108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–540

PROVIDING FOR CONSIDERATION OF H.R. 4513, TO PROVIDE THAT IN PREPARING AN ENVIRONMENTAL ASSESSMENT OR ENVIRONMENTAL IMPACT STATEMENT REQUIRED UNDER SECTION 102 OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 WITH RESPECT TO ANY ACTION AUTHORIZING A RENEWABLE ENERGY PROJECT, NO FEDERAL AGENCY IS REQUIRED TO IDENTIFY ALTERNATIVE PROJECT LOCATIONS OR ACTIONS OTHER THAN THE PROPOSED ACTION AND THE NO ACTION ALTERNATIVE, AND FOR OTHER PURPOSES; AND H.R. 4529, ARCTIC COASTAL PLAIN AND SURFACE MINING IMPROVEMENT ACT OF 2004

JUNE 14, 2004.—Referred to the House Calendar and ordered to be printed

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Mr. REYNOLDS, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 672]

The Committee on Rules, having had under consideration House Resolution 672, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 4513, the Renewable Energy Project Siting Improvement Act of 2004 and for H.R. 4529, the Arctic Coastal Plain Surface Mining Improvement Act of 2004. The rule provides for consideration of H.R. 4513 under a modified closed rule. The rule provides one hour of debate in the House on H.R. 4513 equally divided and controlled by the chairman and ranking minority member of the Committee on Resources.

The rule makes in order the amendment printed in Part A of this report, if offered by Representative Pombo of California or his designee, which shall be considered as read and shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment printed in part A of this report. The rule provides one motion to recommit H.R. 4513 with or without instructions.

The rule further provides in section 2 for consideration of H.R. 4529 under a modified closed rule. The rule provides one hour of debate in the House on H.R. 4529, with 50 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and 10 minutes equally divided and

controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule makes in order the amendment in the nature of a substitute printed in Part B of this report, if offered by Representative Pombo of California or his designee, which shall be considered as read and shall be separately debatable for ten minutes equally divided and controlled by the proponent and an opponent. The rule waivers all points of order against the amendment in the nature of a substitute printed in part B of this report. Finally, the rule provides one motion to recommit H.R. 4529 with or without instructions.

PART A—SUMMARY OF AMENDMENT MADE IN ORDER TO H.R. 4513

(Summary derived from information provided by the amendment sponsor.)

Pombo: Manager's Amendment. Clarifies that the environmental review processes in H.R. 4513 do not apply to oil and gas leasing activities. (10 minutes)

PART B—SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE MADE IN ORDER TO H.R. 4529

(Summary derived from information provided by the amendment sponsor.)

Pombo: Manager's Amendment. Reflects certain technical changes needed to conform with existing laws. The bill as introduced did not place all stakeholders on an equal footing in regard to treatment of their coal miner healthcare benefits obligations and liabilities. This amendment ensures equity of stakeholders regarding treatment of their healthcare benefits obligations and liabilities by placing each stakeholder in line to receive monies from each of the funding mechanisms, including: Abandoned Mine Land (AML) Reclamation Fund interest account; Rural Abandoned Mine Program (RAMP) monies; Payments from the Coal Mining Fairness Fund that is funded by ANWR; and Repayable advances as needed. The bill as introduced did not place all stakeholders having healthcare benefits obligations and liabilities into the RAMP funding stream. This amendment makes available the remaining RAMP balance and stranded interest to help meet the obligations of the Combined Benefit Fund, the 1992 and 1993 Plan beneficiaries, and future premiums otherwise paid for by the reachback companies. This money would be utilized prior to use of ANWR monies and advances. The bill as introduced pays certified Indian Tribes a specified "state share" from the AML fund that they are owed by the federal government through the payment of RAMP monies. This amendment attempts to alleviate any under- or overpayment to the certified Tribes by stating that these Tribes will be paid their state share balance as of the date of enactment. The bill as introduced did not tie the success of all stakeholders with coalmining healthcare obligations and liabilities to the success of ANWR. The overarching reason we are at this point in time to attempt to fix the myriad of problems that are AML and related is because ANWR has the potential to generate significant revenue that could be directed to fixing these problems. The amendment ensures the success of these stakeholders is contingent upon the success of

ANWR. If ANWR does not move forward for any reason, we revert right back to current law under this amendment. (10 minutes)

PART A—TEXT OF AMENDMENT MADE IN ORDER TO H.R. 4513

Page 3, beginning at line 13, strike "or the combustion of".
Page 3, line 13, insert a comma after "oil".

