

108TH CONGRESS  
2D SESSION

# H. R. 4549

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, to make related technical changes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 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

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## 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, to make related technical changes, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This title may be cited as the “Arctic Coastal Plain  
3 and Surface Mining Improvement Act”.

4 **TITLE I—OIL AND GAS LEASING**  
5 **PROGRAM FOR COASTAL**  
6 **PLAIN OF ALASKA**

7 **SEC. 101. SHORT TITLE.**

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

10 **SEC. 102. DEFINITIONS.**

11       In this title:

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

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

1 **SEC. 103. LEASING PROGRAM FOR LANDS WITHIN THE**  
2 **COASTAL PLAIN.**

3 (a) IN GENERAL.—The Secretary shall take such ac-  
4 tions as are necessary—

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

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

1 (b) REPEAL.—Section 1003 of the Alaska National  
2 Interest Lands Conservation Act of 1980 (16 U.S.C.  
3 3143) is repealed.

4 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
5 TAIN OTHER LAWS.—

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

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

1 promulgate the regulations for the establishment of  
2 a leasing program authorized by this title before the  
3 conduct of the first lease sale.

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

1 paragraph is deemed to satisfy all requirements for  
2 the analysis and consideration of the environmental  
3 effects of proposed leasing under this title.

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

7 (e) SPECIAL AREAS.—

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

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

23 (3) EXCLUSION FROM LEASING OR SURFACE  
24 OCCUPANCY.—The Secretary may exclude any Spe-  
25 cial Area from leasing. If the Secretary leases a Spe-

1        cial Area, or any part thereof, for purposes of oil  
2        and gas exploration, development, production, and  
3        related activities, there shall be no surface occu-  
4        pancy of the lands comprising the Special Area.

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

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

14          (g) REGULATIONS.—

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

22            (2) REVISION OF REGULATIONS.—The Sec-  
23        retary shall periodically review and, if appropriate,  
24        revise the rules and regulations issued under sub-  
25        section (a) to reflect any significant biological, envi-

1       ronmental, or engineering data that come to the Sec-  
2       retary's attention.

3   **SEC. 104. LEASE SALES.**

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

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

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

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

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

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

21       (d) ACREAGE MINIMUM IN FIRST SALE.—In the first  
22   lease sale under this title, the Secretary shall offer for  
23   lease those tracts the Secretary considers to have the  
24   greatest potential for the discovery of hydrocarbons, tak-



1 ing into consideration nominations received pursuant to  
2 subsection (b)(1), but in no case less than 200,000 acres.

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

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

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

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

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

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

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

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

1           (1) provide for the payment of a royalty of not  
2           less than 12½ percent in amount or value of the  
3           production removed or sold from the lease, as deter-  
4           mined by the Secretary under the regulations appli-  
5           cable to other Federal oil and gas leases;

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

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

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

24          (5) provide that the standard of reclamation for  
25          lands required to be reclaimed under this title shall

1 be, as nearly as practicable, a condition capable of  
2 supporting the uses which the lands were capable of  
3 supporting prior to any exploration, development, or  
4 production activities, or upon application by the les-  
5 see, to a higher or better use as approved by the Sec-  
6 retary;

7 (6) contain terms and conditions relating to  
8 protection of fish and wildlife, their habitat, and the  
9 environment as required pursuant to section  
10 103(a)(2);

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

20 (8) prohibit the export of oil produced under  
21 the lease; and

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

1       (b) PROJECT LABOR AGREEMENTS.—The Secretary,  
 2 as a term and condition of each lease under this title and  
 3 in recognizing the Government’s proprietary interest in  
 4 labor stability and in the ability of construction labor and  
 5 management to meet the particular needs and conditions  
 6 of projects to be developed under the leases issued pursu-  
 7 ant to this title and the special concerns of the parties  
 8 to such leases, shall require that the lessee and its agents  
 9 and contractors negotiate to obtain a project labor agree-  
 10 ment for the employment of laborers and mechanics on  
 11 production, maintenance, and construction under the  
 12 lease.

