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SENATE

{ REPORT
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ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

JULY 24 (legislative day, JULY 10), 1995.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany H.R. 402]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 402) to amend the Alaska Native Claims Settlement Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—ALASKA NATIVE CLAIMS SETTLEMENT

SECTION 101. RATIFICATION OF CERTAIN CASWELL AND MONTANA CREEK NATIVE ASSOCIATIONS CONVEYANCES.

The conveyance of approximately 11,520 acres to Montana Creek Native Association, Inc., and the conveyance of approximately 11,520 acres to Caswell Native Association, Inc., by Cook Inlet Region, Inc. in fulfillment of the agreement of February 3, 1976, and subsequent letter agreement of March 26, 1982, among the 3 parties are hereby adopted and ratified as a matter of Federal law. The conveyances shall be deemed to be conveyances pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(2)). The group corporations for Montana Creek and Caswell are hereby declared to have received their full entitlement and shall not be entitled to receive any additional lands under the Alaska Native Claims Settlement Act. The ratification of these conveyances shall not have any effect on section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) or upon the duties and obligations of the United States to any Alaska Native Corporation. This ratification shall not be for any claim to land or money by the Caswell or Montana Creek group corporations or any other Alaska Native Corporation against the State of Alaska, the United States, or Cook Inlet Region, Incorporated.

SEC. 102. MINING CLAIMS ON LANDS CONVEYED TO ALASKA REGIONAL CORPORATIONS.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended by adding at the end the following:

“(3) This section shall apply to lands conveyed by interim conveyance or patent to a regional corporation pursuant to this Act which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to enactment of this paragraph. Effective upon the date of enactment of this paragraph, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 14(g), shall transfer to the regional corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 314 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1744), except that any filings that would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made with the appropriate regional corporation. The validity of any such mining claim or claims may be contested by the regional corporation, in place of the United States. All contest proceedings and appeals by the mining claimants of adverse decision made by the regional corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after passage of this paragraph shall be remitted to the regional corporation subject to distribution pursuant to section 7(i) of this Act, except that in the event that the mining claim or claims are not totally within the lands conveyed to the regional corporation, the regional corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim so conveyed.”.

SEC. 103. SETTLEMENT OF CLAIMS ARISING FROM HAZARDOUS SUBSTANCE CONTAMINATION OF TRANSFERRED LANDS.

The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is amended by adding at the end the following:

“CLAIMS ARISING FROM CONTAMINATION OF TRANSFERRED LANDS

“SEC. 40. (a) As used in this section the term ‘contaminant’ means hazardous substance harmful to public health or the environment, including friable asbestos.

“(b) Within 18 months of enactment of this section, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this Act. Such report shall consist of—

- “(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations;
- “(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;
- “(3) identification of existing remedies;
- “(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on the lands; and
- “(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.”.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS FOR THE PURPOSES OF IMPLEMENTING REQUIRED RECONVEYANCES.

Section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)) is amended by adding at the end the following:

“There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this Act in order that they may fulfill the reconveyance requirements of section 14(c) of this Act. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.”.

SEC. 105. NATIVE ALLOTMENTS.

Section 1431(o) of the Alaska National Interest Lands Conservation Act (94 Stat. 2542) is amended by adding at the end the following:

“(5) Following the exercise by Arctic Slope Regional Corporation of its option under paragraph (1) to acquire the subsurface estate beneath lands within the National Petroleum Reserve—Alaska selected by Kuukpik Corporation, where such subsurface estate entirely surrounds lands subject to a Native allotment application approved under 905 of this Act, and the oil and gas in such lands have been reserved to the United States, Arctic Slope Regional Corporation, at its further option and subject to the concurrence of Kuukpik Corporation, shall be entitled to receive a conveyance of the reserved oil and gas, including all rights and privileges therein reserved to the United States, in such lands. Upon the receipt of a conveyance of such oil and gas interests, the entitlement of Arctic Slope Regional Corporation to in-lieu subsurface lands under section 12(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(1)) shall be reduced by the amount of acreage determined by the Secretary to be conveyed to Arctic Slope Regional Corporation pursuant to this paragraph.”.

SEC. 106. REPORT CONCERNING OPEN SEASON FOR CERTAIN NATIVE ALASKA VETERANS FOR ALLOTMENTS.

(a) IN GENERAL.—No later than 9 months after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Agriculture, the State of Alaska and appropriate Native corporations and organizations, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report which shall include, but not be limited to, the following:

(1) The number of Vietnam era veterans, as defined in section 101 of title 38, United States Code, who were eligible for but did not apply for an allotment of not to exceed 160 acres under the Act of May 17, 1906 (chapter 2469, 34 Stat. 197), as the Act was in effect before December 18, 1971.

(2) An assessment of the potential impacts of additional allotments on conservation system units as that term is defined in section 102(4) of the Alaska National Interest Lands Conservation Act (94 Stat. 2375).

(3) Recommendations for any additional legislation that the Secretary concludes is necessary.

(b) REQUIREMENT.—The Secretary of Veterans Affairs shall release to the Secretary of the Interior information relevant to the report required under subsection (a).

SEC. 107. TRANSFER OF WRANGELL INSTITUTE.

(a) PROPERTY TRANSFER.—In order to effect a recision of the ANCSA settlement conveyance to Cook Inlet Region, Incorporated of the approximately 134.49 acres and structures located thereon (“property”) known as the Wrangell Institute in Wrangell, Alaska, upon certification to the Secretary by Cook Inlet Region, Incorporated, that the Wrangell Institute property has been offered for transfer to the City of Wrangell, property bidding credits in an amount of \$475,000, together with adjustments from January 1, 1976 made pursuant to the methodology used to establish the Remaining Obligation Entitlement in the Memorandum of Understanding Between the United States Department of the Interior and Cook Inlet Region, Incorporated dated April 11, 1986, shall be restored to the Cook Inlet Region, Incorporated, property account in the Treasury established under section 12(b) of the Act of January 2, 1976 (Public Law 94–204, 43 U.S.C. 1611 note), as amended, referred to in such section as the “Cook Inlet Region, Incorporated, property account”. Acceptance by the City of Wrangell, Alaska of the property shall constitute a waiver by the City of Wrangell of any claims for the costs of remediation related to asbestos, whether in the nature of participation or reimbursement, against the United States or Cook Inlet Region, Incorporated. The acceptance of the property bidding credits by Cook Inlet Region, Incorporated, Alaska of the property shall constitute a waiver by Cook Inlet Region, Incorporated of any claims for the costs of remediation related to asbestos, whether in the nature of participation or reimbursement, against the United States. In no event shall the United States be required to take title to the property. Such restored property bidding credits may be used in the same manner as any other portion of the account.

(b) HOLD HARMLESS.—Upon acceptance of the property bidding credits by Cook Inlet Region, Inc., the United States shall defend and hold harmless Cook Inlet Region, Incorporated, and its subsidiaries in any and all claims arising from asbestos or any contamination existing at the Wrangell Institute property at the time of transfer of ownership of the property from the United States to Cook Inlet Region, Incorporated.

SEC. 108. SHISHMAREF AIRPORT AMENDMENT.

The Shishmaref Airport, conveyed to the State of Alaska on January 5, 1967, in Patent No. 1240529, is subject to reversion to the United States, pursuant to the terms of that patent for nonuse as an airport. The Administrator of the Federal Aviation Administration is hereby directed to exercise said reverter in Patent No. 1240529 in favor of the United States within twelve months of the date of enactment of this section. Upon revesting of title, notwithstanding any other provision of law, the United States shall immediately thereafter transfer all right, title, and interest of the United States in the subject lands to the Shishmaref Native Corporation. Nothing in this section shall relieve the State, the United States, or any other potentially responsible party of liability, if any, under existing law for the cleanup of hazardous or solid wastes on the property, nor shall the United States or Shishmaref Native Corporation become liable for the cleanup of the property solely by virtue of acquiring title from the State of Alaska or from the United States.

SEC. 109. CONFIRMATION OF WOODY ISLAND AS ELIGIBLE NATIVE VILLAGE.

The Native village of Woody Island, located on Woody Island, Alaska, in the Koniag Region, is hereby confirmed as an eligible Alaska Native Village, pursuant to Section 11(b)(3) of the Alaska Native Claims Settlement Act (ANCSA). It is further confirmed that Leisnoi, Inc., is the Village Corporation, as that term is defined in Section 3(j) of ANCSA, for the village of Woody Island.

