writing to convey our support for the Public Land Renewable Energy Development Act (S. 2666), which you have introduced in the Senate. This legislation proposes to return to counties across the country a portion of the lease revenues generated by renewable energy projects operating on federal land.

We commend the proposed management framework that will share lease revenues from renewable energy projects located on federal land with the states and counties where the projects occur. This provision of the legislation is extremely important to the counties because they incur additional staff time and capital costs as result of the permitting and siting processes associated with these types of developments. Currently, the only forms of reimbursement counties receive from federal lands are the Payment in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) funds, which continue to be threatened by sequestration and require ongoing reauthorization. With this recognition of an uncompensated increased burden on counties and by returning revenue to the counties through renewable energy leases systems, this legislation will support local communities in affected areas with delivering critical government services and will allow them to make the infrastructure improvements needed to support these kinds of development activities.

The County Supervisors Association of Arizona continues to support responsible development of renewable energy projects and the resulting job growth for our local communities. The shared revenue from renewable energy projects can also be used by counties to address land, wildlife, and water management challenges in affected areas.

We would like to thank you for introducing this important and timely piece of legislation. Our counties are willing and eager to help meet the growing energy needs of the nation, while ensuring our local communities receive the vital resources they desperately need.

On behalf of the County Supervisors Association,

Rudy Molera  
CSA President  
Supervisor, Santa Cruz County

Craig Sullivan  
CSA Executive Director



November 4, 2019

The Honorable Lisa Murkowski, Chairman  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Joe Manchin, Ranking Member  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, DC 20510

Via email: [fortherecord@energy.senate.gov](mailto:fortherecord@energy.senate.gov)

**Re: S.2666 Amendments Needed to Reduce Solar Rents and Fees on Federal Lands to Fair Market Value Levels**

Dear Chairman Murkowski and Ranking Member Manchin,

On behalf of the Large-scale Solar Association (LSA), which represents the majority of companies and solar project electricity production on federal lands, I respectfully request you amend S.2666 (McSally) to assure that the combination of acreage rents and Megawatt (MW) Capacity fees for solar projects on federal land be set at Fair Market Value, rather than the untenable rates that exist today. The unfortunate mis-pricing of solar rents and fees has stifled solar development on public land, including lands designated as solar development priority lands, resulting not only in lost Treasury revenues, but a missed opportunity for the U.S to lead the world in energy independence and solar energy development.

LSA is a non-partisan, solar advocacy trade association whose purpose is to support advancement of utility-scale solar technologies through appropriate policy mechanisms. Member companies in the LSA are leaders in the utility-scale solar industry with thousands of solar Megawatts successfully operating projects in the US and internationally.

S.2666 strategically promotes the appropriately-sited development of renewable energy infrastructure on federal lands. Over the past decade, solar technology and efficiency have dramatically improved. The cost of solar has decreased by more than 80%, in the last few years, driving increased utility and commercial demand. Currently, nearly 37,000 MW of large-scale solar energy is in operation in the US, with 74,000 MW under development. Additionally, the solar industry fuels the economy and creates American jobs. In 2017, the solar industry generated a \$17 billion investment in the American economy. Since 2010, solar employment has grown 159%, from just over 93,000 to more than 242,000 jobs in all 50 states. Veterans now make up 7.8% of solar workers, compared to 6.6% of the overall U.S. workforce. Solar energy, together with other American energy sources, is key to American energy independence and dominance.

As demand for solar energy continues to grow, the availability of Western public lands is critical, due to their high solar insolation values, topography, access to available transmission, and

location near high-energy load centers. As of March 2018, through its Western Solar Plan, BLM had approved 25 solar projects, totaling 6,319 megawatts (MW) of installed capacity, in Arizona, California, Nevada, New Mexico, Colorado, and other Western States. Several projects currently in the late stages of the permitting process are expected to generate another 2500 MW of solar power capacity. Even more projects are in earlier stages of development.

Unfortunately, these projects may not be brought to fruition if BLM's presently exorbitant rents and fees make project costs uncompetitive in the energy marketplace. The BLM's Solar and Wind Energy Rule (81 Fed. Reg. 92,122 [Dec. 19, 2016]) was touted as supporting solar development on BLM-managed land, but instead now imposes unreasonable rents that not only vastly exceed fair market value, but continue to charge Megawatt Capacity fees that unnecessarily increase public lands cost far beyond private lands for solar.<sup>1</sup> In addition, the fees are not fixed for the duration of a project's lifetime, but rather are fluid and variable, which is an untenable situation for energy assets with high upfront investments and low operational costs, like solar.

