

110TH CONGRESS
2^D SESSION

S. 2758

To authorize the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain in Alaska.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2008

Ms. MURKOWSKI (for herself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain in Alaska.

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 Act may be cited as the “American Energy Inde-
5 pendence and Security Act of 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COASTAL PLAIN.—The term “Coastal
2 Plain” means that area identified as the “1002
3 Coastal Plain Area” on the map.

4 (2) FEDERAL AGREEMENT.—The term “Fed-
5 eral Agreement” means the Federal Agreement and
6 Grant Right-of-Way for the Trans-Alaska Pipeline
7 issued on January 23, 1974, in accordance with sec-
8 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
9 and the Trans-Alaska Pipeline Authorization Act
10 (43 U.S.C. 1651 et seq.).

11 (3) FINAL STATEMENT.—The term “Final
12 Statement” means the final legislative environmental
13 impact statement on the Coastal Plain, dated April
14 1987, and prepared pursuant to section 1002 of the
15 Alaska National Interest Lands Conservation Act
16 (16 U.S.C. 3142) and section 102(2)(C) of the Na-
17 tional Environmental Policy Act of 1969 (42 U.S.C.
18 4332(2)(C)).

19 (4) MAP.—The term “map” means the map en-
20 titled “Arctic National Wildlife Refuge”, dated Sep-
21 tember 2005, and prepared by the United States Ge-
22 ological Survey.

23 (5) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior (or the designee of the
25 Secretary), acting through the Director of the Bu-

1 reau of Land Management in consultation with the
2 Director of the United States Fish and Wildlife
3 Service and in coordination with a State coordinator
4 appointed by the Governor of the State of Alaska.

5 **SEC. 3. LEASING PROGRAM FOR LAND WITHIN THE COAST-**
6 **AL PLAIN.**

7 (a) IN GENERAL.—

8 (1) AUTHORIZATION.—Subject to section 14,
9 Congress authorizes the exploration, leasing, devel-
10 opment, production, and economically feasible and
11 prudent transportation of oil and gas in and from
12 the Coastal Plain.

13 (2) ACTIONS.—Subject to section 14, the Sec-
14 retary shall take such actions as are necessary—

15 (A) to establish and implement, in accord-
16 ance with this Act, a competitive oil and gas
17 leasing program that will result in an environ-
18 mentally sound program for the exploration, de-
19 velopment, and production of the oil and gas re-
20 sources of the Coastal Plain while taking into
21 consideration the interests and concerns of resi-
22 dents of the Coastal Plain, which is the home-
23 land of the Kaktovikmiut Inupiat; and

24 (B) to administer this Act through regula-
25 tions, lease terms, conditions, restrictions, pro-

1 hibitions, stipulations, and other provisions
2 that—

3 (i) ensure the oil and gas exploration,
4 development, and production activities on
5 the Coastal Plain will result in no signifi-
6 cant adverse effect on fish and wildlife,
7 their habitat, subsistence resources, and
8 the environment; and

9 (ii) require the application of the best
10 commercially available technology for oil
11 and gas exploration, development, and pro-
12 duction to all exploration, development,
13 and production operations under this Act
14 in a manner that ensures the receipt of
15 fair market value by the public for the
16 mineral resources to be leased.

17 (b) REPEAL.—

18 (1) REPEAL.—Section 1003 of the Alaska Na-
19 tional Interest Lands Conservation Act (16 U.S.C.
20 3143) is repealed.

21 (2) CONFORMING AMENDMENT.—The table of
22 contents contained in section 1 of that Act (16
23 U.S.C. 3101 note) is amended by striking the item
24 relating to section 1003.

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 (16 U.S.C. 668dd et seq.)—

6 (A) the oil and gas pre-leasing and leasing
7 program, and activities authorized by this sec-
8 tion in the Coastal Plain, shall be considered to
9 be compatible with the purposes for which the
10 Arctic National Wildlife Refuge was established;
11 and

12 (B) no further findings or decisions shall
13 be required to implement that program and
14 those activities.