TITLE II—HAWAIIAN HOME LANDS

SEC. 201. SHORT TITLE.

This title may be cited as the “Hawaiian Home Lands Recovery Act”.

SEC. 202. DEFINITIONS.

As used in this title:

- (1) AGENCY.—The term “agency” includes—
 - (A) any instrumentality of the United States;
 - (B) any element of an agency; and
 - (C) any wholly owned or mixed-owned corporation of the United States Government.
- (2) BENEFICIARY.—The term “beneficiary” has the same meaning as is given the term “native Hawaiian” under section 201(7) of the Hawaiian Homes Commission Act.
- (3) CHAIRMAN.—The term “Chairman” means the Chairman of the Hawaiian Homes Commission of the State of Hawaii.
- (4) COMMISSION.—The term “Commission” means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act.
- (5) HAWAIIAN HOMES COMMISSION ACT.—The term “Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq., chapter 42).
- (6) HAWAII STATE ADMISSION ACT.—The term “Hawaii State Admission Act” means the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).
- (7) LOST USE.—The term “lost use” means the value of the use of the land during the period when beneficiaries or the Hawaiian Homes Commission have been unable to use lands as authorized by the Hawaiian Homes Commission Act because of the use of such lands by the Federal Government after August 21, 1959.
- (8) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 203. SETTLEMENT OF FEDERAL CLAIMS.

(a) DETERMINATION.—

- (1) The Secretary shall determine the value of the following:
 - (A) Lands under the control of the Federal Government that—
 - (i) were initially designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and
 - (ii) were nevertheless transferred to or otherwise acquired by the Federal Government.
 - (B) The lost use of lands described in subparagraph (A).
- (2)(A) Except as provided in subparagraph (B), the determinations of value made under this subsection shall be made not later than 1 year after the date of enactment of this Act. In carrying out this subsection, the Secretary shall use a method of determining value that—

- (i) is acceptable to the Chairman; and
 - (ii) is in the best interest of the beneficiaries.
- (B) The Secretary and the Chairman may mutually agree to extend the deadline for making determinations under this subparagraph beyond the date specified in subparagraph (A).
- (3) The Secretary and the Chairman may mutually agree, with respect to the determinations of value described in subparagraphs (A) and (B) of paragraph (1), to provide—
- (A) for making any portion of the determinations of value pursuant to subparagraphs (A) and (B) of paragraph (1); and
 - (B) for making the remainder of the determinations with respect to which the Secretary and the Chairman do not exercise the option described in subparagraph (A), pursuant to an appraisal conducted under paragraph (4).
- (4)(A) Except as provided in subparagraph (C), if the Secretary and the Chairman do not agree on the determinations of values made by the Secretary under subparagraphs (A) and (B) of paragraph (1), or, pursuant to paragraph (3), mutually agree to determine the value of certain lands pursuant to this subparagraph, such values shall be determined by an appraisal. An appraisal conducted under this subparagraph shall be conducted in accordance with appraisal standards that are mutually agreeable to the Secretary and the Chairman.
- (B) If an appraisal is conducted pursuant to this subparagraph, during the appraisal process—
- (i) the Chairman shall have the opportunity to present evidence of value to the Secretary;
 - (ii) the Secretary shall provide the Chairman a preliminary copy of the appraisal;
 - (iii) the Chairman shall have a reasonable and sufficient opportunity to comment on the preliminary copy of the appraisal; and
 - (iv) the Secretary shall give consideration to the comments and evidence of value submitted by the Chairman under this subparagraph.
- (C) The Chairman shall have the right to dispute the determinations of values made by an appraisal conducted under this subparagraph. If the Chairman disputes the appraisal, the Secretary and the Chairman may mutually agree to employ a process of bargaining, mediation, or other means of dispute resolution to make the determinations of values described in subparagraphs (A) and (B) of paragraph (1).
- (b) AUTHORIZATION.—
- (1) EXCHANGE.—Subject to paragraphs (2) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands in exchange for the continued retention by the Federal Government of lands described in subsection (a)(1)(A).
 - (2) VALUE OF LANDS.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government in accordance with an exchange made under paragraph (1) may not be less than the value of the lands retained by the Federal Government pursuant to such exchange.
 - (B) For the purposes of this subsection, the value of any lands exchanged pursuant to paragraph (1) shall be determined as of the date the exchange is carried out, or any other date determined by the Secretary, with the concurrence of the Chairman.
 - (3) LOST USE.—Subject to paragraphs (4) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands as compensation for the lost use of lands determined under subsection (a)(1)(B).
 - (4) VALUE OF LOST USE.—(A) the value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government as compensation under paragraph (3) may not be less than the value of the lost use of lands determined under subsection (a)(1)(B).
 - (B) For the purposes of this subparagraph, the value of any lands conveyed pursuant to paragraph (3) shall be determined as of the date that the conveyance occurs, or any other date determined by the Secretary, with the concurrence of the Chairman.
 - (5) FEDERAL LANDS FOR EXCHANGE.—(A) Subject to subparagraphs (B) and (C), Federal lands located in Hawaii that are under the control of an agency (other than lands within the National Park System or the National Wildlife Refuge System) may be conveyed to the Department of Hawaiian Home Lands under paragraphs (1) and (3). To assist the Secretary in carrying out this Act, the head of an agency may transfer to the Department of the Interior, without reimbursement, jurisdiction and control over any lands and any structures that

the Secretary determines to be suitable for conveyance to the Department of Hawaiian Home Lands pursuant to an exchange conducted under this section.

(B) No Federal lands that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admission Act may be conveyed under paragraph (1) or (3).

(C) No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to an exchange made under this paragraph to the Department of Hawaiian Home Lands.

(c) AVAILABLE LANDS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall require that lands conveyed to the Department of Hawaiian Home Lands under this Act shall have the status of available lands under the Hawaiian Home Commission Act.

(2) SUBSEQUENT EXCHANGE OF LANDS.—Notwithstanding any other provision of law, lands conveyed to the Department of Hawaiian Home Lands under this paragraph may subsequently be exchanged pursuant to section 204(3) of the Hawaiian Home Commission Act.

(3) SALE OF CERTAIN LANDS.—Notwithstanding any other provision of law, the Chairman may, at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act, designate lands to be sold. The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries. The proceeds of such a sale may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act.

(d) CONSULTATION.—In carrying out their respective responsibilities under this section, the Secretary and the Chairman shall—

(1) consult with the beneficiaries and organizations representing the beneficiaries; and

(2) report to such organizations on a regular basis concerning the progress made to meet the requirements of this section.

(e) HOLD HARMLESS.—Notwithstanding any other provision of law, the United States shall defend and hold harmless the Department of Hawaiian Home Lands, the employees of the Department, and the beneficiaries with respect to any claim arising from the ownership of any land or structure that is conveyed to the Department pursuant to an exchange made under this section prior to the conveyance to the Department of such land or structure.

(f) SCREENING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense and the Administrator of General Services shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the Chairman of any such screening of real property that is located within the State of Hawaii.

(2) RESPONSE TO NOTIFICATION.—Notwithstanding any other provision of law, not later than 90 days after receiving a notice under paragraph (1), the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening.

(3) SELECTION.—Notwithstanding any other provision of law, with respect to any real property located in the State of Hawaii that, as of the date of enactment of this Act, is being screened pursuant to applicable Federal laws for possible transfer (as described in paragraph (1)) or has been screened for such purpose, but has not been transferred or declared to be surplus real property, the Chairman may select all, or any portion of, such real property to be appraised pursuant to paragraph (4).

(4) APPRAISAL.—Notwithstanding any other provision of law, the Secretary of Defense or the Administrator of General Services shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference, or such other standard as the Chairman agrees to.

(5) REQUEST FOR CONVEYANCE.—Notwithstanding any other provision of law, not later than 30 days after the date of completion of such appraisal, the Chairman may request the conveyance to the Department of Hawaiian Home Lands of—

(A) the appraised property; or

(B) a portion of the appraised property, to the Department of Hawaiian Home Lands.

(6) CONVEYANCE.—Notwithstanding any other provision of law, upon receipt of a request from the Chairman, the Secretary of Defense or the Administrator

of the General Services Administration shall convey, without reimbursement, the real property that is the subject of the request to the Department of Hawaiian Home Lands as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).