PART B—TEXT OF AMENDMENT IN THE NATURE OF A SUBSTITUTE MADE IN ORDER TO H.R. 4529

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Arctic Coastal Plain and Surface Mining Improvement Act".

TITLE I—OIL AND GAS LEASING PROGRAM FOR COASTAL PLAIN OF ALASKA

SEC. 101. SHORT TITLE.

This title may be cited as the "Arctic Coastal Plain Domestic Energy Security Act of 2004".

SEC. 102. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres, and as described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term "Secretary", except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 103. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

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

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring

the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

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

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Bor-

ough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 102(1).

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

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

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

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 104. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the

Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

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

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

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 105. GRANT OF LEASES BY THE SECRETARY.

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

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

SEC. 106. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

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

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

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

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

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

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level

of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

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

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

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

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal

Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

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

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

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

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

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

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

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

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

(9) Consolidation of facility siting.

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

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation

of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

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

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

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

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

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

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

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

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

(f) FACILITY CONSOLIDATION PLANNING.—

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

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

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

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

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 108. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

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

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

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

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

SEC. 109. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

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

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

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

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

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral

Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

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

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

SEC. 111. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 112. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

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

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

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

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and

services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services; and

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

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

(B) provide to the Committee on Resources of the Senate and the Committee on Energy and Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

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

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

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

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

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

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

TITLE II—ABANDONED MINE LANDS RECLAMATION REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Abandoned Mine Lands Reclamation Reform Act of 2004".

SEC. 202. AMENDMENTS TO SURFACE MINING ACT.

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

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

(B) In subsection (e)—

(i) in the second sentence, by striking "the needs of such fund" and inserting "achieving the purposes of the payments under section 402(h)"; and

(ii) in the third sentence, by inserting before the period the following: "for the purpose of the payments under section 402(h)".

(2) Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended by striking "section 401(c)(11)" and inserting "section 401(c)(9)".

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

(1) In subsection (a)—

(A) by striking "35" and inserting "28";

(B) by striking "15" and inserting "12"; and

(C) by striking "10 cents" and inserting "8 cents".

(2) In subsection (b) by striking "2004" and all that follows through the end of the sentence and inserting "2019.".

(3) In subsection (g)(1)(D) by striking "in any area under paragraph (2), (3), (4), or (5)" and inserting "under paragraph (5)".

(4) Subsection (g)(2) is amended to read as follows:

"(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the Secretary shall ensure strict compliance by the States and Indian tribes with the priorities set forth in section 403(a) until a certification is made under section 411(a).".

(5) In subsection (g)(3)—

(A) in the matter preceding subparagraph (A) by striking "paragraphs (2) and" and inserting "paragraph";

(B) in subparagraph (A) by striking "401(c)(11)" and inserting "401(c)(9)"; and

(C) by adding at the end the following:

"(E) For the purpose of paragraph (8).".

(6) In subsection (g)(5)—

(A) by inserting "(A)" before the first sentence;

(B) in the first sentence by striking "40" and inserting "60";

(C) in the last sentence by striking "Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4)," and inserting "Funds made available under paragraph (3) or (4)"; and

(D) by adding at the end the following:

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

(7) Subsection (g)(6) is amended to read as follows:

"(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on such amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

"(B) For the purposes of this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

"(ii) that contains lands and waters that are—

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

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

(8) Subsection (g)(7) is amended to read as follows:

"(7) In complying with the priorities set forth in section 403(a), any State or Indian tribe may use amounts available in grants made annually to such State or tribe under paragraphs (1) and (5) for the reclamation of eligible lands and waters set forth in section 403(a)(3) prior to the completion of reclamation projects under paragraphs (1) and (2) of section 403(a) only if the expenditure of funds for such reclamation is done in conjunction with the expenditure of funds for reclamation projects under paragraphs (1) and (2) of section 403(a).".

