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Arctic National Wildlife Refuge (ANWR): Votes and Legislative Actions Since the 95th Congress

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Summary

Current law forbids the federal government from offering energy leases or from allowing activities leading to energy development in the Arctic National Wildlife Refuge (ANWR, or the Refuge) in northeastern Alaska. For several decades, a major energy debate has been whether to approve energy development in ANWR, and if so, under what conditions, or to continue to prohibit development to protect the area's biological resources. ANWR is rich in fauna, flora, and commercial oil potential. Its development has been debated for more than 50 years, and the level of debate fluctuates with gasoline and natural gas prices, terrorist attacks, infrastructure damage from hurricanes in the Gulf of Mexico, and turmoil in the Middle East.

This report provides a summary of legislative attempts to address issues of energy development and preservation in the Refuge from the 95th Congress (1977-1978) onward. (The substance of the issue is covered in other CRS reports.) There have been several periods of active congressional consideration, punctuated by periods of less activity and debate. In the 96th Congress (1979-1980), multiple floor votes occurred in the House and Senate, leading ultimately to the passage of the Alaska National Interest Lands Conservation Act (P.L. 96-487). In the 104th Congress (1995-1996), floor votes related to ANWR development measures contained in budget reconciliation bills occurred in both bodies. These led, eventually, to a presidential veto. The 107th Congress (2001-2002) saw votes in both bodies in the context of measures to address energy resources. Ultimately, no ANWR provisions were approved. In the 108th and 109th Congresses (2003-2006), multiple floor votes occurred in both the House and the Senate, in some cases over amendments that were identical in each Congress. The ANWR development provisions were considered as parts of bills concerning energy programs, budget resolutions, and defense authorization.

Although no floor votes on the Refuge occurred in the House or the Senate during the 111th Congress, in the 112th Congress, the House approved H.R. 3408 on February 16, 2012. The measure included a provision to open the 1.5 million acre Coastal Plain to energy development. On March 13, 2012, the Senate rejected S.Amdt. 1826 to S. 1813, which would have expanded drilling into areas including the ANWR Coastal Plain. No House or Senate floor votes related to the Refuge occurred in the 113th Congress.

In the 114th Congress, there were House floor votes that related to the Coastal Plain, either directly or indirectly. One amendment (H.Amdt. 961) to designate the Coastal Plain as wilderness was rejected by the House; three amendments would block funds to implement a wilderness recommendation in a Refuge planning document. No related Senate floor votes occurred in the 114th Congress.

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Background and Analysis

The Arctic National Wildlife Refuge (ANWR, or the Refuge) consists of 19 million acres in northeast Alaska. It is administered by the Fish and Wildlife Service (FWS) in the Department of the Interior (DOI). Its 1.5 million acre Coastal Plain on the North Slope of the Brooks Range is viewed by industry as one of the more likely undeveloped U.S. onshore oil and gas prospects.[1] In its last economic assessment in 2005, the U.S. Geological Survey (USGS) estimated that, at $55/barrel (bbl) in 2003 dollars ($72.26 in 2016 dollars), there is a 95% chance that 5.0 billion bbl or more could be economically recovered and a small (5%) chance that 10.9 billion bbl or more could be recovered on the federal lands in the Coastal Plain; the mean estimate was 7.3 billion bbl.[2] (For comparison, U.S. oil consumption from all sources was about 7.1 billion bbl in 2015.) There is a small chance that, taken together, the fields on this federal land could hold as much economically recoverable oil as the giant field at Prudhoe Bay, found in 1967 on the coastal plain west of ANWR.[3] That state-owned portion of the coastal plain is now estimated to have held 11 billion-13 billion barrels of oil at the time.

The Refuge, and especially its coastal plain, is home to a wide variety of plants and animals. The presence of caribou, polar bears (designated as threatened under the Endangered Species Act),[4] grizzly bears, wolves, migratory birds, and many other species in a nearly undisturbed state has led some to call the area "America's Serengeti." The Refuge and two neighboring parks in Canada have been proposed for an international park, and several species found in the area (including polar bears, caribou, migratory birds, and whales) are protected by international treaties or agreements.

The analysis below covers the history of congressional actions on this issue, with a focus on the years since the 108th Congress. See **Table 1** and **Table 2** for votes in the House and Senate from the 96th Congress through the 114th Congress.

The conflict between potentially large oil deposits and nearly pristine nature creates a dilemma: Should Congress open the area for oil and gas development, or should the area's ecosystem be given permanent protection from development? What factors should determine whether to open the area? If it is opened, how can damages be avoided, minimized, or mitigated? To what extent should Congress legislate special management of the area (if it is developed), and to what extent should federal agencies be allowed to manage the area under existing law? If Congress takes no

[1] This report will use the term *Coastal Plain* to refer to land legally designated under Section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA; P.L. 96-487) and under subsequent executive branch rulings. In lower case (*coastal plain*), the term will be used in the geographic sense (i.e., the area north of the foothills of the Brooks Range, from the Chukchi Sea in the west to the Canadian border in the east). For more on the distinction, see the report section on "The 1980s."

[2] U.S. Geological Survey (USGS), *Economics of 1998 U.S. Geological Survey's 1002 Area Regional Assessment: An Economic Update*, Open-File Report 2005-1217 (Washington, DC: 2005). See Table 4. The three figures shown here include very minor amounts of natural gas liquids, which would be produced along with any oil. As of December 2016, crude oil (Brent) was trading at about $55/bbl in 2016 dollars.