(7) REAL PROPERTY NOT SUBJECT TO RECOUPMENT.—Notwithstanding any other provision of law, any real property conveyed pursuant to paragraph (6) shall not be subject to recoupment based upon the sale or lease of the land by the Chairman.

(8) VALUATION.—Notwithstanding any other provision of law, the Secretary shall reduce the value identified under subparagraph (A) or (B) of subsection (a)(1), as determined pursuant to such subsection, by an amount equal to the appraised value of any excess lands conveyed pursuant to paragraph (6).

(9) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

SEC. 204. PROCEDURE FOR APPROVAL OF AMENDMENTS TO HAWAIIAN HOMES COMMISSION ACT.

(a) NOTICE TO THE SECRETARY.—Not later than 120 days after a proposed amendment to the Hawaiian Homes Commission Act is approved in the manner provided in section 4 of the Hawaii State Admission Act, the Chairman shall submit to the Secretary—

- (1) a copy of the proposed amendment;
- (2) the nature of the change proposed to be made by the amendment; and
- (3) an opinion regarding whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act.

(b) DETERMINATION BY SECRETARY.—Not later than 60 days after receiving the materials required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall determine whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act, and shall notify the Chairman and Congress of the determination of the Secretary.

(c) CONGRESSIONAL APPROVAL REQUIRED.—If, pursuant to subsection (b), the Secretary determines that the proposed amendment requires the approval of Congress, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives—

- (1) a draft joint resolution approving the amendment;
- (2) a description of the change made by the proposed amendment and an explanation of how the amendment advances the interests of the beneficiaries;
- (3) a comparison of the existing law (as of the date of submission of the proposed amendment) that is the subject of the amendment with the proposed amendment;
- (4) a recommendation concerning the advisability of approving the proposed amendment; and
- (5) any documentation concerning the amendments received from the Chairman.

SEC. 205. LAND EXCHANGES.

(a) NOTICE TO THE SECRETARY.—If the Chairman recommends for approval an exchange of Hawaiian Home Lands, the Chairman shall submit a report to the Secretary on the proposed exchange. The report shall contain—

- (1) a description of the acreage and fair market value of the lands involved in the exchange;
- (2) surveys and appraisals prepared by the Department of Hawaiian Home Lands, if any; and
- (3) an identification of the benefits to the parties of the proposed exchange.

(b) APPROVAL OR DISAPPROVAL.—

(1) IN GENERAL.—Not later than 120 days after receiving the information required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall approve or disapprove the proposed exchange.

(2) NOTIFICATION.—The Secretary shall notify the Chairman, the Committee on Energy and Natural Resources of the Senate, and the Committee on Research of the House of Representatives of the reasons for the approval or disapproval of the proposed exchange.

(c) EXCHANGES INITIATED BY SECRETARY.—

(1) IN GENERAL.—The Secretary may recommend to the Chairman an exchange of Hawaiian Home Lands for Federal lands described in section 203(b)(5), other than lands described in subparagraphs (B) and (C) of such section. If the Secretary initiates a recommendation for such an exchange, the Sec-

retary shall submit a report to the Chairman on the proposed exchange that meets the requirements of a report described in subsection (a).

(2) APPROVAL BY CHAIRMAN.—Not later than 120 days after receiving a recommendation for an exchange from the Secretary under paragraph (1), the Chairman shall provide written notification to the Secretary of the approval or disapproval of a proposed exchange. If the Chairman approves the proposed exchange, upon receipt of the written notification, the Secretary shall notify the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of the approval of the Chairman of the proposed exchange.

(3) EXCHANGE.—Upon providing notification pursuant to paragraph (2) of a proposed exchange that has been approved by the Chairman pursuant to this section, the Secretary may carry out the exchange.

(d) SELECTION AND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(A) select real property that is the subject of screening activities conducted by the Secretary of Defense or the Administrator of General Services pursuant to applicable Federal laws (including regulations) for possible transfer to Federal agencies; and

(B) make recommendations to the Chairman concerning making an exchange under subsection (c) that includes such real property.

(2) TRANSFER.—Notwithstanding any other provision of law, if the Chairman approves an exchange proposed by the Secretary under paragraph (1)—

(A) the Secretary of Defense or the Administrator of General Services shall transfer the real property described in paragraph (1)(A) that is the subject of the exchange to the Secretary without reimbursement; and

(B) the Secretary shall carry out the exchange.

(3) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

(e) SURVEYS AND APPRAISALS.—

(1) REQUIREMENT.—The Secretary shall conduct a survey of all Hawaiian Home Lands based on the report entitled "Survey Needs for the Hawaiian Home Lands", issued by the Bureau of Land Management of the Department of the Interior, and dated July 1991.

(2) OTHER SURVEYS.—The Secretary is authorized to conduct such other surveys and appraisals as may be necessary to make an informed decision regarding approval or disapproval of a proposed exchange.

SEC. 206. ADMINISTRATION OF ACTS BY UNITED STATES.

(a) DESIGNATION.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall designate an individual from within the Department of the Interior to administer the responsibilities of the United States under this title and the Hawaiian Homes Commission Act.

(2) DEFAULT.—If the Secretary fails to make an appointment by the date specified in paragraph (1), or if the position is vacant at any time thereafter, the Assistant Secretary for Policy, Budget, and Administration of the Department of the Interior shall exercise the responsibilities for the Department in accordance with subsection (b).

(b) RESPONSIBILITIES.—The individual designated pursuant to subsection (a) shall, in administering the laws referred to in such subsection—

(1) advance the interests of the beneficiaries; and

(2) assist the beneficiaries and the Department of Hawaiian Home Lands in obtaining assistance from programs of the Department of the Interior and other Federal agencies that will promote homesteading opportunities, economic self-sufficiency, and social well-being of the beneficiaries.

SEC. 207. ADJUSTMENT.

The Act of July 1, 1932 (47 Stat. 564, chapter 369; 25 U.S.C. 386a) is amended by striking the period at the end and adding the following; ". *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section."

SEC. 208. REPORT.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Chairman shall report to the Secretary concerning any claims that—

(1) involve the transfer of lands designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act; and

(2) are not otherwise covered under this title.

(b) **REVIEW.**—No later than 180 days after receiving the report submitted under subsection (a), the Secretary shall make a determination with respect to each claim referred to in subsection (a), whether, on the basis of legal and equitable considerations, compensation should be granted to the Department of Hawaiian Home Lands.

(c) **COMPENSATION.**—If the Secretary makes a determination under subsection (b) that compensation should be granted to the Department of Hawaiian Home Lands, the Secretary shall determine the value of the lands and lost use in accordance with the process established under section 203(a), and increase the determination of value made under subparagraphs (A) and (B) of section 203(a)(1) by the value determined under this subsection.

SEC. 209. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for compensation to the Department of Hawaiian Home Lands for the value of the lost use of lands determined under section 203. Compensation received by the Department of Hawaiian Home Lands from funds made available pursuant to this section may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act. To the extent that amounts are made available by appropriations pursuant to this section for compensation paid to the Department of Hawaiian Home Lands for lost use, the Secretary shall reduce the determination of value established under section 203(a)(1)(B) by such amount.

PURPOSE OF THE MEASURE

The purposes of H.R. 402 are to (Title I) make technical changes to the Alaska Native Claims Settlement Act of 1971 (Public Law 92–203) and the Alaska National Interest Lands Conservation Act (Public Law 96–487) to resolve issues not envisioned at the time of passage of these acts and to provide for the conveyance of certain lands within the State of Alaska; and (Title II) to provide for the administration of the Hawaiian Homes Commission Act.

BACKGROUND AND NEED**TITLE I**

The purpose of the Alaska Native Claims Settlement Act of 1971 (ANCSA) was to help settle the aboriginal land claims of the Alaska Native people. The goals of ANCSA were two-fold: (1) to establish property rights of Alaska Natives to their aboriginal lands; and (2) to secure an economic base for their long-term survival as a people. ANCSA created 13 regional corporations and 200 village corporations, and granted the corporations 44 million acres of land and \$926.5 million. This bill is the result of a largely cooperative effort among the Alaska Federation of Natives, the State of Alaska, the administration and other interested parties to address some technical problems which have arisen since the passage of ANCSA.

