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To the Senate of the United States:

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I return herewith without my approval S. 1469, a bill "To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes."

The Alaska Native Claims Settlement Act of 1971 established a basic framework designed to provide fair and final settlement of the claims of Alaska Natives for their aboriginal land rights in the area.

This 1971 Act was necessarily a complex piece of legislation. Our experience in the ongoing implementation of the Settlement Act has disclosed the need for a number of changes to resolve ambiguities and eliminate legal and administrative problems.

S. 1469 contains a number of desirable and acceptable provisions aimed at correcting the shortcomings of the 1971 Act. I welcome the enactment of these provisions which would enable us to move ahead promptly in serving the best interest of the Natives and the State of Alaska.

I regret, however, that this commendable objective has been compromised by the addition of other provisions which I cannot, in good conscience, accept. Among those provisions, I have found two to be particularly objectionable.

GERALD R. FORD LIBRARY

First is the provision that would authorize the Southeast Alaska Regional Corporation to select as much as 250,000 acres of "bonus lands" from within the Tongass National Forest, thereby setting aside a 1971 Act prohibition barring all such selections from within specified Federal areas, including National Forests. I am advised that this land has an estimated value of approximately $300 million.

While I understand that the land the Southeast Alaska Regional Corporation (Sealaska) is now permitted to select under the 1971 Act is limited in amount and value, I do not believe that this fact can justify ~~a $300 million windfall for this group of approximately 15,000 Natives. They are~~ now receiving cash payments under the 1971 Act and have benefitted from special compensation paid prior to 1971 for the taking of their land. Also, under existing law they are already entitled to approximately 300,000 acres of land in the Tongass National Forest.

The second objectionable provision unwisely exempts until 1991 Native Corporations from the protections of the Federal securities laws.

It is true that compliance with such laws places a burden on any corporation and that the Native Corporations of Alaska are particularly lacking in the specific skills and resources needed for full compliance. I am advised, however, that the Securities and Exchange Commission, which administers

these laws, has sought, and will continue to seek, to tailor the requirements of the securities laws to the unique situations and capabilities of the corporations concerned.

Fundamentally, however, I believe we have a situation in Alaska that demands the continued application of these laws. Corporate officials of limited experience are handling large sums of cash on behalf of financially unsophisticated Native owners. This is the very kind of situation in which these securities laws are designed to provide protection.

While the legislative history suggests that the Congress will reimpose applicability of the securities laws, if experience indicates this to be necessary, this provides insufficient protection. Such action would come too late to provide adequate protection for many investors.

There are other features of S. 1469 which the Administration would like modified or clarified to assure legislation that is fair to the Natives, the State, and the American people. In order to provide the necessary changes in the 1971 Act which are urgently required, my Administration is prepared to begin work immediately with the Congress when it reconvenes to develop sound legislation that I can approve promptly.

Our objective in this endeavor and in the future should be to depart from the framework of the 1971 Settlement Act

only in the most compelling cases. Otherwise, we face an endless series of delays and inequities that can only serve to defeat the original intent of the Act.

FOR IMMEDIATE RELEASE

Office of the White House Press Secretary

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more

(OVER)

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94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-361

EXTENSION OF THE TERM OF THE JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA AND OTHER AMENDMENTS TO, AND PROVISIONS CONCERNING, THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

AUGUST 1 (legislative day, JULY 31), 1975.—Ordered to be printed

Mr. HASKELL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1469]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1469) to amend the Alaska Native Claims Settlement Act to continue the authority of the Joint Federal-State Land Use Planning Commission for Alaska until June 30, 1979, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

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

That (a) The Secretary of the Interior (hereinafter referered to as the "Secretary") is directed to review those applications previously submitted or hereafter submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established pursuant to the Alaska Native Claims Settlement Act, 85 Stat. 688 (hereinafter referred to as the "Settlement Act") and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met.

(b) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, a sufficient number of Natives required for a Native village or a Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under said Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such redetermination of residence as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination.

(c) Each Native who is enrolled, or whose place of residence has been redetermined, pursuant to this Act shall be issued stock in the Native corporation

or corporations in which such enrollment or redetermination of residence entitles him to membership and, in the case of redetermination of residence, all stock issued to such Native by any Native corporation in which he or she is no longer eligible for membership shall be deemed canceled. No prior distribution of funds made by any Native corporation shall be affected by any such enrollment or redetermination of residence and future distributions by such corporations shall be adjusted to insure that cumulative distributions to individual Natives so enrolled or affected by redetermination of residence will be equal to distributions to Natives previously enrolled in such corporation. The land entitlement of any Native village, Native group, Village Corporation, Regional Corporation, or corporation organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in the Settlement Act, shall not be affected by any enrollment or redetermination of residence pursuant to this Act. No tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a Native village or Native group, as defined in said Act, shall become eligible for land or other benefits as a Native village or Native group because of any enrollment or redetermination of residence pursuant to this Act, and no Native village or Native group, as defined in said Act, shall lose its status as a Native village or Native group because of any enrollment or redetermination of residence pursuant to this Act.

