

Calendar No. 154

104TH CONGRESS
1ST SESSION

H. R. 402

[Report No. 104-119]

AN ACT

To amend the Alaska Native Claims Settlement Act, and for other purposes.

JULY 24 (legislative day, JULY 10), 1995
Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 1995

Received; read twice and referred to the Committee on Energy and Natural
Resources

JULY 24 (legislative day, JULY 10), 1995

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Alaska Native Claims Settlement Act, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. RATIFICATION OF CERTAIN CASWELL AND**
4 **MONTANA CREEK NATIVE ASSOCIATIONS**
5 **CONVEYANCES.**

6 The conveyance of approximately 11,520 acres to
7 Montana Creek Native Association, Inc., and the convey-
8 ance of approximately 11,520 acres to Caswell Native As-

1 sociation, Inc., by Cook Inlet Region, Inc. in fulfillment
2 of the agreement of February 3, 1976, and subsequent
3 letter agreement of March 26, 1982, among the three par-
4 ties are hereby adopted and ratified as a matter of Federal
5 law. These conveyances shall be deemed to be conveyances
6 pursuant to section 14(h)(2) of the Alaska Native Claims
7 Settlement Act (43 U.S.C. 1613(h)(2)). The group cor-
8 porations for Montana Creek and Caswell are hereby de-
9 clared to have received their full entitlement and shall not
10 be entitled to the receipt of any additional lands under
11 the Alaska Native Claims Settlement Act. The ratification
12 of these conveyances shall not have any other effect upon
13 section 14(h) of the Alaska Native Claims Settlement Act
14 (43 U.S.C. 1613(h)) or upon the duties and obligations
15 of the United States to any Alaska Native Corporation.
16 This ratification shall not be the basis for any claim to
17 land or money by Caswell or Montana Creek group cor-
18 porations or any other Alaska Native Corporation against
19 the State of Alaska, the United States, or Cook Inlet Re-
20 gion, Incorporated.

21 **SEC. 2. MINING CLAIMS AFTER LANDS CONVEYED TO ALAS-**
22 **KA REGIONAL CORPORATION.**

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

1 “(3) This section shall apply to lands conveyed by in-
2 terim conveyance or patent to a regional corporation pur-
3 suant to this Act which are made subject to a mining claim
4 or claims located under the general mining laws, including
5 lands conveyed prior to enactment of this paragraph. Ef-
6 fective upon the date of the enactment of this paragraph,
7 the Secretary, acting through the Bureau of Land Man-
8 agement and in a manner consistent with section 14(g)
9 of this Act, shall transfer to the regional corporation ad-
10 ministration of all mining claims determined to be entirely
11 within lands conveyed to that corporation. Any person
12 holding such mining claim or claims shall meet such re-
13 quirements of the general mining laws and section 314
14 of the Federal Land Management and Policy Act of 1976
15 (43 U.S.C. 1744), except that any filings which would
16 have been made with the Bureau of Land Management
17 if the lands were within Federal ownership shall be timely
18 made to the appropriate regional corporation. The validity
19 of any such mining claim or claims may be contested by
20 the regional corporation, in the place of the United States.
21 All contest proceedings and appeals by the mining claim-
22 ants of adverse decisions made by the regional corporation
23 shall be brought in Federal District Court for the District
24 of Alaska. Neither the United States nor any Federal
25 agency or official shall be named or joined as a party in

1 “(b) Within 18 months of enactment of this section,
2 and after consultation with the Secretary of Agriculture,
3 State of Alaska, and appropriate Alaska Native corpora-
4 tions and organizations, the Secretary shall submit to the
5 Committee on Resources of the House of Representatives
6 and the Committee on Energy and Natural Resources of
7 the Senate, a report addressing issues presented by the
8 presence of hazardous substances on lands conveyed or
9 prioritized for conveyance to such corporations pursuant
10 to this Act. Such report shall consist of—

11 “(1) existing information concerning the nature
12 and types of contaminants present on such lands
13 prior to conveyance to Alaska Native corporations;

14 “(2) existing information identifying the exist-
15 ence and availability of potentially responsible par-
16 ties for the removal or amelioration of the effects of
17 such contaminants;

18 “(3) identification of existing remedies; and

19 “(4) recommendations for any additional legis-
20 lation that the Secretary concludes is necessary to
21 remedy the problem of contaminants on such
22 lands.”.

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE**
2 **PURPOSES OF IMPLEMENTING REQUIRED**
3 **RECONVEYANCES.**

4 Section 14(c) of Alaska Native Claims Settlement Act
5 (43 U.S.C. 1613(c)) is amended by adding at the end the
6 following: “There is authorized to be appropriated such
7 sums as may be necessary for the purpose of providing
8 technical assistance to Village Corporations established
9 pursuant to this Act in order that they may fulfill the
10 reconveyance requirements of section 14(c) of this Act.
11 The Secretary may make funds available as grants to
12 ANCSA or nonprofit corporations that maintain in-house
13 land planning and management capabilities.”.

14 **SEC. 5. NATIVE ALLOTMENTS.**

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

18 “(5) Following the exercise by Arctic Slope Regional
19 Corporation of its option under paragraph (1) to acquire
20 the subsurface estate beneath lands within the National
21 Petroleum Reserve—Alaska selected by Kuukpik Corpora-
22 tion, where such subsurface estate entirely surrounds
23 lands subject to a Native allotment application approved
24 under section 905 of this Act, and the oil and gas in such
25 lands have been reserved to the United States, Arctic
26 Slope Regional Corporation, at its further option and sub-

1 ject to the concurrence of the Kuupik Corporation, shall
2 be entitled to receive a conveyance of the reserved oil and
3 gas, including all rights and privileges therein reserved to
4 the United States, in such lands. Upon the receipt of a
5 conveyance of such oil and gas interests, the entitlement
6 of Arctic Slope Regional Corporation to in-lieu subsurface
7 lands under section 12(a)(1) of the Alaska Native Claims
8 Settlement Act (43 U.S.C. 1611(a)(1)) shall be reduced
9 by the amount of acreage determined by the Secretary to
10 be conveyed to Arctic Slope Regional Corporation pursu-
11 ant to this paragraph.”.

