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PENDING

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify the section relating to the coastal impact assistance program.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

AMENDMENT No. 0891

By Domenici - Others , ble, and

To: H. R. 6

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Page(s)

GPO: 2004 97-290(Mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DOMENICI (for himself, Mr. BINGAMAN, Ms. LANDRIEU, Mr. VITTER, and Mr. LOTT)

Viz:

- 1 Beginning on page 297, strike line 2 and all that fol-
- 2 lows through page 310, line 25, and insert the following:
- 3 **SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.**
- 4 Section 31 of the Outer Continental Shelf Lands Act
- 5 (43 U.S.C. 1356a) is amended to read as follows:
- 6 **"SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.**
- 7 **"(a) DEFINITIONS.—In this section:**
- 8 **"(1) COASTAL POLITICAL SUBDIVISION.—The**
- 9 **term 'coastal political subdivision' means a political**

1 subdivision of a coastal State any part of which po-
2 litical subdivision is—

3 “(A) within the coastal zone (as defined in
4 section 304 of the Coastal Zone Management
5 Act of 1972 (16 U.S.C. 1453)) of the coastal
6 State as of the date of enactment of the Energy
7 Policy Act of 2005; and

8 “(B) not more than 200 nautical miles
9 from the geographic center of any leased tract.

10 “(2) COASTAL POPULATION.—The term ‘coastal
11 population’ means the population, as determined by
12 the most recent official data of the Census Bureau,
13 of each political subdivision any part of which lies
14 within the designated coastal boundary of a State
15 (as defined in a State’s coastal zone management
16 program under the Coastal Zone Management Act of
17 1972 (16 U.S.C. 1451 et seq.)).

18 “(3) COASTAL STATE.—The term ‘coastal
19 State’ has the meaning given the term in section
20 304 of the Coastal Zone Management Act of 1972
21 (16 U.S.C. 1453).

22 “(4) COASTLINE.—The term ‘coastline’ has the
23 meaning given the term ‘coast line’ in section 2 of
24 the Submerged Lands Act (43 U.S.C. 1301).

1 “(5) DISTANCE.—The term ‘distance’ means
2 the minimum great circle distance, measured in stat-
3 ute miles.

4 “(6) LEASED TRACT.—The term ‘leased tract’
5 means a tract that is subject to a lease under section
6 6 or 8 for the purpose of drilling for, developing,
7 and producing oil or natural gas resources.

8 “(7) LEASING MORATORIA.—The term ‘leasing
9 moratoria’ means the prohibitions on preleasing,
10 leasing, and related activities on any geographic area
11 of the outer Continental Shelf as contained in sec-
12 tions 107 through 109 of division E of the Consoli-
13 dated Appropriations Act, 2005 (Public Law 108-
14 447; 118 Stat. 3063).

15 “(8) POLITICAL SUBDIVISION.—The term ‘polit-
16 ical subdivision’ means the local political jurisdiction
17 immediately below the level of State government, in-
18 cluding counties, parishes, and boroughs.

19 “(9) PRODUCING STATE.—

20 “(A) IN GENERAL.—The term ‘producing
21 State’ means a coastal State that has a coastal
22 seaward boundary within 200 nautical miles of
23 the geographic center of a leased tract within
24 any area of the outer Continental Shelf.

1 “(B) EXCLUSION.—The term ‘producing
2 State’ does not include a producing State, a
3 majority of the coastline of which is subject to
4 leasing moratoria, unless production was occur-
5 ring on January 1, 2005, from a lease within
6 10 nautical miles of the coastline of that State.

7 “(10) QUALIFIED OUTER CONTINENTAL SHELF
8 REVENUES.—

9 “(A) IN GENERAL.—The term ‘qualified
10 Outer Continental Shelf revenues’ means all
11 amounts received by the United States from
12 each leased tract or portion of a leased tract—

13 “(i) lying—

14 “(I) seaward of the zone covered
15 by section 8(g); or

16 “(II) within that zone, but to
17 which section 8(g) does not apply; and

18 “(ii) the geographic center of which
19 lies within a distance of 200 nautical miles
20 from any part of the coastline of any
21 coastal State.

22 “(B) INCLUSIONS.—The term ‘qualified
23 Outer Continental Shelf revenues’ includes
24 bonus bids, rents, royalties (including payments
25 for royalty taken in kind and sold), net profit

1 share payments, and related late-payment inter-
2 est from natural gas and oil leases issued under
3 this Act.

4 “(C) EXCLUSION.—The term ‘qualified
5 Outer Continental Shelf revenues’ does not in-
6 clude any revenues from a leased tract or por-
7 tion of a leased tract that is located in a geo-
8 graphic area subject to a leasing moratorium on
9 January 1, 2005, unless the lease was in pro-
10 duction on January 1, 2005.