This has made development on public land both high risk and uncompetitive with projects on private land, which has lower leasing costs and no Megawatt Capacity Fees. For example, the new BLM combined Lease and Megawatt capacity fee in Zone 8 (Riverside County) is now 150% more expensive than a competitive private land solar project. Additionally, another project in California had its acreage rent raised by 690% due to the 2016 leasing rule. These significant cost differences demonstrate the issues that solar companies on BLM land face in trying to compete for Power Purchase Agreements with private land solar projects or, in the case of operating projects, to continue to operate at all.

The Rule itself allows BLM to adjust unfair rents. 43 CFR Section 2806.52(a)(3) provides that "The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect the value of the BLM-managed lands in a given area."

To address these issues, on June 6, 2018, the U.S. Department of the Interior Royalty Policy Committee (RPC), including representatives of government, tribes, and renewable energy companies, unanimously approved recommendations that the Secretary and BLM, pursuant to this existing authority in the Rule, eliminate the Megawatt Capacity fee for solar and reduce the acreage rents back to earlier levels. Unfortunately, the Department of Interior has not used this existing authority to solve the problem.

Regardless of the legal status of the RPC, BLM and the Secretary have authority under 43 CFR Section 2806.52(a)(3) to address these issues creatively and effectively. LSA strongly supports the recommendations to eliminate the Megawatt Capacity fee and return acreage rents to pre-Rule levels, pursuant to the existing Rule authority.

---

<sup>1</sup> To be precise, the Rule sharply increased MW Capacity Fees for wind, while lowering them for solar. However, the impact of the Rule was to raise acreage rent values for solar by up to 690% and not to raise acreage rents for most wind projects, so that both wind and solar projects were adversely affected, but in different ways.

Large-scale Solar Association  
S.2666 Amendment Request Letter

3

Section 6 of S. 2666 urges the Secretary to review these rent and fee issues, reduce levels to Fair Market Value for all existing and new projects, and to keep rents stable over time. We strongly support Section 6 as a more viable long-term approach to these issues.

In the short run, Section 7 of S.2666 currently provides that all projects which filed applications prior to the effective date of the Rule pay the amounts that were in effect prior to the Rule. That simplified grandfathering provision works for some technologies, but not for solar, since full grandfathering without addressing the Megawatt capacity fee would put these solar projects in a position of paying lower acreage rents but much higher and unfair MW capacity fees.

We therefore urge you to amend Section 7 of S.2666 to provide that solar projects which applied before the effective date of the rule will pay grandfathered acreage rents but either pay no Megawatt capacity fee or the capacity fee that was enacted by the Rule. Although the implementation of Section 6 is most important for everyone to assure fairness in the long run, this minor amendment to Section 7 is paramount to assure that solar projects can succeed in the near term.

Enactment of S.2666 with these amendments will greatly facilitate further development of utility-scale solar projects on Western public lands, leading to increased economic development and job creation in AZ, CA, NV, NM, and CO. We appreciate your consideration of our requests.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Shannon Eddy", with a stylized flourish at the end.

Shannon Eddy, Executive Director  
Large-scale Solar Association





DOUG BURGUM  
GOVERNOR OF NORTH DAKOTA  
CHAIR

KATE BROWN  
GOVERNOR OF OREGON  
VICE CHAIR

JAMES D. OGSBURY  
EXECUTIVE DIRECTOR

November 5, 2019

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Building  
Washington, DC 20510

The Honorable Joe Manchin  
Ranking Member  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Building  
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

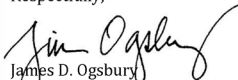
The West is rich in wind, solar, and geothermal energy resources, including on federal lands, and accessing these resources is a critical part of our region's and the nation's energy future. Western Governors support clear and coordinated permitting processes to promote the responsible and efficient development of these resources. As with other forms of energy development, this development must be accompanied by the disposition of revenues to states and counties to compensate them for the effects of renewable energy projects within their borders.

Western Governors appreciate the Committee's consideration of this important matter. In advance of the Committee's November 7, 2019 hearing on Issues and Legislation Related to Energy Development on Federal Land, I request that the following attachments be included in the permanent record of the hearing, as they articulate Western Governors' policy positions and recommendations on this important issue:

- WGA Policy Resolution [2018-04](#), *Energy in the West*, and the Governors' [Energy Vision for the West](#);
- WGA Policy Resolution [2017-02](#), *States' Share of Royalties and Leasing Revenues from Federal Lands and Minerals and States' Role in Associated Federal Policy*;
- [August 19, 2019 correspondence](#) to the House Natural Resources and Agriculture Committees in support of [H.R. 3794](#), the House companion to [S. 2666](#), the Public Lands Renewable Energy Development Act of 2019.