12 **SEC. 6. REPORT CONCERNING OPEN SEASON FOR CERTAIN**
13 **NATIVE ALASKAN VETERANS FOR ALLOT-**
14 **MENTS.**

15 (a) **IN GENERAL.**—No later than six months after the
16 date of enactment of this Act, the Secretary of the Inte-
17 rior, in consultation with the Secretary of Agriculture, the
18 State of Alaska and appropriate Native corporations and
19 organizations, shall submit to the Committee on Resources
20 of the House of Representatives and the Committee on
21 Energy and Natural Resources of the Senate, a report
22 which shall include, but not be limited to, the following:

23 (1) The number of Vietnam era veterans, as de-
24 fined in section 101 of title 38, United States Code,
25 who were eligible for but did not apply for an allot-

1 ment of not to exceed 160 acres under the Act of
2 May 17, 1906 (Chapter 2469; 34 Stat. 197), as
3 such Act was in effect before December 18, 1971;

4 (2) an assessment of the potential impacts of
5 additional allotments on conservation system units
6 as such term is defined in section 102(4) of the
7 Alaska National Interest Lands Conservation Act
8 (94 Stat. 2375); and

9 (3) recommendations for any additional legisla-
10 tion that the Secretary concludes is necessary.

11 (b) REQUIREMENT.—The Secretary of Veterans Af-
12 fairs shall release to the Secretary of the Interior informa-
13 tion relevant to the report required under subsection (a).

14 **SEC. 7. TRANSFER OF WRANGELL INSTITUTE.**

15 (a) PROPERTY TRANSFER.—Cook Inlet Region, In-
16 corporated, is authorized to transfer to the United States
17 and the General Services Administration shall accept an
18 approximately 10-acre site of the Wrangell Institute in
19 Wrangell, Alaska, and the structures contained thereon.

20 (b) RESTORATION OF PROPERTY CREDITS.—

21 (1) IN GENERAL.—In exchange for the land
22 and structures transferred under subsection (a),
23 property bidding credits in the total amount of
24 \$382,305, shall be restored to the Cook Inlet Re-
25 gion, Incorporated, property account in the Treasury

1 established under section 12(b) of the Act of Janu-
2 ary 2, 1976 (Public Law 94-204; 43 U.S.C. 1611
3 note), referred to in such section as the “Cook Inlet
4 Region, Incorporated, property account”. Such prop-
5 erty bidding credits shall be used in the same fiscal
6 year as received by Cook Inlet Region, Incorporated.

7 (2) HOLD HARMLESS.—The United States shall
8 defend and hold harmless Cook Inlet Region, Incor-
9 porated, and its subsidiaries in any and all claims
10 arising from Federal or Cook Inlet Region, Incor-
11 porated, ownership of the land and structures prior
12 to their return to the United States.

13 **SEC. 8. SHISHMAREF AIRPORT AMENDMENT.**

14 The Shishmaref Airport, conveyed to the State of
15 Alaska on January 5, 1967, in Patent No. 1240529, is
16 subject to reversion to the United States, pursuant to the
17 terms of that patent for nonuse as an airport. The Sec-
18 retary is authorized to reacquire the interests originally
19 conveyed pursuant to Patent No. 1240529, and, notwith-
20 standing any other provision of law, the Secretary shall
21 immediately thereafter transfer all right, title, and interest
22 of the United States in the subject lands to the
23 Shishmaref Native Corporation. Nothing in this section
24 shall relieve the State, the United States, or any other
25 potentially responsible party of liability, if any, under ex-

1 isting law for the clean up of hazardous or solid wastes
2 on the property, nor shall the United States or Shishmaref
3 Native Corporation become liable for the cleanup of the
4 property solely by virtue of acquiring title from the State
5 or from the United States.

6 **TITLE I—ALASKA NATIVE**
7 **CLAIMS SETTLEMENT**

8 **SECTION 101. RATIFICATION OF CERTAIN CASWELL AND**
9 **MONTANA CREEK NATIVE ASSOCIATIONS**
10 **CONVEYANCES.**

11 *The conveyance of approximately 11,520 acres to Mon-*
12 *tana Creek Native Association, Inc., and the conveyance of*
13 *approximately 11,520 acres to Caswell Native Association,*
14 *Inc., by Cook Inlet Region, Inc. in fulfillment of the agree-*
15 *ment of February 3, 1976, and subsequent letter agreement*
16 *of March 26, 1982, among the 3 parties are hereby adopted*
17 *and ratified as a matter of Federal law. The conveyances*
18 *shall be deemed to be conveyances pursuant to section*
19 *14(h)(2) of the Alaska Native Claims Settlement Act (43*
20 *U.S.C. 1613(h)(2)). The group corporations for Montana*
21 *Creek and Caswell are hereby declared to have received their*
22 *full entitlement and shall not be entitled to receive any ad-*
23 *ditional lands under the Alaska Native Claims Settlement*
24 *Act. The ratification of these conveyances shall not have any*
25 *effect on section 14(h) of the Alaska Native Claims Settle-*

1 *ment Act (43 U.S.C. 1613(h)) or upon the duties and obli-*
2 *gations of the United States to any Alaska Native Corpora-*
3 *tion. This ratification shall not be for any claim to land*
4 *or money by the Caswell or Montana Creek group corpora-*
5 *tions or any other Alaska Native Corporation against the*
6 *State of Alaska, the United States, or Cook Inlet Region,*
7 *Incorporated.*