15 (2) ADEQUACY OF THE DEPARTMENT OF THE
16 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
17 STATEMENT.—The Final Statement shall be consid-
18 ered to satisfy the requirements under the National
19 Environmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.) that apply with respect to pre-leasing activi-
21 ties, including exploration programs and 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 Act before the
25 conduct of the first lease sale.

1 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
2 TIONS.—

3 (A) IN GENERAL.—Before conducting the
4 first lease sale under this Act, the Secretary
5 shall prepare an environmental impact state-
6 ment in accordance with the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.) with respect to the actions authorized by
9 this Act that are not referred to in paragraph
10 (2).

11 (B) IDENTIFICATION AND ANALYSIS.—
12 Notwithstanding any other provision of law, in
13 carrying out this paragraph, the Secretary shall
14 not be required—

15 (i) to identify nonleasing alternative
16 courses of action; or

17 (ii) to analyze the environmental ef-
18 fects of those courses of action.

19 (C) IDENTIFICATION OF PREFERRED AC-
20 TION.—Not later than 18 months after the date
21 of enactment of this Act, the Secretary shall—

22 (i) identify only a preferred action and
23 a single leasing alternative for the first
24 lease sale authorized under this Act; and

1 (ii) analyze the environmental effects
2 and potential mitigation measures for
3 those 2 alternatives.

4 (D) PUBLIC COMMENTS.—In carrying out
5 this paragraph, the Secretary shall consider
6 only public comments that are filed not later
7 than 20 days after the date of publication of a
8 draft environmental impact statement.

9 (E) EFFECT OF COMPLIANCE.—Notwith-
10 standing any other provision of law, compliance
11 with this paragraph shall be considered to sat-
12 isfy all requirements for the analysis and con-
13 sideration of the environmental effects of pro-
14 posed leasing under this Act.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
16 ITY.—Nothing in this Act expands or limits any State or
17 local regulatory authority.

18 (e) SPECIAL AREAS.—

19 (1) DESIGNATION.—

20 (A) IN GENERAL.—The Secretary, after
21 consultation with the State of Alaska, the
22 North Slope Borough, Alaska, and the City of
23 Kaktovik, Alaska, may designate not more than
24 45,000 acres of the Coastal Plain as a special
25 area if the Secretary determines that the special

1 area would be of such unique character and in-
2 terest as to require special management and
3 regulatory protection.

4 (B) SADLEROCHIT SPRING AREA.—The
5 Secretary shall designate as a special area in
6 accordance with subparagraph (A) the Sadlero-
7 chit Spring area, comprising approximately
8 4,000 acres as depicted on the map.

9 (2) MANAGEMENT.—The Secretary shall man-
10 age each special area designated under this sub-
11 section in a manner that—

12 (A) respects and protects the Native people
13 of the area; and

14 (B) preserves the unique and diverse char-
15 acter of the area, including fish, wildlife, sub-
16 sistence resources, and cultural values of the
17 area.

18 (3) EXCLUSION FROM LEASING OR SURFACE
19 OCCUPANCY.—

20 (A) IN GENERAL.—The Secretary may ex-
21 clude any special area designated under this
22 subsection from leasing.

23 (B) NO SURFACE OCCUPANCY.—If the Sec-
24 retary leases all or a portion of a special area
25 for the purposes of oil and gas exploration, de-

1 velopment, production, and related activities,
2 there shall be no surface occupancy of the land
3 comprising the special area.

4 (4) DIRECTIONAL DRILLING.—Notwithstanding
5 any other provision of this subsection, the Secretary
6 may lease all or a portion of a special area under
7 terms that permit the use of horizontal drilling tech-
8 nology from sites on leases located outside the spe-
9 cial area.

10 (f) LIMITATION ON CLOSED AREAS.—The Secretary
11 may not close land within the Coastal Plain to oil and gas
12 leasing or to exploration, development, or production ex-
13 cept in accordance with this Act.

14 (g) REGULATIONS.—

15 (1) IN GENERAL.—Not later than 15 months
16 after the date of enactment of this Act, in consulta-
17 tion with appropriate agencies of the State of Alas-
18 ka, the North Slope Borough, Alaska, and the City
19 of Kaktovik, Alaska, the Secretary shall issue such
20 regulations as are necessary to carry out this Act,
21 including rules and regulations relating to protection
22 of the fish and wildlife, fish and wildlife habitat, and
23 subsistence resources of the Coastal Plain.