[3] See U.S. Department of the Interior, Geological Survey, *The Oil and Gas Resource Potential of the Arctic National Wildlife Refuge 1002 Area, Alaska*, 1999, 2-CD set, USGS Open File Report 98-34; and U.S. Department of the Interior, Geological Survey, *Economics of 1998 U.S. Geological Survey's 1002 Area Regional Assessment: An Economic Update*, USGS Open File Report 2005-1359, Washington, DC, 2005. Note that on-site research on any oil resources in the Coastal Plain has not been carried out since the mid-1980s, in light of the fact that development and activities leading to development are currently illegal. However, some additional modeling of older data, aided by results from exploration on nearby onshore or offshore tracts, has produced a few new interpretations from time to time. In consequence, many older publications are the best available.

[4] 16 U.S.C. 1533.

action, the Refuge remains closed to energy development, as provided in Section 1003 of P.L. 96-487.

Table 1. Votes in the House of Representatives on Energy Development Within the Arctic National Wildlife Refuge

Congress	Date	Voice/ Roll Call	Brief Description
95th			No floor votes.
96th	5/16/1979	#152	Udall-Anderson substitute for H.R. 39 adopted by House (268-157); included provisions designating all of the Refuge as wilderness.
	5/16/1979	#153	H.R. 39 passed House (360-65).
	11/12/1980	voice (unan-imous)	Senate version (leaving 1002 area development issue to a future Congress) of H.R. 39 passed House.
97th			No floor votes.
98th			No floor votes.
99th			No floor votes.
100th			No floor votes.
101st			No floor votes.
102nd			No floor votes.
103rd			No floor votes.
104th	11/17/1995	#812	House agreed (237-189) to conference report on H.R. 2491 (H.Rept. 104-350), FY1996 budget reconciliation (a large bill that included 1002 area development provisions).
105th			No floor votes.
106th			No floor votes.
107th	8/1/2001	#316	House passed Sununu amendment (H.Amdt. 297) to H.R. 4 to limit specified surface development of 1002 area to a total of 2,000 acres (228-201).
	8/1/2001	#317	House rejected Markey-Johnson (CT) amendment (H.Amdt. 298) to H.R. 4 to strike 1002 area development title (206-223).
	8/2/2001	#320	H.R. 4, an omnibus energy bill, passed House (240-189). Title V of Division F contained 1002 area development provisions.
108th	4/10/2003	#134	House passed Wilson (NM) amendment (H.Amdt. 67) to H.R. 6 to limit certain features of 1002 area development to a total of 2,000 acres (226-202).
	4/10/2003	#135	House rejected Markey-Johnson (CT) amendment (H.Amdt. 69) to H.R. 6 to strike 1002 area development title (197-228).
	4/11/2003	#145	House passed H.R. 6, a comprehensive energy bill (247-175); Division C, Title IV would have opened the 1002 area to energy development.
109th	3/17/2005	#88	House adopted (218-214) the concurrent budget resolution, H.Con.Res. 95, which included spending targets that would be difficult to achieve unless ANWR development legislation was passed.

Congress	Date	Voice/ Roll Call	Brief Description
	4/20/2005	#122	House rejected (200-231) Markey amendment (H.Amdt. 72) to strike the ANWR provision in its omnibus energy bill (H.R. 6) allowing leases for exploration, development, and production in ANWR.
	4/21/2005	#132	House passed an omnibus energy bill (H.R. 6) with an ANWR development title (249-183).
	4/28/2005	#149	House adopted (214-211) the conference report on the concurrent budget resolution, H.Con.Res. 95; it contained assumptions predicated on ANWR development.
	12/18/2005	#669	House adopted (308-106) the conference report on the Defense appropriations bill (H.R. 2863), which would have allowed oil and gas leasing in ANWR.
	12/22/2005	voice	House passed S.Con.Res. 74, which corrected the enrollment of H.R. 2863, removing the ANWR development provision.
	5/25/2006	#209	House passed H.R. 5429 to open ANWR to development (225-201).
110th	8/4/2007	#831	House rejected motion to recommit H.R. 3221 to the Energy and Commerce Committee with instructions to report back with language authorizing ANWR development (169-244).
	5/14/2008	#321	House rejected motion to instruct conferees for S.Con.Res. 70 to adjust budget levels to assume increased revenues from opening ANWR to development (185-229).
111th			No floor votes.
112th	2/16/2012	#71	House passed H.R. 3408, which included a provision to open up a portion of ANWR to oil and gas exploration and production and expand lease sales (237-187). See text.
113th			No floor votes
114th	7/7/2015	voice	House passed H.Amdt. 577 by Rep. Young (AK) to H.R. 2822 (Interior appropriations) to prevent use of funds to implement Refuge Comprehensive Conservation Plan, which recommended that Congress designate the Coast Plain as wilderness.
	2/26/2016	#99	House rejected H.Amdt. 961 by Rep. Huffman to H.R. 2406 to designate Coastal Plain of Refuge as wilderness (176-227).
	7/13/2016	#460	House approved H.Amdt. 1355 by Rep. Young (AK) to H.R. 5538 to prevent use of funds to implement Refuge Comprehensive Conservation Plan, which recommended that Congress designate the Coastal Plain as wilderness. (237-191).
	7/14/2016	#477	House passed H.R. 5538, which included H.Amdt. 1355 (above) as Section 497 (231-196).

Source: Congressional Research Service (CRS).

