

108TH CONGRESS
2^D SESSION

H. R. 4529

To provide for exploration, development, and production of oil and gas resources on the Arctic Coastal Plain of Alaska, to resolve outstanding issues relating to the Surface Mining Control and Reclamation Act of 1977, to benefit the coal miners of America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2004

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for exploration, development, and production of oil and gas resources on the Arctic Coastal Plain of Alaska, to resolve outstanding issues relating to the Surface Mining Control and Reclamation Act of 1977, to benefit the coal miners of America, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “Arctic Coastal Plain
5 and Surface Mining Improvement Act of 2004”.

1 **TITLE I—OIL AND GAS LEASING**
2 **PROGRAM FOR COASTAL**
3 **PLAIN OF ALASKA**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Arctic Coastal Plain
6 Domestic Energy Security Act of 2004”.

7 **SEC. 102. DEFINITIONS.**

8 In this title:

9 (1) **COASTAL PLAIN.**—The term “Coastal
10 Plain” means that area identified as such in the
11 map entitled “Arctic National Wildlife Refuge”,
12 dated August 1980, as referenced in section 1002(b)
13 of the Alaska National Interest Lands Conservation
14 Act of 1980 (16 U.S.C. 3142(b)(1)), comprising ap-
15 proximately 1,549,000 acres, and as described in ap-
16 pendix I to part 37 of title 50, Code of Federal Reg-
17 ulations.

18 (2) **SECRETARY.**—The term “Secretary”, except
19 as otherwise provided, means the Secretary of the
20 Interior or the Secretary’s designee.

21 **SEC. 103. LEASING PROGRAM FOR LANDS WITHIN THE**
22 **COASTAL PLAIN.**

23 (a) **IN GENERAL.**—The Secretary shall take such ac-
24 tions as are necessary—

1 (1) to establish and implement in accordance
2 with this Act a competitive oil and gas leasing pro-
3 gram under the Mineral Leasing Act (30 U.S.C. 181
4 et seq.) that will result in an environmentally sound
5 program for the exploration, development, and pro-
6 duction of the oil and gas resources of the Coastal
7 Plain; and

8 (2) to administer the provisions of this title
9 through regulations, lease terms, conditions, restric-
10 tions, prohibitions, stipulations, and other provisions
11 that ensure the oil and gas exploration, development,
12 and production activities on the Coastal Plain will
13 result in no significant adverse effect on fish and
14 wildlife, their habitat, subsistence resources, and the
15 environment, and including, in furtherance of this
16 goal, by requiring the application of the best com-
17 mercially available technology for oil and gas explo-
18 ration, development, and production to all explo-
19 ration, development, and production operations
20 under this title in a manner that ensures the receipt
21 of fair market value by the public for the mineral re-
22 sources to be leased.

23 (b) REPEAL.—Section 1003 of the Alaska National
24 Interest Lands Conservation Act of 1980 (16 U.S.C.
25 3143) is repealed.

1 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
2 TAIN OTHER LAWS.—

3 (1) COMPATIBILITY.—For purposes of the Na-
4 tional Wildlife Refuge System Administration Act of
5 1966, the oil and gas leasing program and activities
6 authorized by this section in the Coastal Plain are
7 deemed to be compatible with the purposes for which
8 the Arctic National Wildlife Refuge was established,
9 and that no further findings or decisions are re-
10 quired to implement this determination.

11 (2) ADEQUACY OF THE DEPARTMENT OF THE
12 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
13 STATEMENT.—The “Final Legislative Environ-
14 mental Impact Statement” (April 1987) on the
15 Coastal Plain prepared pursuant to section 1002 of
16 the Alaska National Interest Lands Conservation
17 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
18 of the National Environmental Policy Act of 1969
19 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
20 quirements under the National Environmental Policy
21 Act of 1969 that apply with respect to actions au-
22 thorized to be taken by the Secretary to develop and
23 promulgate the regulations for the establishment of
24 a leasing program authorized by this title before the
25 conduct of the first lease sale.

1 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
2 TIONS.—Before conducting the first lease sale under
3 this title, the Secretary shall prepare an environ-
4 mental impact statement under the National Envi-
5 ronmental Policy Act of 1969 with respect to the ac-
6 tions authorized by this title that are not referred to
7 in paragraph (2). Notwithstanding any other law,
8 the Secretary is not required to identify nonleasing
9 alternative courses of action or to analyze the envi-
10 ronmental effects of such courses of action. The Sec-
11 retary shall only identify a preferred action for such
12 leasing and a single leasing alternative, and analyze
13 the environmental effects and potential mitigation
14 measures for those two alternatives. The identifica-
15 tion of the preferred action and related analysis for
16 the first lease sale under this title shall be completed
17 within 18 months after the date of the enactment of
18 this Act. The Secretary shall only consider public
19 comments that specifically address the Secretary’s
20 preferred action and that are filed within 20 days
21 after publication of an environmental analysis. Not-
22 withstanding any other law, compliance with this
23 paragraph is deemed to satisfy all requirements for
24 the analysis and consideration of the environmental
25 effects of proposed leasing under this title.

1 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
2 ITY.—Nothing in this title shall be considered to expand
3 or limit State and local regulatory authority.

4 (e) SPECIAL AREAS.—

5 (1) IN GENERAL.—The Secretary, after con-
6 sultation with the State of Alaska, the city of
7 Kaktovik, and the North Slope Borough, may des-
8 ignate up to a total of 45,000 acres of the Coastal
9 Plain as a Special Area if the Secretary determines
10 that the Special Area is of such unique character
11 and interest so as to require special management
12 and regulatory protection. The Secretary shall des-
13 ignate as such a Special Area the Sadlerochit Spring
14 area, comprising approximately 4,000 acres as de-
15 picted on the map referred to in section 102(1).

16 (2) MANAGEMENT.—Each such Special Area
17 shall be managed so as to protect and preserve the
18 area's unique and diverse character including its
19 fish, wildlife, and subsistence resource values.

20 (3) EXCLUSION FROM LEASING OR SURFACE
21 OCCUPANCY.—The Secretary may exclude any Spe-
22 cial Area from leasing. If the Secretary leases a Spe-
23 cial Area, or any part thereof, for purposes of oil
24 and gas exploration, development, production, and

1 related activities, there shall be no surface occu-
2 pancy of the lands comprising the Special Area.

3 (4) DIRECTIONAL DRILLING.—Notwithstanding
4 the other provisions of this subsection, the Secretary
5 may lease all or a portion of a Special Area under
6 terms that permit the use of horizontal drilling tech-
7 nology from sites on leases located outside the area.

8 (f) LIMITATION ON CLOSED AREAS.—The Sec-
9 retary's sole authority to close lands within the Coastal
10 Plain to oil and gas leasing and to exploration, develop-
11 ment, and production is that set forth in this title.

12 (g) REGULATIONS.—

13 (1) IN GENERAL.—The Secretary shall pre-
14 scribe such regulations as may be necessary to carry
15 out this title, including rules and regulations relating
16 to protection of the fish and wildlife, their habitat,
17 subsistence resources, and environment of the Coast-
18 al Plain, by no later than 15 months after the date
19 of the enactment of this Act.

20 (2) REVISION OF REGULATIONS.—The Sec-
21 retary shall periodically review and, if appropriate,
22 revise the rules and regulations issued under sub-
23 section (a) to reflect any significant biological, envi-
24 ronmental, or engineering data that come to the Sec-
25 retary's attention.

1 **SEC. 104. LEASE SALES.**

2 (a) IN GENERAL.—Lands may be leased pursuant to
3 this title to any person qualified to obtain a lease for de-
4 posits of oil and gas under the Mineral Leasing Act (30
5 U.S.C. 181 et seq.).