Thank you for your consideration of this request. Please contact me if you have any questions or require further information. In the meantime, with warm regards and best wishes, I am

Respectfully,

  
James D. Ogsbury  
Executive Director

Attachments

cc: The Honorable Martha McSally



**Western Governors' Association  
Policy Resolution 2018-04**

***Energy in the West***

**A. BACKGROUND**

1. Energy policy and the development of sustainable energy resources are major priorities for every Western Governor.
2. Western Governors recognize that approaches to energy use and development vary among our states, territories, and flag islands. However, the Governors remain committed to the development of policies and utilization of state energy endowments that result in the maximum benefit for their citizens, the region, and the nation.
3. Western energy production is indispensable to meeting national energy demands. The West is the energy breadbasket of the United States:
  - a. Western states have all high-yield geothermal energy capacity in the continental United States.
  - b. Western states supply the majority of non-federal United States petroleum.
  - c. Western states are at the forefront of unconventional natural gas production.
  - d. The Pacific Northwest produces the largest output of hydropower in the nation.
  - e. Western states have the largest contiguous areas of wind power resources in the nation.
  - f. The Southwest has some of the highest-identified solar energy resource areas in the United States.
  - g. Western states produce the largest portion of coal in the United States, which is the fuel that constitutes the largest share of the national electricity generation mix.
  - h. The West has the largest contiguous areas of high-yield biomass energy resource potential in the nation.
  - i. Western states have nuclear power generation facilities and produce all domestic uranium.
4. Western states, Pacific territories, and flag islands have the resources to drive job creation and economic development through broad growth in the energy industry.

5. The Merchant Marine Act of 1920 has prevented certain noncontiguous states, territories, and flag islands from being supplied with domestically produced energy commodities.

**B. GOVERNORS' POLICY STATEMENT**

1. Western Governors recognize the following as energy policy priorities for the West:
  - a. Secure the United States' energy supply and systems, and safeguard against risks to cybersecurity and physical security.
  - b. Ensure energy is clean, affordable, and reliable by providing a balanced portfolio of renewable, non-traditional, and traditional resources.
  - c. Increase energy efficiency associated with electricity, natural gas, and other energy sources and uses to enhance energy affordability and to effectively meet environmental goals.
  - d. Advance efficient environmental review, siting, and permitting processes that facilitate energy development and the improvement and construction of necessary electric grid (transmission and distribution) and pipeline infrastructure, while ensuring environmental and natural resource protection.
  - e. Improve the United States' electric grid's reliability and resiliency.
  - f. Protect western wildlife, natural resources, and the environment, including clean air and clean water, and strive to reduce greenhouse gas emissions.
  - g. Make the West a leader in energy education, technology development, research, and innovation.
  - h. Utilize an all-of-the-above approach to energy development and use in the West, while protecting the environment, wildlife, and natural resources.
2. Western Governors support increasing the development and use of energy storage, alternative transportation fuels, and alternative vehicles.
3. Western Governors call on the federal government to lift a barrier to domestic free trade between the contiguous United States and the noncontiguous states, territories and U.S. flag islands by the Merchant Marine Act of 1920 by allowing those jurisdictions to receive energy commodities produced in the mainland but transported by foreign vessels, should those jurisdictions, and the jurisdictions whose ports are being used to ship these materials, desire it.
4. Redundant federal regulation of energy development, transport, and use is not required where sufficient state, territorial, or flag island regulations exist. Existing state authority should not be replaced or impeded by Congress or federal agencies.

**C. GOVERNORS' MANAGEMENT DIRECTIVE**

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. The Governors also direct WGA staff to consult with the Western Interstate Energy Board to recommend updates to the 10-Year Energy Vision that provide detail on the Governors' energy policy objectives outlined in this resolution.
3. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

Western Governors enact new policy resolutions and amend existing resolutions on a biannual basis. Please consult [www.westgov.org/policies](http://www.westgov.org/policies) for the most current copy of a resolution and a list of all current WGA policy resolutions.



## Energy Vision for the West

### Introduction

The resource-rich West supplies a majority of the country's energy resources and electric power. The United States is currently projected to become a net energy exporter within five years. The increase in natural gas developed in the West, coupled with increased investment in renewable and alternative energy sources, have positioned the region and its Governors to play a central role in the nation's economy and energy policy.

