Subcommittee on Energy and Mineral Resources

Paul Gosar, Chairman
Hearing Memorandum

June 19, 2018

To: All Subcommittee on Energy and Mineral Resources Members

From: Majority Committee Staff – Rebecca Konolige (x-61879)
Subcommittee on Energy and Mineral Resources

Hearing: **Legislative hearing on H.R. 5859 (Rep. Scott R. Tipton),** To amend the Mineral Leasing Act to require that a portion of revenues from new Federal mineral and geothermal leases be paid to States for use to supplement the education of students in kindergarten through grade 12 and public support of institutions of higher education, and for other purposes.
June 21, 2018 at 2:00 PM; 1324 Longworth House Office Building

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H.R. 5859, Education and Energy Act of 2018

Summary of the Bill

On May 17, 2018, Representative Scott R. Tipton (R-CO) introduced H.R. 5859, the Education and Energy Act of 2018. This bill would require that a portion of revenues from new mineral and geothermal leases be redistributed to States to use in support of K-12 funding and public support of higher education. Of the federal share of revenues exceeding the Congressional Budget Office's (CBO) estimate for a given fiscal year, 33 percent shall be returned to the State where the energy was produced, and 17 percent shall be redistributed to the 50 states in equal amounts.

Witnesses

Ms. Rose Pugliese
Commissioner
Mesa County, CO
Grand Junction, Colorado

Ms. Raina Rippel
Director, SWPA Environmental Health Project
McMurray, PA

Background

The public school system is one of the most important, and most unevenly funded, national services in the United States. The struggle for more resources has been highlighted by recent teacher strikes in West Virginia, Kentucky, Oklahoma, Arizona, and Colorado.[1] Among other

[1] Frederick Hess, The Facts Behind The Teacher Strikes. Forbes. April 30, 2018. https://www.forbes.com/sites/frederickhess/2018/04/30/the-facts-behind-the-teacher-strikes/#7e5475a27639

factors, the State where a school is located is a major indicator in the amount of resources each student may receive. According to a Department of Education report released in January 2018, expenditures per pupil range from $6,751 in Utah to $20,744 in New York.[2]

Although this disparity in available resources is attributable to multiple causes, one of them is the difference in the amount of taxable land per state.[3] In the 2014-15 school year, out of $664 billion[4] in revenues collected for elementary and secondary public school, only 8 percent came from federal sources, while 47 percent came from State sources and 45 percent from local sources.[5] For States like Nevada and Utah, with approximately 80 percent and 63 percent of non-taxable federal land respectively, this can have a critical impact on available revenue for use in State services, schools included.[6]

H.R. 5859, the Education and Energy Act of 2018, will help enable States' ability to support K-12 schools and higher education through responsible energy development. The bill reallocates a greater share of federal mineral and geothermal revenues back to the State in which they were generated, specifically for the purpose of supporting public education.

Background of MLA Revenue Sharing

Revenue sharing between onshore energy-producing States and the federal government is governed by the terms of the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.). Revenues are generated by the rentals, bonuses, and royalties on onshore mineral resource production on federal public lands.[7] The Mineral Leasing Act specifically applies to oil, gas, and coal leasing, as well as certain minerals including phosphates, sodium, sulfur, and potash.[8]

States historically received 50 percent of the revenues generated by leasing and production of onshore energy resources on federal land within their borders, with the exception of Alaska, which received 90 percent. However, a 2014 amendment to the Mineral Leasing Act authorized the Secretary of the Interior to charge a 2 percent fee on the collection of these revenues, reducing the States' share to 48 percent.[9]

Aside from the States' share, another 40 percent of onshore mineral revenues (except Alaska) is reserved for payment into the Reclamation Fund. Established by the Reclamation Act

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[2] U.S. Department of Education, National Center for Education Statistics. Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2014–15 (Fiscal Year 2015) (2018). https://nces.ed.gov/pubs2018/2018301.pdf

[3] U.S. Department of Education, Office of Elementary and Secondary Education. About Impact Aid (updated March 21, 2017). https://www2.ed.gov/about/offices/list/oese/impactaid/whatisia.html?exp=7#a

[4] In constant 2016-17 dollars

[5] U.S. Department of Education, National Center for Education Statistics. Public School Revenue Sources (updated April 2018). https://nces.ed.gov/programs/coe/indicator_cma.asp#f1

[6] Carol Hardy Vincent et al, Federal Land Ownership: Overview and Data (2017). http://www.crs.gov/reports/pdf/R42346

[7] Marc Humphries, Energy and Mineral Development on Federal Land (2015). http://www.crs.gov/Reports/IF10127?source=search&guid=ab1ee1f40564437797071c178c8fa2ad&index=

[8] Briefing by Marc Humphries, Specialist in Energy Policy, Congressional Research Service received by Energy and Mineral Resources Subcommittee Majority Staff on August 20, 2017.