TITLE II

The Hawaiian Homes Commission Act was passed by the U.S. Congress on July 9, 1921, for the purpose of “rehabilitating” Native Hawaiians by returning them to their lands through a Federally-sponsored homesteading program. Approximately 200,000 acres were set aside under the act which provides that Native Hawaiians

(defined as lineal descendants of inhabitants of the Hawaiian Islands prior to 1778, of at least 50% blood quantum) are eligible to lease Hawaiian home lands for up to 199 years.

Title to Hawaiian home lands was held by the Federal Government until Hawaii was admitted into the Union on August 20, 1959, under the Hawaii Admission Act. As a condition of admission, Congress required that the HHCA be adopted as a provision of the State constitution, thereby transferring the management and disposition of the Hawaiian home land program to the State of Hawaii. Congress must approve substantive amendments made by the State of Hawaii, the Secretary of the Interior must approve any exchange of land, and the Attorney General is authorized to sue the State if it breaches its responsibility to HHCA beneficiaries.

After admission into the Union, Hawaii's Department of Hawaiian Home Lands (the "DHHL") was vested into the authority to continue the process of providing Native Hawaiian with homestead property. Over the years, the DHHL has attempted discharge this responsibility. Many Native Hawaiians have not received leases and the Federal Government has continued to use some Hawaiian home lands for military purposes.

There has been a series of studies and reports on the administration of the program during territorial times, as well as subsequent to Statehood. Part of the focus has been on the transfers of certain parcels of land from the program to the Federal Government, whether such transfers were legal, whether there are any legal remedies, and the amount of harm, if any, suffered by the program as a result of the transfer. Title II is designed to provide equitable relief.

Title II would authorize the Secretary of the Interior to provide for the exchange of Federal land in Hawaii as a means of settling claims against the United States. Such a land exchange would be accomplished through a process overseen by the Secretary of the Interior. This legislation would also authorize the Secretary to convey lands to the DHHL as compensation for the lost use of lands initially designated as Hawaiian home lands under section 203 of the Hawaiian Homes Commission Act. Lost use would be based on the continuing Federal use of this land since Hawaii's statehood.

LEGISLATIVE HISTORY

H.R. 402 was introduced in the House of Representatives by Congressman Don Young of Alaska on January 4, 1995, and referred to the Committee on Resources. On February 8, 1995 the full Committee on Resources reported H.R. 402. H.R. 402 passed the House on March 15, 1995. Senator Murkowski introduced a companion bill, S. 537, in the Senate on March 10, 1995. The Senate Energy Committee held a hearing on H.R. 402 and S. 537 on April 27, 1995.

In the 103rd Congress, legislation containing provisions included in Title I was introduced in both the House and the Senate. The House bill, H.R. 3612 passed the House. No action was taken in the Senate. Legislation containing provisions included in Title II, S. 2174, was introduced by Senator Akaka in the 103rd Congress on June 9, 1994. The Subcommittee Mineral Resources and Development held a hearing on S. 2174 on June 16, 1994. At the business

meeting on September 21, 1994, the Committee on Energy and Natural Resources ordered S. 2174, as amended, favorably reported. S. 2174 as amended was passed by the Senate in the closing days of the 103rd Congress, but no action was taken in the House.

At the business meeting on June 28, 1995, the Committee on Energy and Natural Resources ordered H.R. 402 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on March 29, 1995, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 402, as amended as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Hatfield*	
Mr. Domenici	
Mr. Nickles*	
Mr. Craig	
Mr. Campbell	
Mr. Thomas	
Mr. Kyl	
Mr. Grams	
Mr. Jeffords	
Mr. Burns	
Mr. Johnston*	
Mr. Bumpers	
Mr. Ford*	
Mr. Bradley	
Mr. Bingaman*	
Mr. Akaka	
Mr. Wellstone	
Mr. Heflin	
Mr. Dorgan	

*Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

TITLE I—ALASKA NATIVE CLAIMS SETTLEMENT

Section 101. Ratification of certain Caswell and Montana Creek Native Association conveyances

Section 101 adopts and ratifies as a matter of Federal law an agreement between Cook Inlet Region, Inc., Caswell Native Association, Inc., and Montana Creek Native Association, Inc. This agreement conveys 11,520 acres to each Native association in fulfillment of their ANCSA land selections.

Under section 14(h)(2) of ANCSA, Native groups that did not qualify as Native villages, such as Montana Creek and Caswell, were entitled to receive "not more than 23,040 acres [of land] sur-

rounding the Native group's locality". In 1974, the Alaska Native Claims Appeal Board, Office of Hearings and Appeals certified Caswell and Montana Creek as Native groups, thus setting their village eligibility disputes. In addition, the Appeals Board held that Caswell and Montana Creek each were entitled to receive 11,520 acres of land under section 14(h)(2). In February 1976, Cook Inlet Region, Inc. (CIRI) entered into an agreement with the two Native associations to convey 11,520 acres to each association.

Ratification of this agreement will make the lands eligible for fire protection under section 22(e) of ANCSA and offer additional protection to underdeveloped lands under section 907 of ANILCA. The ratification of this agreement will not adversely impact the section 14(h) entitlements of other ANCSA corporations, nor will it be the basis for any claim by the Caswell or Montana Creek Native associations or any other ANCSA corporation, including CIRI, against the State of Alaska, the United States or CIRI.

Section 102. Mining claims after lands conveyed to Alaska Regional Corporation

This section amends ANCSA to clarify mining regulatory authority and administration of mining claims on lands conveyed to a regional corporation. This section directs the Secretary of Interior, acting through the Bureau of Land Management (BLM), to transfer the administration of certain mining claims entirely within lands conveyed to a regional corporation to the regional corporation.

When lands were transferred to regional corporations under ANCSA sections 11(a)(1), 11(a)(2) and 16, they were conveyed subject to valid existing rights, including rights to mineral entry. According to the Department of the Interior, miners who failed to meet deadlines in ANCSA to patent their mining claims also lost the right to obtain a patent from the Federal Government under the Federal Land Policy and Management Act (FLPMA). Following a 1981 court case, the BLM took the position that it no longer had jurisdiction to administer Federal mining claims on conveyed land under ANCSA. At the same time, ANCSA does not clearly authorize a regional corporation to take over the administration of mining claims on these lands. This inefficiency in Federal law resulted in confusion for BLM, the regional corporations as well as mining claimants.

This section would address this void in Federal law by expressly transferring administration of mining claims from BLM to a regional corporation on lands withdrawn under sections 11(a)(1), 11(a)(2) and 16 of ANCSA. The regional Native corporation would administer the mining claims pursuant to applicable Federal law, including the requirements of the general mining laws and section 314 of FLPMA.

The regional corporation would receive revenues from the mining claims otherwise due the United States. For mining claims not totally within the boundaries of lands conveyed to a regional corporation, the regional corporation is entitled only to that portion of revenues, other than administrative fees, reasonably allocated to that portion of the mining claim.

Section 103. Settlement of claims arising from hazardous substance contamination of transferred lands

This section adds a new section 40 to ANCSA. Under this new section, the Secretary of the Interior, in consultation with the Secretary of Agriculture, the State of Alaska and appropriate Alaska Native corporations and organizations, shall submit a report to Congress addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to ANCSA corporations. The report is due 18 months after the date of enactment of H.R. 402.

The report shall: (1) provide existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations; (2) provide existing information identifying, to the extent practicable, the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants; (3) identify existing remedies; (4) make recommendations for any additional legislation necessary to remedy the problem of contaminants on such lands; and (5) identify structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

This report will provide Congress with additional background information to consider further corrective measures, if any, for Alaska Native corporations which contend they have selected or received little title to contaminants on such lands.

This report will provide Congress with additional background information to consider further corrective measures, if any, for Alaska Native corporations which contend they selected or received title to contaminated lands in fulfillment of their ANCSA land entitlement.

It is the intention of the committee that the terms in section 103 be defined consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (Public Law 96-510).

Section 104. Authorization of appropriations for the purposes of implementing required reconveyances

Section 104 of the bill amends ANCSA to authorize appropriations to provide technical assistance to village corporations so they may implement required reconveyances under section 14(c) of the Act. This section authorizes the Secretary of Interior to provide funds for technical assistance through a grant program to any ANCSA corporation or non-profit corporations, provided they maintain in-house land planning and management capabilities.