24 (2) REVISION OF REGULATIONS.—The Sec-
25 retary may periodically review and, as appropriate,

1 revise the rules and regulations issued under para-
2 graph (1) to reflect any significant scientific or engi-
3 neering data that come to the attention of the Sec-
4 retary.

5 **SEC. 4. LEASE SALES.**

6 (a) **IN GENERAL.**—Land may be leased pursuant to
7 this Act to any person qualified to obtain a lease for depos-
8 its of oil and gas under the Mineral Leasing Act (30
9 U.S.C. 181 et seq.).

10 (b) **PROCEDURES.**—The Secretary shall, by regula-
11 tion, establish procedures for—

12 (1) receipt and consideration of sealed nomina-
13 tions for any area in the Coastal Plain for inclusion
14 in, or exclusion (as provided in subsection (e)) from,
15 a lease sale;

16 (2) the holding of lease sales after that nomina-
17 tion process; and

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

21 (c) **LEASE SALE BIDS.**—Bidding for leases under
22 this Act shall be by sealed competitive cash bonus bids.

23 (d) **ACREAGE MINIMUM IN FIRST SALE.**—For the
24 first lease sale under this Act, the Secretary shall offer
25 for lease those tracts the Secretary considers to have the

1 greatest potential for the discovery of hydrocarbons, tak-
2 ing into consideration nominations received pursuant to
3 subsection (b)(1), but in no case less than 200,000 acres.

4 (e) **TIMING OF LEASE SALES.**—The Secretary
5 shall—

6 (1) not later than 22 months after the date of
7 enactment of this Act, conduct the first lease sale
8 under this Act;

9 (2) not later than September 30, 2010, conduct
10 a second lease sale under this Act; and

11 (3) conduct additional sales at appropriate in-
12 tervals if sufficient interest in exploration or devel-
13 opment exists to warrant the conduct of the addi-
14 tional sales.

15 **SEC. 5. GRANT OF LEASES BY THE SECRETARY.**

16 (a) **IN GENERAL.**—Upon payment by a lessee of such
17 bonus as may be accepted by the Secretary, the Secretary
18 may grant to the highest responsible qualified bidder in
19 a lease sale conducted pursuant to section 4 a lease for
20 any land on the Coastal Plain.

21 (b) **SUBSEQUENT TRANSFERS.**—

22 (1) **IN GENERAL.**—No lease issued under this
23 Act may be sold, exchanged, assigned, sublet, or oth-
24 erwise transferred except with the approval of the
25 Secretary.

1 (2) CONDITION FOR APPROVAL.—Before grant-
2 ing any approval described in paragraph (1), the
3 Secretary shall consult with and give due consider-
4 ation to the opinion of the Attorney General.

5 **SEC. 6. LEASE TERMS AND CONDITIONS.**

6 (a) IN GENERAL.—An oil or gas lease issued pursu-
7 ant to this Act shall—

8 (1) provide for the payment of a royalty of not
9 less than 12½ percent of the amount or value of the
10 production removed or sold from the lease, as deter-
11 mined by the Secretary in accordance with regula-
12 tions applicable to other Federal oil and gas leases;

13 (2) provide that the Secretary may close, on a
14 seasonal basis, such portions of the Coastal Plain to
15 exploratory drilling activities as are necessary to
16 protect caribou calving areas and other species of
17 fish and wildlife;

18 (3) require that each lessee of land within the
19 Coastal Plain shall be fully responsible and liable for
20 the reclamation of land within the Coastal Plain and
21 any other Federal land that is adversely affected in
22 connection with exploration, development, produc-
23 tion, or transportation activities within the Coastal
24 Plain conducted by the lessee or by any of the sub-
25 contractors or agents of the lessee;

1 (4) provide that the lessee may not delegate or
2 convey, by contract or otherwise, that reclamation
3 responsibility and liability to another person without
4 the express written approval of the Secretary;

5 (5) provide that the standard of reclamation for
6 land required to be reclaimed under this Act shall
7 be, to the maximum extent practicable—

