Committee on Resources

Subcommittee on Energy & Mineral Resources

Witness Statement

**TESTIMONY OF LAWRENCE E. BENGAL,
VICE CHAIRMAN,
INTERSTATE OIL AND GAS COMPACT COMMISSION,
TO THE
U.S. HOUSE RESOURCES COMMITTEE
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
WASHINGTON, DC,
2 PM, JUNE 15, 2000**

Good afternoon, Madame Chairman and members of the subcommittee, I am Lawrence Bengal, vice chairman of the Interstate Oil and Gas Compact Commission and Director of the Illinois Division of Oil and Gas. I am here today representing the Interstate Oil and Gas Compact Commission, otherwise known as the IOGCC, and the 37 member and associate states that comprise the commission. I welcome the opportunity to speak in support of H.R. 4340 -- The Mineral Revenue Payments Clarification Act of 2000.

Over 99% of the oil and natural gas produced onshore in the United States is produced by IOGCC member states.

The IOGCC's mission is two-fold: to conserve our nation's oil and gas resources and to protect human health and the environment. The organization was formed in 1935 when six states endorsed and Congress ratified the Interstate Compact to Conserve Oil and Gas, resulting in formation of the unique governmental entity now known as the Interstate Oil and Gas Compact Commission. My own state of Illinois was one of the founding states that acted to control petroleum overproduction and the resulting waste of a precious natural resource. Since that time, states have expanded and enhanced effective regulation of the oil and natural gas industry in the United States. A variety of IOGCC programs assist the states through collaborative efforts to gather and share information and by developing model laws and regulations. As an organization, the IOGCC is the leading advocate for conservation and wise development of domestic petroleum resources. In my opinion, no governmental entity in the world administers oil and gas resources better or more efficiently than the member states of the IOGCC. The organization includes 30 member states, 7 associate states, and 5 international affiliates.

I am here today to support repealing Net Receipts Sharing. The IOGCC has considered Net Receipts Sharing ill-conceived, costly and burdensome program from its inception. Attached to my testimony is Exhibit A, a copy of IOGCC Resolution 99.124, passed unanimously, urging Congress to enact S. 1997 (the Senate counterpart to H.R. 4340), without amendment. This legislation would simplify federal oil and gas revenue distributions and return to the more fair and equitable pre-1991 method of royalty distribution to the states.

Net Receipts Sharing was questioned by the states when it was instituted by Congress in 1991. Prior to its implementation, with the exception of Alaska, states that produced oil, gas or minerals on federal lands within their borders received a straight 50% share of those royalties. This was the force, the effect, and the intent of the Minerals Leasing Act of 1920. We should return to this intent.

Attached to my testimony are two tables the IOGCC has prepared to show the impact of Net Receipts Sharing through FY 1999. I'd like to briefly refer to each table.

The first table, Exhibit B, entitled "Allocation Table for Net Receipts Sharing FY 1997 Costs for FY 1998 Deductions," shows in the far right hand column the amount each state received as its share of the royalty from production of mineral resources on federal lands within its borders. As an example, in 1998, Wyoming received just over $237 million as its share of royalties. Educational programs in Wyoming would have received an additional $7 million were it not for Net Receipts Sharing. The middle column shows that more than $20 million in additional income was taken from the states due to Net Receipts Sharing. That $20 million was lost to education, the beneficiary of most states' royalty programs.

The second table, Exhibit C, labeled "Allocation Table for Net Receipts Sharing FY 1991 - FY 1999 Deduction" shows the total amounts received by the states in royalties (the far right column) and the amounts deducted as "Net Receipts Sharing" (the middle column) since program implementation in 1991. New Mexico, for example, received over $9 million in royalties between 1991 and 1999. By our calculations, it would have received an additional $65 million more had Net Receipts Sharing not been in place. Nationally, the states would have received an additional $244 million.

The tables show some states are affected more than others. Those impacted the most include Alaska, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Utah and Wyoming. There are some IOGCC states that are not greatly affected by this legislation; however, they support the repeal of Net Receipts Sharing for the following reasons:

1. <u>Net Receipts Sharing deprives affected states of critical funds that most states devote largely to education</u>. Twenty million additional dollars is a significant amount of money relative to our states and their education programs. The quality of state educational systems plays a vital role in shaping the future of our country. Repeal Net Receipts Sharing and return these funds to state educational budgets where our citizens can share in a direct and tangible benefit of oil and gas extraction activities.