[9] 30 U.S.C. 191.

of 1902 (Public Law 57-161) and administered by the Bureau of Reclamation under the Department of the Interior, the Reclamation Fund was created to fund irrigation projects on arid regions in the West.[10] Remaining revenues not paid to the States or the Reclamation Fund are directed into the Treasury.[11]

The Education and Energy Act of 2018 would leave all of the established State and Reclamation Fund allocation percentages the same. It applies specifically to mineral resource revenues otherwise slated for the Treasury, and only in years when actual revenues generated exceed the Congressional Budget Office's estimates.

Onshore State Usage of Mineral Revenues

Almost half of the land in the West is owned by the federal government.[12] The vast amount of tax-exempt federal land in this region makes much of the western United States reliant on alternative sources of State income to offset losses in private tax revenue.[13] Some relief comes in the form of revenues from energy production.

These revenues go toward the maintenance and improvement of local communities and critical public services. In energy-producing States, a portion of the revenues are utilized to mitigate the risks of energy development, as well as funding for roads and infrastructure,[14] public safety, housing, transportation, and public school systems and community colleges.[15]

Many States that depend on these revenues to support necessary services also maintain mineral trust funds dedicated for future uses. For instance, Colorado allocates a share of its mineral revenues to its Local Government Permanent Fund, School Trust Permanent Fund, and Higher Education Maintenance and Reserve Fund.[16]

The disproportion of funds available for some States' public services, specifically schools, is striking. Given that the average State receives approximately 90 percent of their school funding from State and local sources,[17] States with large amounts of nontaxable federal land are at a decided disadvantage when finding resources for in-State education.

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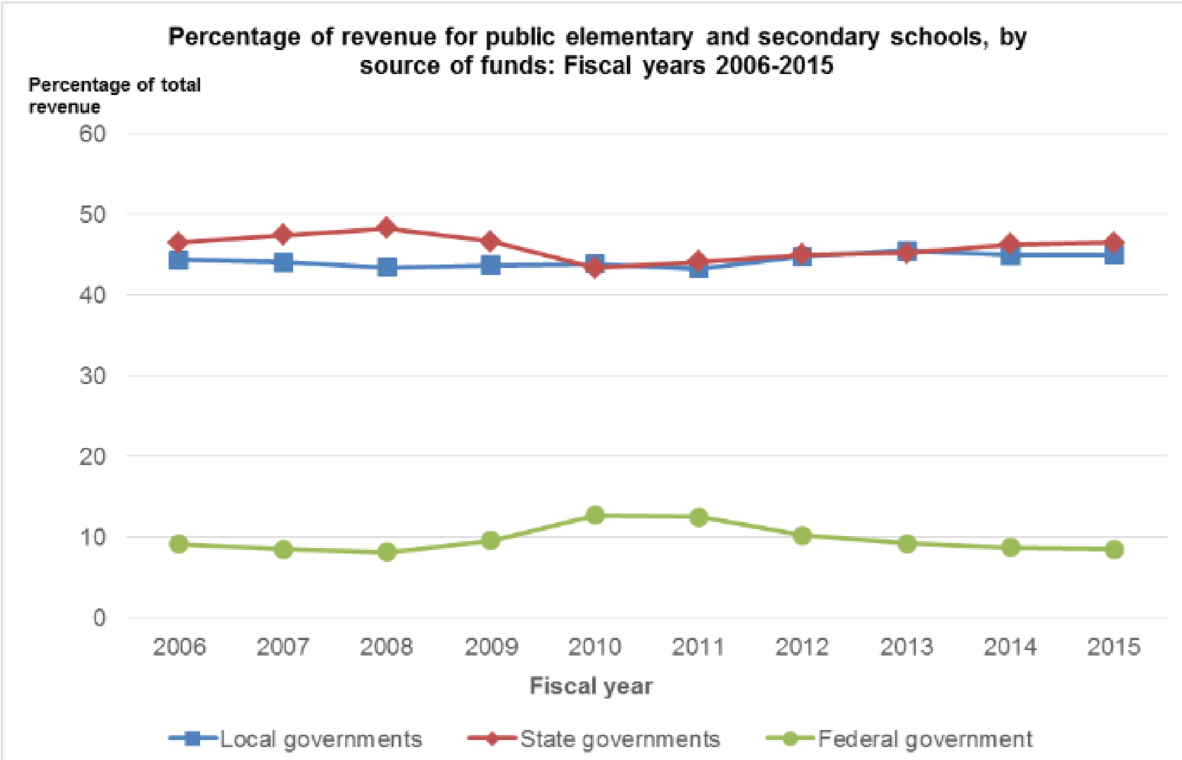
[10] Charles V. Stern, The Reclamation Fund (2015). Congressional Research Service.
[11] 30 U.S.C. 191.
[12] Carol Hardy Vincent, Federal Land Ownership: Overview and Data (CRS Report R42346)(Washington, D.C.: Congressional Research Service, 2014),p.1
[13] Marc Humphries, Mineral Royalties on Federal Lands: Issues for Congress (2015). http://www.crs.gov/reports/pdf/R43891
[14] Marc Humphries, Mineral Royalties on Federal Lands: Issues for Congress (2015). http://www.crs.gov/reports/pdf/R43891
[15] The United States Extractive Industries Transparency Initiative. Explore Data, Wyoming. https://useiti.doi.gov/explore/WY/#disbursements (Accessed August 29, 2017).
[16] U.S. Department of Interior. Office of Natural Resources Revenue. Natural Resources Revenue Data. Colorado. https://revenuedata.doi.gov/explore/CO/
[17] https://nces.ed.gov/programs/coe/indicator_cma.asp#f1



