

CRS Report for Congress

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Energy and Mineral Issues in the FY2006 Budget Reconciliation Bill

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Summary

Several resource issues that are designed to generate revenue for the federal Treasury have been proposed for the FY2006 budget reconciliation bill. The most controversial of these provisions recommended by the House Resources Committee and Senate Energy and Natural Resources Committee would open part of the Arctic National Wildlife Refuge (ANWR) for oil and gas development. The House panel would also allow coastal states to “opt out” of the current offshore oil and gas development moratoria, increase fees for hardrock mining and patents, dispose of certain federal lands, and begin an oil shale and tar sands leasing program. The Congressional Budget Office estimates offsetting receipts from resource development on federal lands in the House recommendation to be \$3.7 billion and in the Senate version \$2.66 billion between 2006-2010. This report will be updated.

Several resource provisions designed to generate revenue for the federal Treasury have been proposed for the FY2006 budget reconciliation bill. According to the Congressional Budget Office (CBO), potential offsetting receipts from resource development on federal lands under the House recommendations would reduce “net direct spending” by \$3.7 billion over the 2006-2010 period. Subtitles in the House Resources Committee’s reconciliation package would involve the following: opening up the Arctic National Wildlife Refuge (ANWR) for oil and gas development (Subtitle A), increasing fees and other miscellaneous amendments for hardrock mining on federal lands (Subtitle B), sales of public land to mining claimants in Idaho and Nevada (Subtitle C), oil shale development (Subtitle D), offering coastal states the option of offshore oil and gas development in areas now under a leasing and development moratoria (Subtitle E), and the sale of federal land (Subtitle F). Below is a brief description of each subtitle and some of the related issues. The Senate Energy and Natural Resources Committee also supported opening a part of ANWR as its only recommendation to the budget reconciliation bill. The CBO estimates that the Senate version would reduce spending by \$2.66 billion.

The Senate Budget Committee reported its reconciliation bill (S. 1932) on October 27 and the House Budget Committee is scheduled to meet on its version on November 3.

Arctic Coastal Plain Domestic Energy. Reconciliation provisions in the House and the Senate packages would allow for oil and gas leasing within the coastal plain of the Arctic National Wildlife Refuge.

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

(For more details on ANWR, see CRS Report RS22304, *ANWR and FY2006 Budget Reconciliation Legislation*, by Bill Heniff Jr. and M. Lynne Corn; CRS Report RS21030, *ANWR Development: Economic Impacts* by Bernard A. Gelb; and CRS Issue Brief IB10136, *Arctic National Wildlife Refuge: Controversies for the 109th Congress*, by M. Lynne Corn, Bernard Gelb and Pamela Baldwin).

OCS Leasing and Revenues. The Outer Continental Shelf (OCS) moratoria, which prohibit leasing on most federal offshore lands, have been an important issue in the debate over energy security and the potential availability of additional domestic oil and gas resources. Congress has approved the moratoria for each of fiscal years 1982-2006 in the annual Interior Appropriations bill. Proponents of the moratoria contend that offshore drilling would pose unacceptable environmental risks and threaten coastal tourism industries. This proposal would affect states along the Atlantic and Pacific coasts, the Gulf of Mexico, and Alaska.

Provisions in Subtitle E of the House Resources recommendation would allow states to opt out of the longstanding moratoria on oil and gas leasing on the outer continental shelf (OCS). States that agreed to allow such leasing would receive a larger share of royalty revenues. States with offshore energy development have been seeking to receive a direct share of the federal revenues generated by those activities. Currently, the affected states receive some revenue from offshore oil and gas leases in federal waters. This is in contrast to states with onshore leases on federal lands, which receive a direct share of the oil and gas leasing revenues.

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

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

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

The one-time location fee, now at \$32 per claim, would increase to \$100 per claim under the Resources bill. Required mineral development work (i.e. work required prior to a patent application) would increase from \$500 per claim to \$7,500 per claim and a new schedule of maintenance fees would be established. The patent application processing fee would increase from \$250 for the first claim or site to \$2,500 for the first claim or site. The charge of \$50 for each additional claim would remain unchanged. Patent fees, which allow for the transfer of title, would rise from \$2.50 or \$5 per acre to \$1,000 per acre. Mineral examinations would not be required under certain circumstances and the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) would be amended to "facilitate the productive second use of lands used for mining and energy production."

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

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

Oil Shale. Oil shale and tar sands amendments in Subtitle D of the House Resources recommendation would require the Secretary of the Interior to conduct lease sales, offering at least 35% of federal lands considered geologically suitable within the states of Colorado, Utah, and Wyoming. Royalty rates for the first 10 years would be set at 1%-3% of the gross value of production. The Secretary could reduce the rates under certain circumstances. States would receive 50% of the revenues generated from oil shale and tar sand leases within that state. The royalty rates proposed for oil shale leasing would be much lower than the 12.% for oil and gas leasing on public land. There are currently no oil shale leases in the United States.