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

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

13 *“(3) This section shall apply to lands conveyed*
14 *by interim conveyance or patent to a regional cor-*
15 *poration pursuant to this Act which are made subject*
16 *to a mining claim or claims located under the general*
17 *mining laws, including lands conveyed prior to enact-*
18 *ment of this paragraph. Effective upon the date of en-*
19 *actment of this paragraph, the Secretary, acting*
20 *through the Bureau of Land Management and in a*
21 *manner consistent with section 14(g), shall transfer to*
22 *the regional corporation administration of all mining*
23 *claims determined to be entirely within lands con-*
24 *veyed to that corporation. Any person holding such*
25 *mining claim or claims shall meet such requirements*

1 of the general mining laws and section 314 of the
2 Federal Land Management and Policy Act of 1976
3 (43 U.S.C. 1744), except that any filings that would
4 have been made with the Bureau of Land Manage-
5 ment if the lands were within Federal ownership shall
6 be timely made with the appropriate regional cor-
7 poration. The validity of any such mining claim or
8 claims may be contested by the regional corporation,
9 in place of the United States. All contest proceedings
10 and appeals by the mining claimants of adverse deci-
11 sion made by the regional corporation shall be
12 brought in Federal District Court for the District of
13 Alaska. Neither the United States nor any Federal
14 agency or official shall be named or joined as a party
15 in such proceedings or appeals. All revenues from
16 such mining claims received after passage of this
17 paragraph shall be remitted to the regional corpora-
18 tion subject to distribution pursuant to section 7(i) of
19 this Act, except that in the event that the mining
20 claim or claims are not totally within the lands con-
21 veyed to the regional corporation, the regional cor-
22 poration shall be entitled only to that proportion of
23 revenues, other than administrative fees, reasonably
24 allocated to the portion of the mining claim so con-
25 veyed.”.

1 **SEC. 103. SETTLEMENT OF CLAIMS ARISING FROM HAZARD-**
2 **OUS SUBSTANCE CONTAMINATION OF TRANS-**
3 **FERRED LANDS.**

4 *The Alaska Native Claims Settlement Act (43 U.S.C.*
5 *1601 et seq.) is amended by adding at the end the following:*

6 *“CLAIMS ARISING FROM CONTAMINATION OF TRANSFERRED*
7 *LANDS*

8 *“SEC. 40. (a) As used in this section the term ‘con-*
9 *taminant’ means hazardous substance harmful to public*
10 *health or the environment, including friable asbestos.*

11 *“(b) Within 18 months of enactment of this section,*
12 *and after consultation with the Secretary of Agriculture,*
13 *State of Alaska, and appropriate Alaska Native corpora-*
14 *tions and organizations, the Secretary shall submit to the*
15 *Committee on Resources of the House of Representatives*
16 *and the Committee on Energy and Natural Resources of*
17 *the Senate, a report addressing issues presented by the pres-*
18 *ence of contaminants on lands conveyed or prioritized for*
19 *conveyance to such corporations pursuant to this Act. Such*
20 *report shall consist of—*

21 *“(1) existing information concerning the nature*
22 *and types of contaminants present on such lands*
23 *prior to conveyance to Alaska Native corporations;*

24 *“(2) existing information identifying to the ex-*
25 *tent practicable the existence and availability of po-*

1 *tentially responsible parties for the removal or reme-*
2 *diation of the effects of such contaminants;*

3 *“(3) identification of existing remedies;*

4 *“(4) recommendations for any additional legisla-*
5 *tion that the Secretary concludes is necessary to reme-*
6 *dy the problem of contaminants on the lands; and*

7 *“(5) in addition to the identification of contami-*
8 *nants, identification of structures known to have as-*
9 *bestos present and recommendations to inform Native*
10 *landowners on the containment of asbestos.”.*

11 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS FOR THE**
12 **PURPOSES OF IMPLEMENTING REQUIRED**
13 **RECONVEYANCES.**

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

17 *“There is authorized to be appropriated such sums as*
18 *may be necessary for the purpose of providing technical as-*
19 *sistance to Village Corporations established pursuant to this*
20 *Act in order that they may fulfill the reconveyance require-*
21 *ments of section 14(c) of this Act. The Secretary may make*
22 *funds available as grants to ANCSA or nonprofit corpora-*
23 *tions that maintain in-house land planning and manage-*
24 *ment capabilities.”.*

1 **SEC. 105. NATIVE ALLOTMENTS.**

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

5 *“(5) Following the exercise by Arctic Slope Re-*
6 *gional Corporation of its option under paragraph (1)*
7 *to acquire the subsurface estate beneath lands within*
8 *the National Petroleum Reserve—Alaska selected by*
9 *Kuukpik Corporation, where such subsurface estate*
10 *entirely surrounds lands subject to a Native allotment*
11 *application approved under 905 of this Act, and the*
12 *oil and gas in such lands have been reserved to the*
13 *United States, Arctic Slope Regional Corporation, at*
14 *its further option and subject to the concurrence of*
15 *Kuukpik Corporation, shall be entitled to receive a*
16 *conveyance of the reserved oil and gas, including all*
17 *rights and privileges therein reserved to the United*
18 *States, in such lands. Upon the receipt of a convey-*
19 *ance of such oil and gas interests, the entitlement of*
20 *Arctic Slope Regional Corporation to in-lieu sub-*
21 *surface lands under section 12(a)(1) of the Alaska Na-*
22 *tive Claims Settlement Act (43 U.S.C. 1611(a)(1))*
23 *shall be reduced by the amount of acreage determined*
24 *by the Secretary to be conveyed to Arctic Slope Re-*
25 *gional Corporation pursuant to this paragraph.”.*