Table 2. Votes in the Senate on Energy Development Within the Arctic National Wildlife Refuge

Congress	Date	Voice/ Roll Call	Brief Description
95th			No floor votes.
96th	7/22-23/1980	#304	Motion to table Tsongas amendment in the nature of a substitute (which included a title to designate all of ANWR as wilderness) to H.R. 39 defeated (33-64).
	8/18/1980	#354	Senate adopted cloture motion on H.R. 39 (63-25).
	8/19/1980	#359	Senate passed Tsongas-Roth-Jackson-Hatfield substitute to H.R. 39 (78-14); this bill is current law, and leaves decision about any 1002 area development for a future Congress.
97th			No floor votes.
98th			No floor votes.
99th			No floor votes.
100th			No floor votes.
101st			No floor votes.
102nd	11/1/1991	#242	Cloture motion on S. 1220 failed; one title would have opened 1002 area to development (50-44).
103rd			No floor votes.
104th	5/24/1995	#190	Senate voted to table Roth amendment (S.Amdt. 1150) to strip 1002 area revenue assumptions from S.Con.Res. 13 (56-44).
	10/27/1995	#525	Senate voted to table Baucus amendment to strip 1002 area development provisions in H.R. 2491 (51-48).
105th			No floor votes.
106th	4/6/2000	#58	Senate voted to table Roth amendment to strip 1002 area revenue assumptions from the FY2001 budget resolution (S.Con.Res. 101) (51-49).
107th	12/3/2001	#344	Lott-Murkowski-Brownback amendment (S.Amdt. 2171) to Daschle amendment to H.R. 10 included 1002 area development title in H.R. 4, as passed by the House. A cloture motion on the amendment failed (1-94).
	4/18/2002	#71	Senate failed to invoke cloture on Murkowski amendment (S.Amdt. 3132) to S. 517, an omnibus energy bill. It contained ANWR development language similar to that in the House-passed version of H.R. 4 (46-54).
108th	3/19/2003	#59	Senate passed Boxer amendment (S.Amdt. 272) to delete certain revenue assumptions from S.Con.Res. 23, the FY2004 budget resolution; floor debate indicated that the amendment was clearly seen as a vote on developing the 1002 area (52-48).
109th	3/16/2005	#52	Senate voted to reject Cantwell amendment (S.Amdt. 168) to strike revenue assumptions from its FY2006 budget resolution (S.Con.Res. 18) that would have given procedural protection to legislation authorizing oil drilling in part of the Refuge (49-51).
	11/3/2005	#288	Senate voted to reject Cantwell amendment (S.Amdt. 2358) to its FY2006 budget reconciliation bill (S. 1932) that would have deleted the provision establishing an oil and gas leasing program in ANWR (48-51).

Congress	Date	Voice/ Roll Call	Brief Description
	12/21/2005	#364	Senate failed to invoke cloture on the conference report on the FY2006 Defense appropriations bill (H.R. 2863), which included provisions to open ANWR to development (56-44).
	12/21/2005	#365	Senate adopted a concurrent resolution (S.Con.Res. 74) that instructed the Clerk of the House to strike provisions from the conference report to H.R. 2863 that would have allowed oil drilling in the Refuge (48-45).
	3/16/2006	#74	Senate passed the FY2007 budget resolution (S.Con.Res. 83) with a reconciliation instruction (§201) directing the Committee on Energy and Natural Resources to reduce budget authority by an amount equal to assumed revenues from development in ANWR (51-49).
110th	5/13/2008	#123	Senate rejected McConnell amendment (S.Amdt. 4720) to S. 2284 to open ANWR to energy development (42-56); earlier unanimous consent agreement had raised majority for adoption of amendment to 60 votes.
111th			No floor votes.
112th	3/13/2012	#38	Senate rejected Roberts amendment (S.Amdt. 1826) (41-57; 60-vote threshold) to S. 1813, which would have opened Coastal Plain of ANWR to oil and gas drilling.
113th			No floor votes.
114th			No floor votes.

Source: CRS.

Basic information on the Refuge can be found at the FWS website, http://arctic.fws.gov/.[5] A presentation of some arguments in favor of development can be found at http://www.anwr.org, sponsored by Arctic Power, a nonprofit coalition of most groups supporting ANWR energy development. Some opponents' arguments can be found at http://www.alaskawild.org/places-we-protect/arctic-refuge/, supported by the Alaska Wilderness League, or at http://www.protectthearctic.com/, supported by the National Audubon Society. Maps of the coastal plain showing existing oil development areas on state and federal land can be found at http://dog.dnr.alaska.gov/GIS/Maps.htm.

Legislative History of the Refuge, 1957-2000

The Early Years

The energy and biological resources of northern Alaska have raised controversy for decades, from legislation in the 1970s to a 1989 oil spill from the *Exxon Valdez* at the southern terminal of the pipeline that would carry ANWR oil to markets to more recent efforts to use ANWR resources to address energy needs or to help balance the federal budget. In November 1957, DOI announced plans to withdraw lands in northeastern Alaska to create an "Arctic National Wildlife *Range*." The first group actually to propose to Congress that the area become a national wildlife range, in recognition of the many game species found in the area, was the Tanana Valley (Alaska) Sportsmen's Association in 1959. On December 6, 1960, after statehood, the Secretary of the Interior issued Public Land Order 2214 reserving the 9.5 million-acre area as the Arctic National Wildlife Range.

[5] This website and the others listed in this paragraph were last visited in December 2016.

The 1970s

In 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA, P.L. 92-203, 85 Stat. 688) to resolve all Native aboriginal land claims against the United States. ANCSA provided for monetary payments and also created Village Corporations that received the surface estate to approximately 22 million acres of lands in Alaska. Village selection rights included the right to choose the surface estate (surface rights, as opposed to rights to exploit any energy or minerals beneath the surface) in a certain amount of lands within the National Wildlife Refuge System. Under §22(g) of ANCSA, the chosen lands were to remain subject to the laws and regulations governing use and development of the particular refuge. Kaktovik Inupiat Corporation (KIC, the local Native corporation created under ANCSA, and headquartered within ANWR) received rights to three townships along the coast of the Refuge. ANCSA also created Regional Corporations, which could select subsurface rights to some lands and full title to others. Subsurface rights in national wildlife refuges were not available, but in-lieu selections to substitute for such lands were provided.