The West's vast energy resources and the Governors' role in the development of energy policy underscores the value of a regional energy policy, the *Energy Vision for the West*. This policy does not impede states or territories from approaching energy choice and industry growth based on their own resource endowments and policies. It illustrates that Western Governors have coalesced around common issues and specific goals, despite diverse geography, resources, and politics. The *Energy Vision for the West* elaborates on the Governors' objectives set forth in WGA Policy Resolution [2018-04, Energy in the West](#).

Western Governors support a comprehensive energy portfolio for the West to ensure that energy is clean, affordable, and reliable. They are also committed to energy policies that promote economic growth and protect the environment. This approach facilitates a strong economy and jobs across a variety of professions, skill sets, and educations.

This approach also recognizes that there are challenges and opportunities associated with every type of energy resource and use, the costs and benefits of which must be considered in policymaking. One such opportunity – and challenge – is creating an effective state-federal partnership in energy development, lands management, and environmental protection. This regional policy is a guide for realizing opportunities to advance the West as the nation's principal energy provider and a leader in energy innovation and effective policy.

### **Goal 1: Secure the United States' energy supply and systems, and safeguard against risks to cybersecurity and physical security.**

Addressing threats to the nation's energy systems and resources is a high priority of Western Governors. Coordination between states, the federal government, and the private sector on energy emergency planning and response is vital to addressing physical and cybersecurity impacts on the West's energy systems and resources. To this end, the Governors establish the following objectives:

- Work with the Department of Defense to meet its national security mission by ensuring safe and secure onsite and off-site electricity generation for key defense installations.
- Continue to reduce reliance on non-North American oil imports from unstable foreign sources through individualized state-by-state solutions, such as increasing North American production, improving fuel efficiency, and developing renewable and alternative fuels.

- Ensure there is sufficient domestic energy supply, including domestic renewable electric generation, to meet existing and new market demand.
- Identify security and other vulnerabilities of energy infrastructure and create programs and standards to defend infrastructure from cyber and physical attacks, as well as natural disasters.
- Encourage effective relationships between state agencies, federal agencies, public utilities, and the private sector to prevent and prepare for risks to the region's energy supply and systems, as well as to respond to and recover from disruptions.
- Partner with the federal government to ensure the provision of adequate funding and access to resources for state emergency planning, response, and recovery.
- Expand, upgrade, and secure transmission and pipeline infrastructure, as well as ensure that all federal pipeline safety measures are efficiently implemented.

**Goal 2: Ensure energy is clean, affordable and reliable by providing a balanced portfolio of renewable, non-traditional and traditional resources.**

Western Governors believe that a balanced energy portfolio should consist of energy sources that are clean, affordable and reliable, that maintain system reliability, and limit rapid rate increases. These resources also require the maintenance and expansion of transmission and distribution infrastructure. To this end, the Governors establish the following objectives:

- Recognize the importance of western renewable (wind, solar, biomass, biofuels, geothermal, hydropower), nuclear, coal and natural gas resources, and the generation facilities that utilize those resources.
- Adapt utility regulation to changing markets, technologies, and resources.
- Encourage the addition of renewable, low-carbon, and clean generation, including utility-scale and distributed generation.
- Promote, advance and fund the evolution of new technologies, including carbon capture and advancements in renewable energy.
- Maintain the Rural Energy for America (REAP) program, which has benefited farmers, ranchers and rural businesses that are often underserved by other federal energy efforts.

**Goal 3: Increase energy efficiency associated with electricity, natural gas, and other energy sources and use to enhance energy affordability and to effectively meet environmental goals.**

Eliminating waste and using resources wisely are cornerstones of a sound energy strategy. State and local governments, utilities, households, and businesses are currently realizing the economic and other benefits of energy efficiency, but there are still substantial gains to be made. To this end, the Governors establish the following objectives:

- Prioritize energy efficiency associated with electricity, natural gas, and vehicle transportation.

- Enhance utility rate designs, including time-varying rates, and cost-effective utility energy efficiency programs that deliver electricity and natural gas savings to consumers.
- Support energy efficiency programs that provide incentives and rebates to lower the incremental up-front costs of energy efficiency technologies; Energy Service Company (ESCO) programs; and where successful, utility ratepayer-funded energy efficiency programs, including the use of rate decoupling.
- Encourage the retrofit of residential and commercial buildings and improve the energy efficiency of new buildings, such as through building energy codes and programs that stimulate energy efficient construction.
- Decrease energy intensity using tools such as combined heat and power and waste heat to power systems.
- Incorporate systems strategies to improve efficiency throughout the building lifecycle and to improve grid connectivity, including energy systems that enable two-way, automated utility-to-customer communications to facilitate demand response programs.
- Maintain funding and support long-term authorization for the State Energy Program (SEP), Weatherization Assistance Program (WAP), and Low-Income Home Energy Assistance Program (LIHEAP).