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

14       (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
 15 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—  
 16 The Secretary shall, consistent with the requirements of  
 17 section 103, administer the provisions of this title through  
 18 regulations, lease terms, conditions, restrictions, prohibi-  
 19 tions, stipulations, and other provisions that—

- 20           (1) ensure the oil and gas exploration, develop-  
 21 ment, and production activities on the Coastal Plain  
 22 will result in no significant adverse effect on fish  
 23 and wildlife, their habitat, and the environment;
- 24           (2) require the application of the best commer-  
 25 cially available technology for oil and gas explo-

1 ration, development, and production on all new ex-  
2 ploration, development, and production operations;  
3 and

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

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

10 The Secretary shall also require, with respect to any pro-  
11 posed drilling and related activities, that—

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

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

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

23 (c) REGULATIONS TO PROTECT COASTAL PLAIN  
24 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
25 AND THE ENVIRONMENT.—Before implementing the leas-

1 ing program authorized by this title, the Secretary shall  
2 prepare and promulgate regulations, lease terms, condi-  
3 tions, restrictions, prohibitions, stipulations, and other  
4 measures designed to ensure that the activities undertaken  
5 on the Coastal Plain under this title are conducted in a  
6 manner consistent with the purposes and environmental  
7 requirements of this title.

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

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

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

1           (3) That exploration activities, except for sur-  
2       face geological studies, be limited to the period be-  
3       tween approximately November 1 and May 1 each  
4       year and that exploration activities shall be sup-  
5       ported by ice roads, winter trails with adequate snow  
6       cover, ice pads, ice airstrips, and air transport meth-  
7       ods, except that such exploration activities may  
8       occur at other times, if the Secretary finds that such  
9       exploration will have no significant adverse effect on  
10      the fish and wildlife, their habitat, and the environ-  
11      ment of the Coastal Plain.

12           (4) Design safety and construction standards  
13      for all pipelines and any access and service roads,  
14      that—

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

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

21           (5) Prohibitions on public access and use on all  
22      pipeline access and service roads.

23           (6) Stringent reclamation and rehabilitation re-  
24      quirements, consistent with the standards set forth  
25      in this title, requiring the removal from the Coastal

1 Plain of all oil and gas development and production  
2 facilities, structures, and equipment upon completion  
3 of oil and gas production operations, except that the  
4 Secretary may exempt from the requirements of this  
5 paragraph those facilities, structures, or equipment  
6 that the Secretary determines would assist in the  
7 management of the Arctic National Wildlife Refuge  
8 and that are donated to the United States for that  
9 purpose.

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

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

14 (9) Consolidation of facility siting.

15 (10) Appropriate prohibitions or restrictions on  
16 use of explosives.

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

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



1           (13) Treatment and disposal of hazardous and  
2       toxic wastes, solid wastes, reserve pit fluids, drilling  
3       muds and cuttings, and domestic wastewater, includ-  
4       ing an annual waste management report, a haz-  
5       ardous materials tracking system, and a prohibition  
6       on chlorinated solvents, in accordance with applica-  
7       ble Federal and State environmental law.

8           (14) Fuel storage and oil spill contingency plan-  
9       ning.

10          (15) Research, monitoring, and reporting re-  
11       quirements.

12          (16) Field crew environmental briefings.

13          (17) Avoidance of significant adverse effects  
14       upon subsistence hunting, fishing, and trapping by  
15       subsistence users.

16          (18) Compliance with applicable air and water  
17       quality standards.

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

21          (20) Reasonable stipulations for protection of  
22       cultural and archeological resources.

23          (21) All other protective environmental stipula-  
24       tions, restrictions, terms, and conditions deemed  
25       necessary by the Secretary.

1 (e) CONSIDERATIONS.—In preparing and promul-  
2 gating regulations, lease terms, conditions, restrictions,  
3 prohibitions, and stipulations under this section, the Sec-  
4 retary shall consider the following:

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

10 (2) The environmental protection standards  
11 that governed the initial Coastal Plain seismic explo-  
12 ration program under parts 37.31 to 37.33 of title  
13 50, Code of Federal Regulations.

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

19 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

3           (A) Avoiding unnecessary duplication of fa-  
4       cilities and activities.

5           (B) Encouraging consolidation of common  
6       facilities and activities.

7           (C) Locating or confining facilities and ac-  
8       tivities to areas that will minimize impact on  
9       fish and wildlife, their habitat, and the environ-  
10      ment.

11          (D) Utilizing existing facilities wherever  
12      practicable.

13          (E) Enhancing compatibility between wild-  
14      life values and development activities.

15      (g) ACCESS TO PUBLIC LANDS.—The Secretary  
16      shall—

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

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

24      **SEC. 108. EXPEDITED JUDICIAL REVIEW.**

25      (a) FILING OF COMPLAINT.—

1           (1) DEADLINE.—Subject to paragraph (2), any  
2       complaint seeking judicial review of any provision of  
3       this title or any action of the Secretary under this  
4       title shall be filed in any appropriate district court  
5       of the United States—

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

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

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

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

1 leasing to proceed and the Secretary's analysis of en-  
2 vironmental effects under this title shall be presumed  
3 to be correct unless shown otherwise by clear and  
4 convincing evidence to the contrary.