6 (b) PROCEDURES.—The Secretary shall, by regula-
7 tion, establish procedures for—

8 (1) receipt and consideration of sealed nomina-
9 tions for any area in the Coastal Plain for inclusion
10 in, or exclusion (as provided in subsection (c)) from,
11 a lease sale;

12 (2) the holding of lease sales after such nomina-
13 tion process; and

14 (3) public notice of and comment on designa-
15 tion of areas to be included in, or excluded from, a
16 lease sale.

17 (c) LEASE SALE BIDS.—Bidding for leases under
18 this title shall be by sealed competitive cash bonus bids.

19 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
20 lease sale under this title, the Secretary shall offer for
21 lease those tracts the Secretary considers to have the
22 greatest potential for the discovery of hydrocarbons, tak-
23 ing into consideration nominations received pursuant to
24 subsection (b)(1), but in no case less than 200,000 acres.

25 (e) TIMING OF LEASE SALES.—The Secretary
26 shall—

1 (1) conduct the first lease sale under this title
2 within 22 months after the date of the enactment of
3 this Act; and

4 (2) conduct additional sales so long as sufficient
5 interest in development exists to warrant, in the Sec-
6 retary's judgment, the conduct of such sales.

7 **SEC. 105. GRANT OF LEASES BY THE SECRETARY.**

8 (a) IN GENERAL.—The Secretary may grant to the
9 highest responsible qualified bidder in a lease sale con-
10 ducted pursuant to section 104 any lands to be leased on
11 the Coastal Plain upon payment by the lessee of such
12 bonus as may be accepted by the Secretary.

13 (b) SUBSEQUENT TRANSFERS.—No lease issued
14 under this title may be sold, exchanged, assigned, sublet,
15 or otherwise transferred except with the approval of the
16 Secretary. Prior to any such approval the Secretary shall
17 consult with, and give due consideration to the views of,
18 the Attorney General.

19 **SEC. 106. LEASE TERMS AND CONDITIONS.**

20 (a) IN GENERAL.—An oil or gas lease issued pursu-
21 ant to this title shall—

22 (1) provide for the payment of a royalty of not
23 less than 12½ percent in amount or value of the
24 production removed or sold from the lease, as deter-

1 mined by the Secretary under the regulations appli-
2 cable to other Federal oil and gas leases;

3 (2) provide that the Secretary may close, on a
4 seasonal basis, portions of the Coastal Plain to ex-
5 ploratory drilling activities as necessary to protect
6 caribou calving areas and other species of fish and
7 wildlife;

8 (3) require that the lessee of lands within the
9 Coastal Plain shall be fully responsible and liable for
10 the reclamation of lands within the Coastal Plain
11 and any other Federal lands that are adversely af-
12 fected in connection with exploration, development,
13 production, or transportation activities conducted
14 under the lease and within the Coastal Plain by the
15 lessee or by any of the subcontractors or agents of
16 the lessee;

17 (4) provide that the lessee may not delegate or
18 convey, by contract or otherwise, the reclamation re-
19 sponsibility and liability to another person without
20 the express written approval of the Secretary;

21 (5) provide that the standard of reclamation for
22 lands required to be reclaimed under this title shall
23 be, as nearly as practicable, a condition capable of
24 supporting the uses which the lands were capable of
25 supporting prior to any exploration, development, or

1 production activities, or upon application by the les-
2 see, to a higher or better use as approved by the
3 Secretary;

4 (6) contain terms and conditions relating to
5 protection of fish and wildlife, their habitat, and the
6 environment as required pursuant to section
7 103(a)(2);

8 (7) provide that the lessee, its agents, and its
9 contractors use best efforts to provide a fair share,
10 as determined by the level of obligation previously
11 agreed to in the 1974 agreement implementing sec-
12 tion 29 of the Federal Agreement and Grant of
13 Right of Way for the Operation of the Trans-Alaska
14 Pipeline, of employment and contracting for Alaska
15 Natives and Alaska Native Corporations from
16 throughout the State;

17 (8) prohibit the export of oil produced under
18 the lease; and

19 (9) contain such other provisions as the Sec-
20 retary determines necessary to ensure compliance
21 with the provisions of this title and the regulations
22 issued under this title.

23 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
24 as a term and condition of each lease under this title and
25 in recognizing the Government's proprietary interest in

1 labor stability and in the ability of construction labor and
2 management to meet the particular needs and conditions
3 of projects to be developed under the leases issued pursu-
4 ant to this title and the special concerns of the parties
5 to such leases, shall require that the lessee and its agents
6 and contractors negotiate to obtain a project labor agree-
7 ment for the employment of laborers and mechanics on
8 production, maintenance, and construction under the
9 lease.

10 **SEC. 107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

11 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
12 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

13 The Secretary shall, consistent with the requirements of
14 section 103, administer the provisions of this title through
15 regulations, lease terms, conditions, restrictions, prohibi-
16 tions, stipulations, and other provisions that—

17 (1) ensure the oil and gas exploration, develop-
18 ment, and production activities on the Coastal Plain
19 will result in no significant adverse effect on fish
20 and wildlife, their habitat, and the environment;

21 (2) require the application of the best commer-
22 cially available technology for oil and gas explo-
23 ration, development, and production on all new ex-
24 ploration, development, and production operations;
25 and

1 (3) ensure that the maximum amount of sur-
2 face acreage covered by production and support fa-
3 cilities, including airstrips and any areas covered by
4 gravel berms or piers for support of pipelines, does
5 not exceed 2,000 acres on the Coastal Plain.

6 (b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—
7 The Secretary shall also require, with respect to any pro-
8 posed drilling and related activities, that—

9 (1) a site-specific analysis be made of the prob-
10 able effects, if any, that the drilling or related activi-
11 ties will have on fish and wildlife, their habitat, and
12 the environment;

13 (2) a plan be implemented to avoid, minimize,
14 and mitigate (in that order and to the extent prac-
15 ticable) any significant adverse effect identified
16 under paragraph (1); and

17 (3) the development of the plan shall occur
18 after consultation with the agency or agencies hav-
19 ing jurisdiction over matters mitigated by the plan.

20 (c) **REGULATIONS TO PROTECT COASTAL PLAIN**
21 **FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,**
22 **AND THE ENVIRONMENT.**—Before implementing the leas-
23 ing program authorized by this title, the Secretary shall
24 prepare and promulgate regulations, lease terms, condi-
25 tions, restrictions, prohibitions, stipulations, and other

1 measures designed to ensure that the activities undertaken
2 on the Coastal Plain under this title are conducted in a
3 manner consistent with the purposes and environmental
4 requirements of this title.

5 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
6 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
7 proposed regulations, lease terms, conditions, restrictions,
8 prohibitions, and stipulations for the leasing program
9 under this title shall require compliance with all applicable
10 provisions of Federal and State environmental law and
11 shall also require the following:

12 (1) Standards at least as effective as the safety
13 and environmental mitigation measures set forth in
14 items 1 through 29 at pages 167 through 169 of the
15 “Final Legislative Environmental Impact State-
16 ment” (April 1987) on the Coastal Plain.

17 (2) Seasonal limitations on exploration, develop-
18 ment, and related activities, where necessary, to
19 avoid significant adverse effects during periods of
20 concentrated fish and wildlife breeding, denning,
21 nesting, spawning, and migration.

22 (3) That exploration activities, except for sur-
23 face geological studies, be limited to the period be-
24 tween approximately November 1 and May 1 each
25 year and that exploration activities shall be sup-

1 ported by ice roads, winter trails with adequate snow
2 cover, ice pads, ice airstrips, and air transport meth-
3 ods, except that such exploration activities may
4 occur at other times, if the Secretary finds that such
5 exploration will have no significant adverse effect on
6 the fish and wildlife, their habitat, and the environ-
7 ment of the Coastal Plain.