ANCSA mandated that village corporations who are eligible to select lands under section 14(c) must reconvey various surface estates to third parties who have prior existing rights to those lands. There are 209 village who are eligible to select ANCSA lands, but to date none of these villages have received their full land entitlements. Of those village which have received partial transfers of land, between seven and 15 have completed the required reconveyances. The cost of ANCSA reconveyances will vary from village to village based on the complexities of land ownership patterns. However, the Evansville village corporation expended approximately \$10,000 to fully implement its ANCSA section 14(c) ob-

ligations. While Evansville is one of the smaller villages, other estimated total costs range from \$35,000 to \$60,000 per village to complete all necessary reconveyances. Based on its experiences with land reconveyances in the past, the Alaska Federation of Natives estimates the implementation cost of section 14(c) to be approximately \$400,000 to \$450,000 per year.

Section 105. Native allotments

Section 105 amends ANILCA to allow the Arctic Slope Regional Corporation (ASRC) to select the subsurface estate beneath Native allotments that are completely surrounded by Kuukpik Corporation selected lands within the National Petroleum Reserve—Alaska (NPR–A).

Two Native allotments in the NPR–A are surrounded by lands conveyed to the village corporation of Nuiqsut, the Kuukpik Corporation. The subsurface estate under the Nuiqsut lands has been conveyed to ASRC under ANILCA, while the subsurface estate (including rights to oil and gas) in the two Native allotments remains in control of the United States. Section 5 of H.R. 402 permits ASRC, at its option, to relinquish to the United States a portion of its entitlement under section 12(a)(1) of ANCSA in exchange for the reserved oil and gas interests of the United States beneath the two Native allotments in the NPR–A.

Any selections which would include oil and gas rights and all rights and privileges reserved to the U.S. would reduce ASRC's ANCSA section 12(a)(1) entitlement on an acre-for-acre basis. These two native allotments in the NPR–A total less than 240 acres and the exercise of this option by ASRC would consolidate ownership of the subsurface estate and eliminate isolated tracts of Federal oil and gas interests.

Section 106. Report concerning open season for certain Alaskan veterans for allotments

This section directs the Secretary of the Interior to submit to Congress within nine months of the date of enactment of H.R. 402 a report on the number of Vietnam-era veterans who were eligible but did not receive an allotment of up to 160 acres of land under the Native Allotment Act of 1906. In addition, the report is to include recommendations for any additional necessary legislation. The Secretary of the Interior by releasing any relevant information necessary to prepare the required report.

Under the Native Allotment Act of 1906, only 200 allotment applications were received by the Bureau of Indian Affairs (BIA) in Alaska before 1970. Late in 1969, the Rural Alaska Community Action Program and Alaska Legal Services along with others made a conscious effort to educate Alaska Natives on the program and assisted qualified Alaska Natives in filing applications. Over 8,000 additional applications were filed before the Act was repealed by ANCSA on December 18, 1971.

Many Alaska Natives were serving in the Armed Services during the late 60's and early 70's when the BIA opened the application process to Alaska Natives. Consequently, many of those Alaska Native veterans on active duty in Vietnam were unreachable, and

missed their opportunity to apply for their Native allotments. This section would start the process to rectify this inequity.

Section 107. Transfer of Wrangell Institute

Section 107 would allow Cook Inlet Region, Incorporated (CIRI) to receive \$475,000 in property bidding credits plus adjustments from January 1, 1976 made pursuant to the methodology used to establish the Remaining Obligation Entitlement in the Memorandum of Understanding between the United States Department of the Interior and Cook Inlet Region, Inc. dated April 11, 1986, if CIRI offers the Wrangell Institute, a former BIA boarding school, to the City of Wrangell. The formula for adjustment referred to in the Memorandum in effect applies the Consumer Price Index to inflation-proof the property bidding credit account. If the City accepts the property it waives any claims against the Federal Government or CIRI for the cost of the cleanup of the asbestos. When CIRI accepts the bidding credits, it also waives any claims against the Federal Government for the cost of the asbestos cleanup. The provision would also hold CIRI harmless for claims related to asbestos and any contamination that was on the property when it was transferred from the Federal Government to CIRI. The Wrangell Institute is a former BIA school that was conveyed to CIRI in fulfillment of the corporation's ANCSA land selections. Section 7 would eliminate any Federal obligation to clean up or remediate asbestos and other contamination on the property which was originally constructed and owned by the federal government. Under no circumstances is the United States required to take title to the property.

Section 108. Shishmaref Airport amendment

This section directs the Administrator of the Federal Aviation Administration to reacquire the interests originally conveyed pursuant to a patent of airport land in Shishmaref, Alaska, from the State of Alaska, and then transfer all right, title and interest in this airport to the Shishmaref Native Corporation. This transfer does not relieve the United States, the State of Alaska or any other potentially responsible party from liability under existing law for clean up of hazardous or solid wastes. In addition, neither the United States nor the Shishmaref Native Corporation is liable for any clean up of the site merely by virtue of acquiring title from the State or the United States under this section.

This conveyance of approximately 30 acres will allow for expansion of the village. The Committee intends that this transfer should not be charged to the entitlement of Shishmaref Native Corporation under any provision of ANCSA.

The transfer of all right, title and interest of the United States in the subject lands includes both the surface and subsurface estate.

Section 109. Confirmation of Woody Island as eligible Native Village

Section 109 confirms that Woody Island, located on Woody Island, Alaska, is an eligible Alaska Native village under Section

11(b)(3) of ANCSA and that Leisnoi, Incorporated is the Village Corporation for the village of Woody Island.

In 1974, the Bureau of Indian Affairs certified Woody Island as an eligible Native village under Section 11(b)(3) of ANCSA. Two hundred and thirty-five Alaska Natives were enrolled to the village of Woody Island. Leisnoi, Inc. was formed as the village corporation for the Native village of Woody Island. In 1980, Congress recognized Leisnoi, Inc. as a village corporation in section 1427 of ANILCA. The section authorized the exchange of certain lands and land selection rights of Leisnoi, Koniag and other villages in the Koniag Region. An individual, in the name of public interest, has recently reopened a 1976 court case challenging the eligibility of Woody Island. The lawsuit attempts to challenge, almost 20 years after the fact, the regulations promulgated by the Department of the Interior to determine the eligibility of Native villages. If those regulations were deemed invalid, then the certification of other Native villages could be called into question. The purpose of ANCSA was to settle with some rapidity and finality the aboriginal claims of the Alaska Native peoples. That goal could be thwarted if the issue of Native village eligibility is reopened 20 years after the villages have been designated. The Committee believes the public interest will be served by confirming Woody Island as an eligible village under ANCSA and Leisnoi, Inc. a valid ANCSA village corporation.

TITLE II—HAWAIIAN HOME LANDS

Section 201 identifies title II as “The Hawaiian Home Lands Recovery Act.”

Section 202 defines certain terms used in title II.

Section 203 provides for the settlement of disputed land transfers by establishing a mechanism for valuing Hawaiian home lands under the control of the Federal Government and authorizing an exchange of land based upon the determination of value.

Subsection (a) requires the Secretary of the Interior (the “Secretary”) to determine the value of home lands that were transferred or otherwise acquired by the Federal Government as well as the value of the lost use of such lands. The subsection provides that if the Secretary and the Hawaiian Homes Commission Chairman (the “Chairman”) do not agree on the determinations of value made by the Secretary, the value will be determined by appraisal. The Chairman is allowed to present evidence of value to the Secretary, comment on an appraisal of lands, and dispute the appraisal prepared by the Secretary.

Subsection (b) authorizes the Secretary to convey Federal lands to the Department of Hawaiian Home Lands (the “DHHL”). Such conveyances are in exchange for Hawaiian home lands retained by the Federal Government as well as in compensation for lost use of such lands. No land within the National Park System or the National Wildlife System, land that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admissions Act (the “Admission Act”) or Federal land that generates income are eligible for exchange.

Subsection (c) provides that lands conveyed to the DHHL shall have the status of available lands as defined under the HHCA.

Subsection (d) requires the Secretary and the Chairman to consult with the beneficiaries concerning the progress made in implementing this title.

Subsection (e) indemnifies the DHHL, its employees, and Hawaiian home beneficiaries from claims relating to Federal ownership of lands conveyed under this section.