8 (A) a condition capable of supporting the
9 uses that the land was capable of supporting
10 prior to any exploration, development, or pro-
11 duction activities; or

12 (B) upon application by the lessee, to a
13 higher or better standard, as approved by the
14 Secretary;

15 (6) contain terms and conditions relating to
16 protection of fish and wildlife, fish and wildlife habi-
17 tat, subsistence resources, and the environment as
18 required under section 3(a)(2);

19 (7) provide that each lessee, and each agent
20 and contractor of a lessee, use their best efforts to
21 provide a fair share of employment and contracting
22 for Alaska Natives and Alaska Native Corporations
23 from throughout the State of Alaska, as determined
24 by the level of obligation previously agreed to in the
25 Federal Agreement; and

1 (8) contain such other provisions as the Sec-
2 retary determines to be necessary to ensure compli-
3 ance with this Act and regulations issued under this
4 Act.

5 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
6 as a term and condition of each lease under this Act, and
7 in recognizing the proprietary interest of the Federal Gov-
8 ernment in labor stability and in the ability of construction
9 labor and management to meet the particular needs and
10 conditions of projects to be developed under the leases
11 issued pursuant to this Act (including the special concerns
12 of the parties to those leases), shall require that each les-
13 see, and each agent and contractor of a lessee, under this
14 Act negotiate to obtain a project labor agreement for the
15 employment of laborers and mechanics on production,
16 maintenance, and construction under the lease.

17 **SEC. 7. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

18 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
19 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
20 In accordance with section 3, the Secretary shall admin-
21 ister this Act through regulations, lease terms, conditions,
22 restrictions, prohibitions, stipulations, or other provisions
23 that—

24 (1) ensure, to the maximum extent practicable,
25 that oil and gas exploration, development, and pro-

1 duction activities on the Coastal Plain will result in
2 no significant adverse effect on fish and wildlife, fish
3 and wildlife habitat, and the environment;

4 (2) require the application of the best commer-
5 cially available technology for oil and gas explo-
6 ration, development, and production on all new ex-
7 ploration, development, and production operations;
8 and

9 (3) ensure that the maximum surface acreage
10 covered in connection with the leasing program by
11 production and support facilities, including airstrips
12 and any areas covered by gravel berms or piers for
13 support of pipelines, does not exceed 2,000 acres on
14 the Coastal Plain.

15 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

16 The Secretary shall require, with respect to any proposed
17 drilling and related activities on the Coastal Plain, that—

18 (1) a site-specific environmental analysis be
19 made of the probable effects, if any, that the drilling
20 or related activities will have on fish and wildlife,
21 fish and wildlife habitat, subsistence resources, sub-
22 sistence uses, and the environment;

23 (2) a plan be implemented to avoid, minimize,
24 and mitigate (in that order and to the maximum ex-

1 tent practicable) any significant adverse effect iden-
2 tified under paragraph (1); and

3 (3) the development of the plan occur after con-
4 sultation with—

5 (A) each agency having jurisdiction over
6 matters mitigated by the plan;

7 (B) the State of Alaska;

8 (C) North Slope Borough, Alaska; and

9 (D) the City of Kaktovik, Alaska.

10 (c) REGULATIONS TO PROTECT COASTAL PLAIN
11 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
12 AND THE ENVIRONMENT.—Before implementing the leas-
13 ing program authorized by this Act, the Secretary shall
14 prepare and issue regulations, lease terms, conditions, re-
15 strictions, prohibitions, stipulations, or other measures de-
16 signed to ensure, to the maximum extent practicable, that
17 the activities carried out on the Coastal Plain under this
18 Act are conducted in a manner consistent with the pur-
19 poses and environmental requirements of this Act.