8 (4) Design safety and construction standards
9 for all pipelines and any access and service roads,
10 that—

11 (A) minimize, to the maximum extent pos-
12 sible, adverse effects upon the passage of mi-
13 gratory species such as caribou; and

14 (B) minimize adverse effects upon the flow
15 of surface water by requiring the use of cul-
16 verts, bridges, and other structural devices.

17 (5) Prohibitions on public access and use on all
18 pipeline access and service roads.

19 (6) Stringent reclamation and rehabilitation re-
20 quirements, consistent with the standards set forth
21 in this title, requiring the removal from the Coastal
22 Plain of all oil and gas development and production
23 facilities, structures, and equipment upon completion
24 of oil and gas production operations, except that the
25 Secretary may exempt from the requirements of this

1 paragraph those facilities, structures, or equipment
2 that the Secretary determines would assist in the
3 management of the Arctic National Wildlife Refuge
4 and that are donated to the United States for that
5 purpose.

6 (7) Appropriate prohibitions or restrictions on
7 access by all modes of transportation.

8 (8) Appropriate prohibitions or restrictions on
9 sand and gravel extraction.

10 (9) Consolidation of facility siting.

11 (10) Appropriate prohibitions or restrictions on
12 use of explosives.

13 (11) Avoidance, to the extent practicable, of
14 springs, streams, and river system; the protection of
15 natural surface drainage patterns, wetlands, and ri-
16 parian habitats; and the regulation of methods or
17 techniques for developing or transporting adequate
18 supplies of water for exploratory drilling.

19 (12) Avoidance or reduction of air traffic-re-
20 lated disturbance to fish and wildlife.

21 (13) Treatment and disposal of hazardous and
22 toxic wastes, solid wastes, reserve pit fluids, drilling
23 muds and cuttings, and domestic wastewater, includ-
24 ing an annual waste management report, a haz-
25 ardous materials tracking system, and a prohibition

1 on chlorinated solvents, in accordance with applica-
2 ble Federal and State environmental law.

3 (14) Fuel storage and oil spill contingency plan-
4 ning.

5 (15) Research, monitoring, and reporting re-
6 quirements.

7 (16) Field crew environmental briefings.

8 (17) Avoidance of significant adverse effects
9 upon subsistence hunting, fishing, and trapping by
10 subsistence users.

11 (18) Compliance with applicable air and water
12 quality standards.

13 (19) Appropriate seasonal and safety zone des-
14 ignations around well sites, within which subsistence
15 hunting and trapping shall be limited.

16 (20) Reasonable stipulations for protection of
17 cultural and archeological resources.

18 (21) All other protective environmental stipula-
19 tions, restrictions, terms, and conditions deemed
20 necessary by the Secretary.

21 (e) CONSIDERATIONS.—In preparing and promul-
22 gating regulations, lease terms, conditions, restrictions,
23 prohibitions, and stipulations under this section, the Sec-
24 retary shall consider the following:

1 (1) The stipulations and conditions that govern
2 the National Petroleum Reserve-Alaska leasing pro-
3 gram, as set forth in the 1999 Northeast National
4 Petroleum Reserve-Alaska Final Integrated Activity
5 Plan/Environmental Impact Statement.

6 (2) The environmental protection standards
7 that governed the initial Coastal Plain seismic explo-
8 ration program under parts 37.31 to 37.33 of title
9 50, Code of Federal Regulations.

10 (3) The land use stipulations for exploratory
11 drilling on the KIC-ASRC private lands that are set
12 forth in Appendix 2 of the August 9, 1983, agree-
13 ment between Arctic Slope Regional Corporation and
14 the United States.

15 (f) FACILITY CONSOLIDATION PLANNING.—

16 (1) IN GENERAL.—The Secretary shall, after
17 providing for public notice and comment, prepare
18 and update periodically a plan to govern, guide, and
19 direct the siting and construction of facilities for the
20 exploration, development, production, and transpor-
21 tation of Coastal Plain oil and gas resources.

22 (2) OBJECTIVES.—The plan shall have the fol-
23 lowing objectives:

24 (A) Avoiding unnecessary duplication of fa-
25 cilities and activities.

1 (B) Encouraging consolidation of common
2 facilities and activities.

3 (C) Locating or confining facilities and ac-
4 tivities to areas that will minimize impact on
5 fish and wildlife, their habitat, and the environ-
6 ment.

7 (D) Utilizing existing facilities wherever
8 practicable.

9 (E) Enhancing compatibility between wild-
10 life values and development activities.

11 (g) ACCESS TO PUBLIC LANDS.—The Secretary
12 shall—

13 (1) manage public lands in the Coastal Plain
14 subject to subsections (a) and (b) of section 811 of
15 the Alaska National Interest Lands Conservation
16 Act (16 U.S.C. 3121); and

17 (2) ensure that local residents shall have rea-
18 sonable access to public lands in the Coastal Plain
19 for traditional uses.

20 **SEC. 108. EXPEDITED JUDICIAL REVIEW.**

21 (a) FILING OF COMPLAINT.—

22 (1) DEADLINE.—Subject to paragraph (2), any
23 complaint seeking judicial review of any provision of
24 this title or any action of the Secretary under this

1 title shall be filed in any appropriate district court
2 of the United States—

3 (A) except as provided in subparagraph
4 (B), within the 90-day period beginning on the
5 date of the action being challenged; or

6 (B) in the case of a complaint based solely
7 on grounds arising after such period, within 90
8 days after the complainant knew or reasonably
9 should have known of the grounds for the com-
10 plaint.

11 (2) VENUE.—Any complaint seeking judicial re-
12 view of an action of the Secretary under this title
13 may be filed only in the United States Court of Ap-
14 peals for the District of Columbia.

15 (3) LIMITATION ON SCOPE OF CERTAIN RE-
16 VIEW.—Judicial review of a Secretarial decision to
17 conduct a lease sale under this title, including the
18 environmental analysis thereof, shall be limited to
19 whether the Secretary has complied with the terms
20 of this title and shall be based upon the administra-
21 tive record of that decision. The Secretary's identi-
22 fication of a preferred course of action to enable
23 leasing to proceed and the Secretary's analysis of
24 environmental effects under this title shall be pre-

1 185) of rights-of-way and easements across the Coastal
2 Plain for the transportation of oil and gas.

3 (b) TERMS AND CONDITIONS.—The Secretary shall
4 include in any right-of-way or easement referred to in sub-
5 section (a) such terms and conditions as may be necessary
6 to ensure that transportation of oil and gas does not result
7 in a significant adverse effect on the fish and wildlife, sub-
8 sistence resources, their habitat, and the environment of
9 the Coastal Plain, including requirements that facilities be
10 sited or designed so as to avoid unnecessary duplication
11 of roads and pipelines.

12 (c) REGULATIONS.—The Secretary shall include in
13 regulations under section 103(g) provisions granting
14 rights-of-way and easements described in subsection (a)
15 of this section.

16 **SEC. 111. CONVEYANCE.**

17 In order to maximize Federal revenues by removing
18 clouds on title to lands and clarifying land ownership pat-
19 terns within the Coastal Plain, the Secretary, notwith-
20 standing the provisions of section 1302(h)(2) of the Alas-
21 ka National Interest Lands Conservation Act (16 U.S.C.
22 3192(h)(2)), shall convey—

23 (1) to the Kaktovik Inupiat Corporation the
24 surface estate of the lands described in paragraph 1
25 of Public Land Order 6959, to the extent necessary

1 to fulfill the Corporation's entitlement under section
2 12 of the Alaska Native Claims Settlement Act (43
3 U.S.C. 1611) in accordance with the terms and con-
4 ditions of the Agreement between the Department of
5 the Interior, the United States Fish and Wildlife
6 Service, the Bureau of Land Management, and the
7 Kaktovik Inupiat Corporation effective January 22,
8 1993; and

9 (2) to the Arctic Slope Regional Corporation
10 the remaining subsurface estate to which it is enti-
11 tled pursuant to the August 9, 1983, agreement be-
12 tween the Arctic Slope Regional Corporation and the
13 United States of America.