The 1980s

In 1980, Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA, P.L. 96-487, 94 Stat. 2371), which included several sections about ANWR. The Arctic Range was renamed the Arctic National Wildlife Refuge, and was expanded, mostly southward and westward, to include an additional 9.2 million acres.[6] Section 702(3) of ANILCA designated much of the original range as a wilderness area, but did not include the coastal plain.[7] ANILCA defined the *Coastal Plain* as the lands on a specified map—language that was interpreted as excluding most Native lands, even though these lands are *geographically* part of the coastal plain.[8] Section 1002 of ANILCA directed that a study of the Coastal Plain (which therefore is often referred to as the *1002 area*) and its resources be completed within five years and nine months of enactment. The resulting 1987 report was called the *1002 report* or the Final Legislative Environmental Impact Statement (FLEIS).

Section 1003 of ANILCA prohibited oil and gas development in the entire Refuge, or "leasing or other development leading to production of oil and gas from the range" unless authorized by an act of Congress.[9]

From 1990 to 2000

There were several attempts to authorize opening ANWR to energy development in the 1990s. In the 104th Congress, the FY1996 budget reconciliation bill (H.R. 2491, §§5312-5344) would have opened the 1002 area to energy development, but the measure was vetoed, as many observers had expected. President Clinton cited the Refuge sections as one of his reasons for the veto.

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[6] Additional land was added in later years, bringing the current total to 19.3 million acres. Portions of the Refuge added in 1980 and later were not included in the wilderness system.

[7] For more on wilderness designation, see CRS Report RL31447, *Wilderness: Overview, Management, and Statistics*, by Katie Hoover.

[8] See footnote 1, for the difference between *Coastal Plain* and *coastal plain*. The coastal plain stretches from the Canadian border west to Bering Strait. Its width varies from about 10 miles (at the Canadian border) to over 100 miles south of Barrow.

[9] For more on legal issues in legislation on ANWR and related developments, see archived CRS Report RL31115, *Legal Issues Related to Proposed Drilling for Oil and Gas in the Arctic National Wildlife Refuge (ANWR)*, by Pamela Baldwin.

While bills were introduced, the 105th Congress did not debate the ANWR issue. In the 106th Congress, bills to designate the 1002 area of the Refuge as wilderness and others to open the Refuge to energy development were introduced. Revenue assumptions about ANWR were included in the FY2001 budget resolution (S.Con.Res. 101) reported by the Senate Budget Committee on March 31, 2000. An amendment to remove this language was tabled. However, conferees rejected the language. The conference report on H.Con.Res. 290 did not contain these budget assumptions, and the report was passed by both chambers on April 13. S. 2557 was introduced May 16, 2000; it included a title to open the Refuge to development. Hearings were held on the bill, but a motion to proceed to consideration of the bill on the Senate floor did not pass.

Only three recorded votes relating directly to ANWR development occurred from the 101st through 106th Congresses. All were in the Senate:

- In the 104th Congress, on May 24 1995, a motion to table an amendment that would have stripped ANWR development titles from the Senate version of H.R. 2491 passed (Roll Call #190). (See above.)
- In the same Congress, on October 27, 1995, another motion to table a similar amendment to H.R. 2491 also passed (Roll Call #525).
- In the 106th Congress, the vote to table an amendment to strip ANWR revenue assumptions from the budget resolution (S.Con.Res. 101; see above) was passed (April 6, 2000; Roll Call #58).

Legislative History of the Refuge, 2001-2002

In the 107th Congress, action on ANWR development followed a complex legislative path, with similar or identical language appearing multiple times in different bills. H.R. 4, an omnibus energy bill containing ANWR development provisions, passed the House on August 2, 2001 (yeas 240, nays 189; Roll Call #320). The text of H.R. 2436 (H.Rept. 107-160, Part I) was incorporated in H.R. 4 as Title V, Division F. The measure would have opened ANWR to exploration and development. The previous day, an amendment by Representative Sununu to limit specified surface development to a total of 2,000 acres was passed (yeas 228, nays 201; Roll Call #316). Representatives Markey and Johnson (CT) offered an amendment to strike the title; this was defeated (yeas 206, nays 223; Roll Call #317). The House appointed conferees on June 12, 2002. (See below for action after Senate passage of H.R. 4.)

In the first session of the 107th Congress, Senator Lott (on behalf of himself and Senators Murkowski and Brownback) offered an amendment (S.Amdt. 2171) to an amendment on pension reform (S.Amdt. 2170) to H.R. 10. Their amendment included, among other energy provisions, the ANWR development title in H.R. 4, as passed by the House. A cloture motion was filed on the Lott amendment, and the Senate failed to invoke cloture (yeas 1, nays 94; Roll Call #344) on December 3, 2001. Instead, the Senate voted the same day in favor of invoking cloture on the underlying amendment (S.Amdt. 2170), (yeas 81, nays 15; Roll Call #345). Because cloture was invoked on the underlying amendment, Senate rules required that subsequent and pending amendments to it be germane. The Senate's presiding officer subsequently sustained a point of order against the Lott amendment, which was still pending, on the grounds that it was not germane to the underlying amendment on pension reform, and thus the amendment fell.

The next vehicle for Senate floor consideration was S. 517, which concerned energy technology development. On February 15, 2002, Senator Daschle offered an amendment (S.Amdt. 2917), an omnibus energy bill. It did not contain provisions to develop the Refuge, but two amendments (S.Amdt. 3132 and S.Amdt. 3133) to do so were offered by Senators Murkowski and Stevens,

respectively, on April 16. The language of the two amendments was, in most sections, identical to that of H.R. 4 (Division F, Title V). Key differences included a requirement for a presidential determination before development could proceed, an exception to the oil export prohibition for Israel, and a number of changes in allocation of any development revenues, as well as allowing some of those revenues to be spent without further appropriation. On April 18, the Senate essentially voted to prevent drilling for oil and gas in the Refuge. The defeat came on a vote of 46 yeas to 54 nays (Roll Call #71) on a cloture motion to block a threatened filibuster on Senator Murkowski's amendment to S. 517, which would have ended debate and moved the chamber to a direct vote on the ANWR issue.