20 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
21 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
22 proposed regulations, lease terms, conditions, restrictions,
23 prohibitions, and stipulations for the leasing program
24 under this Act shall require—

1 (1) compliance with all applicable provisions of
2 Federal and State environmental law (including reg-
3 ulations);

4 (2) implementation of and compliance with—

5 (A) standards that are at least as effective
6 as the safety and environmental mitigation
7 measures, as described in items 1 through 29
8 on pages 167 through 169 of the Final State-
9 ment, on the Coastal Plain;

10 (B) seasonal limitations on exploration, de-
11 velopment, and related activities, as necessary,
12 to avoid significant adverse effects during peri-
13 ods of concentrated fish and wildlife breeding,
14 denning, nesting, spawning, and migration;

15 (C) design safety and construction stand-
16 ards for all pipelines and any access and service
17 roads that minimize, to the maximum extent
18 practicable, adverse effects on—

19 (i) the passage of migratory species
20 (such as caribou); and

21 (ii) the flow of surface water by re-
22 quiring the use of culverts, bridges, or
23 other structural devices;

1 (D) prohibitions on general public access
2 to, and use of, all pipeline access and service
3 roads;

4 (E) stringent reclamation and rehabilita-
5 tion requirements in accordance with this Act
6 for the removal from the Coastal Plain of all oil
7 and gas development and production facilities,
8 structures, and equipment on completion of oil
9 and gas production operations, except in a case
10 in which the Secretary determines that those
11 facilities, structures, or equipment—

12 (i) would assist in the management of
13 the Arctic National Wildlife Refuge; and

14 (ii) are donated to the United States
15 for that purpose;

16 (F) appropriate prohibitions or restrictions
17 on—

18 (i) access by all modes of transpor-
19 tation;

20 (ii) sand and gravel extraction; and

21 (iii) use of explosives;

22 (G) reasonable stipulations for protection
23 of cultural and archaeological resources;

24 (H) measures to protect groundwater and
25 surface water, including—

- 1 (i) avoidance, to the maximum extent
2 practicable, of springs, streams, and river
3 systems;
- 4 (ii) the protection of natural surface
5 drainage patterns and wetland and ripar-
6 ian habitats; and
- 7 (iii) the regulation of methods or tech-
8 niques for developing or transporting ade-
9 quate supplies of water for exploratory
10 drilling; and
- 11 (I) research, monitoring, and reporting re-
12 quirements;
- 13 (3) that exploration activities (except surface
14 geological studies) be limited to the period between
15 approximately November 1 and May 1 of each year
16 and be supported, if necessary, by ice roads, winter
17 trails with adequate snow cover, ice pads, ice air-
18 strips, and air transport methods (except that those
19 exploration activities may be permitted at other
20 times if the Secretary determines that the explo-
21 ration will have no significant adverse effect on fish
22 and wildlife, fish and wildlife habitat, subsistence re-
23 sources, and the environment of the Coastal Plain);
- 24 (4) consolidation of facility siting;

1 (5) avoidance or reduction of air traffic-related
2 disturbance to fish and wildlife;

3 (6) treatment and disposal of hazardous and
4 toxic wastes, solid wastes, reserve pit fluids, drilling
5 muds and cuttings, and domestic wastewater, includ-
6 ing, in accordance with applicable Federal and State
7 environmental laws (including regulations)—

8 (A) preparation of an annual waste man-
9 agement report;

10 (B) development and implementation of a
11 hazardous materials tracking system; and

12 (C) prohibition on the use of chlorinated
13 solvents;

14 (7) fuel storage and oil spill contingency plan-
15 ning;

16 (8) conduct of periodic field crew environmental
17 briefings;

18 (9) avoidance of significant adverse effects on
19 subsistence hunting, fishing, and trapping;

20 (10) compliance with applicable air and water
21 quality standards;

22 (11) appropriate seasonal and safety zone des-
23 ignations around well sites, within which subsistence
24 hunting and trapping shall be limited; and

1 (12) development and implementation of such
2 other protective environmental requirements, restric-
3 tions, terms, or conditions as the Secretary, after
4 consultation with the State of Alaska, North Slope
5 Borough, Alaska, and the City of Kaktovik, Alaska,
6 determines to be necessary.