5 (b) LIMITATION ON OTHER REVIEW.—Actions of the  
6 Secretary with respect to which review could have been  
7 obtained under this section shall not be subject to judicial  
8 review in any civil or criminal proceeding for enforcement.

9 **SEC. 109. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
10 **NUES.**

11 (a) IN GENERAL.—Notwithstanding any other provi-  
12 sion of law, of the amount of adjusted bonus, rental, and  
13 royalty revenues from oil and gas leasing and operations  
14 authorized under this title—

15 (1) 50 percent shall be paid to the State of  
16 Alaska; and

17 (2) except as provided in section 112(d) and  
18 title II, the balance shall be deposited into the  
19 Treasury as miscellaneous receipts.

20 (b) PAYMENTS TO ALASKA.—Payments to the State  
21 of Alaska under this section shall be made semiannually.

22 **SEC. 110. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

23 (a) EXEMPTION.—Title XI of the Alaska National In-  
24 terest Lands Conservation Act of 1980 (16 U.S.C. 3161  
25 et seq.) shall not apply to the issuance by the Secretary

1 under section 28 of the Mineral Leasing Act (30 U.S.C.  
2 185) of rights-of-way and easements across the Coastal  
3 Plain for the transportation of oil and gas.

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

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

17 **SEC. 111. CONVEYANCE.**

18 In order to maximize Federal revenues by removing  
19 clouds on title to lands and clarifying land ownership pat-  
20 terns within the Coastal Plain, the Secretary, notwith-  
21 standing the provisions of section 1302(h)(2) of the Alas-  
22 ka National Interest Lands Conservation Act (16 U.S.C.  
23 3192(h)(2)), shall convey—

24 (1) to the Kaktovik Inupiat Corporation the  
25 surface estate of the lands described in paragraph 1

1 of Public Land Order 6959, to the extent necessary  
2 to fulfill the Corporation's entitlement under section  
3 12 of the Alaska Native Claims Settlement Act (43  
4 U.S.C. 1611) in accordance with the terms and con-  
5 ditions of the Agreement between the Department of  
6 the Interior, the United States Fish and Wildlife  
7 Service, the Bureau of Land Management, and the  
8 Kaktovik Inupiat Corporation effective January 22,  
9 1993; and

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

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

17 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

18 (1) IN GENERAL.—The Secretary may use  
19 amounts available from the Coastal Plain Local Gov-  
20 ernment Impact Aid Assistance Fund established by  
21 subsection (d) to provide timely financial assistance  
22 to entities that are eligible under paragraph (2) and  
23 that are directly impacted by the exploration for or  
24 production of oil and gas on the Coastal Plain under  
25 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)”;

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 Control and  
22       Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended  
23       by striking “section 401(c)(11)” and inserting “section  
24       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 State 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) REFUNDS OF 2004 PREMIUMS, ETC.—Not  
10          later than December 1, 2004, the Secretary of the  
11          Interior shall pay from the fund to each specified  
12          person (as defined in section 415(d)(2)) an amount  
13          equal to the amount of premiums or assigned oper-  
14          ator contributions paid by such person for fiscal year  
15          2004.

16          “(7) ORDERING RULES WHERE SPECIFIED PAY-  
17          MENTS EXCEED LIMITATION.—

18                 “(A) IN GENERAL.—Amounts shall be paid  
19                 under paragraphs (4), (5), or (6) for any fiscal  
20                 year only to the extent that the limitation under  
21                 paragraph (2) for such year exceeds the sum  
22                 of—

23                         “(i) the estimated payments to be  
24                         made under paragraph (3) for such year,  
25                         and

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

4                   “(B) PROPORTIONAL REDUCTION.—Pay-  
5                   ments under paragraphs (4), (5), and (6) shall  
6                   be proportionally reduced to the extent the full  
7                   amount of such payments may not be made by  
8                   reason of subparagraph (A).

9                   “(8) ESTIMATES AND ADJUSTMENTS.—

10                  “(A) ESTIMATES.—Estimated amounts  
11                  with respect to any fund or plan shall be made  
12                  by the trustees thereof.