Lacking a provision to develop ANWR, the text of S. 517, as amended, was substituted for the text of the House-passed H.R. 4, and passed the Senate (yeas 88, nays 11; Roll Call #94) on April 25, 2002. Conferees attempted to iron out the substantial differences between the two versions in the time remaining in the second session. The conference committee chairman, Representative Tauzin, indicated that the ANWR issue, as one of the most controversial parts of the bill, would be considered toward the end of the conference, after less controversial provisions. In the end, no conference agreement was reached, and H.R. 4 died at the end of the 107th Congress.

Legislative History of the Refuge, 2003-2004

Work began on FY2003 Appropriations for Interior and Related Agencies in the 107th Congress but was not completed until the 108th Congress. (A series of continuing resolutions provided funding for DOI into the 108th Congress.) In the 107th Congress, for the FY2003 Interior appropriations bill, the House Committee on Appropriations had agreed to report language on the Bureau of Land Management (BLM) energy and minerals program in general, and stated that no funds were included in the FY2003 funding bill "for activity related to potential energy development within [ANWR]" (H.Rept. 107-564, H.R. 5093). But §1003 of ANILCA prohibited "development leading to production of oil and gas" unless authorized by Congress. Thus, the committee's report language was viewed by some as barring the use of funds for pre-leasing studies and other preliminary work related to oil and gas drilling in ANWR. The report of the Senate Committee on Appropriations did not contain this prohibition.

Conferees on the FY2003 Consolidated Appropriations Resolution (P.L. 108-7), which incorporated Interior appropriations, included language in the joint explanatory statement stating that they "do not concur with the House proposal concerning funding for the [BLM] energy and minerals program." This change from the House report language was interpreted by some as potentially making available funds for preliminary work for development in ANWR. However, as noted, the prohibition contained in ANILCA remains in effect, so the ability to use money in the bill for particular pre-leasing activities was not clear.

FY2004 Reconciliation

During the 108th Congress, development proponents sought to move ANWR legislation through the FY2004 budget reconciliation process to avoid a possible Senate filibuster later in the session.[10] The House agreed to the FY2004 budget resolution (H.Con.Res. 95) on March 21 (yeas 215, nays 212; Roll Call #82). The resolution contained reconciliation instructions to the House Resources Committee for reductions, but did not specify the expected source of the savings. If the

[10] Reconciliation bills in the Senate are considered under special rules that do not permit filibusters. See CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr., and CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule"*, by Bill Heniff Jr.

House language had been adopted, ANWR development language might have been considered as part of a reconciliation measure to achieve the savings. S.Con.Res. 23, as reported by the Senate Budget Committee, stated:

> The Senate Committee on Energy and Natural Resources shall report a reconciliation bill not later than May 1, 2003, that consists of changes in laws within its jurisdiction sufficient to decrease the total level of outlays by $2,150,000,000 for the period of fiscal years 2004 through 2013.

To meet this directive, the committee would have to choose between cuts of that magnitude or reporting legislation to open ANWR to development. On March 19, 2003, Senator Boxer offered S.Amdt. 272 to delete this provision. Floor debate indicated that the Boxer amendment was clearly seen as a vote on whether to develop ANWR. The amendment passed (yeas 52, nays 48; Roll Call #59). The amended Senate version of the resolution was ultimately accepted by both House and Senate. As a result, while the Committee on Energy and Natural Resources could still have reported legislation to authorize opening the Refuge, such legislation would not have been eligible for inclusion in a reconciliation bill. Without the procedural protections associated with reconciliation, a filibuster could have been used to prevent a vote on an authorization bill.[11] In the end, the conferees on the budget resolution included no instructions to the House Resources and Senate Energy and Natural Resources Committees.

Comprehensive Energy Legislation

The House passed H.R. 6, a comprehensive energy bill, on April 11, 2003. Division C, Title IV would have opened the 1002 area to energy development. On April 10, the House had passed the Wilson (NM) amendment to H.R. 6 to limit certain features of development to a total of 2,000 acres (yeas 226, nays 202; Roll Call #134), without restricting the total number of acres that could be leased. As in the 107th Congress, Representatives Markey and Johnson (CT) offered an amendment to strike the title; this was defeated (yeas 197, nays 228; Roll Call #135). H.R. 4514 was identical to the ANWR title of the House version of H.R. 6 except in one provision on revenue disposition. In addition, one bill (H.R. 39) was introduced to open the 1002 area to development, and two bills (H.R. 770 and S. 543) were introduced to designate the 1002 area as wilderness.

The initial version of the Senate energy bill (S. 14) had no provision to open the Refuge, and Chairman Domenici stated that he did not plan to include one. After many weeks of debate in the Senate, as prospects of passage seemed to be dimming, Senators agreed to drop the bill they had been debating and to go back to the bill passed in the Senate of the 107th Congress, when the Senate was under control of the other party. On July 31, 2003, they substituted the language of that bill for that of the House-passed H.R. 6. There was widespread agreement that the unusual procedure was a means of getting the bill to conference. Members, including Chairman Domenici, indicated at the time their expectation that the bill that emerged from conference would likely be markedly different from the version of H.R. 6 that had just been passed by the Senate. One of the key differences between the two bills was the presence of ANWR development language in the House version, and its absence in the Senate version. Conference Chairman Domenici included the House title on ANWR in his working draft, but in the end, the conference committee deleted ANWR development features in the conference report (H.Rept. 108-375); the conference report was agreed to by the House on November 18, 2003 (yeas 246, nays 180; Roll Call #630); the Senate considered the measure, but a cloture vote failed (57 yeas, 40 nays; Roll Call #456) on November 21, 2003.

[11] See CRS Report RS20368, *Overview of the Congressional Budget Process*, by Bill Heniff Jr.