Subsection (f) requires that the Chairman be notified of the availability of Federal lands for possible exchange and transfer to DHHL. Upon notification, the Chairman is authorized to select lands for exchange. The lands selected shall be appraised using the Uniform Standards for Federal Land Acquisition and thereafter be conveyed to DHHL. The Secretary is required to reduce the value of lands owed to DHHL by the value of land conveyed.

Section 204 sets forth the procedure for approval of amendments to the HHCA, as required by the Admission Act. The Secretary shall determine whether proposed amendments require Congressional approval under section 4 of the Admission Act. The Chairman is required to submit information to the Secretary which will assist the Secretary in making this determination. If the Secretary determines that the amendment meets the criteria in section (4) of the Admission Act and the consent of Congress is required, the Secretary shall submit a draft joint resolution, together with supporting justification, for consideration by Congress.

Section 205 establishes a process for the exchange of lands as authorized by section 204(4) of the HHCA. If an exchange of lands is requested by the Chairman, the Chairman is required to submit a report to the Secretary listing lands recommended for exchange. The Secretary must then approve or disapprove the recommendation, notifying the relevant committees of Congress of his determinations. Under this section, the Secretary may also recommend exchanges, subject to similar approval requirements. The purpose of this provision is to permit Hawaiian home lands that are of marginal use for homesteading to be exchanged for Federal land that is better suited for housing. This section also requires the Secretary to conduct a survey of Hawaiian home lands to verify the land inventory.

Section 206 requires the Secretary to designate an official to administer Federal responsibilities under the HHCA. The section charges the designated official with responsibility for advancing the interests of beneficiaries and promoting homestead opportunities, economic self-sufficiency, and social well-being.

Section 207 provides that cost sharing for reclamation projects on Hawaiian home lands shall be the same as cost sharing for projects on Indian lands.

Section 208 requires the Chairman to report to the Secretary on unresolved Hawaiian home land claims that are not covered by this title. The Secretary is authorized to review the report and determine whether compensation should be provided in the same manner as authorized for land claims covered by this title.

Section 209 authorizes appropriations to carry out the purposes of title II.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 11, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 537, a bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

Enacting S. 537 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 537.
2. Bill title: A bill to amend the Alaska Native Claims Settlement Act, and for other purposes.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on June 28, 1995.
4. Bill purpose: S. 537 would amend the Alaska Native Claims Settlement Act (ANCSA) and provide for the settlement of Native Hawaiian claims against the federal government under the Hawaiian Homes Commission Act.

Title I would allow the reconveyance of land among Alaska Native corporations and require the transfer of mining claims from the federal government to Native corporations. Additionally, Title I would authorize Cook Inlet Region, Inc. (CIRI), a Native corporation, to offer to the City of Wrangell, Alaska, certain lands in exchange for property bidding credits plus adjustments from the federal government. The United States would not hold title to nor assume responsibility for the clean up of the property; however, it would relieve the corporation from any liability associated with asbestos or other contaminants found on the property. Title I also would require the Department of the Interior (DOI) to conduct a number of studies, and would authorize the appropriation of such sums as may be necessary for DOI to provide technical assistance to Alaskan village corporations.

Title II of the bill would provide for the conveyance of federal lands in Hawaii to the Department of Hawaiian Home Lands (DHHL) in exchange for the federal government's continued use of lands set aside for the homesteading of Native Hawaiians under the Hawaiian Homes Commission Act (HHCA), 1920, and for the settlement of claims arising from the lost use, or forgone rent, of authorized HHCA lands used by the federal government after August 1959. Title II would direct DOI to determine the current value

of HHCA lands under the control of the federal government and the historic value of the lost use of HHCA lands. Title II also would authorize the appropriation of all funds necessary to settle claims for lost use of HHCA land. Federal land that generates income or would be expected to generate income for the federal government would not be available for conveyance under this act.

5. Estimated cost to the Federal Government: Enactment of S. 537 would increase discretionary spending, subject to appropriations of the necessary funds, and would result in a loss of offsetting receipts (thereby increasing direct spending) as shown in the following table.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	200
Authorizations:					
Estimated authorization level ¹	1.9	1.0	1.0	1.0	0.4
Estimated Outlays	1.4	1.2	1.0	1.0	0.5
Direct spending:					
Estimated budget authority	1.1	0	0	0	0
Estimated Outlays	1.1	0	0	0	0

¹ CBO estimates that additional appropriations would begin in fiscal year 2000 to settle any remaining claims for lost use of land under the Hawaiian Home Lands Recovery Act, but we cannot estimate that amount of this time.

The costs of this bill fall within budget functions 300 and 800.

CBO assumes that S. 537 would be enacted by the end of fiscal year 1995 and that funds would be appropriated as estimated to carry out the required activities. The requirements set forth in this bill are new and would increase DOI's costs by the amounts shown in the previous table.

6. Basis of estimate: Section 102 of S. 537 would amend the Alaska Native Claims Settlement Act to clarify that Native corporations have the authority to regulate activities on mining claims located on lands conveyed to them by the federal government. DOI estimates that in the process of transferring authority to regulate the claims to the corporations, the agency would incur a cost of about \$ 100,000 in 1996. Final conveyance of the claims to the corporations would also mean that the federal government would no longer collect any fees associated with these claims. Because DOI is currently collecting little, if anything, in fees from the claims affected by this section, we do not expect such losses to be significant.

Section 103 would require DOI to submit a report to the Congress on the presence of hazardous substances on lands conveyed to Native corporations under ANCSA. Based on information provided by DOI, we estimate that this report would cost about \$750,000 and would be completed over an 18-month period beginning in 1996.

Section 104 would authorize the appropriation of such sums as may be necessary for DOI to provide technical assistance to village corporations as they reconvey land as required under ANCSA. Based on information provided by DOI and the Alaska Federation of Natives, we estimate that technical assistance would cost about \$400,000 annually.

Section 107 would rescind the conveyance of approximately 134.5 acres of land and the structures located on the land to Cook Inlet Region, Incorporated, a native corporation, in 1977 as part of this entitlement under ANCSA. Upon offering this property to the City

of Wrangell, CIRI would receive property bidding credits in the amount of approximately \$1.1 million, even if Wrangell does not accept the offer. Of the \$1.1 million in credits, \$475,000 would represent the net price of the returned property, and approximately \$605,000 would represent consumer price index (CPI) adjustments made semiannually from January 1976 through the end of 1994. Because the property was contaminated at the time of CIRI's acquisition, the CPI adjustments would represent the interest that would have been earned had the bidding credits instead been invested. The credits would be deposited in CIRI's Treasury property account to be used to acquire federal property.

In addition, section 107 would provide that the property would be held by either the City of Wrangell, if it accepts the offer, or by CIRI, and that the holder of title would be responsible for the clean up of any asbestos or other contaminants found on the property. In no event would the United States be required to take title to the property. Section 107 also would absolve CIRI from any liability for damage claims that might result from hazardous substances found on the property.

The value of the property bidding credits would count as direct spending in the year they were issued. Correspondingly, their use by CIRI to acquire federal properties would count as offsetting receipts in the year they were used. Because the use of these credits, however, would likely displace cash sales of federal properties, their use by CIRI would result in a net loss of offsetting receipts in the year they were used. Because the use of these credits, however, would likely displace cash sales of federal properties, their use by CIRI would result in a net loss of offsetting receipts of \$1.1 million.

By relieving CIRI from sharing liability for damage claims that might arise from contamination on the returned property, enactment of this provision could increase federal exposure to liability suits. Because we have no way to predict whether such suits will in fact arise, or whether claimants would prevail in court, CBO cannot estimate either the likelihood or magnitude of such potential costs.

Section 203 of S. 537 would require DOI to determine the value of lands under the control of the federal government and the value of the lost use after August 1959 of lands that were set aside under the Hawaiian Homes Commission Act as homestead lands for Native Hawaiians. Based on information provided by DOI, we estimate that this responsibility would cost about \$625,000 per year for four years, regardless of whether a land exchange actually is completed. We assume that DOI would conduct a full and formal valuation, which the act does not explicitly call for, and the department would be granted an extension of the one-year deadline imposed by the act.