13                  “(B) ADJUSTMENTS.—If, for any fiscal  
14                  year, the amount paid under paragraph (3),  
15                  (4), or (5) is more or less than the amount re-  
16                  quired to be paid, the Secretary of the Interior  
17                  shall appropriately adjust the amount paid  
18                  under that paragraph for the next fiscal year.

19                  “(9) DEFINITIONS.—For purposes of this sub-  
20                  section—

21                  “(A) COMBINED FUND.—The term ‘Com-  
22                  bined Fund’ means the United Mine Workers of  
23                  America Combined Benefit Fund established  
24                  under section 9702 of the Internal Revenue  
25                  Code of 1986.

1           “(B) 1992 PLAN.—The term ‘1992 Plan’  
2           means the United Mine Workers of America  
3           1992 Benefit Plan established under section  
4           9712 of such Code.

5           “(C) 1993 PLAN.—The term ‘1993 Plan’  
6           means the multiemployer health benefit plan es-  
7           tablished after July 20, 1992, by the persons  
8           referred to in section 9701(b)(2) of such Code.

9           “(10) COORDINATION WITH PREMIUM RE-  
10          LIEF.—

11           “(A) IN GENERAL.—Payments shall be  
12           made under this subsection for any fiscal year  
13           only if the Secretary reasonably expects that no  
14           premium will be required to be paid during  
15           such year under section 9704 of the Internal  
16           Revenue Code of 1986 by reason of payments  
17           under section 415(c)(3) of this Act.

18           “(B) RESTORATION OF PRIOR TRANSFER  
19           RULES WHEN PREMIUM RELIEF CEASES.—If  
20           fees are required to be paid under this section  
21           with respect to any fiscal year for which pay-  
22           ments may not be made under this subsection  
23           by reason of subparagraph (A), the Secretary  
24           shall, as of the beginning of such fiscal year  
25           and before any allocation under subsection (g),

1 make the transfer provided in subparagraph  
2 (C).

3 “(C) TRANSFER TO COMBINED FUND.—  
4 The Secretary shall transfer from the fund to  
5 the United Mine Workers of America Combined  
6 Benefit Fund established under section 9702 of  
7 the Internal Revenue Code of 1986 for any fis-  
8 cal year an amount equal to the sum of—

9 “(i) the amount of the interest which  
10 the Secretary estimates will be earned and  
11 paid to the Fund during the fiscal year,  
12 plus

13 “(ii) the amount by which the amount  
14 described in clause (i) is less than  
15 \$70,000,000.

16 “(D)(i) The aggregate amount which may  
17 be transferred under subparagraph (C) for any  
18 fiscal year shall not exceed the amount of ex-  
19 penditures which the trustees of the Combined  
20 Fund estimate will be debited against the unas-  
21 signed beneficiaries premium account under  
22 section 9704(e) of the Internal Revenue Code of  
23 1986 for the fiscal year of the Combined Fund  
24 in which the transfer is made.

1           “(ii) The aggregate amount which may be  
 2           transferred under subparagraph (C)(ii) for all  
 3           fiscal years shall not exceed an amount equiva-  
 4           lent to all interest earned and paid to the fund  
 5           after September 30, 1992, and before October  
 6           1, 1995.

7           “(E) If, for any fiscal year, the amount  
 8           transferred is more or less than the amount re-  
 9           quired to be transferred, the Secretary shall ap-  
 10          propriately adjust the amount transferred for  
 11          the next fiscal year.”

12          (c) AMENDMENTS TO SECTION 403.—Section 403 of  
 13          the Surface Mining Control and Reclamation Act of 1977  
 14          (30 U.S.C. 1233(a)) is amended as follows:

15               (1) In subsection (a)—

16                   (A) in paragraph (1) by striking “general  
 17                   welfare,”;

18                   (B) in paragraph (2) by striking “health,  
 19                   safety, and general welfare” and inserting  
 20                   “health and safety”, and inserting “and” after  
 21                   the semicolon at the end;

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

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

25               (2) In subsection (b)—



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

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

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

7 (d) AMENDMENT TO SECTION 406.—Section 406(h)  
8 of the Surface Mining Control and Reclamation Act of  
9 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil  
10 Conservation Service” and inserting “Natural Resources  
11 Conservation Service”.

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

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

20 (f) AMENDMENT TO SECTION 408.—Section 408(a)  
21 of the Surface Mining Control and Reclamation Act of  
22 1977 (30 U.S.C. 1238) is amended by striking “who  
23 owned the surface prior to May 2, 1977, and”.

