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TEXT OF AMENDMENTS -- (Senate - April 16, 2002)

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SA 3132. Mr. MURKOWSKI (for himself, Mr. BREAU, and Mr. STEVENS) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 590, after line 14, insert the following:

DIVISION H--DOMESTIC ENERGY SECURITY
TITLE XIX--AMERICAN HOMELAND ENERGY SECURITY

SEC. 1901. SHORT TITLE AND PRESIDENTIAL DETERMINATION.

(a) This title may be cited as the ``American Homeland Energy Security Act of 2002''.

(b) PRESIDENTIAL NATIONAL ECONOMIC AND SECURITY INTEREST CERTIFICATION TO CONGRESS.--

(1) The provisions of this title, other than this subsection, shall take effect upon a determination by the President and certification by the President to the Senate and the House of Representatives that exploration, development, and production of the oil and gas resources of the Coastal Plain (as defined in section 1902(1) of this title) are in the national economic and security interests of the United States.

(2) The President shall base a determination under paragraph (1) upon the President's judgment of the contribution that production of the oil and gas resources of the Coastal Plain would make in--

(A) meeting the energy requirements of the United States in a time of national emergency, taking into account foreseeable military contingencies in the war on terrorism and international commitments;

(B) reducing dependence on imported foreign oil, including from Iraq and other potentially hostile nations; and

(C) creating new jobs for American men and women.

(3) The determination and certification by the President shall be made in his sole discretion and shall not be reviewable.

SEC. 1902. 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 legally 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.

(3) **KAKTOVIK.**--The term "Kaktovik" means the home of the only human residents of the Arctic National Wildlife Refuge.

SEC. 1903. 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 title 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;

(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; and

(3) to consult with the representatives of the City of Kaktovik and the Kaktovik Inupiat Corporation to ensure that the oil and gas exploration, development and production activities authorized by this title are conducted in a manner that recognizes the interests of the city, the corporation, and the residents of Kaktovik, their culture, their traditional subsistence activities, and their use of the resources of the Coastal Plain.

(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 non-leasing 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 Borough, 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 1902(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 section, 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.**--

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(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 title.

(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. 1904. 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 title; 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. 1905. 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 1904 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. 1906. 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 12 1/2 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 1903(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, except exports to Israel; 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) **ENERGY SECURITY OF ISRAEL.**--To further the purposes of paragraph (a)(8), the oil supply arrangement between the United States and Israel, as memorialized in a Memorandum of Agreement which entered into force on November 25, 1979, as extended through 2004, and the related Contingency Implementing Arrangements for the Memorandum of Agreement, as extended through 2004, are extended through 2014.

(c) **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. 1907. 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 1903, 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--

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) 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

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