14 **SEC. 112. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
15 **NITY SERVICE ASSISTANCE.**

16 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

17 (1) IN GENERAL.—The Secretary may use
18 amounts available from the Coastal Plain Local Gov-
19 ernment Impact Aid Assistance Fund established by
20 subsection (d) to provide timely financial assistance
21 to entities that are eligible under paragraph (2) and
22 that are directly impacted by the exploration for or
23 production of oil and gas on the Coastal Plain under
24 this title.

1 (2) ELIGIBLE ENTITIES.—The North Slope
2 Borough, Kaktovik, and other boroughs, municipal
3 subdivisions, villages, and any other community or-
4 ganized under Alaska State law shall be eligible for
5 financial assistance under this section.

6 (b) USE OF ASSISTANCE.—Financial assistance
7 under this section may be used only for—

8 (1) planning for mitigation of the potential ef-
9 fects of oil and gas exploration and development on
10 environmental, social, cultural, recreational and sub-
11 sistence values;

12 (2) implementing mitigation plans and main-
13 taining mitigation projects;

14 (3) developing, carrying out, and maintaining
15 projects and programs that provide new or expanded
16 public facilities and services to address needs and
17 problems associated with such effects, including fire-
18 fighting, police, water, waste treatment, medivac,
19 and medical services; and

20 (4) establishment of a coordination office, by
21 the North Slope Borough, in the City of Kaktovik,
22 which shall—

23 (A) coordinate with and advise developers
24 on local conditions, impact, and history of the
25 areas utilized for development; and

1 (B) provide to the Committee on Resources
2 of the Senate and the Committee on Energy
3 and Resources of the Senate an annual report
4 on the status of coordination between devel-
5 opers and the communities affected by develop-
6 ment.

7 (c) APPLICATION.—

8 (1) IN GENERAL.—Any community that is eligi-
9 ble for assistance under this section may submit an
10 application for such assistance to the Secretary, in
11 such form and under such procedures as the Sec-
12 retary may prescribe by regulation.

13 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
14 community located in the North Slope Borough may
15 apply for assistance under this section either directly
16 to the Secretary or through the North Slope Bor-
17 ough.

18 (3) APPLICATION ASSISTANCE.—The Secretary
19 shall work closely with and assist the North Slope
20 Borough and other communities eligible for assist-
21 ance under this section in developing and submitting
22 applications for assistance under this section.

23 (d) ESTABLISHMENT OF FUND.—

1 (1) IN GENERAL.—There is established in the
2 Treasury the Coastal Plain Local Government Im-
3 pact Aid Assistance Fund.

4 (2) USE.—Amounts in the fund may be used
5 only for providing financial assistance under this
6 section.

7 (3) DEPOSITS.—Subject to paragraph (4), there
8 shall be deposited into the fund amounts received by
9 the United States as revenues derived from rents,
10 bonuses, and royalties under on leases and lease
11 sales authorized under this title.

12 (4) LIMITATION ON DEPOSITS.—The total
13 amount in the fund may not exceed \$11,000,000.

14 (5) INVESTMENT OF BALANCES.—The Sec-
15 retary of the Treasury shall invest amounts in the
16 fund in interest bearing government securities.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
18 vide financial assistance under this section there is author-
19 ized to be appropriated to the Secretary from the Coastal
20 Plain Local Government Impact Aid Assistance Fund
21 \$5,000,000 for each fiscal year.

1 **TITLE II—ABANDONED MINE**
2 **LANDS RECLAMATION REFORM**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Abandoned Mine
5 Lands Reclamation Reform Act of 2004”.

6 **SEC. 202. AMENDMENTS TO SURFACE MINING ACT.**

7 (a) AMENDMENTS TO SECTION 401.—(1) Section
8 401 of the Surface Mining Control and Reclamation Act
9 of 1977 (30 U.S.C. 1231) is amended as follows:

10 (A) In subsection (c) by striking paragraphs (2)
11 and (6) and redesignating paragraphs (3) through
12 (13) in order as paragraphs (2) through (11).

13 (B) In subsection (e)—

14 (i) in the second sentence, by striking “the
15 needs of such fund” and inserting “achieving
16 the purposes of the payments under section
17 402(h)”; and

18 (ii) in the third sentence, by inserting be-
19 fore the period the following: “for the purpose
20 of the payments under section 402(h)”.

21 (2) Section 712(b) of the Surface Mining Con-
22 trol and Reclamation Act of 1977 (30 U.S.C.
23 1302(b)) is amended by striking “section
24 401(c)(11)” and inserting “section 401(c)(9)”.

1 (b) AMENDMENTS TO SECTION 402.—Section 402 of
2 the Surface Mining Control and Reclamation Act of 1977
3 (30 U.S.C. 1232) is amended as follows:

4 (1) In subsection (a)—

5 (A) by striking “35” and inserting “28”;

6 (B) by striking “15” and inserting “12”;

7 and

8 (C) by striking “10 cents” and inserting
9 “8 cents”.

10 (2) In subsection (b) by striking “2004” and all
11 that follows through the end of the sentence and in-
12 serting “2019.”.

13 (3) In subsection (g)(1)(D) by striking “in any
14 area under paragraph (2), (3), (4), or (5)” and in-
15 serting “under paragraph (5)”.

16 (4) Subsection (g)(2) is amended to read as fol-
17 lows:

18 “(2) In making the grants referred to in para-
19 graph (1)(C) and the grants referred to in para-
20 graph (5), the Secretary shall ensure strict compli-
21 ance by the States and Indian tribes with the prior-
22 ities set forth in section 403(a) until a certification
23 is made under section 411(a).”.

24 (5) In subsection (g)(3)—

1 (A) in the matter preceding subparagraph
2 (A) by striking “paragraphs (2) and” and in-
3 serting “paragraph”;

4 (B) in subparagraph (A) by striking
5 “401(c)(11)” and inserting “401(c)(9)”; and

6 (C) by adding at the end the following:

7 “(E) For the purpose of paragraph (8).”.

8 (6) In subsection (g)(5)—

9 (A) by inserting “(A)” before the first sen-
10 tence;

11 (B) in the first sentence by striking “40”
12 and inserting “60”;

13 (C) in the last sentence by striking “Funds
14 allocated or expended by the Secretary under
15 paragraphs (2), (3), or (4),” and inserting
16 “Funds made available under paragraph (3) or
17 (4)”; and

18 (D) by adding at the end the following:

19 “(B) Any amount that is reallocated and available
20 under section 411(h)(3) shall be in addition to amounts
21 that are allocated under subparagraph (A).”.

22 (7) Subsection (g)(6) is amended to read as fol-
23 lows:

24 “(6)(A) Any State with an approved abandoned mine
25 reclamation program pursuant to section 405 may receive

1 and retain, without regard to the 3-year limitation re-
2 ferred to in paragraph (1)(D), up to 10 percent of the
3 total of the grants made annually to such State under
4 paragraphs (1) and (5) if such amounts are deposited into
5 an acid mine drainage abatement and treatment fund es-
6 tablished under State law, from which amounts (together
7 with all interest earned on such amounts) are expended
8 by the State for the abatement of the causes and the treat-
9 ment of the effects of acid mine drainage in a comprehen-
10 sive manner within qualified hydrologic units affected by
11 coal mining practices.

12 “(B) For the purposes of this paragraph, the term
13 ‘qualified hydrologic unit’ means a hydrologic unit—

14 “(i) in which the water quality has been signifi-
15 cantly affected by acid mine drainage from coal min-
16 ing practices in a manner that adversely impacts bi-
17 ological resources; and

18 “(ii) that contains lands and waters that are—

19 “(I) eligible pursuant to section 404 and
20 include any of the priorities set forth in section
21 403(a); and

22 “(II) the subject of expenditures by the
23 State from the forfeiture of bonds required
24 under section 509 or from other States sources
25 to abate and treat acid mine drainage.”.