1 **SEC. 106. REPORT CONCERNING OPEN SEASON FOR CER-**
2 **TAIN NATIVE ALASKA VETERANS FOR ALLOT-**
3 **MENTS.**

4 (a) *IN GENERAL.*—No later than 9 months after the
5 date of enactment of this Act, the Secretary of the Interior,
6 in consultation with the Secretary of Agriculture, the State
7 of Alaska and appropriate Native corporations and organi-
8 zations, shall submit to the Committee on Resources of the
9 House of Representatives and the Committee on Energy and
10 Natural Resources of the Senate a report which shall in-
11 clude, but not be limited to, the following:

12 (1) *The number of Vietnam era veterans, as de-*
13 *defined in section 101 of title 38, United States Code,*
14 *who were eligible for but did not apply for an allot-*
15 *ment of not to exceed 160 acres under the Act of May*
16 *17, 1906 (chapter 2469, 34 Stat. 197), as the Act was*
17 *in effect before December 18, 1971.*

18 (2) *An assessment of the potential impacts of ad-*
19 *ditional allotments on conservation system units as*
20 *that term is defined in section 102(4) of the Alaska*
21 *National Interest Lands Conservation Act (94 Stat.*
22 *2375).*

23 (3) *Recommendations for any additional legisla-*
24 *tion that the Secretary concludes is necessary.*

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

4 ***SEC. 107. TRANSFER OF WRANGELL INSTITUTE.***

5 (a) *PROPERTY TRANSFER.*—*In order to effect a reci-*
6 *sion of the ANCSA settlement conveyance to Cook Inlet Re-*
7 *gion, Incorporated of the approximately 134.49 acres and*
8 *structures located thereon (“property”) known as the*
9 *Wrangell Institute in Wrangell, Alaska, upon certification*
10 *to the Secretary by Cook Inlet Region, Incorporated, that*
11 *the Wrangell Institute property has been offered for transfer*
12 *to the City of Wrangell, property bidding credits in an*
13 *amount of \$475,000, together with adjustments from Janu-*
14 *ary 1, 1976 made pursuant to the methodology used to es-*
15 *tablish the Remaining Obligation Entitlement in the Memo-*
16 *randum of Understanding Between the United States De-*
17 *partment of the Interior and Cook Inlet Region, Incor-*
18 *porated dated April 11, 1986, shall be restored to the Cook*
19 *Inlet Region, Incorporated, property account in the Treas-*
20 *ury established under section 12(b) of the Act of January*
21 *2, 1976 (Public Law 94–204, 43 U.S.C. 1611 note), as*
22 *amended, referred to in such section as the “Cook Inlet Re-*
23 *gion, Incorporated, property account”. Acceptance by the*
24 *City of Wrangell, Alaska of the property shall constitute a*
25 *waiver by the City of Wrangell of any claims for the costs*

1 of remediation related to asbestos, whether in the nature
2 of participation or reimbursement, against the United
3 States or Cook Inlet Region, Incorporated. The acceptance
4 of the property bidding credits by Cook Inlet Region, Incor-
5 porated, Alaska of the property shall constitute a waiver
6 by Cook Inlet Region, Incorporated of any claims for the
7 costs of remediation related to asbestos, whether in the na-
8 ture of participation or reimbursement, against the United
9 States. In no event shall the United States be required to
10 take title to the property. Such restored property bidding
11 credits may be used in the same manner as any other por-
12 tion of the account.

13 (b) *HOLD HARMLESS.*—Upon acceptance of the prop-
14 erty bidding credits by Cook Inlet Region, Inc., the United
15 States shall defend and hold harmless Cook Inlet Region,
16 Incorporated, and its subsidiaries in any and all claims
17 arising from asbestos or any contamination existing at the
18 Wrangell Institute property at the time of transfer of owner-
19 ship of the property from the United States to Cook Inlet
20 Region, Incorporated.

21 **SEC. 108. SHISHMAREF AIRPORT AMENDMENT.**

22 The Shishmaref Airport, conveyed to the State of Alas-
23 ka on January 5, 1967, in Patent No. 1240529, is subject
24 to reversion to the United States, pursuant to the terms of
25 that patent for nonuse as an airport. The Administrator

1 *of the Federal Aviation Administration is hereby directed*
2 *to exercise said reverter in Patent No. 1240529 in favor*
3 *of the United States within twelve months of the date of*
4 *enactment of this section. Upon reversion of title, notwith-*
5 *standing any other provision of law, the United States shall*
6 *immediately thereafter transfer all right, title, and interest*
7 *of the United States in the subject lands to the Shishmaref*
8 *Native Corporation. Nothing in this section shall relieve the*
9 *State, the United States, or any other potentially respon-*
10 *sible party of liability, if any, under existing law for the*
11 *cleanup of hazardous or solid wastes on the property, nor*
12 *shall the United States or Shishmaref Native Corporation*
13 *become liable for the cleanup of the property solely by virtue*
14 *of acquiring title from the State of Alaska or from the Unit-*
15 *ed States.*

16 **SEC. 109. CONFIRMATION OF WOODY ISLAND AS ELIGIBLE**
17 **NATIVE VILLAGE.**

18 *The Native village of Woody Island, located on Woody*
19 *Island, Alaska, in the Koniag Region, is hereby confirmed*
20 *as an eligible Alaska Native Village, pursuant to Section*
21 *11(b)(3) of the Alaska Native Claims Settlement Act*
22 *(“ANCSA”). It is further confirmed that Leisnoi, Inc., is*
23 *the Village Corporation, as that term is defined in Section*
24 *3(j) of ANCSA, for the village of Woody Island.*