7 (e) CONSIDERATIONS.—In preparing and issuing reg-
8 ulations, lease terms, conditions, restrictions, prohibitions,
9 or stipulations under this section, the Secretary shall take
10 into consideration—

11 (1) the stipulations and conditions that govern
12 the National Petroleum Reserve—Alaska leasing
13 program, as set forth in the 1999 Northeast Na-
14 tional Petroleum Reserve—Alaska Final Integrated
15 Activity Plan/Environmental Impact Statement;

16 (2) the environmental protection standards that
17 governed the initial Coastal Plain seismic exploration
18 program under parts 37.31 through 37.33 of title
19 50, Code of Federal Regulations (or successor regu-
20 lations); and

21 (3) the land use stipulations for exploratory
22 drilling on the KIC–ASRC private land described in
23 Appendix 2 of the agreement between Arctic Slope
24 Regional Corporation and the United States dated
25 August 9, 1983.

1 (f) FACILITY CONSOLIDATION PLANNING.—

2 (1) IN GENERAL.—After providing for public
3 notice and comment, the Secretary shall prepare and
4 periodically update a plan to govern, guide, and di-
5 rect the siting and construction of facilities for the
6 exploration, development, production, and transpor-
7 tation of oil and gas resources from the Coastal
8 Plain.

9 (2) OBJECTIVES.—The objectives of the plan
10 shall be—

11 (A) the avoidance of unnecessary duplica-
12 tion of facilities and activities;

13 (B) the encouragement of consolidation of
14 common facilities and activities;

15 (C) the location or confinement of facilities
16 and activities to areas that will minimize impact
17 on fish and wildlife, fish and wildlife habitat,
18 subsistence resources, and the environment;

19 (D) the use of existing facilities, to the
20 maximum extent practicable; and

21 (E) the enhancement of compatibility be-
22 tween wildlife values and development activities.

23 (g) ACCESS TO PUBLIC LAND.—The Secretary
24 shall—

1 (1) manage public land in the Coastal Plain in
2 accordance with subsections (a) and (b) of section
3 811 of the Alaska National Interest Lands Con-
4 servation Act (16 U.S.C. 3121); and

5 (2) ensure that local residents shall have rea-
6 sonable access to public land in the Coastal Plain for
7 traditional uses.

8 **SEC. 8. EXPEDITED JUDICIAL REVIEW.**

9 (a) FILING OF COMPLAINTS.—

10 (1) DEADLINE.—A complaint seeking judicial
11 review of a provision of this Act or an action of the
12 Secretary under this Act shall be filed—

13 (A) except as provided in subparagraph
14 (B), during the 90-day period beginning on the
15 date on which the action being challenged was
16 carried out; or

17 (B) in the case of a complaint based solely
18 on grounds arising after the 90-day period de-
19 scribed in subparagraph (A), by not later than
20 90 days after the date on which the complain-
21 ant knew or reasonably should have known
22 about the grounds for the complaint.

23 (2) VENUE.—A complaint seeking judicial re-
24 view of a provision of this Act or an action of the
25 Secretary under this Act shall be filed in the United

1 States Court of Appeals for the District of Colum-
2 bia.

3 (3) SCOPE.—

4 (A) IN GENERAL.—Judicial review of a de-
5 cision of the Secretary under this Act (including
6 an environmental analysis of such a lease sale)
7 shall be—

8 (i) limited to a review of whether the
9 decision is in accordance with this Act; and

10 (ii) based on the administrative record
11 of the decision.

12 (B) PRESUMPTIONS.—Any identification
13 by the Secretary of a preferred course of action
14 relating to a lease sale, and any analysis by the
15 Secretary of environmental effects, under this
16 Act shall be presumed to be correct unless prov-
17 en otherwise by clear and convincing evidence.

18 (b) LIMITATION ON OTHER REVIEW.—Any action of
19 the Secretary that is subject to judicial review under this
20 section shall not be subject to judicial review in any civil
21 or criminal proceeding for enforcement.

22 **SEC. 9. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL**
23 **PLAIN.**

24 For purposes of section 1102(4)(A) of the Alaska Na-
25 tional Interest Lands Conservation Act (16 U.S.C.

1 3162(4)(A)), any rights-of-way or easements across the
2 Coastal Plain for the exploration, development, produc-
3 tion, or transportation of oil and gas shall be considered
4 to be established incident to the management of the Coast-
5 al Plain under this section.