2. <u>Net Receipts Sharing is complicated to compute and is inefficient.</u> Since its inception, the program has been plagued by problems, some of which are highlighted in a Department of the Interior Inspector General's 1997 audit report. That audit detailed miscalculations and underpayment of royalties to the states. The audit stated that the "methodology resulted in an overallocation of program costs to most states". (Inspector General Audit Report p. 5). Additionally, the formula for computing Net Receipts Sharing is cumbersome and complex and not easily calculated. The audit stated, "we recognize that determining these costs is particularly difficult because the agencies' budgeting processes and accounting systems were not designed for accumulating costs in the detail required for net receipts sharing purposes". (IG Report p. 10).

<u>Net Receipts Sharing has been a source of disagreement and an administrative burden to the states and the federal government since its inception</u>. The Interior Inspector General's audit resulted in the initiation of ongoing negotiations between many states and the federal government. In fact the audit stated that, "the Bureau did not correctly allocate its support costs to the states". (IG Report p. 8). States, which the audit found to have been underpaid, have contended over the years that they've never been able to recoup the

funds they are owed. The Interior Department's apparent response to the states' requests has been that although underpayments had been made, the audit did not request that the states be repaid the "overcharged" money.

<u>The amount expended by the federal government to administer its onshore mineral leasing program, represented by the Net Receipts Sharing figure for each state, is unreasonably high.</u> In 1997, the IOGCC did a comparison of the costs for federal vs. state administration based on BLM and states' data. The average cost per well for the federal government was $891, as opposed to the state's average cost per well of $74, resulting in a federal government cost that is 12 times higher than the states cost.

In 1982, Congress passed the Federal Oil and Gas Royalty Management Act (FOGRMA) which provided an opportunity for states to take over certain, limited federal oil and gas field inspection and enforcement responsibilities. In 1995, based on Vice President Albert Gore's Reinventing Government II (REGO II) proposal, the Bureau of Land Management (BLM) proposed to transfer federal oil and gas inspection and enforcement functions to the states and tribes. That proposal was not specifically limited to the transfer of responsibilities authorized by FOGRMA.

In 1994, the IOGCC initiated a cooperative effort among petroleum producing states, the Department of the Interior, the Department of Energy, the Environmental Protection Agency, the U.S. Forest Service, and petroleum industry and environmental interest representatives, to identify and recommend reforms to streamline state and BLM oil and gas regulatory programs. Known as the IOGCC Public Lands Project, its conferees met from 1994 to 1995.

The group summarized its work in a letter to Interior Secretary Bruce Babbitt dated September 15, 1995, which recommended adoption of BLM policy direction to eliminate duplication of downhole regulation of oil and gas operations. Based on the review of this proposal, the IOGCC recommended that BLM and IOGCC states agree upon a comprehensive method for the transfer to the states of all BLM oil and gas regulatory activities, rather than limiting transfer to inspection and enforcement. The IOGCC found extensive duplication of effort by the BLM and state oil and gas regulatory authorities. It also determined that a transfer of all BLM regulatory activities would result in significant cost savings through a single coordinated and comprehensive regulatory program.

5. <u>Net Receipts Sharing infringes on states' rights.</u> When the governors of the oil and gas producing states began discussing the need for an oil and gas compact early in the last century, their focus was always on states' rights. Governors have always believed in limited federal power and in strong local control. This issue raises states rights concerns. In addition to unnecessary Congressional move to impose these "administrative" charges on the states, the Department of the Interior has been unwilling to let the states assume these "administrative" duties. The states have argued since the charges were imposed that they should be given the opportunity to perform these tasks, and have demonstrated the ability to do so. However, that opportunity has been denied to the states.

The "administrative" duties, in many states, could have been absorbed into existing state programs at a nominal cost. This would have eliminated the "sharing" of these expenses from the federal level and would have streamlined oil and gas regulation, and royalty accounting. Despite years of meetings, the Department of the Interior continues to identify barriers to the states assuming these duties, which would have strengthened state government control.

Without the ability to exert any control over these costs, the states' next logical move would be to support repeal of charges against their royalty stream that they view as unfair. That is why the states, through the IOGCC are so strongly behind this legislation. It is simple fairness to the states.

In summary, returning the process to the previous system of splitting royalties equally between the states and the federal government would, in addition to returning education funds to the states, eliminate the complex administrative program of computing royalties and remove a perpetual source of contention between the states and the Department of the Interior.

Madame Chairman and esteemed members of Congress, I hope we can work together to return to a more efficient and equitable means of distributing oil and gas revenue. The IOGCC stands ready to support and assist Congress in this endeavor.

Thank you for this opportunity to speak before this committee concerning this important issue.

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