1 **TITLE II—HAWAIIAN HOME**
2 **LANDS**

3 **SEC. 201. SHORT TITLE**

4 *This title may cited as the “Hawaiian Home Lands*
5 *Recovery Act”.*

6 **SEC. 202. DEFINITIONS.**

7 *As used in this title:*

8 (1) *AGENCY.—The term “agency” includes—*

9 (A) *any instrumentality of the United*
10 *States;*

11 (B) *any element of an agency; and*

12 (C) *any wholly owned or mixed-owned cor-*
13 *poration of the United States Government.*

14 (2) *BENEFICIARY.—The term “beneficiary” has*
15 *the same meaning as is given the term “native Ha-*
16 *waiian” under section 201(7) of the Hawaiian Homes*
17 *Commission Act.*

18 (3) *CHAIRMAN.—The term “Chairman” means*
19 *the Chairman of the Hawaiian Homes Commission of*
20 *the State of Hawaii.*

21 (4) *COMMISSION.—The term “Commission”*
22 *means the Hawaiian Homes Commission established*
23 *by section 202 of the Hawaiian Homes Commission*
24 *Act.*

1 (5) *HAWAIIAN HOMES COMMISSION ACT.*—The
2 term “*Hawaiian Homes Commission Act*” means the
3 *Hawaiian Homes Commission Act, 1920 (42 Stat.*
4 *108 et. seq., chapter 42).*

5 (6) *HAWAII STATE ADMISSION ACT.*—The term
6 “*Hawaii State Admission Act*” means the Act enti-
7 tled “*An Act to provide for the admission of the State*
8 *of Hawaii into the Union*”, approved March 18, 1959
9 (*73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).*

10 (7) *LOST USE.*—The term “*lost use*” means the
11 *value of the use of the land during the period when*
12 *beneficiaries or the Hawaiian Homes Commission*
13 *have been unable to use lands as authorized by the*
14 *Hawaiian Homes Commission Act because of the use*
15 *of such lands by the Federal Government after August*
16 *21, 1959.*

17 (8) *SECRETARY.*—The term “*Secretary*” means
18 *the Secretary of the Interior.*

19 **SEC. 203. SETTLEMENT OF FEDERAL CLAIMS.**

20 (a) *DETERMINATION.*—

21 (1) *The Secretary shall determine the value of*
22 *the following:*

23 (A) *Lands under the control of the Federal*
24 *Government that—*

1 (i) were initially designated as avail-
2 able lands under section 203 of the Hawai-
3 ian Homes Commission Act (as in effect on
4 the date of enactment of such Act); and

5 (ii) were nevertheless transferred to or
6 otherwise acquired by the Federal Govern-
7 ment.

8 (B) The lost use of lands described in sub-
9 paragraph (A).

10 (2)(A) Except as provided in subparagraph (B),
11 the determinations of value made under this sub-
12 section shall be made not later than 1 year after the
13 date of enactment of this Act. In carrying out this
14 subsection, the Secretary shall use a method of deter-
15 mining value that—

16 (i) is acceptable to the Chairman; and

17 (ii) is in the best interest of the bene-
18 ficiaries.

19 (B) The Secretary and the Chairman may mutu-
20 ally agree to extend the deadline for making deter-
21 minations under this subparagraph beyond the date
22 specified in subparagraph (A).

23 (3) The Secretary and the Chairman may mutu-
24 ally agree, with respect to the determinations of value

1 *described in subparagraphs (A) and (B) of paragraph*
2 *(1), to provide—*

3 *(A) for making any portion of the deter-*
4 *minations of value pursuant to subparagraphs*
5 *(A) and (B) of paragraph (1); and*

6 *(B) for making the remainder of the deter-*
7 *minations with respect to which the Secretary*
8 *and the Chairman do not exercise the option de-*
9 *scribed in subparagraph (A), pursuant to an ap-*
10 *praisal conducted under paragraph (4).*

11 *(4)(A) Except as provided in subparagraph (C),*
12 *if the Secretary and the Chairman do not agree on*
13 *the determinations of value made by the Secretary*
14 *under subparagraphs (A) and (B) of paragraph (1),*
15 *or, pursuant to paragraph (3), mutually agree to de-*
16 *termine the value of certain lands pursuant to this*
17 *subparagraph, such values shall be determined by an*
18 *appraisal. An appraisal conducted under this sub-*
19 *paragraph shall be conducted in accordance with ap-*
20 *praisal standards that are mutually agreeable to the*
21 *Secretary and the Chairman.*

22 *(B) If an appraisal is conducted pursuant to*
23 *this subparagraph, during the appraisal process—*

24 *(i) the Chairman shall have the opportunity*
25 *to present evidence of value to the Secretary;*

1 (ii) the Secretary shall provide the Chair-
2 man a preliminary copy of the appraisal;

3 (iii) the Chairman shall have a reasonable
4 and sufficient opportunity to comment on the
5 preliminary copy of the appraisal; and

6 (iv) the Secretary shall give consideration to
7 the comments and evidence of value submitted by
8 the Chairman under this subparagraph.

9 (C) The Chairman shall have the right to dispute
10 the determinations of values made by an appraisal
11 conducted under this subparagraph. If the Chairman
12 disputes the appraisal, the Secretary and the Chair-
13 man may mutually agree to employ a process of bar-
14 gaining, mediation, or other means of dispute resolu-
15 tion to make the determinations of values described in
16 subparagraphs (A) and (B) of paragraph (1).

17 (b) AUTHORIZATION.—

18 (1) EXCHANGE.—Subject to paragraphs (2) and
19 (5), the Secretary may convey Federal lands described
20 in paragraph (5) to the Department of Hawaiian
21 Home Lands in exchange for the continued retention
22 by the Federal Government of lands described in sub-
23 section (a)(1)(A).