1 (g) AMENDMENTS TO SECTION 411.—Section 411 of  
2 the Surface Mining Control and Reclamation Act of 1977  
3 (30 U.S.C. 1240a) is amended as follows:

4 (1) In subsection (a) by inserting “(1)” before  
5 the first sentence, and by adding at the end the fol-  
6 lowing:

7 “(2) The Secretary may, on the Secretary’s own voli-  
8 tion, make the certification referred to in paragraph (1)  
9 on behalf of any State or Indian tribe referred to in para-  
10 graph (1) if on the basis of the inventory referred to in  
11 section 403(c) all reclamation projects relating to the pri-  
12 orities set forth in section 403(a) for eligible lands and  
13 water pursuant to section 404 in such State or tribe have  
14 been completed. The Secretary shall only make such cer-  
15 tification after notice in the Federal Register and oppor-  
16 tunity for public comment.”.

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

18 “(h) STATE SHARE FOR CERTAIN CERTIFIED  
19 STATES.—(1)(A) From moneys referred to in subsection  
20 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.  
21 191(a)) that are paid into the Treasury after the date of  
22 the enactment of this subsection and that are not paid  
23 to States under section 35 of the Mineral Leasing Act or  
24 reserved as part of the reclamation fund under such sec-  
25 tion, the Secretary of the Interior shall pay to each quali-

1 fied State, on a proportional basis, an amount equal to  
 2 the sum of the aggregate unappropriated amount allocated  
 3 to such qualified State under section 402(g)(1)(A).

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

9 “(2) Payments to States under this subsection shall  
 10 be made, without regard to any limitation in section  
 11 401(d), in the same manner as if paid under section 35  
 12 of the Mineral Leasing Act (30 U.S.C. 191) and concur-  
 13 rently with payments to States under that section. The  
 14 funds distributed under this section shall be referred to  
 15 as the ‘Cubin-Thomas Mineral Fund’.

16 “(3) The amount allocated to any State under section  
 17 402(g)(1)(A) that is paid to such State as a result of a  
 18 payment under paragraph (1) of this subsection shall be  
 19 reallocated and available for grants under section  
 20 402(g)(5).”.

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

22 (a) USE OF REVENUES.—Title IV of the Surface  
 23 Mining Control and Reclamation Act of 1977 (30 U.S.C.  
 24 1231 et seq.) is amended by adding at the end the fol-  
 25 lowing:

1 **“SEC. 415. USE OF REVENUES FROM COASTAL PLAIN OF**  
2 **ALASKA.**

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

7 “(b) APPROPRIATIONS TO ACCOUNT.—

8 “(1) IN GENERAL.—There are hereby appro-  
9 priated to the Account amounts equivalent to the  
10 amounts received by the United States as bonuses,  
11 rents, or royalties from the exploration, development,  
12 and production of the oil and gas resources of the  
13 Coastal Plain, that are not required to be otherwise  
14 paid or deposited under section 109(a) or 112(d) of  
15 the Arctic Coastal Plain Domestic Energy Security  
16 Act of 2004.

17 “(2) REPAYABLE ADVANCES.—

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

22 “(i) the expenditures required under  
23 subsection (c) for such year, over

24 “(ii) the amount appropriated by  
25 paragraph (1) for such year.

26 “(B) REPAYMENT OF ADVANCES.—

1                   “(i) IN GENERAL.—Advances made to  
2                   the Account shall be repaid, and interest  
3                   on such advances shall be paid, to the gen-  
4                   eral fund of the Treasury when the Sec-  
5                   retary of the Interior determines that mon-  
6                   eys are available for such purposes in the  
7                   Account.

8                   “(ii) FINAL REPAYMENT.—No ad-  
9                   vance shall be made to the Account after  
10                  December 31, 2007, and all advances to  
11                  the Account shall be repaid on or before  
12                  September 30, 2009.

13                  “(C) RATE OF INTEREST.—Interest on ad-  
14                  vances made to the Account shall be at a rate  
15                  determined by the Secretary of the Treasury  
16                  (as of the close of the calendar month preceding  
17                  the month in which the advance is made) to be  
18                  equal to the current average market yield on  
19                  outstanding marketable obligations of the  
20                  United States with remaining periods to matu-  
21                  rity comparable to the anticipated period during  
22                  which the advance will be outstanding and shall  
23                  be compounded annually.

24                  “(c) EXPENDITURES.—

1           “(1) COMBINED FUND.—The Secretary of the  
2 Interior shall pay from the Account to the Combined  
3 Fund amounts necessary (after the payments under  
4 section 402(h)) to meet the obligations of the Com-  
5 bined Fund.