In the second session, the Senate turned to a more narrowly focused energy bill (S. 2095) that might have then gone to a second conference with the House; like the Senate's version of H.R. 6, this new bill did not contain ANWR development provisions. No scenario for energy legislation that was discussed publicly included provisions that would have opened the Refuge to development. However, the President's proposed FY2005 budget assumed legislation would be passed that would open the Refuge and would therefore produce revenues. The President's proposal would have assisted efforts to assume ANWR revenues in a budget resolution, and therefore aided its inclusion in a reconciliation package, as was attempted in the first session.

Legislative History of the Refuge, 2005-2006

As explained below, the Refuge debate took two basic legislative routes in the 109th Congress: (1) budget resolutions and reconciliation bills (S.Con.Res. 18, H.Con.Res. 95, S. 1932, H.R. 4241, S.Con.Res. 83, and H.Con.Res. 376), which cannot be filibustered; and (2) other bills (H.R. 6, an omnibus energy bill; H.R. 2863, Defense appropriations; and H.R. 5429, a bill in the second session to open the Refuge to development), which can be subject to filibusters. In none of these measures did Congress reach agreement to allow development.

Budget Resolutions and Reconciliation Bills

The budget resolution and reconciliation were a focus of attention, particularly in the Senate.[12] The FY2006 Senate budget resolution (S.Con.Res. 18) passed by the Senate Budget Committee included instructions to the Senate Committee on Energy and Natural Resources to "report changes in laws within its jurisdiction sufficient to reduce outlays by $33,000,000 in FY2006, and $2,658,000,000 for the period of fiscal years 2006 through 2010." The resolution assumed that the committee would report legislation to open ANWR to development, and that leasing would generate $2.5 billion in revenues for the federal government over five years. Senator Cantwell offered a floor amendment (S.Amdt. 168) on March 16, 2005, to remove these instructions. The amendment was defeated (yeas 49, nays 51; Roll Call #52). The FY2006 House budget resolution (H.Con.Res. 95, H.Rept. 109-17), while instructing the House Resources Committee to provide somewhat smaller reductions in outlays, did not include specific assumptions about ANWR revenues.

In the end, the conference agreement (H.Con.Res. 95, H.Rept. 109-62) approved by the House and Senate on April 28, 2005, contained reductions in spending targets of $2.4 billion over FY2006 to FY2010 for the House Resources and Senate Energy Committees that would have been difficult to achieve unless ANWR development legislation were passed. The inclusion of the Senate target particularly set the stage for including ANWR development legislation in a reconciliation bill, since reconciliation bills cannot be filibustered (i.e., they require only a simple majority, rather than 60 votes to stop a filibuster).

Under the Congressional Budget Act of 1974 (CBA, Titles I-IX of P.L. 93-344, as amended, 2 U.S.C. §§601-688), while the target reductions of the budget resolutions are binding on the committees, the associated assumptions are not. The Senate Energy and Natural Resources Committee chose to meet its target by recommending ANWR legislation, and the Budget Committee incorporated the recommendation as Title IV of S. 1932, the Deficit Reduction Act of

[12] For more on the budget process and budget enforcement, see CRS Report RS20368, *Overview of the Congressional Budget Process*, by Bill Heniff Jr., and CRS Report 98-815, *Budget Resolution Enforcement*, by Bill Heniff Jr. For more on ANWR and reconciliation, see out-of-print CRS Report RS22304, *ANWR and FY2006 Budget Reconciliation Legislation*, available to congressional clients upon request.

2005. There was some question procedurally as to whether Senate rules would permit ANWR legislation to be part of a reconciliation bill.[13] The House Resources Committee included ANWR legislation, and other spending reductions and offsetting collections, thereby more than meeting the Committee's targets. These measures were incorporated by the House Budget Committee into an omnibus reconciliation bill (H.R. 4241). However, before the House bill came to the floor, considerable opposition to the ANWR provision developed among a number of Republicans, 24 of whom signed a letter to the Speaker opposing its inclusion. The provision was removed before floor consideration; S. 1932 (with the text of H.R. 4241 inserted in lieu—i.e., minus an ANWR provision) passed the House on November 18, 2005 (yeas 217, nays 215; Roll Call #601). ANWR was a major issue in conference. In the end, the conference report (H.Rept. 109-362) omitted ANWR development provisions. The President signed the measure on February 8, 2006 (P.L. 109-171).

The Senate passed the FY2007 budget resolution (S.Con.Res. 83; yeas 51, nays 49; Roll Call #74; no written report) on March 16, 2006. Its sole reconciliation instruction (Section 201) directed the Committee on Energy and Natural Resources to reduce budget authority by an amount equal to predicted bonus bids, royalties, and rental revenues from ANWR development. The FY2007 budget resolution as passed by the House on May 18, 2006, did not include any such instruction (H.Con.Res. 376, H.Rept. 109-402; yeas 218, nays 210; Roll Call #158). The Senate and House, however, did not complete action on the FY2007 budget resolution, and therefore neither chamber developed or considered any subsequent reconciliation legislation.

ANWR in the Defense Appropriations Bill

As Congress moved toward the December recess, and the chance of an agreement on reconciliation with a Refuge provision seemed to fade, Senator Stevens (Chair of the Defense Appropriations Subcommittee) added an ANWR development title to the "must-pass" FY2006 Defense appropriations bill (H.R. 2863) during conference. Senators opposing Refuge development faced a choice between filibuster of the popular measure or acquiescing to opening the Refuge. Members began a filibuster, and a cloture motion failed (yeas 56, nays 44; Roll Call #364). While the conference report was approved, the relevant two Divisions (C and D) were removed through House and Senate passage of S.Con.Res. 74, correcting the enrollment of the bill (P.L. 109-148).

