Ways to Raise Revenue from Taxpayer-Owned Natural Resources

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Oil and gas pump jacks in the San Joaquin Valley, California | Source: BLM

With the national debt at $20 trillion and counting, policymakers are looking for ways to generate more revenues. Natural resources can offer valuable sources of revenue; but only when federal agencies charged with representing the taxpayer interest collect *appropriate* royalties, fees, and other costs associated with the exploration and development of our nation's minerals, timber, oil, gas, and coal.

Since our inception in 1995, we've recommended a suite of options to cut spending and increase revenues to get taxpayers a fair return for the resources we own. The Green Scissors report, produced by TCS, Friends of the Earth, and the R Street Institute offers a number of ways to reduce waste by cutting environmentally harmful spending. We've also dug into energy tax subsidies that, if eliminated, could recoup taxpayers billions in foregone revenues. Congress's independent budget arm, the Congressional Budget Office (CBO), also periodically publishes a report presenting dozens of options on how to reduce the federal budget deficit through new natural resource revenues.

The most recent push for revenue comes as Congress forges ahead with the budget reconciliation process to enact a tax package. The reconciliation package directed the tax writing committees to propose changes to the tax code that could add as much $1.5 trillion to the ten year deficit.[1] The Budget Committees also tasked the Senate Energy and Natural Resource and House Natural Resources Committees to produce proposals to increase natural resource revenues by at least a $1 billion.[2] Proposals must be for new revenue, meaning they are not currently in the congressional budget baseline.

Since the Senate committee is specifically looking at oil and gas revenues, per Chairman Murkowski's (R-AK) request, below are several proposals to reliably raise revenue from federal oil and gas production that we have long advocated for, including:

- Renegotiate Royalty-free Deepwater Leases

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[1] The Joint Committee on Taxation (JCT) scored the initial House proposal as adding $1.4871 trillion to the ten-year deficit.

[2] H.Con.Res. 71 §2001(b), 2002(b). For budgetary purposes, amounts generated from federal natural resources are counted as net offsetting receipts, which credit against direct spending, rather than as revenue. But 'revenue' will be used synonymously with 'offsetting receipts' in this paper.

- Collect on Nonproducing Leases on Federal Lands and Waters
- Increase the Outdated Royalty Rate for Onshore Oil and Gas Leases
- Other Options

Renegotiate Royalty-free Deepwater Leases

The Deep Water Royalty Relief Act of 1995 (DWRRA)[3] expanded the Secretary of the Interior's authority to provide royalty relief for offshore oil and gas leases issued from 1996-2000 in certain areas of the Gulf of Mexico. The law entailed that royalties would not be charged on the production of oil and gas from the eligible leases up to a certain volume.

In most cases, the DWRRA-eligible leases included price thresholds whereby royalty relief would no longer apply and royalties would be collected on all production when oil and gas prices exceeded the threshold amount. To great controversy, however, threshold prices were mistakenly omitted from the leases issued in 1998 and 1999. As a result, all production of taxpayer-owned oil and gas from those leases up to a certain volume has been royalty free for almost two decades. Other lessees of DWRRA leases have also successfully sued to nullify the price thresholds in their leases. Together, these events have led to billions of dollars in lost royalty revenue. In 2011, roughly 20 percent of Outer Continental Shelf (OCS) energy production was exempt from royalties due to DWRRA.[4]


Oil and gas platform in the Gulf of Mexico | Source: Shell

Previous Attempts to Recoup Lost Royalties

Congress has the ability to pass legislation to amend DWRRA and begin collecting royalties from the leases in question through incentives for lease renegotiations or other means. In 2006, then-Representative Bobby Jindal (R-LA) introduced legislation that would have recouped the lost revenue through two provisions. The first directed the Secretary of the Interior to accept any request to amend one of the 1998 or 1999 leases to include price thresholds at or above a set level, thereby providing leaseholders some certainty if they voluntarily renegotiated.

The second provision would have imposed a "conservation of resources" fee of $9 per barrel of oil and $1.25 per million Btu of natural gas to any production from a lease that wasn't paying royalties when commodity prices exceeded the threshold levels set in the bill. In its score of the bill, the CBO indicated that it expected leaseholders would voluntarily renegotiate leases to avoid the new fee and that the provision would generate $11.4 billion over 10 years.