6           “(2) REFUNDS OF 2004 PREMIUMS, ETC.—Not  
7 later than December 1, 2004, the Secretary of the  
8 Interior shall pay from the Account to each specified  
9 person an amount equal to the amount of premiums  
10 or assigned operator contributions paid by such per-  
11 son for fiscal year 2004 to the extent such premiums  
12 and contributions have not been refunded under sec-  
13 tion 402(h)(6).

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

16           “(A) IN GENERAL.—At the beginning of  
17 each fiscal year after fiscal year 2004, the Sec-  
18 retary of the Interior shall pay from the Ac-  
19 count to the Combined Fund an amount equal  
20 to the amount of premiums or assigned oper-  
21 ator contributions which would (but for sub-  
22 paragraph (B)) be required to be paid by speci-  
23 fied persons for such fiscal year.

24           “(B) WAIVER OF LIABILITY.—For waiver  
25 of liability for amounts paid under subpara-

1 graph (A), see section 9704(j) of the Internal  
2 Revenue Code of 1986.

3 “(4) 1992 PLAN.—The Secretary of the Interior  
4 shall pay from the Account to the 1992 Plan (as de-  
5 fined in section 402(h)) amounts necessary (after  
6 the appropriations under section 402(h)) to pay the  
7 amounts described in section 402(h)(4).

8 “(5) 1993 PLAN.—The Secretary of the Interior  
9 shall pay from the Account to the 1993 Plan  
10 amounts necessary (after the appropriations under  
11 section 402(h)) to pay the amounts described in sec-  
12 tion 402(h)(5).

13 “(6) QUALIFIED STATES.—

14 “(A) IN GENERAL.—The Secretary of the  
15 Interior shall pay from the Account to each  
16 qualified State an amount equal to the sum of  
17 the aggregate unappropriated amount allocated  
18 to such qualified State under subparagraph (A)  
19 or (B), as applicable, of section 402(g)(1).

20 “(B) REALLOCATION.—The amount allo-  
21 cated to any qualified State under section  
22 402(g)(1) that is paid to such qualified State as  
23 a result of a payment under subparagraph (A)  
24 shall be reallocated and available for grants  
25 under section 402(g)(5).

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

2 “(1) COASTAL PLAIN.—The term ‘Coastal  
3 Plain’ has the meaning given that term in section  
4 102 of the Arctic Coastal Plain Domestic Energy  
5 Security Act of 2004.

6 “(2) SPECIFIED PERSON.—The term ‘specified  
7 person’ means an assigned operator (as defined in  
8 section 9701(c)(5) of the Internal Revenue Code of  
9 1986), a related person of such assigned operator,  
10 and a successor-in-interest of such operator or per-  
11 son, if according to the records of the Combined  
12 Fund such assigned operator—

13 “(A) was assessed or is otherwise liable for  
14 premiums to the Combined Fund in October  
15 2001, and

16 “(B) was not—

17 “(i) a signatory to the 1988 or any  
18 later National Bituminous Coal Wage  
19 Agreement,

20 “(ii) a signatory to an agreement  
21 (other than the National Coal Mine Con-  
22 struction Agreement or the Coal Haulers’  
23 Agreement) containing pension and health  
24 care contribution and benefit provisions  
25 that are identical to those contained in the



1           1988 National Bituminous Coal Wage  
2           Agreement, or

3           “(iii) an employer from which con-  
4           tributions were actually received after  
5           1987 and before July 20, 1992, by the  
6           1950 United Mine Workers of America  
7           Benefit Plan Benefit Plan or the 1974  
8           United Mine Workers of America Benefit  
9           Plan in connection with employment in the  
10          coal industry during the period covered by  
11          the 1988 National Bituminous Coal Wage  
12          Agreement.

13          “(3) COMBINED FUND.—The term ‘Combined  
14          Fund’ means the United Mine Workers of America  
15          of America Combined Benefit Fund established  
16          under section 9702 of the Internal Revenue Code of  
17          1986.