**Goal 4: Advance efficient environmental review, siting and permitting processes that facilitate energy development and the improvement and construction of necessary electric grid (transmission and distribution) and pipeline infrastructure, while ensuring environmental and natural resource protection.**

Responsible energy development and a robust, well maintained energy delivery system are vital to the economy and quality of life in the West. To this end, the Governors establish the following objectives:

- Encourage responsible leasing and development of energy resources and infrastructure.
- Create a clear and transparent process for regulation and permitting, coordinated among well-trained and adequately funded federal, state and local agencies.
- Streamline project-permitting reviews to minimize timelines, without compromising environmental and natural resource protection or states' roles in those processes.
- Maintain state and local decision-making authority over transmission line siting and permitting.
- Encourage regional transmission planning organizations to conduct interconnection-wide planning with the full participation of the states and with consideration of state energy policies.
- Create functional partnerships among states, federal agencies, tribal governments and local jurisdictions to solve conflicts that hinder energy infrastructure and resource development.

- Increase cooperation on interstate projects through interstate compacts and other tools.
- In the West-wide energy corridor process, ask federal agencies to guarantee: ongoing, substantive, and meaningful state consultation; consideration of state plans, processes, priorities, and policies; and integration of other streamlining efforts.

**Goal 5: Improve the United States electric grid's reliability and resiliency.**

Changes in energy generation, distribution, and management are transforming the nation's electric grid. But these advancements also highlight the need for grid level investment, along with associated updates for electricity regulation and policy. To this end, the Governors establish the following objectives:

- Protect state authority to determine the type and amount of new generation facilities and the programs used to procure new generation, recognizing that each state has their own priorities and portfolios.
- Protect state authority to encourage continued operation of existing generation facilities through long-term contracts, retail utility contracting, or other incentives.
- Encourage regional reliability organizations, utilities, state agencies and public utility commissions to assess the provision of essential reliability services under future scenarios that include a changing resource mix in the West.
- Support grid operator situational awareness of distributed energy resources by promoting coordination between utilities and distributed energy resource developers.
- Preserve areas of exclusive state authority regarding distributed energy resources, including storage, and improve utility distribution systems planning for distributed energy resources to enhance grid reliability and resilience.
- Improve understanding of grid resources and services and the need for new power production facilities and transmission/distribution infrastructure through data, analysis, and coordination.
- Prepare for potential disruptions to the grid from wildfires, flooding, earthquakes, tornadoes, cyberattacks and other disturbances and emergencies, as well as increase the grid's ability to withstand and reduce the magnitude of such events.
- Enable utilities to take necessary actions to enhance grid reliability and reduce the threat of wildfires to and from electric transmission and distribution rights-of-way.

**Goal 6: Protect western wildlife, natural resources and the environment, including clean air and clean water, and strive to reduce greenhouse gas emissions.**

Western states have long assumed a stewardship role for the natural environment and have worked across state lines to protect air, land, wildlife and water. Western Governors are committed to ensuring that energy development is done in an environmentally responsible manner. To this end, the Governors establish the following objectives:



- Promote energy technologies and sources that lower emissions.
- Continue advancing air and water quality improvements and plans in each state and across state lines.
- Foster environmental cooperation that: protects the state-federal partnership; provides for sustainable environmental protection; is nimble and flexible; and ensures that state governments play a key role in regulation.
- Acknowledge that a productive economy and responsible development can support environmental protection by providing additional funding and opportunities for public-private partnership.
- Encourage technologies that reduce water consumption, prioritize water consumption for traditional activities (drinking water, agriculture, habitat conservation/restoration), and contribute to the responsible development of new energy resources.
- Achieve a balance between the responsible development of energy projects and wildlife conservation.
- Urge the federal government to identify and approve solutions for the long-term storage and permanent disposal of spent nuclear fuel and nuclear waste.
- Encourage the development and deployment of a full range of technologies that offer the potential for cost-effective reductions in greenhouse gas emissions from energy production and use, including carbon capture and storage, energy efficiency, zero emissions generation sources, and other emerging options.