1 (8) Subsection (g)(7) is amended to read as fol-
2 lows:

3 “(7) In complying with the priorities set forth in sec-
4 tion 403(a), any State or Indian tribe may use amounts
5 available in grants made annually to such State or tribe
6 under paragraphs (1) and (5) for the reclamation of eligi-
7 ble lands and waters set forth in section 403(a)(3) prior
8 to the completion of reclamation projects under para-
9 graphs (1) and (2) of section 403(a) only if the expendi-
10 ture of funds for such reclamation is done in conjunction
11 with the expenditure of funds for reclamation projects
12 under paragraphs (1) and (2) of section 403(a).”.

13 (9) Subsection (g)(8) is amended to read as fol-
14 lows:

15 “(8) In making the grants referred to in paragraph
16 (1)(C), the Secretary, using amounts allocated to a State
17 or Indian tribe under subparagraphs (A) or (B) of para-
18 graph (1) or as necessary amounts available to the Sec-
19 retary under paragraph (3), shall assure total grant
20 awards of not less than \$2,000,000 annually to each
21 State, including Tennessee, and each Indian tribe.”.

22 (10) By amending subsection (h) to read as fol-
23 lows:

24 “(h) PAYMENT OF FUNDS FOR BENEFIT PAY-
25 MENTS.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, at the beginning of each fis-
3 cal year, the Secretary of the Interior shall pay from
4 the fund—

5 “(A) the amount described in paragraph
6 (3) for such year to the Combined Fund,

7 “(B) the amount described in paragraph
8 (4) for such year to the 1992 Plan, and

9 “(C) the amount described in paragraph
10 (5) for such year to the 1993 Plan.

11 “(2) PAYMENTS MAY NOT EXCEED AGGREGATE
12 INTEREST RECEIVED BY FUND.—The aggregate
13 amount paid under paragraph (1) for any fiscal year
14 shall not exceed the lesser of—

15 “(A) the excess of—

16 “(i) the aggregate interest received by
17 the fund during all preceding fiscal years,
18 over

19 “(ii) the aggregate payments made
20 under paragraph (1) for all preceding fis-
21 cal years, or

22 “(B) the unobligated balance of the fund
23 as of the close of the preceding fiscal year.

24 “(3) PAYMENTS TO COMBINED FUND.—

1 “(A) IN GENERAL.—The amount described
2 in this paragraph for any fiscal year is an
3 amount equal to the sum of—

4 “(i) the estimated expenditures to be
5 debited against the unassigned bene-
6 ficiaries premium account under section
7 9704(e) of the Internal Revenue Code of
8 1986 for such fiscal year, plus

9 “(ii) the estimated amount needed to
10 offset the amount of any deficit (as of the
11 close of the preceding fiscal year) in net
12 assets in the Combined Fund.

13 “(B) CERTAIN PRE-2001 PREMIUMS.—

14 “(i) IN GENERAL.—The amount de-
15 scribed in this paragraph (without regard
16 to this subparagraph) for fiscal year 2004
17 shall be increased by \$36,000,000.

18 “(ii) REFUNDS.—Not later than Jan-
19 uary 31, 2005, the trustees of the Com-
20 bined Fund shall pay to each coal industry
21 operator described in clause (iii) (and to
22 each related person with respect to such an
23 operator) an amount equal to the aggre-
24 gate amount paid by such operator (or
25 such related person) to the Combined

1 Fund on or before September 7, 2000, and
2 not previously refunded or credited, plus
3 interest on such amount calculated at the
4 rate of 7.5 percent per year. The aggregate
5 amount paid under this subparagraph shall
6 not exceed \$36,000,000.

7 “(iii) COAL INDUSTRY OPERATOR DE-
8 SCRIBED.—A coal industry operator is de-
9 scribed in this clause if—

10 “(I) the operator’s beneficiary as-
11 signments have been voided by the
12 Commissioner of the Social Security
13 Administration; and

14 “(II) the operator brought an ac-
15 tion prior to September 7, 2000,
16 claiming that the assignment of bene-
17 ficiaries under section 9706 of the In-
18 ternal Revenue Code of 1986 was un-
19 constitutional as applied to such oper-
20 ator and received a final judgment or
21 final settlement against such claim.

22 “(4) PAYMENTS TO 1992 PLAN.—The amount
23 described in this paragraph for any fiscal year is an
24 amount equal to the excess of—

1 “(A) the estimated expenditures from the
2 1992 Plan during such fiscal year to provide
3 benefits required under section 9712(c) of such
4 Code, over

5 “(B) the estimated receipts of the 1992
6 Plan for such fiscal year from payments re-
7 quired under paragraphs (1)(B) and (3) of sec-
8 tion 9712(d) of such Code and from any secu-
9 rity provided to the 1992 Plan pursuant to sec-
10 tion 9712(d)(1)(C) of such Code that is avail-
11 able for use in the provision of benefits.

12 “(5) PAYMENTS TO 1993 PLAN.—

13 “(A) IN GENERAL.—The amount described
14 in this paragraph for any fiscal year is an
15 amount equal to the excess of—

16 “(i) the estimated expenditures from
17 the 1993 Plan during such fiscal year to
18 continue to provide benefits at levels no
19 greater than those in effect on the date of
20 enactment of this paragraph, under the eli-
21 gibility criteria in effect on the date of en-
22 actment of this paragraph, over

23 “(ii) the estimated income of the 1993
24 Plan for such fiscal year.

1 “(B) LIMITATION.—A payment shall not
2 be made under this paragraph for any fiscal
3 year unless the entities that are obligated as of
4 the beginning of such fiscal year to contribute
5 to the 1993 Plan remain obligated throughout
6 such year to make such contributions at rates
7 that are no less than those in effect on the date
8 of enactment of this paragraph.

9 “(6) ORDERING RULES WHERE SPECIFIED PAY-
10 MENTS EXCEED LIMITATION.—

11 “(A) IN GENERAL.—Amounts shall be paid
12 under paragraphs (4) and (5) for any fiscal
13 year only to the extent that the limitation under
14 paragraph (2) for such year exceeds the sum
15 of—

16 “(i) the estimated payments to be
17 made under paragraph (3) for such year,
18 and

19 “(ii) the estimated payments to be
20 made under paragraph (3) for the suc-
21 ceeding fiscal year.

22 “(B) PROPORTIONAL REDUCTION.—Pay-
23 ments under paragraphs (4) and (5) shall be
24 proportionally reduced to the extent the full

1 amount of such payments may not be made by
2 reason of subparagraph (A).

3 “(7) ESTIMATES AND ADJUSTMENTS.—

4 “(A) ESTIMATES.—Estimated amounts
5 with respect to any fund or plan shall be made
6 by the trustees thereof.

7 “(B) ADJUSTMENTS.—If, for any fiscal
8 year, the amount paid under paragraph (3),
9 (4), or (5) is more or less than the amount re-
10 quired to be paid, the Secretary of the Interior
11 shall appropriately adjust the amount paid
12 under that paragraph for the next fiscal year.

13 “(8) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) COMBINED FUND.—The term ‘Com-
16 bined Fund’ means the United Mine Workers of
17 America Combined Benefit Fund established
18 under section 9702 of the Internal Revenue
19 Code of 1986.

20 “(B) 1992 PLAN.—The term ‘1992 Plan’
21 means the United Mine Workers of America
22 1992 Benefit Plan established under section
23 9712 of such Code.

24 “(C) 1993 PLAN.—The term ‘1993 Plan’
25 means the multiemployer health benefit plan es-

1 tablished after July 20, 1992, by the persons
2 referred to in section 9701(b)(2) of such
3 Code.”.

