Fair Returns for Public Lands Act of 2020:

Reforming Onshore Oil and Gas Fiscal Policies to Eliminate Unnecessary Subsidies and Ensure a Fair Market Value Return to Taxpayers

Purpose

Federal government leasing of taxpayer-owned public lands needs to be overhauled. Current leasing practices do not provide an adequate return to American taxpayers, according to extensive research from both the Congressional Budget Office (CBO) and Government Accountability Office (GAO). By saturating the market with cheap leases and charging a royalty rate that is lower than the market can bear, the federal government is failing to acquire a fair return for taxpayer assets: *public* lands. Taxpayers for Common Sense (TCS) concluded that federal taxpayers **have lost more than $5.2 billion in revenue in New Mexico alone over the last decade** because of outdated rental rates, below-market royalty rates, and waste from oil and gas wells.

The Fair Returns for Public Lands Act of 2020 takes on this issue and provides for common sense updates to the Bureau of Land Management's (BLM) leasing practices, ensuring taxpayers receive – and corporations pay for – a fair market value when public lands are leased for oil or gas. In doing so, the Act recognizes the full worth of public lands by not undervaluing these lands to oil and gas corporations.

Background

Under the Federal Land Policy and Management Act, Americans are entitled to "fair market value [for] the use of the public lands and their resources."[1] Similarly, the Mineral Leasing Act directs the BLM to employ fiscal policies that "enhance financial returns to the United States."[2] Current onshore oil and gas leasing practices on BLM-managed public lands are antiquated and fail to achieve these statutory aims. Royalty rates have not changed since 1920, while rental rates and minimum bids have not been updated since 1987. The existing oil and gas fiscal policies fail to account for increased oil and gas production, do not account for inflation, increases in technology and lag behind state rates, as well as offshore oil and gas leasing rates. Equally important, outdated rental and bid rates enable speculators to hoard public land cheaply without intention to develop oil or gas resources, which obstructs the BLM from pursuing other income-generating uses of public lands. In turn, these lands are undervalued and underpriced, which ultimately inhibits American taxpayers from receiving fair market value when companies profit from their publicly-owned resources.

GAO and CBO both concluded that improved royalty rates could increase federal revenues by $20 to $38 million per year (with roughly the same amount flowing to states) **with "negligible" or minor impacts on production.**[3,4] Indeed, state royalty rates are almost uniformly higher than the current federal royalty rate of 12.5 percent, generally ranging from 15 to 25 percent. Notably, according to GAO, Colorado and Texas have raised state royalty rates (to 20% and 25%, respectively) in recent years "without a significant effect on production on state lands." Thus, with simple updates to onshore oil and gas fiscal policies, we can deliver a fair return from the commercial development of publicly-owned oil and gas resources to American taxpayers—with only a negligible impact on development.

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[1] 43 U.S.C. § 1701(a)(9).

[2] 30 U.S.C. § 225(b)(1)(B).

[3] CBO, Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Lands 1-2 (Apr. 2016).

[4] GAO, A Comparison of the Share of Revenue Received from Oil and Gas Production by the Federal Government and Other Resource Owners (May 2007); GAO, The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment (Sept. 2008); GAO, Actions Needed for Interior to Better Ensure a Fair Return (Dec. 2013); GAO, Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue (June 2017).

Solutions

This bill modernizes federal onshore oil and gas fiscal policies by focusing on the following areas:

- **Royalty Adjustment:** The Act will increase royalty rates to 18.75%. The current royalty rate (12.5%) was established in 1920 under the Mineral Leasing Act. CBO estimates that an increase to 18.75% would generate $200 million in net federal income over the next 10 years with an equivalent amount being dispersed to the states based on current revenue-sharing laws[5]. Critically, an increase to 18.75% will put onshore oil and gas royalty rates on par with offshore rates and on par with many state royalty rates—a strategy that the CBO concluded would have negligible impacts on oil and gas development[5].

- **Minimum Bids:** The Act will increase minimum bids to $10 per acre. Current BLM minimum bids are $2 per acre and, if no bids are received, only the first year's rent at $1.50 per acre is collected. Higher minimum bids will encourage oil and gas developers to more selectively purchase leases, based on clear intentions of pursuing actual exploration and development. Furthermore, the Act will set a $15 per acre minimum fee for an expression of interest to nominate a parcel of public land. This fee will reimburse administrative costs for processing nomination requests and deter speculators from nominating wide swaths of public lands in one fell swoop.

- **Rental Rates:** Rental rates will increase to $3 per acre for the first 5 years and $5 per acre for the next 5 years. These increases account for inflation since the first rates were established in 1987. Additionally, reinstated leases will be subject to rental rates of $20 per acre and royalty rates at 25%. This change eliminates the current distinction between competitive and noncompetitive reinstated leases while maintaining the existing status quo of higher rental and royalty rates for reinstated leases to encourage lessee diligence. The Act establishes mandatory, regular adjustments to update rental rates at least every four years to account for inflation.

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[5] CBO, Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Lands pg. 23 (Apr. 2016).