Omnibus and Other Energy Legislation

The House Resources Committee considered and marked up its portion of the omnibus energy bill on April 13, 2005, before the bill was introduced. The provisions, including an ANWR development title, were approved by the committee and incorporated into the House version of H.R. 6 and introduced by Representative Barton (Chair of the Energy and Commerce Committee) on April 18. During House consideration on April 20, Representatives Markey and Johnson offered an amendment (H.Amdt. 73) to strike the title; it was rejected (yeas 200, nays 231; Roll Call #122). The House passed H.R. 6 on April 21 (yeas 249, nays 183; Roll Call #132). The Senate passed its version of H.R. 6 on June 28, 2005 (yeas 85, nays 12; Roll Call #158). The Senate bill contained no ANWR development provisions. The ANWR title was omitted in the final measure (P.L. 109-58).

[13] See CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule"*, by Bill Heniff Jr.

On May 25, 2006, the House passed H.R. 5429, to open ANWR to development (yeas 225, nays 201; Roll Call #209). In nearly all respects, the bill was similar to the ANWR title in the House version of H.R. 6. The bill was not taken up by the Senate.

Legislative History of the Refuge, 2007-2008

The President's FY2008 budget proposed enacting legislation to open the Coastal Plain to oil and gas exploration and development.[14] The budget proposed that the first lease sale be held in FY2009. Under the proposal, this and subsequent sales were estimated to generate $7.0 billion in revenues over the following five years, to be divided evenly between the U.S. Treasury and the state of Alaska.

As in the 109th Congress, there was an effort in the second session to assume ANWR revenues in the budget resolution (S.Con.Res. 70). The vehicle was a motion to adjust budget levels to assume increased revenues from opening ANWR to leasing and exploration. However, on May 14, 2008, the House rejected the motion (yeas 185, nays 229; Roll Call #321). In the Senate, during debate on S. 2284 (a bill originally concerning flood insurance) on May 13, 2008, the Senate rejected the McConnell amendment (S.Amdt. 4720) to open ANWR to energy development (yeas 42 - nays 56; Roll Call #123). In addition, rising gasoline prices during 2008 intensified interest in opening ANWR to development, and a number of bills to open the Coastal Plain to development were introduced during the second session. As the session closed, falling energy prices tended to reduce interest.

Legislative History of the Refuge, 2009-2010

No bills on the Refuge received floor consideration in the 111th Congress in either the House or the Senate.

Legislative History of the Refuge, 2011-2012[15]

In the 112th Congress, House consideration of ANWR legislation was unusually complex from a parliamentary standpoint. First, the Committee on Natural Resources reported its version of H.R. 3407, providing for oil drilling on the Coastal Plain, on February 9, 2012. Then, on February 15, the House adopted H.Res. 547, a complex special rule proposed by the Committee on Rules to specify how the House would consider the proposals embodied in H.R. 3407 and several other bills. The resolution provided that the House would first take up H.R. 3408 (on development of shale oil resources), as amended with a substitute for the entire text of the measure, in advance of floor consideration. The substitute, specified by the Committee on Rules, included not only H.R. 3408 itself as reported by the Committee on Natural Resources, but also a version of H.R. 3407 (on ANWR development); H.R. 3410 (on the further development of outer continental shelf oil and gas); and H.R. 3548 (authorizing the Keystone XL pipeline, from the Committee on Energy and Commerce).[16]

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[14] U.S. Office of Management and Budget, *Analytical Perspectives, Budget of the U.S. Government, Fiscal Year 2008* (Washington, DC), p. 279. The proposed authorization for exploration and development would be separate legislation, rather than part of the Interior appropriations bill. (The proposal was not part of the FWS Budget Justification for FY2008.)

[15] This section was prepared with the assistance of Richard S. Beth, CRS Specialist on Congress and the Legislative Process.

[16] The text of all the bills covered by H.Res. 547, as the Committee on Rules proposed for them to be considered by the

After adopting H.Res. 547, the House proceeded to consider H.R. 3408 in the form specified by the resolution (which included ANWR development), and on February 16, 2012, after considering several floor amendments, passed it (yeas 237, nays 187; Roll Call #71). Pursuant to additional provisions of H.Res. 547, however, the House did not transmit its version of H.R. 3408, as amended (with the provisions on ANWR development and other subjects), to the Senate for action. Instead, H.Res. 547 provided that the House would consider first a version of H.R. 3813 (increasing the contributions of federal employees to their retirement program) and then a version of H.R. 7 (reauthorizing federal highway and transportation programs, as amended by inclusion of a version of H.R. 3864, which would have funded the programs through revenues from, among other things, offshore leasing and any federal share of ANWR revenues). H.Res. 547 did not provide for final action by the House on H.R. 7. Action on H.R. 7 would have occurred under some future special rule, to be adopted later. H.Res. 547 provided, however, that if the House had passed H.R. 3813 and H.R. 7, as well as H.R. 3408, the provisions of all three bills as passed would have been incorporated into H.R. 7, which would then have been transmitted to the Senate in that form. However, the House did not take up H.R. 3813 or H.R. 7 under the provisions of H.Res. 547. As a result, H.R. 3408 (including the ANWR development provisions and other matters) did not move forward.

On March 13, 2012, the Senate rejected S.Amdt. 1826 (Roberts, Kansas) to S. 1813 that would have opened up the Coastal Plain oil and gas drilling (yeas 41, nays 57; Roll Call #38). Under the Senate agreement of March 7, 2012, approval of the amendment would have required 60 votes in the affirmative.[17]

Legislative History of the Refuge, 2013-2014

There were no floor votes in either Chamber during the 113th Congress.