4 (c) AMENDMENTS TO SECTION 403.—Section 403 of
5 the Surface Mining Control and Reclamation Act of 1977
6 (30 U.S.C. 1233(a)) is amended as follows:

7 (1) In subsection (a)—

8 (A) in paragraph (1) by striking “general
9 welfare,”;

10 (B) in paragraph (2) by striking “health,
11 safety, and general welfare” and inserting
12 “health and safety”, and inserting “and” after
13 the semicolon at the end;

14 (C) in paragraph (3) by striking the semi-
15 colon at the end and inserting a period; and

16 (D) by striking paragraphs (4) and (5).

17 (2) In subsection (b)—

18 (A) by striking the heading and inserting
19 “Water Supply Restoration.—”; and

20 (B) in paragraph (1) by striking “up to 30
21 percent of the”.

22 (3) In subsection (c) by inserting “, subject to
23 the approval of the Secretary,” after “amendments”.

24 (d) AMENDMENT TO SECTION 406.—Section 406(h)
25 of the Surface Mining Control and Reclamation Act of

1 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil
2 Conservation Service” and inserting “Natural Resources
3 Conservation Service”.

4 (e) FURTHER AMENDMENT TO SECTION 406.—Sec-
5 tion 406 of the Surface Mining Control and Reclamation
6 Act of 1977 (30 U.S.C. 1236) is amended by adding at
7 the end the following:

8 “(i) There is authorized to be appropriated to the
9 Secretary of Agriculture, from amounts in the Treasury
10 other than amounts in the fund, such sums as may be
11 necessary to carry out this section.”.

12 (f) AMENDMENT TO SECTION 408.—Section 408(a)
13 of the Surface Mining Control and Reclamation Act of
14 1977 (30 U.S.C. 1238) is amended by striking “who
15 owned the surface prior to May 2, 1977, and”.

16 (g) AMENDMENTS TO SECTION 411.—Section 411 of
17 the Surface Mining Control and Reclamation Act of 1977
18 (30 U.S.C. 1240a) is amended as follows:

19 (1) In subsection (a) by inserting “(1)” before
20 the first sentence, and by adding at the end the fol-
21 lowing:

22 “(2) The Secretary may, on the Secretary’s own voli-
23 tion, make the certification referred to in paragraph (1)
24 on behalf of any State or Indian tribe referred to in para-
25 graph (1) if on the basis of the inventory referred to in

1 section 403(c) all reclamation projects relating to the pri-
2 orities set forth in section 403(a) for eligible lands and
3 water pursuant to section 404 in such State or tribe have
4 been completed. The Secretary shall only make such cer-
5 tification after notice in the Federal Register and oppor-
6 tunity for public comment.”.

7 (2) By adding at the end the following:

8 “(h) STATE SHARE FOR CERTAIN CERTIFIED
9 STATES.—(1)(A) From moneys referred to in subsection
10 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.
11 191(a)) that are paid into the Treasury after the date of
12 the enactment of this subsection and that are not paid
13 to States under section 35 of the Mineral Leasing Act or
14 reserved as part of the reclamation fund under such sec-
15 tion, the Secretary of the Interior shall pay to each quali-
16 fied State, on a proportional basis, an amount equal to
17 the sum of the aggregate unappropriated amount allocated
18 to such qualified State under section 402(g)(1)(A).

19 “(B) In this paragraph the term ‘qualified State’
20 means a State for which a certification is made under sub-
21 section (a) and in which there are public domain lands
22 available for leasing under the Mineral Leasing Act (30
23 U.S.C. 181 et seq.).

24 “(2) Payments to States under this subsection shall
25 be made, without regard to any limitation in section

1 401(d), in the same manner as if paid under section 35
2 of the Mineral Leasing Act (30 U.S.C. 191) and concur-
3 rently with payments to States under that section. The
4 funds distributed under this section shall be referred to
5 as the ‘Cubin-Thomas Mineral Fund’.

6 “(3) The amount allocated to any State under section
7 402(g)(1)(A) that is paid to such State as a result of a
8 payment under paragraph (1) of this subsection shall be
9 reallocated and available for grants under section
10 402(g)(5).”.

11 **SEC. 203. USE OF REVENUES FROM COASTAL PLAIN.**

12 (a) USE OF REVENUES.—Title IV of the Surface
13 Mining Control and Reclamation Act of 1977 (30 U.S.C.
14 1231 et seq.) is amended by adding at the end the fol-
15 lowing:

16 **“SEC. 415. USE OF REVENUES FROM COASTAL PLAIN OF**
17 **ALASKA.**

18 “(a) COAL MINING FAIRNESS FUND.—There is es-
19 tablished in the Treasury a separate account to be known
20 as the ‘Coal Mining Fairness Fund’ (hereafter in this sec-
21 tion referred to as the ‘Account’).

22 “(b) APPROPRIATIONS TO ACCOUNT.—

23 “(1) IN GENERAL.—There are hereby appro-
24 priated to the Account amounts equivalent to the
25 amounts received by the United States as bonuses,

1 rents, or royalties from the exploration, development,
2 and production of the oil and gas resources of the
3 Coastal Plain, that are not required to be otherwise
4 paid or deposited under section 109(a) or 112(d) of
5 the Arctic Coastal Plain Domestic Energy Security
6 Act of 2004.

7 “(2) REPAYABLE ADVANCES.—

8 “(A) IN GENERAL.—There are hereby ap-
9 propriated to the Account for each fiscal year
10 as a repayable advance an amount equal to the
11 excess (if any) of—

12 “(i) the expenditures required under
13 subsection (c) for such year, over

14 “(ii) the amount appropriated by
15 paragraph (1) for such year.

16 “(B) REPAYMENT OF ADVANCES.—

17 “(i) IN GENERAL.—Advances made to
18 the Account shall be repaid, and interest
19 on such advances shall be paid, to the gen-
20 eral fund of the Treasury when the Sec-
21 retary of the Interior determines that mon-
22 eys are available for such purposes in the
23 Account.

24 “(ii) FINAL REPAYMENT.—No ad-
25 vance shall be made to the Account after

1 December 31, 2007, and all advances to
2 the Account shall be repaid on or before
3 September 30, 2009.

4 “(C) RATE OF INTEREST.—Interest on ad-
5 vances made to the Account shall be at a rate
6 determined by the Secretary of the Treasury
7 (as of the close of the calendar month preceding
8 the month in which the advance is made) to be
9 equal to the current average market yield on
10 outstanding marketable obligations of the
11 United States with remaining periods to matu-
12 rity comparable to the anticipated period during
13 which the advance will be outstanding and shall
14 be compounded annually.

15 “(c) EXPENDITURES.—

16 “(1) COMBINED FUND.—The Secretary of the
17 Interior shall pay from the Account to the Combined
18 Fund amounts necessary (after the payments under
19 section 402(h)) to meet the obligations of the Com-
20 bined Fund.

21 “(2) REFUNDS OF 2004 PREMIUMS, ETC.—Not
22 later than December 1, 2004, the Secretary of the
23 Interior shall pay from the Account to each specified
24 person an amount equal to the amount of premiums

1 or assigned operator contributions paid by such per-
2 son for fiscal year 2004.

3 “(3) PREMIUMS, ETC. OTHERWISE PAYABLE
4 AFTER 2004.—

5 “(A) IN GENERAL.—At the beginning of
6 each fiscal year after fiscal year 2004, the Sec-
7 retary of the Interior shall pay from the Ac-
8 count to the Combined Fund an amount equal
9 to the amount of premiums or assigned oper-
10 ator contributions which would (but for sub-
11 paragraph (B)) be required to be paid by speci-
12 fied persons for such fiscal year.