(9) Subsection (g)(8) is amended to read as follows:

"(8) In making the grants referred to in paragraph (1)(C), the Secretary, using amounts allocated to a State or Indian tribe under subparagraphs (A) or (B) of paragraph (1) or as necessary amounts available to the Secretary under paragraph (3), shall assure total grant awards of not less than $2,000,000 annually to each State, including Tennessee, and each Indian tribe.".

(10) By amending subsection (h) to read as follows:

"(h) PAYMENT OF FUNDS FOR BENEFIT PAYMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, at the beginning of each fiscal year, the Secretary of the Interior shall pay from the fund—

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

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

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

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

"(A) the excess of—

"(i) the aggregate interest received by the fund during all preceding fiscal years, over

"(ii) the aggregate payments made under paragraph (1) for all preceding fiscal years, or

"(B) the unobligated balance of the fund as of the close of the preceding fiscal year.

"(3) PAYMENTS TO COMBINED FUND.—

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

"(i) the estimated expenditures to be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for such fiscal year, plus

"(ii) the estimated amount needed to offset the amount of any deficit (as of the close of the preceding fiscal year) in net assets in the Combined Fund.

"(B) CERTAIN PRE-2001 PREMIUMS.—

"(i) IN GENERAL.—The amount described in this paragraph (without regard to this subparagraph) for fiscal year 2004 shall be increased by $36,000,000.

"(ii) REFUNDS.—Not later than January 31, 2005, the trustees of the Combined Fund shall pay to each coal industry operator described in clause (iii) (and to each related person with respect to such an operator) an amount equal to the aggregate amount paid by such operator (or such related person) to the Combined Fund on or before September 7, 2000, and not previously refunded or credited, plus interest on such amount calculated at the rate of 7.5 percent per year. The aggregate amount paid under this subparagraph shall not exceed $36,000,000.

"(iii) COAL INDUSTRY OPERATOR DESCRIBED.—A coal industry operator is described in this clause if—

"(I) the operator's beneficiary assignments have been voided by the Commissioner of the Social Security Administration; and

"(II) the operator brought an action prior to September 7, 2000, claiming that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to such operator and received a final judgment or final settlement against such claim.

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

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

"(B) the estimated receipts of the 1992 Plan for such fiscal year from payments required under paragraphs (1)(B) and (3) of section 9712(d) of such Code and from any security provided to the 1992 Plan pursuant to section 9712(d)(1)(C) of such Code that is available for use in the provision of benefits.

"(5) PAYMENTS TO 1993 PLAN.—

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

"(i) the estimated expenditures from the 1993 Plan during such fiscal year to continue to provide benefits at levels no greater than those in effect on the date of enactment of this paragraph, under the eligibility criteria in effect on the date of enactment of this paragraph, over

"(ii) the estimated income of the 1993 Plan for such fiscal year.

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

"(6) REFUNDS OF 2004 PREMIUMS, ETC.—Not later than December 1, 2004, the Secretary of the Interior shall pay from the fund to each specified person (as defined in section 415(d)(2)) an amount equal to the amount of premiums or assigned operator contributions paid by such person for fiscal year 2004.

"(7) ORDERING RULES WHERE SPECIFIED PAYMENTS EXCEED LIMITATION.—

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

"(i) the estimated payments to be made under paragraph (3) for such year, and

"(ii) the estimated payments to be made under paragraph (3) for the succeeding fiscal year.

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

"(8) ESTIMATES AND ADJUSTMENTS.—

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

"(B) ADJUSTMENTS.—If, for any fiscal year, the amount paid under paragraph (3), (4), or (5) is more or less than the amount required to be paid, the Secretary of the Interior shall appropriately adjust the amount paid under that paragraph for the next fiscal year.

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986.

"(B) 1992 PLAN.—The term '1992 Plan' means the United Mine Workers of America 1992 Benefit Plan established under section 9712 of such Code.

"(C) 1993 PLAN.—The term '1993 Plan' means the multiemployer health benefit plan established after July 20, 1992, by the persons referred to in section 9701(b)(2) of such Code.