11 “(b) PAYMENTS TO PRODUCING STATES AND COAST-
12 AL POLITICAL SUBDIVISIONS.—

13 “(1) IN GENERAL.—The Secretary shall, with-
14 out further appropriation, disburse to producing
15 States and coastal political subdivisions in accord-
16 ance with this section \$250,000,000 for each of fis-
17 cal years 2007 through 2010.

18 “(2) DISBURSEMENT.—In each fiscal year, the
19 Secretary shall disburse to each producing State for
20 which the Secretary has approved a plan under sub-
21 section (e), and to coastal political subdivisions
22 under paragraph (4), such funds as are allocated to
23 the producing State or coastal political subdivision,
24 respectively, under this section for the fiscal year.

1 “(3) ALLOCATION AMONG PRODUCING
2 STATES.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (C) and subject to subparagraph
5 (D), the amounts available under paragraph (1)
6 shall be allocated to each producing State based
7 on the ratio that—

8 “(i) the amount of qualified outer
9 Continental Shelf revenues generated off
10 the coastline of the producing State; bears
11 to

12 “(ii) the amount of qualified outer
13 Continental Shelf revenues generated off
14 the coastline of all producing States.

15 “(B) AMOUNT OF OUTER CONTINENTAL
16 SHELF REVENUES.—For purposes of subpara-
17 graph (A)—

18 “(i) the amount of qualified outer
19 Continental Shelf revenues for each of fis-
20 cal years 2007 and 2008 shall be deter-
21 mined using qualified outer Continental
22 Shelf revenues received for fiscal year
23 2006; and

24 “(ii) the amount of qualified outer
25 Continental Shelf revenues for each of fis-

1 cal years 2009 and 2010 shall be deter-
2 mined using qualified outer Continental
3 Shelf revenues received for fiscal year
4 2008.

5 “(C) MULTIPLE PRODUCING STATES.—In
6 a case in which more than 1 producing State is
7 located within 200 nautical miles of any portion
8 of a leased tract, the amount allocated to each
9 producing State for the leased tract shall be in-
10 versely proportional to the distance between—

11 “(i) the nearest point on the coastline
12 of the producing State; and

13 “(ii) the geographic center of the
14 leased tract.

15 “(D) MINIMUM ALLOCATION.—The
16 amount allocated to a producing State under
17 subparagraph (A) shall be at least 1 percent of
18 the amounts available under paragraph (1).

19 “(4) PAYMENTS TO COASTAL POLITICAL SUB-
20 DIVISIONS.—

21 “(A) IN GENERAL.—The Secretary shall
22 pay 35 percent of the allocable share of each
23 producing State, as determined under para-
24 graph (3) to the coastal political subdivisions in
25 the producing State.

1 “(B) FORMULA.—Of the amount paid by
2 the Secretary to coastal political subdivisions
3 under subparagraph (A)—
4 “(i) 25 percent shall be allocated to
5 each coastal political subdivision in the
6 proportion that—
7 “(I) the coastal population of the
8 coastal political subdivision; bears to
9 “(II) the coastal population of all
10 coastal political subdivisions in the
11 producing State;
12 “(ii) 25 percent shall be allocated to
13 each coastal political subdivision in the
14 proportion that—
15 “(I) the number of miles of
16 coastline of the coastal political sub-
17 division; bears to
18 “(II) the number of miles of
19 coastline of all coastal political sub-
20 divisions in the producing State; and
21 “(iii) 50 percent shall be allocated in
22 amounts that are inversely proportional to
23 the respective distances between the points
24 in each coastal political subdivision that
25 are closest to the geographic center of each

1 leased tract, as determined by the Sec-
2 retary.

3 “(C) EXCEPTION FOR THE STATE OF LOU-
4 ISIANA.—For the purposes of subparagraph
5 (B)(ii), the coastline for coastal political sub-
6 divisions in the State of Louisiana without a
7 coastline shall be considered to be $\frac{1}{3}$ the aver-
8 age length of the coastline of all coastal political
9 subdivisions with a coastline in the State of
10 Louisiana.

11 “(D) EXCEPTION FOR THE STATE OF
12 ALASKA.—For the purposes of carrying out
13 subparagraph (B)(iii) in the State of Alaska,
14 the amounts allocated shall be divided equally
15 among the 2 coastal political subdivisions that
16 are closest to the geographic center of a leased
17 tract.

18 “(E) EXCLUSION OF CERTAIN LEASED
19 TRACTS.—For purposes of subparagraph
20 (B)(iii), a leased tract or portion of a leased
21 tract shall be excluded if the tract or portion of
22 a leased tract is located in a geographic area
23 subject to a leasing moratorium on January 1,
24 2005, unless the lease was in production on
25 that date.