**Goal 7: Make the West a leader in energy education, technology development, research, and innovation.**

Effective energy policy is facilitated by an understanding of a common set of impartial facts and scientific evidence. Furthermore, the advancement of technology will play a critical role in realizing a clean energy future. To this end, the Governors establish the following objectives:

- Leverage the vast expertise in the West's industry, academic institutions, and national laboratories to make the region an international hub for new energy technology research and development, as well as energy education.
- Encourage Congress and the Department of Energy to support and fund research, development, demonstration, and deployment of advanced energy technologies.
- Create public-private research and development partnerships among industry, academia, the national labs, and federal agencies to identify promising new technologies, including energy efficiency technologies that advance clean energy with reduced environmental impacts.
- Encourage market operators, reliability organizations, and utilities to appropriately share electric system operational data with researchers, educators, and entrepreneurs to promote

electric system innovation and technology development, while still safeguarding against risks to cybersecurity and physical security.

- Encourage training and education in energy-related fields and ensure there is an adequate workforce operating under the highest safety standards.
- Facilitate the creation of employment opportunities for displaced energy sector workers.
- Educate the public regarding: the role of energy in maintaining a high standard of living and quality of life; trade-offs and externalities associated with all types of energy development and consumption; the coexistence of a healthy environment and a thriving economy; and how federal policy on public lands impacts energy and infrastructure development.

**Goal 8: Utilize an all-of-the-above approach to energy development and use in the West, while protecting the environment, wildlife and natural resources.**

A diverse energy portfolio is essential to the provision of clean, affordable, secure, and reliable energy. Western Governors support a comprehensive energy portfolio, including: oil, gas, coal, nuclear, biomass, geothermal, hydropower, solar, wind, and conservation and energy efficiency. To this end, the Governors establish the following objectives:

- Reduce costs and risks for the environmentally sound development of all energy resources.
- Ensure competition in the market for all resources.
- Recognize the growing importance of consumer choice in driving energy policy.
- Support consumer choice of distributed energy resources to achieve affordability, environmental, and other objectives.
- Increase the development and use of alternative transportation fuels and vehicles, including the necessary infrastructure for those vehicles.
- Encourage innovation and application of energy storage, including pumped hydro storage, battery storage, and compressed air energy storage where cost-effective.
- Support the responsible and efficient development and use of traditional and renewable resources.
- Increase the amount of electricity generated from new, retrofitted, or relicensed hydroelectric facilities, including small, irrigation, and flood control hydropower projects.
- Restore financing for the geothermal exploration program financed by the Department of Energy.
- Accelerate the introduction of small modular reactors into the marketplace.



**Western Governors' Association  
Policy Resolution 2017-02**

***States' Share of Royalties and Leasing Revenues from  
Federal Lands and Minerals and States' Role in  
Associated Federal Policy***

**A. BACKGROUND**

1. The settlement of the Western United States was very different from the earlier settlement of the Eastern half of the country. As a result, land ownership in the West consists of a patchwork of federal, state, tribal and privately owned and managed lands and minerals. Over 591 million acres of federally-owned land and over 659 million acres of federally-owned mineral estate are within the boundaries of the Western states. Many of these federal lands in Western states have significant value.
2. The federal government sells or leases a variety of resources (minerals, gravel, oil and gas, coal, geothermal, renewable energy generating sites, timber, grazing rights, etc.) found on these federal lands to the private sector and collects substantial fees, taxes, royalties and lease payments for these rights.
3. Recognizing the costs to states and counties from the presence of tax exempt federal lands within their borders, Congress created a number of agreements and programs to compensate the states and local governments for the loss of tax revenue, the costs of providing infrastructure and services, and the costs of protecting wildlife and natural resources in communities adjacent to federal lands.
4. Historic agreements and programs, codified in federal law, include but are not limited to:
  - Twenty Five Percent Fund Act of 1908.
  - Bankhead Jones Tenant Act.
  - Mineral Leasing Act of 1920.
  - Taylor Grazing Act.
  - Geothermal Steam Leasing Act.
  - Renewable energy leasing revenues from development on Forest Service lands, Bureau of Land Management lands, and waters off the coasts of the Western states.
  - Federal Oil and Gas Royalty Management Act of 1982.