Legislative History of the Refuge, 2015-2016

On April 3, 2015, the Obama Administration issued a Comprehensive Conservation Plan (CCP) for the Refuge.[18] Although the CCP outlined management plans for the entire refuge, controversy focused on the plan's recommendation that the Coastal Plain be designated as wilderness. Such designation would require passage of legislation by Congress and signature by the President. Given the remoteness of the refuge and the existing prohibitions on energy development in Section 1003 of ANILCA, the recommendation had little effect on existing refuge management. However, concern over any possible future effects resulted in legislative efforts to ensure no effect. On July 7, 2015, the House approved H.Amdt. 577 by Representative Young (AK) on a voice vote. The amendment prevented the use of funds provided in H.R. 2822 to implement the CCP.

House, was specified by Committee's print no. 112-14, available as of March 20, 2012, on the website of the Committee on Rules at http://docs.house.gov/billsthisweek/20120213/CPRT-112-HPRT-RU00-HR7RCP.pdf. The Committee on Rules stated that the pertinent provisions of its substitute were substantially similar to the bills as reported by the committees. One purpose of linking H.R. 3407 on ANWR and H.R. 7 on surface transportation was to provide a non-tax revenue source to supplement other revenues supporting transportation programs. For a press report of this linkage, see, for example, *Energy and Environment Daily*, February 19, 2012, available at http://www.eenews.net/EEDaily/2012/02/09/2.

[17] S. 1813, without any ANWR provisions, passed the Senate on March 14, 2012 (yeas 74, nays 22; Roll Call #48).

[18] The document was published a few days later: Fish and Wildlife Service, "Record of Decision for the Arctic National Wildlife Refuge Final Comprehensive Conservation Plan/Final Environmental Impact Statement; Fairbanks, Alaska," 80 *Federal Register* 19678-19685, April 13, 2015.

Similarly, in the second session, the House approved H.Amdt. 1355, again prohibiting the use of funds provided in H.R. 5538 to implement the CCP (yeas 237, nays 191; Roll Call #460). The House then approved the bill containing the amendment (yeas 231, nays 196; Roll Call #477) on July 14, 2016.

On February 26, 2016, during consideration of H.R. 2406, Representative Huffman offered H.Amdt. 961 to designate the Coastal Plain as wilderness. The amendment was rejected (yeas 176, nays 227; Roll Call #99).

The Senate took no floor votes on the Coastal Plain during the 114th Congress.

For Additional Reading

On-site research on any oil resources in the 1002 area has not been carried out since the mid-1980s, in light of the fact that development and activities leading to development continue to be prohibited by Section 1003 of ANILCA. However, some additional modeling of older data, aided by results from exploration on nearby onshore or offshore tracts, has produced a few new interpretations from time to time. In consequence, many older publications remain useful, and are included below.

CRS Reports

CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule"*, by Bill Heniff Jr.

CRS Report 98-815, *Budget Resolution Enforcement*, by Bill Heniff Jr.

CRS Report RL31033, *Energy Efficiency and Renewable Energy Fuel Equivalents to Potential Oil Production from the Arctic National Wildlife Refuge (ANWR)*, by Fred Sissine.

CRS Report RL31115, *Legal Issues Related to Proposed Drilling for Oil and Gas in the Arctic National Wildlife Refuge (ANWR)*, by Pamela Baldwin.

CRS Report RS22326, *Legislative Maps of ANWR*, by M. Lynne Corn.

CRS Report RL32108, *North Slope Infrastructure and the ANWR Debate*, by M. Lynne Corn.

CRS Report RS22143, *Oil and Gas Leasing in the Arctic National Wildlife Refuge (ANWR): The 2,000-Acre Limit*, by M. Lynne Corn and Pamela Baldwin.

CRS Report RS20368, *Overview of the Congressional Budget Process*, by Bill Heniff Jr.

CRS Report RS20602, *Presidential Authority to Create a National Monument on the Coastal Plain of the Arctic National Wildlife Refuge, and Possible Effects of Designation*, by Pamela Baldwin.

CRS Report RL31447, *Wilderness: Overview, Management, and Statistics*, by Katie Hoover.

Other Reports

(See above comment on older reports.)

National Academy of Sciences, *Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope*, March 2003, 452 pp., at http://www.nas.edu/.

C. Nelleman and R. D. Cameron, "Cumulative Impacts of an Evolving Oil-field Complex on the Distribution of Calving Caribou," *Canadian Journal of Zoology*, vol. 76 (1998), p. 1425.

U.S. Department of the Interior, Bureau of Land Management, *Overview of the 1991 Arctic National Wildlife Refuge Recoverable Petroleum Resource Update*, April 8, 1991, 8 pp., 2 maps.

U.S. Department of the Interior, Fish and Wildlife Service, Geological Survey, and Bureau of Land Management, *Arctic National Wildlife Refuge, Alaska, Coastal Plain Resource Assessment*, Report and Recommendation to the Congress of the United States and Final Legislative Environmental Impact Statement, 1987, 208 pp.

U.S. Department of the Interior, Geological Survey, *The Oil and Gas Resource Potential of the Arctic National Wildlife Refuge 1002 Area, Alaska*, USGS Open File Report 98-34, 2-CD set, 1999.

U.S. Department of the Interior, Geological Survey, *Arctic Refuge Coastal Plain Terrestrial Wildlife Research Summaries*, Biological Science Report USGS/BRD/BSR-2002-0001.

U.S. Department of the Interior, Geological Survey, "Evaluation of additional potential development scenarios for the 1002 Area of the Arctic National Wildlife Refuge," memorandum from Brad Griffith, Assistant Leader, Alaska Cooperative Fish and Wildlife Research Unit, to Charles D. Groat, Director, U.S. Geological Survey, April 4, 2002.

U.S. Department of the Interior, Geological Survey, *Economics of 1998 U.S. Geological Survey's 1002 Area Regional Assessment: An Economic Update*, USGS Open File Report 2005-1359, 2005.

U.S. General Accounting Office,[19] *Arctic National Wildlife Refuge: An Assessment of Interior's Estimate of an Economically Viable Oil Field*, GAO/RCED-93-130, July 1993, 31 pp.

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