13 “(B) WAIVER OF LIABILITY.—For waiver
14 of liability for amounts paid under subpara-
15 graph (A), see section 9704(j) of the Internal
16 Revenue Code of 1986.

17 “(4) 1992 PLAN.—The Secretary of the Interior
18 shall pay from the Account to the 1992 Plan (as de-
19 fined in section 402(h)) amounts necessary (after
20 the appropriations under section 402(h)) to pay the
21 amounts described in section 402(h)(4).

22 “(5) 1993 PLAN.—The Secretary of the Interior
23 shall pay from the Account to the 1993 Plan
24 amounts necessary (after the appropriations under

1 section 402(h)) to pay the amounts described in sec-
2 tion 402(h)(5).

3 “(6) QUALIFIED STATES.—

4 “(A) IN GENERAL.—The Secretary of the
5 Interior shall pay from the Account to each
6 qualified State an amount equal to the sum of
7 the aggregate unappropriated amount allocated
8 to such qualified State under subparagraph (A)
9 or (B), as applicable, of section 402(g)(1).

10 “(B) REALLOCATION.—The amount allo-
11 cated to any qualified State under section
12 402(g)(1) that is paid to such qualified State as
13 a result of a payment under subparagraph (A)
14 shall be reallocated and available for grants
15 under section 402(g)(5).

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) COASTAL PLAIN.—The term ‘Coastal
18 Plain’ has the meaning given that term in section
19 102 of the Arctic Coastal Plain Domestic Energy
20 Security Act of 2004.

21 “(2) SPECIFIED PERSON.—The term ‘specified
22 person’ means an assigned operator (as defined in
23 section 9701(c)(5) of the Internal Revenue Code of
24 1986), a related person of such assigned operator,
25 and a successor-in-interest of such operator or per-

1 son, if according to the records of the Combined
2 Fund such assigned operator—

3 “(A) was assessed or is otherwise liable for
4 premiums to the Combined Fund in October
5 2001, and

6 “(B) was not—

7 “(i) a signatory to the 1988 or any
8 later National Bituminous Coal Wage
9 Agreement,

10 “(ii) a signatory to an agreement
11 (other than the National Coal Mine Con-
12 struction Agreement or the Coal Haulers’
13 Agreement) containing pension and health
14 care contribution and benefit provisions
15 that are identical to those contained in the
16 1988 National Bituminous Coal Wage
17 Agreement, or

18 “(iii) an employer from which con-
19 tributions were actually received after
20 1987 and before July 20, 1992, by the
21 1950 United Mine Workers of America
22 Benefit Plan Benefit Plan or the 1974
23 United Mine Workers of America Benefit
24 Plan in connection with employment in the
25 coal industry during the period covered by

1 the 1988 National Bituminous Coal Wage
2 Agreement.

3 “(3) COMBINED FUND.—The term ‘Combined
4 Fund’ means the United Mine Workers of America
5 of America Combined Benefit Fund established
6 under section 9702 of the Internal Revenue Code of
7 1986.

8 “(4) QUALIFIED STATE.—The term ‘qualified
9 State’ means a State—

10 “(A) for which a certification is made
11 under subsection 411(a); and

12 “(B) in which there are no public domain
13 lands, in the case of a State.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in the first section of such Act is amended by inserting
16 after the item relating to section 414 the following:

“415. Use of revenues from Coastal Plain of Alaska.”.

17 **SEC. 204. PROVISIONS RELATING TO THE IMPLEMENTA-**
18 **TION OF THIS TITLE.**

19 (a) TRANSITION RULES.—(1) Amounts allocated
20 under section 402(g)(2) of the Surface Mining Control
21 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (ex-
22 cluding interest) prior to the date of enactment of this
23 Act for the program set forth under section 406 of that
24 Act (30 U.S.C. 1236), but not appropriated prior to such
25 date, shall be available in fiscal year 2005 and thereafter

1 for the payments referred to in paragraph (1)(A) of sec-
2 tion 402(h) of such Act (30 U.S.C. 1232(h)), as amended
3 by this Act, in the same manner as are other amounts
4 available for such payments, to the extent necessary to
5 meet the obligations of the Combined Fund (as that term
6 is used in that section).

7 (2) Notwithstanding any other provision of law, inter-
8 est credited to the fund established by section 401 of the
9 Surface Mining Control and Reclamation Act of 1977 (30
10 U.S.C. 1231) that is not transferred to the Combined
11 Fund referred to in section 402(h) of such Act (30 U.S.C.
12 1232(h)), as amended by this Act, prior to the date of
13 enactment of this Act shall be available in fiscal year 2004
14 and thereafter for the payments referred to in paragraph
15 (1)(A) of section 402(h) of such Act (30 U.S.C. 1232(h)),
16 as amended by this Act, in the same manner as are other
17 amounts available for such payments, to the extent nec-
18 essary to meet the obligations of the Combined Fund.

19 (b) INVENTORY.—Within one year after the date of
20 enactment of this Act, the Secretary of the Interior shall
21 complete a review of all additions made, pursuant to
22 amendments offered by States and Indians tribes after
23 December 31, 1998, to the inventory referred to in section
24 403(c) of the Surface Mining Control and Reclamation
25 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-

1 tions reflect eligible lands and waters pursuant to section
2 404 of such Act (30 U.S.C. 1234) that meet the priorities
3 set forth in paragraphs (1) and (2) of section 403(a) of
4 such Act (30 U.S.C. 1233(a)(1) and (2)), and are cor-
5 rectly identified pursuant to such priorities. Any lands or
6 waters that were included in the inventory pursuant to the
7 general welfare standard set forth in section 403(a) of
8 such Act (30 U.S.C. 1233(a)) before the date of enact-
9 ment of this Act that are determined in the review to no
10 longer meet the criteria set forth in paragraphs (1) and
11 (2) of section 403(a) of such Act, as amended by this Act,
12 shall be removed from the inventory.

13 (c) CLARIFICATION.—For the purposes of section
14 528(2) of the Surface Mining Control and Reclamation
15 Act of 1977 (30 U.S.C. 1278(2)), the term “government-
16 financed” shall not include funds made available under
17 title IV of such Act.

18 (d) PAYMENT OF TRIBAL ALLOCATION.—(1) Not-
19 withstanding any other provision of law and by not later
20 than December 31, 2004, the Secretary of the Interior
21 shall use amounts allocated under section 402(g)(2) of the
22 Surface Mining Control and Reclamation Act of 1977 (30
23 U.S.C. 1232(g)(2)) (excluding interest) prior to the date
24 of enactment of this Act for the program set forth under
25 section 406 of that Act (30 U.S.C. 1236), but not appro-

1 priated prior to such date, to pay an amount determined
2 in accordance with paragraph (2) to any Indian tribe that
3 has made the certification referred to in section 411 of
4 the Surface Mining Control and Reclamation Act of 1977
5 (30 U.S.C. 1240a).

6 (2) The payment to an Indian tribe under paragraph
7 (1) shall be proportional to the sum of the aggregate unap-
8 propriated amount allocated to such tribe under section
9 402(g)(1)(B) of such Act (43 U.S.C. 1232(g)(1)(B)), and
10 shall be made in lieu of payment of such aggregate allo-
11 cated amount.

12 (3) The total amount of payments under this sub-
13 section shall be \$41,502,991.

14 (e) REMINING.—

15 (1) EXTENSION OF AUTHORITY.—Section
16 511(e) of the Surface Mining Control and Reclama-
17 tion Act of 1977 (30 U.S.C. 1260(e)) is amended by
18 striking “2004” and inserting “2019”.

19 (2) SAVINGS CLAUSE.—Except as provided in
20 paragraph (1), nothing in this section shall be con-
21 sidered to modify or amend any provision of law gov-
22 erning coal remining.