In addition, section 203 would authorize the conveyance of federal lands of DHHL as settlement of the claims determined by DOI. The value of Federal lands exchanged must be no less than the full value of all Native Hawaiian claims for land and lost use of land under HHCA. Any federal land that generates income or would be expected to generate income would not be available for conveyance. Information provided by the Department of Defense,

the Department of Navy, and the General Services Administration suggests that the properties available for conveyance could all generate income. Therefore, it is doubtful that a land exchange actually could take place, and CBO estimates that section 203 would not affect direct spending or receipts.

Section 203 also would provide that the U.S. defend and hold harmless DHHL and the beneficiaries of the conveyed lands from any claims that arise from the ownership of these properties. Enactment of this provision could increase federal exposure to liability suits. Because we have no way to predict whether such suits will arise, or whether claimants would prevail in court, CBO cannot estimate either the likelihood or magnitude of such potential costs.

Section 207 would require DOI to adjust or eliminate charges, to defer the collection of construction costs, and to forgo the assessment of reclamation project charges to native Hawaiians located on Hawaiian home lands. This provision potentially could affect both direct spending and offsetting receipts by creating new obligations for DOI while deferring or forgiving charges owed to the federal government. The Bureau of Reclamation and the U.S. Army Corps of Engineers do not have authorizations for any projects that would be affected by this provision nor are there any plans for future projects. Therefore, this provision would result in no costs to the federal government in the next five years.

Section 209 would authorize the appropriation of all necessary funds to settle claims for the value of the lost use of HCCA land. Any funds appropriated under this section would be applied against the full value of claims for the lost use of land determined by DOI under section 203. Without a valuation by DOI, CBO cannot estimate the amount of these claims. Because DOI expects that it would require four years to conduct a full valuation, we assume that any appropriations would not take place before fiscal year 2000.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that section 107 of S. 537 would increase direct spending by \$1.1 million in fiscal year 1996. Section 102 could result in a loss of offsetting receipts from fees for mining claims, but such losses would be negligible. The following table shows the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	1	0	0
Change in receipts	(1)	(1)	(1)

¹ Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: On March 8, 1995, CBO prepared a cost estimate for H.R. 402, a bill to amend the Alaska Native Claims Settlement Act, as ordered reported by the House Committee on Resources on February 15, 1995. S. 537 includes several significant changes from H.R. 402, including an amendment affecting

the conveyance of land in Wrangell, Alaska, and an amendment providing for the recovery of Hawaiian home lands.

Under section 7 of H.R. 402, CIRI would return ten acres of land along with any structures to the federal government in exchange for \$382,305 in property bidding credits. By taking title, the U.S. would assume responsibility for the clean up of the property. Section 107 of S. 537 would provide that upon CIRI's offering of approximately 134.5 acres of land plus any structures to the City of Wrangell, CIRI would receive about \$1.1 million in property bidding credits. Under S. 537, the U.S. would not assume title to the property and would not assume responsibility for the clean up of the property. If the City of Wrangell were to refuse CIRI's offer, then CIRI would retain title and the responsibility for the clean up of the property.

S. 537 also was amended to include the Hawaiian Home Lands Recovery Act as Title II of the bill. H.R. 402 does not contain any such provision.

11. Estimate prepared by: John R. Righter.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 402. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Some additional paperwork would result from the enactment of H.R. 402 due to studies required under Section 103 and Section 106 of the bill, as ordered reported.

EXECUTIVE COMMUNICATIONS

On July 11, 1995, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 402, as ordered reported. These reports had not been received at the time the report on H.R. 402 was filed. When these reports become available, the Chair will request that they be printed in the Congressional Record for the advice of the Senate. The statement of the Department of the Interior presented at the Committee's hearing on H.R. 402 is set forth below:

STATEMENT OF DEBORAH WILLIAMS, SPECIAL ASSISTANT TO THE SECRETARY FOR ALASKA, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on S. 537 and H.R. 402, to amend the Alaska Native Claims Settlement Act (ANCSA). The Department of the Interior has worked dili-

gently and cooperatively with the Alaska Federation of Natives, the State and others on seven of the eight amendments. After careful analysis, we support four of the amendments as written, we support three of the amendments with minor modifications, and we oppose one of the amendments.

Section 1 ratifies certain conveyances by Cook Inlet Region, Inc. (CIRI) to two Native groups. In 1974, Montana Creek Native Association, Inc. (MCNA) and Caswell Native Association, Inc. (CNA) withdrew their applications for village status then pending before the Department. Instead of applying for a withdrawal and selecting lands, the two groups and Cook Inlet Region, Inc. (CIRI) entered into an agreement. CIRI conveyed 11,520 acres to each group. Under the Department's regulations, each group would have been eligible for a maximum of 7,680 acres. CIRI has requested that the conveyances from it to the groups be ratified by Congress and that the groups' lands be treated as land conveyed pursuant to ANCSA.

This amendment would make the lands eligible for fire protection under section 22(e) of ANCSA, 43 U.S.C. § 1621(e), and eligible for a land bank status under section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), 43 U.S.C. § 1636, as amended. The Department supports the ratification of CIRI's transfer. It is important for the record to note that this amendment does not reduce any section 14(h) entitlements of the other ANCSA corporations.

The purpose of section 2 is to clarify who has regulatory authority over mining claims after the lands have been conveyed to Alaska Regional Corporations. When lands were patented to the Regional Corporations under the provisions of ANCSA sections 11(a)(1), 11(a)(2) and 16, they were conveyed "subject to valid existing rights." This included valid mining claims. Under the holding in *Alaska Miners v. Andrus*, 662 F.2d 577 (9th Cir. 1981), miners were not compelled to file for patent on such claims, but by failing to apply for a patent in the time permitted by ANCSA, mining claimants lost the right to obtain a patent to their mining claims from the Federal government. After the transfer of title to a Native Regional Corporation, the BLM cannot accept FLPMA filings on such mining claims or accept annual rental payments. This has created confusion about mining regulatory authority over these mining claims.

Under this amendment, the Regional Corporations are explicitly given the authority to regulate the mining claims under the laws of the United States, as such laws are amended. Adoption of the legislation would have the desired effect of bringing clarity to the relationship between the miner/inholder and the Regional Corporation.

Section 3 deals with the settlement of claims arising from hazardous substance contamination of transferred lands. Native corporations have selected and the United

States has conveyed lands which contain contaminants. The nature of the contamination may come in various forms, including residue from abandoned upstream mining operations, and in many cases substances now considered contaminants were not so considered at the time of the transfer. The Alaska Federation of Natives contends that it is unfair for the Regional Corporations to shoulder the entire burden of cleaning up contaminated sites where the contamination is not the fault of the Native Corporations. However, we have insufficient information at this time to address this issue. We support the provision for a study to develop recommendations on how to deal with the problem.

While we support the basic terms of the section, we recommend refinements which we believe are important to the effectiveness of the provision. We believe the section should be consistent with the terms in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601, et seq. Two different terms are used in the operable portion of the study, "contaminants", which is defined in the proposed revision to ANCSA subsection 40(a)(1), and "hazardous substances", which is not defined. Since both terms are already defined and understood in law, it makes sense to adopt a single, widely-used definition for both terms. Subsection (a)(1) should read:

(1) The term "contaminant" means hazardous substance(s), pollutants, or contaminants as defined in Public Law 96-510, Title I, § 101, Dec. 11, 1980, 94 Stat. 2767, as amended, 42 U.S.C. §9601 (14) and (33).

Subsection (b) should be amended for consistency and because the required report must address contaminants and not just hazardous substances, to replace the term "hazardous substances" on page 5, line 8, with the term "contaminants".

We recommend the definition of the term "lands" be deleted in section 40(a) on page 4. We believe it is unnecessary and potentially confusing because the word "lands" is fully described in subsection 40(b), and subsections 40(b)(1)-(4) refer back to that description through the use of the term "such lands."

Subsection (b)(2) should be amended by adding the word "on" after "existing information." This small but important word makes a substantial difference in terms of personnel time and money. With the word, the report is required to state where the information is located. Without the word, the statutory directive will be to list all available information in the report, wherever it may exist.

Subsection (b)(2), page 5, line 16, should be amended by changing the term "amelioration" to "remediation", since "remediation", like "removal", is a term used in CERCLA, while "amelioration" is not.