"(10) COORDINATION WITH PREMIUM RELIEF.—

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

"(B) RESTORATION OF PRIOR TRANSFER RULES WHEN PREMIUM RELIEF CEASES.—If fees are required to be paid under this section with respect to any fiscal year for which payments may not be made under this subsection by reason of subparagraph (A), the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in subparagraph (C).

"(C) TRANSFER TO COMBINED FUND.—The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(i) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(ii) the amount by which the amount described in clause (i) is less than $70,000,000.

"(D)(i) The aggregate amount which may be transferred under subparagraph (C) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(ii) The aggregate amount which may be transferred under subparagraph (C)(ii) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(E) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

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

(1) In subsection (a)—

(A) in paragraph (1) by striking "general welfare,";

(B) in paragraph (2) by striking "health, safety, and general welfare" and inserting "health and safety", and inserting "and" after the semicolon at the end;

(C) in paragraph (3) by striking the semicolon at the end and inserting a period; and

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

(2) In subsection (b)—

(A) by striking the heading and inserting "Water Supply Restoration.—"; and

(B) in paragraph (1) by striking "up to 30 percent of the".

(3) In subsection (c) by inserting ", subject to the approval of the Secretary," after "amendments".

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

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

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

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

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

(1) In subsection (a) by inserting "(1)" before the first sentence, and by adding at the end the following:

"(2) The Secretary may, on the Secretary's own volition, make the certification referred to in paragraph (1) on behalf of any State or Indian tribe referred to in paragraph (1) if on the basis of the inventory referred to in section 403(c) all reclamation projects relating to the priorities set forth in section 403(a) for eligible lands and water pursuant to section 404 in such State or tribe have been completed. The Secretary shall only make such certification after notice in the Federal Register and opportunity for public comment.".

(2) By adding at the end the following:

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

"(B) In this paragraph the term 'qualified State' means a State for which a certification is made under subsection (a) and in which there are public domain lands available for leasing under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

"(2) Payments to States under this subsection shall be made, without regard to any limitation in section 401(d), in the same manner as if paid under section 35 of the Mineral Leasing Act (30 U.S.C. 191) and concurrently with payments to States under that

section. The funds distributed under this section shall be referred to as the 'Cubin-Thomas Mineral Fund'.

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

SEC. 203. USE OF REVENUES FROM COASTAL PLAIN.

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

"SEC. 415. USE OF REVENUES FROM COASTAL PLAIN OF ALASKA.

"(a) COAL MINING FAIRNESS FUND.—There is established in the Treasury a separate account to be known as the 'Coal Mining Fairness Fund' (hereafter in this section referred to as the 'Account').

"(b) APPROPRIATIONS TO ACCOUNT.—

"(1) IN GENERAL.—There are hereby appropriated to the Account amounts equivalent to the amounts received by the United States as bonuses, rents, or royalties from the exploration, development, and production of the oil and gas resources of the Coastal Plain, that are not required to be otherwise paid or deposited under section 109(a) or 112(d) of the Arctic Coastal Plain Domestic Energy Security Act of 2004.

"(2) REPAYABLE ADVANCES.—

"(A) IN GENERAL.—There are hereby appropriated to the Account for each fiscal year as a repayable advance an amount equal to the excess (if any) of—

"(i) the expenditures required under subsection (c) for such year, over

"(ii) the amount appropriated by paragraph (1) for such year.

"(B) REPAYMENT OF ADVANCES.—

"(i) IN GENERAL.—Advances made to the Account shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Interior determines that moneys are available for such purposes in the Account.

"(ii) FINAL REPAYMENT.—No advance shall be made to the Account after December 31, 2007, and all advances to the Account shall be repaid on or before September 30, 2009.

"(C) RATE OF INTEREST.—Interest on advances made to the Account shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(c) EXPENDITURES.—

"(1) COMBINED FUND.—The Secretary of the Interior shall pay from the Account to the Combined Fund amounts necessary (after the payments under section 402(h)) to meet the obligations of the Combined Fund.

"(2) REFUNDS OF 2004 PREMIUMS, ETC.—Not later than December 1, 2004, the Secretary of the Interior shall pay from the Account to each specified person an amount equal to the amount of premiums or assigned operator contributions paid by such person for fiscal year 2004 to the extent such premiums and contributions have not been refunded under section 402(h)(6).