23 (f) ENSURING AVAILABILITY OF MINERAL LEASING
24 ACT REVENUES.—Section 949(a)(1) of the Energy Policy

1 Act of 2003 is amended by inserting “(A)” before the first
2 sentence, and by adding at the end the following:

3 “(B) Amounts derived from leases issued under
4 the Mineral Leasing Act shall be deposited under
5 subparagraph (A) for a fiscal year only to the extent
6 that amounts derived from leases issued under the
7 Outer Continental Shelf Lands Act and available for
8 such deposit for the fiscal year (after distribution of
9 any such funds as described in subsection (c)) are
10 less than \$150,000,000.”.

11 **TITLE III—AMENDMENTS OF IN-**
12 **TERNAL REVENUE CODE OF**
13 **1986**

14 **SEC. 301. WAIVER OF PREMIUMS FOR CERTAIN OPERA-**
15 **TORS.**

16 (a) IN GENERAL.—Section 9704 of the Internal Rev-
17 enue Code of 1986 (relating to liability of assigned opera-
18 tors) is amended by adding at the end the following new
19 subsection:

20 “(j) WAIVER OF PREMIUMS FOR CERTAIN OPERA-
21 TORS.—No premium shall be required to be paid under
22 this section to the extent of the amount of such premium
23 which is paid under section 415 of the Surface Mining
24 Control and Reclamation Act of 1977.”.

1 (b) USE OF AMOUNTS PAID FROM ABANDONED
2 MINE RECLAMATION FUND.—Paragraph (2) of section
3 9705(b) of such Code is amended to read as follows:

4 “(2) USE OF FUNDS.—Any amount transferred
5 under paragraph (1) for any fiscal year shall be used
6 as provided in such section 402(h) (as in effect on
7 the date of the enactment of the Abandoned Mine
8 Lands Reclamation Reform Act of 2004).”.

9 **SEC. 302. PREPAYMENT OF PREMIUM LIABILITY FOR COAL**
10 **INDUSTRY HEALTH BENEFITS.**

11 (a) IN GENERAL.—Section 9704 of the Internal Rev-
12 enue Code of 1986 (relating to liability of assigned opera-
13 tors) is amended by adding at the end the following new
14 subsection:

15 “(j) PREPAYMENT OF PREMIUM LIABILITY.—

16 “(1) IN GENERAL.—If—

17 “(A) a payment meeting the requirements
18 of paragraph (j)(2) is made to the Combined
19 Fund by or on behalf of any assigned operator
20 who is a member of a controlled group of cor-
21 porations (within the meaning of section 52(a)),
22 or by or on behalf of any related person to any
23 assigned operator within that controlled group
24 of corporations; and

1 “(B) the common parent of such group is
2 jointly and severally liable for any premium
3 which would (but for this subsection) be re-
4 quired to be paid by any such operator, then no
5 person (other than such common parent) shall
6 be liable for any premium for which any oper-
7 ator within that controlled group of corpora-
8 tions would otherwise be liable.

9 “(2) REQUIREMENTS.—A payment meets the
10 requirements of this paragraph if—

11 “(A) the amount of the payment is not less
12 than the present value of the total premium li-
13 ability of the assigned operator or operators
14 within that controlled group of corporations for
15 its or their assignees under this chapter with
16 respect to the Combined Fund (as determined
17 by the operator’s enrolled actuary, as defined in
18 section 7701(a)(35)), using actuarial methods
19 and assumptions each of which is reasonable
20 and which are reasonable in the aggregate, as
21 determined by such enrolled actuary;

22 “(B) a signed actuarial report is filed with
23 the Secretary of Labor by such enrolled actuary
24 containing—

1 “(i) the date of the actuarial valuation
2 applicable to the report; and

3 “(ii) a statement by the enrolled actu-
4 ary signing the report that to the best of
5 the actuary’s knowledge the report is com-
6 plete and accurate and that in the actu-
7 ary’s opinion the actuarial assumptions
8 used are in the aggregate reasonably re-
9 lated to the experience of the operator and
10 to reasonable expectations; and

11 “(C) 30 calendar days have elapsed after
12 the report required by subparagraph (B), and
13 the description required by subparagraph (C),
14 are filed with the Secretary of Labor, and the
15 Secretary of Labor has not notified the as-
16 signed operator in writing that the require-
17 ments of this paragraph have not been satisfied.

18 “(3) USE OF PREPAYMENT.—The Combined
19 Fund shall establish and maintain an account for
20 each assigned operator making such payment or on
21 behalf of which such payment was made (with earn-
22 ings thereon) and use all amounts in such account
23 exclusively to pay premium that would (but for this
24 subsection) be required to be paid by the assigned
25 operator. Upon termination of the obligations for

1 premium liability of any assigned operator for which
2 such account is maintained, all funds remaining in
3 such account (and earnings thereon) shall be re-
4 funded to such entity as may be designated by the
5 common parent described in paragraph (1)(B).”.

6 (b) JOINT AND SEVERAL LIABILITY OF RELATED
7 PERSONS.—Section 9711(c) of such Code is amended to
8 read as follows:

9 “(c) JOINT AND SEVERAL LIABILITY OF RELATED
10 PERSONS.—

11 “(1) Each related person of a last signatory op-
12 erator to which subsection (a) or (b) applies shall be
13 jointly and severally liable with the last signatory op-
14 erator for the provision of health care coverage de-
15 scribed in subsection (a) or (b), provided, however,
16 that an assigned operator who is a last signatory op-
17 erator under section 9711 and a member of a con-
18 trolled group of corporations (within the meaning of
19 section 52(a)) or a related person to any assigned
20 operator within that controlled group of corpora-
21 tions, that has met the requirements of section
22 9704(j) (1) and (2) and has provided security de-
23 scribed in paragraph 9711(c)(2), shall be relieved of
24 all such joint and several liability as of the date
25 upon which such requirements are met, provided,

1 however, that the common parent of such controlled
2 group of corporations shall remain liable for the pro-
3 vision of benefits required to be provided under sub-
4 section (a) or (b).

5 “(2) Security meets the requirements of this
6 paragraph if—

7 “(A) the security (in the form of a bond,
8 letter of credit or cash escrow) is provided to
9 the trustees of the 1992 UMWA Benefit Plan,
10 solely for the purpose of paying premiums for
11 beneficiaries described in section 9712(b)(2)(B),
12 equal in amount to 1 year’s liability of the last
13 signatory operator under section 9711, deter-
14 mined by using the average cost of such opera-
15 tor’s liability during its prior 3 calendar years;

16 “(B) the security is in addition to any
17 other security required under any other provi-
18 sion of this Act; and

19 “(C) the security remains in place for 5
20 years.

21 “(3) Upon termination of the obligations of the
22 last signatory operator providing such security or
23 the expiration of 5 years, whichever occurs first, the
24 full amount of such security (and earnings thereon)
25 shall be refunded to the last signatory operator.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 303. DEFINITION OF SUCCESSOR IN INTEREST.**

5 (a) IN GENERAL.—Subsection (c) of section 9701 of
6 the Internal Revenue Code of 1986 is amended by adding
7 at the end the following new paragraph:

8 “(8) SUCCESSOR IN INTEREST.—

9 “(A) SAFE HARBOR.—The term ‘successor
10 in interest’ shall not include any person—

11 “(i) who is an unrelated person to a
12 seller; and

13 “(ii) who purchases for fair market
14 value assets, or all the stock of a related
15 person, in a bona fide, arm’s-length sale
16 which is subject to section 5 of the Securi-
17 ties Act of 1933 (15 U.S.C. 77f et seq.) or
18 the Securities Exchange Act of 1934 (15
19 U.S.C. 78a et seq.).

20 “(B) UNRELATED PERSON.—The term
21 ‘unrelated person’ means a purchaser who does
22 not bear a relationship to the seller described in
23 section 267(b).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to transactions after the date
3 of the enactment of this Act.

○