6 **SEC. 10. CONVEYANCE.**

7 Notwithstanding section 1302(h)(2) of the Alaska
8 National Interest Lands Conservation Act (16 U.S.C.
9 3192(h)(2)), to remove any cloud on title to land, and to
10 clarify land ownership patterns in the Coastal Plain, the
11 Secretary shall—

12 (1) to the extent necessary to fulfill the entitle-
13 ment of the Kaktovik Inupiat Corporation under sec-
14 tions 12 and 14 of the Alaska Native Claims Settle-
15 ment Act (43 U.S.C. 1611, 1613), as determined by
16 the Secretary, convey to that Corporation the sur-
17 face estate of the land described in paragraph (1) of
18 Public Land Order 6959, in accordance with the
19 terms and conditions of the agreement between the
20 Secretary, the United States Fish and Wildlife Serv-
21 ice, the Bureau of Land Management, and the
22 Kaktovik Inupiat Corporation, dated January 22,
23 1993; and

24 (2) convey to the Arctic Slope Regional Cor-
25 poration the remaining subsurface estate to which

1 that Corporation is entitled under the agreement be-
2 tween that corporation and the United States, dated
3 August 9, 1983.

4 **SEC. 11. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
5 **NITY SERVICE ASSISTANCE.**

6 (a) ESTABLISHMENT OF FUND.—

7 (1) IN GENERAL.—As a condition on the receipt
8 of funds under section 13(1), the State of Alaska
9 shall establish in the treasury of the State, and ad-
10 minister in accordance with this section, a fund to
11 be known as the “Coastal Plain Local Government
12 Impact Aid Assistance Fund” (referred to in this
13 section as the “Fund”).

14 (2) DEPOSITS.—Subject to paragraph (1), the
15 Secretary of the Treasury shall deposit into the
16 Fund, \$35,000,000 each year from the amount
17 available under section 13(1).

18 (3) INVESTMENT.—The Governor of the State
19 of Alaska (referred to in this section as the “Gov-
20 ernor”) shall invest amounts in the Fund in interest-
21 bearing securities of the United States or the State
22 of Alaska.

23 (b) ASSISTANCE.—The Governor, in cooperation with
24 the Mayor of the North Slope Borough, shall use amounts
25 in the Fund to provide assistance to North Slope Borough,

1 Alaska, the City of Kaktovik, Alaska, and any other bor-
2 ough, municipal subdivision, village, or other community
3 in the State of Alaska that is directly impacted by explo-
4 ration for, or the production of, oil or gas on the Coastal
5 Plain under this Act, or any Alaska Native Regional Cor-
6 poration acting on behalf of the villages and communities
7 within its region whose lands lie along the right-of-way
8 of the Trans-Alaska Pipeline System, as determined by the
9 Governor.

10 (c) APPLICATION.—

11 (1) IN GENERAL.—To receive assistance under
12 subsection (b), a community or Regional Corporation
13 described in that subsection shall submit to the Gov-
14 ernor, or to the Mayor of the North Slope Borough,
15 an application in such time, in such manner, and
16 containing such information as the Governor may re-
17 quire.

18 (2) ACTION BY NORTH SLOPE BOROUGH.—The
19 Mayor of the North Slope Borough shall submit to
20 the Governor each application received under para-
21 graph (1) as soon as practicable after the date on
22 which the application is received.

23 (3) ASSISTANCE OF GOVERNOR.—The Governor
24 shall assist communities in submitting applications

1 under this subsection, to the maximum extent prac-
2 ticable.

3 (d) USE OF FUNDS.—A community or Regional Cor-
4 poration that receives funds under subsection (b) may use
5 the funds—

6 (1) to plan for mitigation, implement a mitiga-
7 tion plan, or maintain a mitigation project to ad-
8 dress the potential effects of oil and gas exploration
9 and development on environmental, social, cultural,
10 recreational, and subsistence resources of the com-
11 munity;

12 (2) to develop, carry out, and maintain—

13 (A) a project to provide new or expanded
14 public facilities; or

15 (B) services to address the needs and prob-
16 lems associated with the effects described in
17 paragraph (1), including firefighting, police,
18 water and waste treatment, first responder, and
19 other medical services;