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

"(A) IN GENERAL.—At the beginning of each fiscal year after fiscal year 2004, the Secretary of the Interior shall pay from the Account to the Combined Fund an amount equal to the amount of premiums or assigned operator contributions which would (but for subparagraph (B)) be required to be paid by specified persons for such fiscal year.

"(B) WAIVER OF LIABILITY.—For waiver of liability for amounts paid under subparagraph (A), see section 9704(j) of the Internal Revenue Code of 1986.

"(4) 1992 PLAN.—The Secretary of the Interior shall pay from the Account to the 1992 Plan (as defined in section 402(h)) amounts necessary (after the appropriations under section 402(h)) to pay the amounts described in section 402(h)(4).

"(5) 1993 PLAN.—The Secretary of the Interior shall pay from the Account to the 1993 Plan amounts necessary (after the appropriations under section 402(h)) to pay the amounts described in section 402(h)(5).

"(6) QUALIFIED STATES.—

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

"(B) REALLOCATION.—The amount allocated to any qualified State under section 402(g)(1) that is paid to such qualified State as a result of a payment under subparagraph (A) shall be reallocated and available for grants under section 402(g)(5).

"(d) DEFINITIONS.—For purposes of this section—

"(1) COASTAL PLAIN.—The term 'Coastal Plain' has the meaning given that term in section 102 of the Arctic Coastal Plain Domestic Energy Security Act of 2004.

"(2) SPECIFIED PERSON.—The term 'specified person' means an assigned operator (as defined in section 9701(c)(5) of the Internal Revenue Code of 1986), a related person of such assigned operator, and a successor-in-interest of such operator or person, if according to the records of the Combined Fund such assigned operator—

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

"(B) was not—

"(i) a signatory to the 1988 or any later National Bituminous Coal Wage Agreement,

"(ii) a signatory to an agreement (other than the National Coal Mine Construction Agreement or the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions that are iden-

tical to those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(iii) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 United Mine Workers of America Benefit Plan Benefit Plan or the 1974 United Mine Workers of America Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(3) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986.

"(4) QUALIFIED STATE.—The term 'qualified State' means a State—

"(A) for which a certification is made under subsection 411(a); and

"(B) in which there are no public domain lands, in the case of a State.".

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

"415. Use of revenues from Coastal Plain of Alaska.".

SEC. 204. PROVISIONS RELATING TO THE IMPLEMENTATION OF THIS TITLE.

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

(2) Notwithstanding any other provision of law, interest credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) that is not transferred to the Combined Fund referred to in section 402(h) of such Act (30 U.S.C. 1232(h)), as amended by this Act, prior to the date of enactment of this Act shall be available in fiscal year 2004 and thereafter for the payments referred to in section 402(h)(1) of such Act (30 U.S.C. 1232(h)), as amended by this Act, in the same manner as are other amounts available for such payments.

(3) Amounts shall be available as provided in paragraphs (1) and (2) only to the extent that the amounts payable under section 402(h)(1) of such Act without regard to the limitation in section 402(h)(2) of such Act exceed such limitation.

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

(b) INVENTORY.—Within one year after the date of enactment of this Act, the Secretary of the Interior shall complete a review of all additions made, pursuant to amendments offered by States and In-

dians tribes after December 31, 1998, to the inventory referred to in section 403(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(c)) to ensure that such additions reflect eligible lands and waters pursuant to section 404 of such Act (30 U.S.C. 1234) that meet the priorities set forth in paragraphs (1) and (2) of section 403(a) of such Act (30 U.S.C. 1233(a)(1) and (2)), and are correctly identified pursuant to such priorities. Any lands or waters that were included in the inventory pursuant to the general welfare standard set forth in section 403(a) of such Act (30 U.S.C. 1233(a)) before the date of enactment of this Act that are determined in the review to no longer meet the criteria set forth in paragraphs (1) and (2) of section 403(a) of such Act, as amended by this Act, shall be removed from the inventory.