24 (2) VALUE OF LANDS.—(A) The value of any
25 lands conveyed to the Department of Hawaiian Home

1 *Lands by the Federal Government in accordance with*
2 *an exchange made under paragraph (1) may not be*
3 *less than the value of the lands retained by the Fed-*
4 *eral Government pursuant to such exchange.*

5 *(B) For the purposes of this subsection, the value*
6 *of any lands exchanged pursuant to paragraph (1)*
7 *shall be determined as of the date the exchange is car-*
8 *ried out, or any other date determined by the Sec-*
9 *retary, with the concurrence of the Chairman.*

10 *(3) LOST USE.—Subject to paragraphs (4) and*
11 *(5), the Secretary may convey Federal lands described*
12 *in paragraph (5) to the Department of Hawaiian*
13 *Home Lands as compensation for the lost use of lands*
14 *determined under subsection (a)(1)(B).*

15 *(4) VALUE OF LOST USE.—(A) the value of any*
16 *lands conveyed to the Department of Hawaiian Home*
17 *Lands by the Federal Government as compensation*
18 *under paragraph (3) may not be less than the value*
19 *of the lost use of lands determined under subsection*
20 *(a)(1)(B).*

21 *(B) For the purposes of this subparagraph, the*
22 *value of any lands conveyed pursuant to paragraph*
23 *(3) shall be determined as of the date that the convey-*
24 *ance occurs, or any other date determined by the Sec-*
25 *retary, with the concurrence of the Chairman.*

1 (5) *FEDERAL LANDS FOR EXCHANGE.*—(A) *Sub-*
2 *ject to subparagraphs (B) and (C), Federal lands lo-*
3 *cated in Hawaii that are under the control of an*
4 *agency (other than lands within the National Park*
5 *System or the National Wildlife Refuge System) may*
6 *be conveyed to the Department of Hawaiian Home*
7 *Lands under paragraphs (1) and (3). To assist the*
8 *Secretary in carrying out this Act, the head of an*
9 *agency may transfer to the Department of the Inte-*
10 *rior, without reimbursement, jurisdiction and control*
11 *over any lands and any structures that the Secretary*
12 *determines to be suitable for conveyance to the De-*
13 *partment of Hawaiian Home Lands pursuant to an*
14 *exchange conducted under this section.*

15 (B) *No Federal lands that the Federal Govern-*
16 *ment is required to convey to the State of Hawaii*
17 *under section 5 of the Hawaii State Admission Act*
18 *may be conveyed under paragraph (1) or (3).*

19 (C) *No Federal lands that generate income (or*
20 *would be expected to generate income) for the Federal*
21 *Government may be conveyed pursuant to an ex-*
22 *change made under this paragraph to the Department*
23 *of Hawaiian Home Lands.*

24 (c) *AVAILABLE LANDS.*—

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

6 (2) *SUBSEQUENT EXCHANGE OF LANDS.*—Not-
7 withstanding any other provision of law, lands con-
8 veyed to the Department of Hawaiian Home Lands
9 under this paragraph may subsequently be exchanged
10 pursuant to section 204(3) of the Hawaiian Home
11 Commission Act.

12 (3) *SALE OF CERTAIN LANDS.*—Notwithstanding
13 any other provision of law, the Chairman may, at the
14 time that lands are conveyed to the Department of
15 Hawaiian Home Lands as compensation for lost use
16 under this Act, designate lands to be sold. The Chair-
17 man is authorized to sell such land under terms and
18 conditions that are in the best interest of the bene-
19 ficiaries. The proceeds of such a sale may only be
20 used for the purposes described in section 207(a) of
21 the Hawaiian Homes Commission Act.

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

1 (1) *consult with the beneficiaries and organiza-*
2 *tions representing the beneficiaries; and*

3 (2) *report to such organizations on a regular*
4 *basis concerning the progress made to meet the re-*
5 *quirements of this section.*

6 (e) *HOLD HARMLESS.—Notwithstanding any other*
7 *provision of law, the United States shall defend and hold*
8 *harmless the Department of Hawaiian Home Lands, the*
9 *employees of the Department, and the beneficiaries with re-*
10 *spect to any claim arising from the ownership of any land*
11 *or structure that is conveyed to the Department pursuant*
12 *to an exchange made under this section prior to the convey-*
13 *ance to the Department of such land or structure.*

14 (f) *SCREENING.—*

15 (1) *IN GENERAL.—Notwithstanding any other*
16 *provision of law, the Secretary of Defense and the Ad-*
17 *ministrator of General Services shall, at the same*
18 *time as notice is provided to Federal agencies that ex-*
19 *cess real property is being screened pursuant to appli-*
20 *cable Federal laws (including regulations) for possible*
21 *transfer to such agencies, notify the Chairman of any*
22 *such screening of real property that is located within*
23 *the State of Hawaii.*

24 (2) *RESPONSE TO NOTIFICATION.—Notwithstand-*
25 *ing any other provision of law, not later than 90*

1 *days after receiving a notice under paragraph (1), the*
2 *Chairman may select for appraisal real property, or*
3 *at the election of the Chairman, portions of real prop-*
4 *erty, that is the subject of a screening.*

5 (3) *SELECTION.—Notwithstanding any other*
6 *provision of law, with respect to any real property lo-*
7 *cated in the State of Hawaii that, as of the date of*
8 *enactment of this Act, is being screened pursuant to*
9 *applicable Federal laws for possible transfer (as de-*
10 *scribed in paragraph (1)) or has been screened for*
11 *such purpose, but has not been transferred or declared*
12 *to be surplus real property, the Chairman may select*
13 *all, or any portion of, such real property to be ap-*
14 *praised pursuant to paragraph (4).*