SOURCE: U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "National Public Education Financial Survey," fiscal years 2006 through 2015.

H.R. 5859 would amend the Mineral Leasing Act to require a portion of new federal mineral and geothermal revenues be paid back to States to support public K-12 and higher education institutions. This would only apply to revenues slated for the Treasury, and not already obligated to the States' revenue sharing formulas or the Reclamation Fund. Further, of the remaining federal share – approximately 10 percent of the total produced – this bill will only apply to revenues exceeding the Congressional Budget Office's estimated revenue for the leases in the previous fiscal year. H.R. 5859 requires that 33 percent of revenues above the Congressional Budget Office's estimate be sent back to the State where the energy was generated. A further 17 percent would be split evenly among the 50 States.

By returning a portion of revenues from energy production to specifically support public education, H.R. 5859 would bolster State education using State-created value. While energy-producing States understandably have a larger percentage returned than non-producing States, this bill would also assist public school funding in the country at large.

Revenues from energy production are made by hardworking Americans in a minority of States for the benefit of the entire nation. H.R. 5859 helps ensure members of energy-producing States have fair returns for use in State services, specifically to support K-12 and higher education opportunities for their students.

Cost

CBO has not scored this legislation.

Administration Position

Unknown.

Major Provisions of H.R. 5859

- Amends the Mineral Leasing Act to redistribute a percentage of the federal share of revenues from new leases under the Mineral Leasing Act and the Geothermal Steam Act of 1970 back to the States, for purposes of supplementing public K-12 and higher education funding.

- 33 percent of the revenue each fiscal year from said leases which would otherwise be deposited into the general fund of the Treasury shall be paid by the Secretary of the Interior to the State that generated the revenue.

- 17 percent of federal revenues from new leases each fiscal year, not including the 33 percent mentioned above, shall be paid to the States in equal amounts.

- The terms of this Act shall only apply to: 1) leases entered into after the enactment of this Act; and 2) federal revenues from new leases that exceed the amount the Congressional Budget Office estimated would be received under such leases in the previous fiscal year.

- The terms of this Act shall not apply to revenues that are required to be paid into, reserved, or appropriated as part of the Reclamation Fund.

Effect on Current Law (Ramseyer)

https://naturalresources.house.gov/UploadedFiles/HR_5859_MLA_rev_.pdf