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[3] Enacted as Title III of P.L. 104-58

[4] CBO, "Potential Budgetary Effects of Immediately Opening Most Federal Lands to Oil and Gas Leasing." August, 2012. P. 6. https://www.cbo.gov/sites/default/files/112th-congress-2011-2012/reports/Oil-and-Gas_Leasing_One-Col.pdf

A bill introduced by Rep. Nick Rahall (D-WV) took a similar approach and went one step further. In addition to provisions similar to those above, the bill included language that would have prevented the administrating agency from issuing a lease in any subsequent sale to a leaseholder of one of the 1998 or 1999 leases unless they had already renegotiated to include price thresholds in said leases at levels set by DWRRA. In addition, the measure would have clarified the Interior Secretary's authority, specifying that the Secretary may vary when royalty relief is provided based on oil and gas prices. In 2007 the CBO estimated that the provisions would generate $4.35 billion over ten years. The following year, Rep. Rahall reintroduced the provisions, and the CBO found they would have increased federal revenue by $7.7 billion for 2009-2018.[5]

- Congress could take many approaches to recoup lost revenue from DWRRA leases. If legislation were passed that collected royalties from leases at a rate commensurate with existing leases in the Gulf of Mexico, federal revenues could increase by **$9.7 billion** over a 10-year period.[6]

Collect on Nonproducing Leases on Federal Lands and Waters

According to the most recent data available from the Bureau of Ocean Energy Management (BOEM), only 30 percent of active offshore leases are producing oil and gas.[7] Bureau of Land Management (BLM) statistics indicate that production was reported for less than half of all onshore acres leased for oil and gas development in FY2016.[8] These percentages, moreover, are significantly higher than historical averages, and are likely to decrease as oil and gas commodity prices rise.

The practice of oil and gas companies sitting on millions of acres of federal land without beginning production has persisted because of lease terms that don't incentivize diligent development. The CBO suggests that imposing a fee on nonproducing acres could encourage companies to conduct more research into the production potential of certain leases before lease sales, which could induce more competitive bidding.

Oil well on BLM land in Nevada | Source: BLM

- Setting a new fee of $6 per acre for nonproducing parcels on both onshore and offshore leases would net taxpayers **$700 million** over the next 10 years and have a negligible effect on production.[9]

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[5] The difference in estimates conducted just seven months apart was most likely due to lower oil price projections.
[6] Estimate generated from reported volumes of royalty-free oil and gas in the FY 2018 Department of the Interior Budget Justification
[7] BOEM, "Combined Leasing Report" As of October 1, 2017 - https://www.boem.gov/2017-10-Combined-Lease-Statistics/
[8] BLM, "Oil and Gas Statistics" https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics
[9] CBO, "Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Land," April 2016.

Increase the Outdated Royalty Rate for Onshore Oil and Gas Leases

Currently, the BLM sets the royalty rate for oil and gas production on federal land at 12.5 percent. This is the minimum rate allowed by law and is lower than the rates charged by states with significant oil and gas production on their land:

Royalty Rates for Oil and Gas Development on State Lands	
Texas	25 %
Oklahoma	18.75%
Colorado	16.67%
Montana	16.67%
Wyoming	16.67%
New Mexico	16.67% / 18.75%
North Dakota	16.67% / 18.75%

The 12.5 percent rate is also lower than the 18.75 percent rate assessed on most federal offshore oil and gas leases. The BLM is offering oil and gas companies terms that are more than just competitive, they're generous, at taxpayers' expense.

- Setting the royalty rate at 18.75 percent would generate **$200 million** in royalty income over the next 10 years and have a negligible effect on production.[10]

Other Options

If Congress truly want to meet their fiduciary duty and are looking to raise revenues from oil and gas beyond their $1 billion target, they might also consider some of the following options and the revenue they could generate over 10 years, as scored by the CBO:[11]

- Require offshore oil and gas parcels be nominated for auction - **$150 million**
- Require onshore oil and gas parcels be auctioned through a sealed-bid process - **$100 million**
- Increase the minimum bid for onshore auctions and noncompetitive Leases - **$50 million**

Conclusion

Ensuring that resource management agencies are maximizing the return taxpayers get from the development of federal resources is not just a good idea, it's Congress' responsibility. If lawmakers are looking to increase revenue by $1 billion from federally-owned natural resources, they have no shortage of options. What they choose, however, should generate real revenue, not illusory income, which could happen under some plans currently being proposed, like opening up new areas for oil and gas drilling. When assessing which proposals protect taxpayers and promote fiscal sustainability, Congress needs to make sure the math works and that public resources aren't used to benefit private interests.

[10] CBO, "Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Land," April 2016. P. 23
[11] CBO, "Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Land," April 2016.