15 (4) *APPRAISAL.—Notwithstanding any other*
16 *provision of law, the Secretary of Defense or the Ad-*
17 *ministrator of General Services shall appraise the*
18 *real property or portions of real property selected by*
19 *the Chairman using the Uniform Standards for Fed-*
20 *eral Land Acquisition developed by the Interagency*
21 *Land Acquisition Conference, or such other standard*
22 *as the Chairman agrees to.*

23 (5) *REQUEST FOR CONVEYANCE.—Notwithstand-*
24 *ing any other provision of law, not later than 30*
25 *days after the date of completion of such appraisal,*

1 *the Chairman may request the conveyance to the De-*
2 *partment of Hawaiian Home Lands of—*

3 *(A) the appraised property; or*

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

6 (6) *CONVEYANCE.—Notwithstanding any other*
7 *provision of law, upon receipt of a request from the*
8 *Chairman, the Secretary of Defense or the Adminis-*
9 *trator of the General Services Administration shall*
10 *convey, without reimbursement, the real property that*
11 *is the subject of the request to the Department of Ha-*
12 *waiian Home Lands as compensation for lands iden-*
13 *tified under subsection (a)(1)(A) or lost use identified*
14 *under subsection (a)(1)(B).*

15 (7) *REAL PROPERTY NOT SUBJECT TO*
16 *RECOUPMENT.—Notwithstanding any other provision*
17 *of law, any real property conveyed pursuant to para-*
18 *graph (6) shall not be subject to recoupment based*
19 *upon the sale or lease of the land by the Chairman.*

20 (8) *VALUATION.—Notwithstanding any other*
21 *provision of law, the Secretary shall reduce the value*
22 *identified under subparagraph (A) or (B) of sub-*
23 *section (a)(1), as determined pursuant to such sub-*
24 *section, by an amount equal to the appraised value*

1 of any excess lands conveyed pursuant to paragraph
2 (6).

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

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

10 (a) *NOTICE TO THE SECRETARY.*—Not later than 120
11 days after a proposed amendment to the Hawaiian Homes
12 Commission Act is approved in the manner provided in sec-
13 tion 4 of the Hawaii State Admission Act, the Chairman
14 shall submit to the Secretary—

15 (1) a copy of the proposed amendment;

16 (2) the nature of the change proposed to be made
17 by the amendment; and

18 (3) an opinion regarding whether the proposed
19 amendment requires the approval of Congress under
20 section 4 of the Hawaii State Admission Act.

21 (b) *DETERMINATION BY SECRETARY.*—Not later than
22 60 days after receiving the materials required to be submit-
23 ted by the Chairman pursuant to subsection (a), the Sec-
24 retary shall determine whether the proposed amendment re-
25 quires the approval of Congress under section 4 of the Ha-

1 *waii State Admission Act, and shall notify the Chairman*
2 *and Congress of the determination of the Secretary.*

3 *(c) CONGRESSIONAL APPROVAL REQUIRED.—If, pur-*
4 *suant to subsection (b), the Secretary determines that the*
5 *proposed amendment requires the approval of Congress, the*
6 *Secretary shall submit to the Committee on Energy and*
7 *Natural Resources of the Senate and the Committee on Re-*
8 *sources of the House of Representatives—*

9 *(1) a draft joint resolution approving the*
10 *amendment;*

11 *(2) a description of the change made by the pro-*
12 *posed amendment and an explanation of how the*
13 *amendment advances the interests of the beneficiaries;*

14 *(3) a comparison of the existing law (as of the*
15 *date of submission of the proposed amendment) that*
16 *is the subject of the amendment with the proposed*
17 *amendment;*

18 *(4) a recommendation concerning the advisabil-*
19 *ity of approving the proposed amendment; and*

20 *(5) any documentation concerning the amend-*
21 *ments received from the Chairman.*

22 **SEC. 205. LAND EXCHANGES.**

23 *(a) NOTICE TO THE SECRETARY.—If the Chairman*
24 *recommends for approval an exchange of Hawaiian Home*

1 *Lands, the Chairman shall submit a report to the Secretary*
2 *on the proposed exchange. The report shall contain—*

3 *(1) a description of the acreage and fair market*
4 *value of the lands involved in the exchange;*

5 *(2) surveys and appraisals prepared by the De-*
6 *partment of Hawaiian Home Lands, if any; and*

7 *(3) an identification of the benefits to the parties*
8 *of the proposed exchange.*

9 *(b) APPROVAL OR DISAPPROVAL.—*

10 *(1) IN GENERAL.—Not later than 120 days after*
11 *receiving the information required to be submitted by*
12 *the Chairman pursuant to subsection (a), the Sec-*
13 *retary shall approve or disapprove the proposed ex-*
14 *change.*

15 *(2) NOTIFICATION.—The Secretary shall notify*
16 *the Chairman, the Committee on Energy and Natural*
17 *Resources of the Senate, and the Committee on Re-*
18 *sources of the House of Representatives of the reasons*
19 *for the approval or disapproval of the proposed ex-*
20 *change.*

21 *(c) EXCHANGES INITIATED BY SECRETARY.—*

22 *(1) IN GENERAL.—The Secretary may rec-*
23 *ommend to the Chairman an exchange of Hawaiian*
24 *Home Lands for Federal lands described in section*
25 *203(b)(5), other than lands described in subpara-*

1 *graphs (B) and (C) of such section. If the Secretary*
2 *initiates a recommendation for such an exchange, the*
3 *Secretary shall submit a report to the Chairman on*
4 *the proposed exchange that meets the requirements of*
5 *a report described in subsection (a).*