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

20                 “(A) for which a certification is made  
21                 under subsection 411(a); and

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

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

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

4 **SEC. 204. PROVISIONS RELATING TO THE IMPLEMENTA-**  
 5 **TION OF THIS TITLE.**

6 (a) TRANSITION.—(1) Amounts allocated under sec-  
 7 tion 402(g)(2) of the Surface Mining Control and Rec-  
 8 lamation Act of 1977 (30 U.S.C. 1232(g)(2)) (excluding  
 9 interest) prior to the date of enactment of this Act for  
 10 the program set forth under section 406 of that Act (30  
 11 U.S.C. 1236), but not appropriated prior to such date,  
 12 shall be available in fiscal year 2005 and thereafter for  
 13 the payments referred to in section 402(h)(1) of such Act  
 14 (30 U.S.C. 1232(h)), as amended by this Act, in the same  
 15 manner as are other amounts available for such payments.

16 (2) Notwithstanding any other provision of law, inter-  
 17 est credited to the fund established by section 401 of the  
 18 Surface Mining Control and Reclamation Act of 1977 (30  
 19 U.S.C. 1231) that is not transferred to the Combined  
 20 Fund referred to in section 402(h) of such Act (30 U.S.C.  
 21 1232(h)), as amended by this Act, prior to the date of  
 22 enactment of this Act shall be available in fiscal year 2004  
 23 and thereafter for the payments referred to in section  
 24 402(h)(1) of such Act (30 U.S.C. 1232(h)), as amended

1 by this Act, in the same manner as are other amounts  
2 available for such payments.

3 (3) Amounts shall be available as provided in para-  
4 graphs (1) and (2) only to the extent that the amounts  
5 payable under section 402(h)(1) of such Act without re-  
6 gard to the limitation in section 402(h)(2) of such Act  
7 exceed such limitation.

8 (4) Amounts shall be available as provided in para-  
9 graphs (1) and (2) for any fiscal year only if the Secretary  
10 of the Interior reasonably expects that no premium will  
11 be required to be paid during such year under section  
12 9704 of the Internal Revenue Code of 1986 by reason of  
13 payments under section 415(c)(3) of this Act.

14 (b) INVENTORY.—Within one year after the date of  
15 enactment of this Act, the Secretary of the Interior shall  
16 complete a review of all additions made, pursuant to  
17 amendments offered by States and Indian tribes after De-  
18 cember 31, 1998, to the inventory referred to in section  
19 403(c) of the Surface Mining Control and Reclamation  
20 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-  
21 tions reflect eligible lands and waters pursuant to section  
22 404 of such Act (30 U.S.C. 1234) that meet the priorities  
23 set forth in paragraphs (1) and (2) of section 403(a) of  
24 such Act (30 U.S.C. 1233(a)(1) and (2)), and are cor-  
25 rectly identified pursuant to such priorities. Any lands or

1 waters that were included in the inventory pursuant to the  
2 general welfare standard set forth in section 403(a) of  
3 such Act (30 U.S.C. 1233(a)) before the date of enact-  
4 ment of this Act that are determined in the review to no  
5 longer meet the criteria set forth in paragraphs (1) and  
6 (2) of section 403(a) of such Act, as amended by this Act,  
7 shall be removed from the inventory.

8 (c) CLARIFICATION.—For the purposes of section  
9 528(2) of the Surface Mining Control and Reclamation  
10 Act of 1977 (30 U.S.C. 1278(2)), the term “government-  
11 financed” shall not include funds made available under  
12 title IV of such Act.

13 (d) PAYMENT OF TRIBAL.—(1) Notwithstanding any  
14 other provision of law and by not later than December  
15 31, 2004, the Secretary of the Interior shall use amounts  
16 allocated under section 402(g)(2) of the Surface Mining  
17 Control and Reclamation Act of 1977 (30 U.S.C.  
18 1232(g)(2)) (excluding interest) prior to the date of enact-  
19 ment of this Act for the program set forth under section  
20 406 of that Act (30 U.S.C. 1236), but not appropriated  
21 prior to such date, to pay an amount determined in ac-  
22 cordance with paragraph (2) to any Indian tribe that has  
23 made the certification referred to in section 411 of the  
24 Surface Mining Control and Reclamation Act of 1977 (30  
25 U.S.C. 1240a).

1       (2) The payment to an Indian tribe under paragraph  
 2 (1) shall not exceed the aggregate unappropriated amount  
 3 allocated to such tribe under section 402(g)(1)(B) of such  
 4 Act (43 U.S.C. 1232(g)(1)(B)) as of the date of the enact-  
 5 ment of this Act, and shall be made in lieu of payment  
 6 of such aggregate allocated amount.

7       (e) REMINING.—

8           (1) EXTENSION OF AUTHORITY.—Section  
 9 511(e) of the Surface Mining Control and Reclama-  
 10 tion Act of 1977 (30 U.S.C. 1260(e)) is amended by  
 11 striking “2004” and inserting “2019”.