1 “(6) NO APPROVED PLAN.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B) and except as provided in subpara-
4 graph (C), in a case in which any amount allo-
5 cated to a producing State or coastal political
6 subdivision under paragraph (4) or (5) is not
7 disbursed because the producing State does not
8 have in effect a plan that has been approved by
9 the Secretary under subsection (c), the Sec-
10 retary shall allocate the undisbursed amount
11 equally among all other producing States.

12 “(B) RETENTION OF ALLOCATION.—The
13 Secretary shall hold in escrow an undisbursed
14 amount described in subparagraph (A) until
15 such date as the final appeal regarding the dis-
16 approval of a plan submitted under subsection
17 (c) is decided.

18 “(C) WAIVER.—The Secretary may waive
19 subparagraph (A) with respect to an allocated
20 share of a producing State and hold the allo-
21 cable share in escrow if the Secretary deter-
22 mines that the producing State is making a
23 good faith effort to develop and submit, or up-
24 date, a plan in accordance with subsection (c).

25 “(c) COASTAL IMPACT ASSISTANCE PLAN.—

1 “(1) SUBMISSION OF STATE PLANS.—

2 “(A) IN GENERAL.—Not later than July 1,
3 2008, the Governor of a producing State shall
4 submit to the Secretary a coastal impact assist-
5 ance plan.

6 “(B) PUBLIC PARTICIPATION.—In carrying
7 out subparagraph (A), the Governor shall solicit
8 local input and provide for public participation
9 in the development of the plan.

10 “(2) APPROVAL.—

11 “(A) IN GENERAL.—The Secretary shall
12 approve a plan of a producing State submitted
13 under paragraph (1) before disbursing any
14 amount to the producing State, or to a coastal
15 political subdivision located in the producing
16 State, under this section.

17 “(B) COMPONENTS.—The Secretary shall
18 approve a plan submitted under paragraph (1)
19 if—

20 “(i) the Secretary determines that the
21 plan is consistent with the uses described
22 in subsection (d); and

23 “(ii) the plan contains—

24 “(I) the name of the State agen-
25 cy that will have the authority to rep-

1 resent and act on behalf of the pro-
2 ducing State in dealing with the Sec-
3 retary for purposes of this section;

4 “(II) a program for the imple-
5 mentation of the plan that describes
6 how the amounts provided under this
7 section to the producing State will be
8 used;

9 “(III) for each coastal political
10 subdivision that receives an amount
11 under this section—

12 “(aa) the name of a contact
13 person; and

14 “(bb) a description of how
15 the coastal political subdivision
16 will use amounts provided under
17 this section;

18 “(IV) a certification by the Gov-
19 ernor that ample opportunity has been
20 provided for public participation in
21 the development and revision of the
22 plan; and

23 “(V) a description of measures
24 that will be taken to determine the
25 availability of assistance from other

1 relevant Federal resources and pro-
2 grams.

3 “(3) AMENDMENT.—Any amendment to a plan
4 submitted under paragraph (1) shall be—

5 “(A) developed in accordance with this
6 subsection; and

7 “(B) submitted to the Secretary for ap-
8 proval or disapproval under paragraph (4).

9 “(4) PROCEDURE.—Not later than 90 days
10 after the date on which a plan or amendment to a
11 plan is submitted under paragraph (1) or (3), the
12 Secretary shall approve or disapprove the plan or
13 amendment.

14 “(d) AUTHORIZED USES.—

15 “(1) IN GENERAL.—A producing State or coast-
16 al political subdivision shall use all amounts received
17 under this section, including any amount deposited
18 in a trust fund that is administered by the State or
19 coastal political subdivision and dedicated to uses
20 consistent with this section, in accordance with all
21 applicable Federal and State law, only for 1 or more
22 of the following purposes:

23 “(A) Projects and activities for the con-
24 servation, protection, or restoration of coastal
25 areas, including wetland.

1 “(B) Mitigation of damage to fish, wildlife,
2 or natural resources.

3 “(C) Planning assistance and the adminis-
4 trative costs of complying with this section.

5 “(D) Implementation of a federally-ap-
6 proved marine, coastal, or comprehensive con-
7 servation management plan.

8 “(E) Mitigation of the impact of outer
9 Continental Shelf activities through funding of
10 onshore infrastructure projects and public serv-
11 ice needs.

12 “(2) COMPLIANCE WITH AUTHORIZED USES.—
13 If the Secretary determines that any expenditure
14 made by a producing State or coastal political sub-
15 division is not consistent with this subsection, the
16 Secretary shall not disburse any additional amount
17 under this section to the producing State or the
18 coastal political subdivision until such time as all
19 amounts obligated for unauthorized uses have been
20 repaid or reobligated for authorized uses.

21 “(3) LIMITATION.—Not more than 23 percent
22 of amounts received by a producing State or coastal
23 political subdivision for any 1 fiscal year shall be
24 used for the purposes described subparagraphs (C)
25 and (E) of paragraph (1).”.