- Abandoned Mine Lands grants to states consistent with 2006 Amendments to the Surface Mining Control and Reclamation Act.
5. As a result of federal efforts to address the federal budget deficit, state funding for these historic federal agreements and programs have been targets of cutbacks during the annual appropriation process and sequestration.
  6. These agreements and programs are not proper subjects for cutbacks and sequestration. For example, royalty payments owed to states are not federal expenditures. Federal land management agencies simply administer the distribution of those revenues to states. The federal government has no discretion over this money. Payment to the states is the only authorized use for these revenues.
  7. In addition, federal processes and regulations can create uncertainty regarding sales and leases of these federal resources or slow the pace of sales and leases of these federal resources, adversely affecting states' receipt of their share of these essential revenues.
  8. The Department of the Interior (DOI) and other federal agencies are currently examining and revising regulations and policies governing federal management of land and minerals. In particular, DOI is undertaking an effort to modify mineral lease regulations for coal, oil and gas. This effort has impacted the pace of mineral leasing on federal lands, delayed mineral leasing efforts that were ongoing, and created uncertainty about future leasing efforts.
  9. Despite the states' substantial interest in the revenues associated with these programs and agreements, the federal government has often limited the states from participating in the decisions affecting these revenues. For example, in rulemaking related to oil and gas and in the federal coal program, previous avenues for state involvement were eliminated and prospective state involvement has been limited to participation as a general stakeholder.

**B. GOVERNORS' POLICY STATEMENT**

1. The federal government must honor its statutory obligations to share royalty and lease payments with states and counties in the West to compensate them from the impacts associated with federal land use and nontaxable lands within their borders.
2. Shared revenues and payments to states and counties under these programs should not be treated as federal expenditures or income, subject to sequestration. The federal government has no option except to transfer these pass-through funds to qualifying states. The federal government may not make payment of these funds to any other program or entity.

3. Governors support legislation that clarifies the unique nature of these programs and that assures states will receive full payment of statutorily-guaranteed shares of receipts, even under circumstances where federal budgets are sequestered.
4. Governors support legislation, regulatory changes, and agency practices that provide transparency and certainty, ensure fair value for the American public, and more efficiently administer the sales and leases of the resources on these federal lands.
5. Governors support early, meaningful and substantial state involvement in the development, prioritization, and implementation of federal environmental statutes, policies, rules, programs, reviews, budget proposals, budget processes and strategic planning. The U.S. Congress and appropriate federal agencies should provide expanded opportunities for such involvement.
6. States should be provided meaningful opportunities to cooperate on decisions related to these historic programs and agreements in a manner commensurate with their special status as recipients of the resulting revenues. In particular, Governors support efforts to provide the states with a forum to advise DOI on federal mineral leasing royalty policy. This includes reestablishment of the Royalty Policy Committee.

**C. GOVERNORS' MANAGEMENT DIRECTIVE**

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

*Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult [www.westgov.org/policies](http://www.westgov.org/policies) for the most current copy of a resolution and a list of all current WGA policy resolutions.*



DOUG BURGUM  
GOVERNOR OF NORTH DAKOTA  
CHAIR

KATE BROWN  
GOVERNOR OF OREGON  
VICE CHAIR

JAMES D. OGSBURY  
EXECUTIVE DIRECTOR

August 19, 2019

The Honorable Raul Grijalva  
Chairman  
Committee on Natural Resources  
House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Collin Peterson  
Chairman  
Committee on Agriculture  
House of Representatives  
1301 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Rob Bishop  
Ranking Member  
Committee on Natural Resources  
House of Representatives  
1329 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Michael Conaway  
Ranking Member  
Committee on Agriculture  
House of Representatives  
1010 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Grijalva, Chairman Peterson, Ranking Member Bishop, and Ranking Member Conaway:

The West is rich in solar, wind, and geothermal energy resources – many of which are located on federal lands. Western Governors support legislation that promotes responsible development of these resources and ensures states and counties are compensated for the use of local infrastructure and other services that support these projects. Western Governors urge your Committees to expedite consideration of [H.R. 3794](#), the Public Lands Renewable Energy Development Act of 2019. The Governors have submitted letters in support of this bipartisan legislation in the last three Congresses ([May 11, 2017 letter](#); [February 2, 2016 letter](#); and [March 26, 2013 letter](#)) and strongly support H.R. 3794.

Western Governors support: an all-of-the-above energy portfolio, including geothermal, solar, and wind energy; clear, efficient, transparent, and coordinated energy regulation and permitting; and energy policy that advances economic growth and protects the environment. Several elements of H.R. 3794 align with these policy goals, including identification of priority areas and targets for renewable energy production on federal lands, authorization of the use of programmatic and supplemental National Environmental Policy Act (NEPA) analysis, and establishment of permit coordination offices. Western Governors appreciate the bill's inclusion of Governors as potential signatories to intergovernmental agreements for expediting NEPA analysis and its requirement for the U.S. Department of the Interior (DOI) to coordinate with states on supplemental NEPA analysis.