20 (3) to compensate residents of the Coastal
21 Plain for significant damage to environmental, so-
22 cial, cultural, recreational, or subsistence resources;
23 and

24 (4) in the City of Kaktovik, Alaska—

1 (A) to develop a mechanism for providing
2 members of the Kaktovikmiut Inupiat commu-
3 nity an opportunity to—

4 (i) monitor development on the Coast-
5 al Plain; and

6 (ii) provide information and rec-
7 ommendations to the Governor based on
8 traditional aboriginal knowledge of the nat-
9 ural resources, flora, fauna, and ecological
10 processes of the Coastal Plain; and

11 (B) to establish a local coordination office,
12 to be managed by the Mayor of the North Slope
13 Borough, in coordination with the City of
14 Kaktovik, Alaska—

15 (i) to coordinate with and advise de-
16 velopers on local conditions and the history
17 of areas affected by development;

18 (ii) to provide to the Committee on
19 Resources of the House of Representatives
20 and the Committee on Energy and Natural
21 Resources of the Senate annual reports on
22 the status of the coordination between de-
23 velopers and communities affected by de-
24 velopment;

1 (iii) to collect from residents of the
2 Coastal Plain information regarding the
3 impacts of development on fish, wildlife,
4 habitats, subsistence resources, and the en-
5 vironment of the Coastal Plain; and

6 (iv) to ensure that the information
7 collected under clause (iii) is submitted
8 to—

9 (I) developers; and

10 (II) any appropriate Federal
11 agency.

12 **SEC. 12. PROHIBITION ON EXPORTS.**

13 An oil or gas lease issued under this Act shall pro-
14 hibit the exportation of oil or gas produced under the
15 lease.

16 **SEC. 13. ALLOCATION OF REVENUES.**

17 Notwithstanding any other provision of law, all ad-
18 justed bonus, rental, and royalty receipts from Federal oil
19 and gas leasing and operations authorized under this Act,
20 plus an appropriated amount equal to the amount of Fed-
21 eral income tax attributable to sales of oil and gas pro-
22 duced from those operations, shall be deposited in an ac-
23 count in the Treasury which shall be available, without
24 further appropriation or fiscal year limitation, each fiscal
25 year as follows:

1 (1) \$35,000,000 shall be deposited by the Sec-
2 retary of the Treasury into the fund created under
3 section 11(a)(1).

4 (2) The remainder shall be available as follows:

5 (A) 50 percent shall be available to the De-
6 partment of Energy to carry out alternative en-
7 ergy programs established under the Energy
8 Policy Act of 2005 (42 U.S.C. 15801 et seq.),
9 the Energy Independence and Security Act of
10 2007 (42 U.S.C. 17001 et seq.), or an amend-
11 ment made by either of those Acts, as deter-
12 mined by the Secretary of Energy.

13 (B) 16.67 percent shall be available to the
14 Department of Health and Human Services to
15 provide low-income home energy assistance
16 under title XXVI of the Omnibus Budget Rec-
17 onciliation Act of 1981 (42 U.S.C. 8621 et
18 seq.).

19 (C) 16.67 percent shall be available to the
20 Department of Energy to carry out the Weath-
21 erization Assistance Program for Low-Income
22 Persons established under part A of title IV of
23 the Energy Conservation and Production Act
24 (42 U.S.C. 6861 et seq.).

1 (D) 16.66 percent shall be available to the
2 Department of Agriculture to carry out the spe-
3 cial supplemental nutrition program for women,
4 infants, and children established by section 17
5 of the Child Nutrition Act of 1966 (42 U.S.C.
6 1786).

7 **SEC. 14. SEVERABILITY.**

8 If any provision of this Act, or the application of such
9 provision to any person or circumstance, is held to be un-
10 constitutional, the remainder of this Act and the applica-
11 tion of such provisions to any person or circumstance shall
12 not be affected thereby.

13 **SEC. 15. EFFECTIVE DATE.**

14 This Act takes effect on the date that the Secretary
15 notifies Congress that the Secretary has determined that
16 the weighted average price of petroleum in the United
17 States for 5 or more consecutive days is \$125 or more
18 per barrel (in 2008 dollars).

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