6 (2) *APPROVAL BY CHAIRMAN.—Not later than*
7 *120 days after receiving a recommendation for an ex-*
8 *change from the Secretary under paragraph (1), the*
9 *Chairman shall provide written notification to the*
10 *Secretary of the approval or disapproval of a pro-*
11 *posed exchange. If the Chairman approves the pro-*
12 *posed exchange, upon receipt of the written notifica-*
13 *tion, the Secretary shall notify the Committee on En-*
14 *ergy and Natural Resources of the Senate, and the*
15 *Committee on Resources of the House of Representa-*
16 *tives of the approval of the Chairman of the proposed*
17 *exchange.*

18 (3) *EXCHANGE.—Upon providing notification*
19 *pursuant to paragraph (2) of a proposed exchange*
20 *that has been approved by the Chairman pursuant to*
21 *this section, the Secretary may carry out the ex-*
22 *change.*

23 (d) *SELECTION AND EXCHANGE.—*

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

1 (A) *select real property that is the subject of*
2 *screening activities conducted by the Secretary of*
3 *Defense or the Administrator of General Services*
4 *pursuant to applicable Federal laws (including*
5 *regulations) for possible transfer to Federal agen-*
6 *cies; and*

7 (B) *make recommendations to the Chair-*
8 *man concerning making an exchange under sub-*
9 *section (c) that includes such real property.*

10 (2) *TRANSFER.—Notwithstanding any other pro-*
11 *vision of law, if the Chairman approves an exchange*
12 *proposed by the Secretary under paragraph (1)—*

13 (A) *the Secretary of Defense or the Admin-*
14 *istrator of General Services shall transfer the*
15 *real property described in paragraph (1)(A) that*
16 *is the subject of the exchange to the Secretary*
17 *without reimbursement; and*

18 (B) *the Secretary shall carry out the ex-*
19 *change.*

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

25 (e) *SURVEYS AND APPRAISALS.—*

1 (1) *REQUIREMENT.*—*The Secretary shall conduct*
2 *a survey of all Hawaiian Home Lands based on the*
3 *report entitled “Survey Needs for the Hawaiian*
4 *Home Lands”, issued by the Bureau of Land Manage-*
5 *ment of the Department of the Interior, and dated*
6 *July 1991.*

7 (2) *OTHER SURVEYS.*—*The Secretary is author-*
8 *ized to conduct such other surveys and appraisals as*
9 *may be necessary to make an informed decision re-*
10 *garding approval or disapproval of a proposed ex-*
11 *change.*

12 **SEC. 206. ADMINISTRATION OF ACTS BY UNITED STATES.**

13 (a) *DESIGNATION.*—

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

20 (2) *DEFAULT.*—*If the Secretary fails to make an*
21 *appointment by the date specified in paragraph (1),*
22 *or if the position is vacant at any time thereafter, the*
23 *Assistant Secretary for Policy, Budget, and Adminis-*
24 *tration of the Department of the Interior shall exer-*

1 *cise the responsibilities for the Department in accord-*
2 *ance with subsection (b).*

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

6 *(1) advance the interests of the beneficiaries; and*
7 *(2) assist the beneficiaries and the Department of*
8 *Hawaiian Home Lands in obtaining assistance from*
9 *programs of the Department of the Interior and other*
10 *Federal agencies that will promote homesteading op-*
11 *portunities, economic self-sufficiency, and social well-*
12 *being of the beneficiaries.*

13 **SEC. 207. ADJUSTMENT.**

14 *The Act of July 1, 1932 (47 Stat. 564, chapter 369;*
15 *25 U.S.C. 386a) is amended by striking the period at the*
16 *end and adding the following: “: Provided further, That the*
17 *Secretary shall adjust or eliminate charges, defer collection*
18 *of construction costs, and make no assessment on behalf of*
19 *such charges for beneficiaries that hold leases on Hawaiian*
20 *home lands, to the same extent as is permitted for individ-*
21 *ual Indians or tribes of Indians under this section.”.*

22 **SEC. 208. REPORT.**

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

1 (1) *involve the transfer of lands designated as*
2 *available lands under section 203 of the Hawaiian*
3 *Homes Commission Act (as in effect on the date of en-*
4 *actment of such Act); and*

5 (2) *are not otherwise covered under this title.*

6 (b) *REVIEW.*—*Not later than 180 days after receiving*
7 *the report submitted under subsection (a), the Secretary*
8 *shall make a determination with respect to each claim re-*
9 *ferred to in subsection (a), whether, on the basis of legal*
10 *and equitable considerations, compensation should be grant-*
11 *ed to the Department of Hawaiian Home Lands.*

12 (c) *COMPENSATION.*—*If the Secretary makes a deter-*
13 *mination under subsection (b) that compensation should be*
14 *granted to the Department of Hawaiian Home Lands, the*
15 *Secretary shall determine the value of the lands and lost*
16 *use in accordance with the process established under section*
17 *203(a), and increase the determination of value made under*
18 *subparagraphs (A) and (B) of section 203(a)(1) by the*
19 *value determined under this subsection.*

20 **SEC. 209. AUTHORIZATION.**

21 *There are authorized to be appropriated such sums as*
22 *may be necessary for compensation to the Department of*
23 *Hawaiian Home Lands for the value of the lost use of lands*
24 *determined under section 203. Compensation received by*
25 *the Department of Hawaiian Home Lands from funds*

1 *made available pursuant to this section may only be used*
2 *for the purposes described in section 207(a) of the Hawai-*
3 *ian Homes Commission Act. To the extent that amounts*
4 *are made available by appropriations pursuant to this sec-*
5 *tion for compensation paid to the Department of Hawaiian*
6 *Home Lands for lost use, the Secretary shall reduce the de-*
7 *termination of value established under section 203(a)(1)(B)*
8 *by such amount.*

Passed the House of Representatives March 14,
1995.

Attest:

ROBIN H. CARLE,

Clerk.

HR 402 RS—2

HR 402 RS—3

HR 402 RS—4