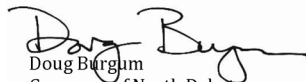
Furthermore, the bill assures that the federal government provides states and counties with the resources necessary to offset the loss of tax revenue and local environmental and other impacts from renewable development on certain public lands within their borders (See WGA Policy Resolution [2017-02, States' Share of Royalties and Leasing Revenues from Federal Lands and Minerals and States' Role in Associated Federal Policy](#)). Western Governors also support the bill's reservation of a portion of revenues for permit processing by state agencies, as well as state protection and restoration of wildlife, habitat, and recreational access. This strikes the appropriate balance of safeguarding community infrastructure, natural resources, and other uses of public lands, while realizing the jobs, economic growth, and resources provided by energy development.

The Honorable Raul Grijalva  
 The Honorable Rob Bishop  
 The Honorable Collin Peterson  
 The Honorable Michael Conaway  
 August 19, 2019  
 Page 2

We encourage Congress to consider including National Forest lands and the U.S. Department of Agriculture (USDA) as part of the bill's revenue-sharing, NEPA, and permit requirements. Currently, H.R. 3794 requires USDA to meet the renewable energy production targets but does not require the Department to designate priority areas or establish permit coordination offices. In addition, National Forest lands are not encompassed within the definition of covered land; therefore, renewable energy projects on those lands would not be subject to the bill's NEPA provisions and would not contribute to the funds to compensate states and counties for renewable energy development within their borders. A previous version of this bill ([S. 1407](#)) included National Forest lands in the definition of covered lands. The exclusion of these lands in H.R. 3794 represents a missed opportunity.

Western Governors support H.R. 3794's facilitation of the responsible and efficient development of the West's solar, wind, and geothermal resources on federal lands and compensation to states and counties affected by that development. Please contact Western Governors if we can be of assistance in facilitating its enactment.

Sincerely,

  
 Doug Burgum  
 Governor of North Dakota  
 Chair, WGA

  
 Kate Brown  
 Governor of Oregon  
 Vice Chair, WGA

cc: The Honorable Alan Lowenthal, Chairman, Subcommittee on Energy and Mineral Resources  
 The Honorable Paul Gosar, Ranking Member, Subcommittee on Energy and Mineral Resources



November 7, 2019

The Honorable Lisa Murkowski  
Chair  
Committee on Energy and Natural  
Resources  
United States Senate  
Washington D.C. 20002

The Honorable Joe Manchin III  
Ranking Member  
Committee on Energy and Natural  
Resources  
United States Senate  
Washington D.C. 20002

Dear Chair Murkowski, Ranking Member Manchin, and Members of the Senate Energy and Natural Resources Committee:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to offer support for S. 2666, the Public Land Renewable Energy Development Act (PLREDA) of 2019, led by Senators McSally and Heinrich, being heard before the full committee on November 7, 2019.

This bipartisan legislation serves as a necessary first step in tapping the vast potential for renewable energy development on our public lands. If passed, this legislation would promote the responsible development of wind, solar, and geothermal resources on public lands by identifying priority areas and encouraging smart siting and efficient permitting of project in places with high energy potential and lower impact on wildlife and habitat. This bill provides economic benefits to states and counties and reinvests in local communities' recreation and habitat conservation.

PLREDA would improve upon our current approach to developing energy on public lands in an environmentally responsible and efficient way while ensuring communities and local conservation efforts see benefits from development. S. 2666 directs significant revenues collected from wind and solar companies back to counties, states and conservation efforts, providing local economic benefits while reinvesting in communities' recreation access and habitat conservation.

Additionally, the bill would establish the Renewable Energy Coordination Office, which would, under the direction of the Secretary of the Interior, reform and improve the Federal permitting process for renewable energy projects on lands managed by the federal government, specifically for project permitting handled by multiple agencies. This legislation would also give permitting agencies additional resources and new tools to move forward with a smarter, more efficient way to permit renewable energy that advances energy clean generation and minimizes impacts.



S. 2666 promotes responsible development of renewable energy while simultaneously enhancing conservation investments on our public lands. For these reasons, TWS strongly supports the Public Land Renewable Energy Development Act of 2019.

The Wilderness Society appreciates the opportunity to submit views on S. 2666.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew McConville".

Drew McConville  
Senior Managing Director, Government Relations  
The Wilderness Society