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

16       (f) ENSURING AVAILABILITY OF MINERAL LEASING  
 17 ACT REVENUES.—Section 949(a)(1) of the Energy Policy  
 18 Act of 2004 is amended by inserting “(A)” before the first  
 19 sentence, and by adding at the end the following:

20           “(B) Amounts derived from leases issued under  
 21 the Mineral Leasing Act shall be deposited under  
 22 subparagraph (A) for a fiscal year only to the extent  
 23 that amounts derived from leases issued under the  
 24 Outer Continental Shelf Lands Act and available for  
 25 such deposit for the fiscal year (after distribution of

1       any such funds as described in subsection (c)) are  
 2       less than \$150,000,000.”.

3       **TITLE III—AMENDMENTS OF IN-**  
 4       **TERNAL REVENUE CODE OF**  
 5       **1986**

6       **SEC. 301. WAIVER OF PREMIUMS FOR CERTAIN OPERA-**  
 7               **TORS.**

8       (a) IN GENERAL.—Section 9704 of the Internal Rev-  
 9       enue Code of 1986 (relating to liability of assigned opera-  
 10      tors) is amended by adding after subsection (i) the fol-  
 11      lowing new subsection:

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

17       (b) USE OF AMOUNTS PAID FROM ABANDONED  
 18      MINE RECLAMATION FUND.—Paragraph (2) of section  
 19      9705(b) of such Code is amended to read as follows:

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

1 **SEC. 302. PREPAYMENT OF PREMIUM LIABILITY FOR COAL**  
2 **INDUSTRY HEALTH BENEFITS.**

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

7 “(k) PREPAYMENT OF PREMIUM LIABILITY.—

8 “(1) IN GENERAL.—If—

9 “(A) a payment meeting the requirements  
10 of paragraph (2) is made to the Combined  
11 Fund—

12 “(i) by or on behalf of any assigned  
13 operator which is a member of a controlled  
14 group of corporations (within the meaning  
15 of section 52(a)) the common parent of  
16 which is a corporation the shares of which  
17 are publicly traded on a United States ex-  
18 change, or

19 “(ii) by or on behalf of any related  
20 person to any assigned operator within  
21 that controlled group of corporations, and

22 “(B) the common parent of such group is  
23 jointly and severally liable for any premium  
24 which would (but for this subsection) be re-  
25 quired to be paid by any such operator,

1       then no person (other than such common parent)  
2       shall be liable for any premium for which any oper-  
3       ator within that controlled group of corporations  
4       would otherwise be liable.

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

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

18          “(B) a signed actuarial report is filed with  
19      the Secretary of Labor by such enrolled actuary  
20      containing—

21           “(i) the date of the actuarial valuation  
22          applicable to the report; and

23           “(ii) a statement by the enrolled actu-  
24          ary signing the report that to the best of  
25          the actuary’s knowledge the report is com-



1           plete and accurate and that in the actu-  
2           ary's opinion the actuarial assumptions  
3           used are in the aggregate reasonably re-  
4           lated to the experience of the operator and  
5           to reasonable expectations; and

6           “(C) 30 calendar days have elapsed after  
7           the report required by subparagraph (B) is filed  
8           with the Secretary of Labor, and the Secretary  
9           of Labor has not notified the assigned operator  
10          in writing that the requirements of this para-  
11          graph have not been satisfied.

12          “(3) USE OF PREPAYMENT.—The Combined  
13          Fund shall establish and maintain an account for  
14          each assigned operator making such payment or on  
15          behalf of which such payment was made (with earn-  
16          ings thereon) and use all amounts in such account  
17          exclusively to pay premiums that would (but for this  
18          subsection) be required to be paid by the assigned  
19          operator. Upon termination of the obligations for  
20          premium liability of any assigned operator for which  
21          such account is maintained, all funds remaining in  
22          such account (and earnings thereon) shall be re-  
23          funded to such entity as may be designated by the  
24          common parent described in paragraph (1)(B).”.

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

4 “(c) JOINT AND SEVERAL LIABILITY OF RELATED  
5 PERSONS.—

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

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

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

12                   “(B) the security is in addition to any  
13 other security required under any other provi-  
14 sion of this Act; and

15                   “(C) the security remains in place for 5  
16 years.

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

22       (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 of this Act.

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

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

5 “(8) SUCCESSOR IN INTEREST.—

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

8 “(i) who is an unrelated person to a  
9 seller; and

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

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

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

○