If these changes are not feasible, we strongly suggest that this section should be revised to include the word “friable” before “asbestos” in section 40(a)(1). Properly installed and maintained asbestos is not a health or safety hazard. Many of the buildings in Alaska contained asbestos and are still in regular use without violating any law or regulation. The U.S. Court of Appeals has held that there is no liability under CERCLA for asbestos that is properly contained or maintained. The regulations of the Environmental Protection Agency and the Occupational Safety and Health Administration regard asbestos free in the air as a hazard, but do not consider properly used asbestos products to be a hazard. Therefore, since the purpose of section 3 is to inventory hazardous sites on lands conveyed to Native Corporations, it is appropriate to include the term “friable” so that nonhazardous situations are not included in the survey, thus decreasing its utility.

Section 4 authorizes appropriations to provide technical assistance to villages for section 14(c) reconveyances. ANCSA section 14(c) requires village corporations to reconvey certain lands within their patented selections. The problems associated with the reconveyance of lands to individuals and municipalities within the village patents are complex and technically difficult. We support section 4.

Section 5 will permit conveyance to the Arctic Slope Regional Corporation (ASRC) of the federally owned oil and gas estate under two Native allotments for the purpose of consolidating subsurface interests in the area and eliminating isolated tracts of public land. Two Native allotments in the National Petroleum Reserve—Alaska (NPR—A), totaling less than 240 acres, are surrounded by lands conveyed to the village corporation of Nuiqsut. The subsurface estate under Nuiqsut village lands has been conveyed to Arctic Slope Regional Corporation (ASRC), pursuant to the Alaska National Interest Lands Conservation Act. In the absence of this amendment, the United States is expected to own the oil and gas estate under the two allotments.

Any oil and gas recoverable from the Native allotment subsurface would, in all likelihood, have only a limited market in Nuiqsut. The lands have not been deemed valuable for coal. The State of Alaska has consented to the transfer of the reserved minerals to the Corporation. Furthermore, this amendment would not result in a net loss of subsurface estate to the United States. We support this technical amendment.

Section 6 directs that the Secretary of the Interior submit a report on the number of Vietnam era veterans who were eligible for but did not apply for an allotment under the Alaska Native Allotment Act of 1906. While we support this provision, we believe nine months is, at a minimum, the amount of time necessary to prepare the report.

Section 7 provides for the return of the Wrangell Institute buildings, and ten acres of land on which they are sit-

uated, from Cook Inlet Region, Inc. (CIRI) to the United States. The Wrangell Institute site was originally withdrawn in 1956 for the administration of Native Affairs. That use terminated with the passage of ANCSA. The property was excessed by the BIA to the GSA in 1975, and subsequently, thirty-one acres were transferred to the city of Wrangell. In 1977, CIRI requested that the remaining 140 acres be made available for selection. CIRI was issued a revocable license on May 11, 1977. In August 1978, this land and the buildings thereon were the subject of an interim conveyance to CIRI.

Asbestos products were properly used in construction of the buildings and were properly maintained at the time of conveyance, a fact which is not unique to the situation. It is specifically the Department's position that the asbestos was not considered a pollutant at the time of transfer, and it was not friable. CIRI had the option of appropriately containing the asbestos, as opposed to abandoning the building, but did not do so. It is our understanding that the asbestos became friable after the building was abandoned.

Furthermore, CIRI had the fullest opportunity to evaluate the Wrangell property prior to selecting it, having held a revocable license to the property for over one year prior to conveyance, for this purpose. CIRI is seeking a credit to its property account in the amount of \$382,305, the estimated worth of the property. In addition to the costs of supplementing the CIRI property account, the United States would have to assume the liability for the clean up of the property, which could include the destruction and removal of all buildings on the property which have deteriorated since the cessation of maintenance by CIRI.

The Department cannot support the relief sought for CIRI. Under the facts, we do not believe CIRI is entitled to the relief sought, and to do so would require relief for others similarly situated. We are not in a position to assume that very extensive liability at this time. It is the Department's understanding, for example, that there are over 200 other conveyed buildings across the State which contained non-friable asbestos. We do not believe that as a matter of law the United States must reimburse CIRI for its investment or hold them harmless for the time of their ownership. Moreover, it is not feasible to reimburse all entities to whom the United States has conveyed buildings that contained non-friable asbestos, or who may not be satisfied with their land. We do not support this amendment. It is our understanding that the General Services Administration also opposes this amendment for similar reasons.

In short, we have serious concerns with this section, both on the facts of the particular case, and because of the precedent it would set. Although we do not support section 7, the Department does support reviewing the Wrangell Institute situation in the context of the section 3 contamination study discussed earlier in these comments. We be-

lieve that this is the more appropriate course of action under the circumstances, and it would place CIRI in the same position as other Alaska Native Corporations with respect to consideration of the circumstance involving the presence of any contaminants, and identification of possible remedies.

Section 8 of the bill would allow the Department to reacquire Shishmaref Airport, originally conveyed to the State of Alaska, and to immediately transfer it to the Shishmaref Native Corporation. The bill fairly apportions any potential liability for cleanup of hazardous or solid wastes on property.

To facilitate the reconveyance, we recommend the following amendment to section 8: beginning at page 9, line 21, delete the words after "airport." on line 21, through "and," on line 23, and revise to read as follows (new matter italic):

. . . airport. The Administrator of the Federal Aviation Administration is hereby directed to exercise said reverter in Patent No. 1240529 in favor of the United States within twelve months of the date of enactment of this section. Upon revesting of title, notwithstanding any other provision of law, the Secretary shall . . .

This is a preferable means of executing the transfer, and the Secretary is not called upon to reacquire the land. With this revision, the Department supports the section.

In summary, we believe that the Alaska Federation of Natives, the State of Alaska, and the Department have worked cooperatively and productively on H.R. 402 and S. 537. With the changes I have mentioned today, the Department supports the passage of S. 537.

Thank you again, Mr. Chairman, for providing the Department of the Interior the opportunity to testify. I will be pleased to respond to questions at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that the following changes in existing law are made by H.R. 402, as ordered reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

* * * * *

CONVEYANCE OF LANDS

SEC. 14. (a) * * *

* * * * *

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:

(1) * * *

* * * * *

There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this Act in order that they may fulfill the reconveyance requirements of section 14(c) of this Act. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

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MISCELLANEOUS

SEC. 22. (a) * * *

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(c)(1) * * *

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(3) This section shall apply to lands conveyed by interim conveyance or patent to a regional corporation pursuant to this Act which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to enactment of this paragraph. Effective upon the date of the enactment of this paragraph, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 14(g) of this Act, shall transfer to the regional corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 314 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1744), except that any filings which would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made to the appropriate regional corporation. The validity of any such mining claim or claims may be contested by the regional corporation, in the place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the regional corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after passage of this paragraph shall be remitted to the regional corporation subject to distribution pursuant to section 7(i) of this Act, except that in the event that the mining claim or claims are not totally within the lands conveyed to the regional corporation, the regional corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim or claims so conveyed.

* * * * *

CLAIMS ARISING FROM CONTAMINATION OF TRANSFERRED LANDS

SEC. 40. (a) As used in this section the term "contaminant" means hazardous substances harmful to public health or the environment, including asbestos.

(b) Within 18 months of enactment of this section, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this Act. Such report shall consist of—

- (1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations;
- (2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;
- (3) identification of existing remedies;
- (4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on such lands; and
- (5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

SECTION 1431 OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

ARCTIC SLOPE REGIONAL CORPORATION LANDS

SEC. 1431. (a) * * *

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(o) Future Option To Exchange Etc.—(1) * * *

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(5) Following the exercise by Arctic Slope Regional Corporation of its option under paragraph (1) to acquire the subsurface estate beneath lands within the National Petroleum Reserve—Alaska selected by Kuukpik Corporation, where such subsurface estate entirely surrounds lands subject to a Native allotment application approved under section 905 of this Act, and the oil and gas in such lands have been reserved to the United States, Arctic Slope Regional Corporation, at its further option and subject to the concurrence of Kuukpik Corporation, shall be entitled to receive a conveyance of the reserved oil and gas, including all rights and privileges therein reserved to the United States, in such lands. Upon the receipt of a conveyance of such oil and gas interests, the entitlement of Arctic Slope Regional Corporation to in-lieu subsurface lands under section 12(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(1)) shall be reduced by the amount of acreage determined

by the Secretary to be conveyed to Arctic Slope Regional Corporation pursuant to this paragraph.

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