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

(d) PAYMENT OF TRIBAL.—(1) Notwithstanding any other provision of law and by not later than December 31, 2004, the Secretary of the Interior shall use amounts allocated under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (excluding interest) prior to the date of enactment of this Act for the program set forth under section 406 of that Act (30 U.S.C. 1236), but not appropriated prior to such date, to pay an amount determined in accordance with paragraph (2) to any Indian tribe that has made the certification referred to in section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a).

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

(e) REMINING.—

(1) EXTENSION OF AUTHORITY.—Section 511(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended by striking "2004" and inserting "2019".

(2) SAVINGS CLAUSE.—Except as provided in paragraph (1), nothing in this section shall be considered to modify or amend any provision of law governing coal remining.

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

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

TITLE III—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

SEC. 301. WAIVER OF PREMIUMS FOR CERTAIN OPERATORS.

(a) IN GENERAL.—Section 9704 of the Internal Revenue Code of 1986 (relating to liability of assigned operators) is amended by adding after subsection (i) the following new subsection:

"(j) WAIVER OF PREMIUMS FOR CERTAIN OPERATORS.—No premium shall be required to be paid under this section to the extent of the amount of such premium which is paid under section 415 of the Surface Mining Control and Reclamation Act of 1977."

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

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

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

(a) IN GENERAL.—Section 9704 of the Internal Revenue Code of 1986 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

"(k) PREPAYMENT OF PREMIUM LIABILITY.—

"(1) IN GENERAL.—If—

"(A) a payment meeting the requirements of paragraph (2) is made to the Combined Fund—

"(i) by or on behalf of any assigned operator which is a member of a controlled group of corporations (within the meaning of section 52(a)) the common parent of which is a corporation the shares of which are publicly traded on a United States exchange, or

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

"(B) the common parent of such group is jointly and severally liable for any premium which would (but for this subsection) be required to be paid by any such operator,

then no person (other than such common parent) shall be liable for any premium for which any operator within that controlled group of corporations would otherwise be liable.

"(2) REQUIREMENTS.—A payment meets the requirements of this paragraph if—

"(A) the amount of the payment is not less than the present value of the total premium liability of the assigned operator or operators within that controlled group of corporations for its or their assignees under this chapter with respect to the Combined Fund (as determined by the operator's enrolled actuary, as defined in section 7701(a)(35)), using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

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

"(i) the date of the actuarial valuation applicable to the report; and

"(ii) a statement by the enrolled actuary signing the report that to the best of the actuary's knowledge the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

"(C) 30 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.

"(3) USE OF PREPAYMENT.—The Combined Fund shall establish and maintain an account for each assigned operator making such payment or on behalf of which such payment was made (with earnings thereon) and use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator. Upon termination of the obligations for premium liability of any assigned operator for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such entity as may be designated by the common parent described in paragraph (1)(B).".

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

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—

"(1) Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b), provided, however, that an assigned operator who is a last signatory operator under section 9711 and a member of a controlled group of corporations (within the meaning of section 52(a)) or a related person to any assigned operator within that controlled group of corporations, that has met the requirements of section 9704(k)(1) and (2) and has provided security described in paragraph 9711(c)(2), shall be relieved of all such joint and several liability as of the date upon which such requirements are met, provided, however, that the common parent of such controlled group of corporations shall remain liable for the provision of benefits required to be provided under subsection (a) or (b).

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

"(A) the security (in the form of a bond, letter of credit or cash escrow) is provided to the trustees of the 1992 UMWA Benefit Plan, solely for the purpose of paying premiums for beneficiaries described in section 9712(b)(2)(B), equal in amount to 1 year's liability of the last signatory operator under section 9711, determined by using the average cost of such operator's liability during its prior 3 calendar years;

"(B) the security is in addition to any other security required under any other provision of this Act; and

"(C) the security remains in place for 5 years.

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

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

SEC. 303. DEFINITION OF SUCCESSOR IN INTEREST.

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

"(8) SUCCESSOR IN INTEREST.—

"(A) SAFE HARBOR.—The term 'successor in interest' shall not include any person—

"(i) who is an unrelated person to a seller; and

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

"(B) UNRELATED PERSON.—The term 'unrelated person' means a purchaser who does not bear a relationship to the seller described in section 267(b).".

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

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