(d) No distribution of funds from the Alaska Native Fund pursuant to section 6(c) of the Settlement Act made by the Secretary or his delegate prior to enactment of this Act shall be affected by the provisions of this Act. The Secretary shall make any necessary adjustments in future distributions of funds pursuant to said section 6(c) to accommodate the changes in the roll made pursuant to this Act.

SEC. 2. (a) Any and all proceeds received by any agency or instrumentality of the Federal Government derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act on and after the date of its enactment shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to said Act have been conveyed to the selecting corporation or individual entitled to receive benefits under said Act. As such withdrawn or formerly reserved lands are conveyed the Secretary shall pay from such account the proceeds pertaining to the lands or resources of such lands, together with interest, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act. The proceeds pertaining to lands withdrawn or reserved, but not selected or elected, pursuant to said Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be paid as required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States such escrow account proceeds referred to in subsection (a) of this section and the United States shall pay interest thereon from the date of deposit to the date of payment with simple interest at such rate as may be determined by the Secretary of the Treasury: Provided, however, That the Secretary in his discretion may withdraw from the United States Treasury such proceeds deposited by him under this Act and reinvest such proceeds in the same manner provided for by the first section of the Act of June 24, 1938 (52 Stat. 1037).

SEC. 3. Any and all proceeds from public easements reserved pursuant to paragraph (3) of section 17(b) of the Settlement Act shall be paid to the holder of the land with respect to which such conveyance is made in accordance with such holder's proportionate share.

SEC. 4. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037) the Alaska Native Fund shall, pending distribution under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes.

SEC. 5. The Settlement Act is further amended by adding a new section 28 to read as follows:

"MERGER OF NATIVE CORPORATIONS

"SEC. 28. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the

twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from said mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting thereform and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continue to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

SEC. 6. The Settlement Act is amended by adding a new section 29 to read as follows:

"TEMPORARY EXEMPTION FROM CERTAIN SECURITIES LAWS

"SEC. 29. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

SEC. 7. The Settlement Act is further amended by adding a new section 30 to read as follows:

"RELATION TO OTHER PROGRAMS

"SEC. 30. (a) The payments and grants authorized under this Act shall not be deemed a substitute for any governmental programs otherwise available to

the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefits received by any member of such household under this Act shall be disregarded.".

SEC. 8. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

SEC. 9. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village,
(2) Elim,
(3) Gambell,
(4) Savoonga,
(5) Tetlin, and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

SEC. 10. (a) Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the Village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the Village of Klukwan shall select an area equal to 23,040 acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: Provided, however, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the Village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise.".

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as Village Corporations under section 11 of the Settlement Act and which are included within the boundaries of former reserves the Village Corporation or Corporations of which elected to acquire title to the surface and subsurface estates of said reserves pursuant to section 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or to enroll on an at-large basis to the Regional Corporation in which the village or group is located.

SEC. 11. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

(2) Amend the title so as to read:

A bill to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such Act, and for other purposes"

I. PURPOSE OF S. 1469, AS AMENDED

The purpose of S. 1469, as amended, is to eliminate certain problems and clarify certain ambiguities which have appeared in the implementation of the Alaska Native Claims Settlement Act ("Settlement Act", 85 Stat. 688). Among other things, the bill would accomplish the following:

The roll of Alaska Natives would be reopened for one year to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline. Distributions of money would be adjusted, but no changes in land selection rights would occur, as a result of the new enrollment process. (Sec. 1.)

The Secretary would be required to redetermine the place of residence of Natives who had enrolled in Native "villages" or "groups", as defined in the Settlement Act for purposes of receiving benefits, which villages or groups have subsequently been found ineligible. Prior distributions of benefits and land entitlements under the Act would not be affected. (Sec. 1.)

Two sections of S. 1469 concern the disposition of certain receipts under the Settlement Act. First, the bill would authorize the Secretary of the Interior to place revenues received by the Interior Department from Federal lands which will subsequently be patented to the Natives in an escrow account to receive interest until the time of patenting and then to pay the account funds to the Natives. (Sec. 2.) Secondly, the bill would clearly establish the rights of easement holders on such lands to revenues arising directly from the easement (e.g. airport landing fees). (Sec. 3.)

Interest would be paid on the Alaska Native Fund as is paid on all other funds held in trust for Indians pursuant to the Act of February 12, 1929 (45 Stat. 1164). (Sec. 4.)

Mergers of Native Village Corporations which are too small to be economically viable with other Village Corporations or the Regional Corporation would be permitted. (Sec. 5.)

Native corporations would be removed from the purview of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934 until December 31, 1991. These corporations are only temporarily investment companies; once the land is patented to them they will no longer be so characterized. To require these corporations to meet the costly submission requirements of these laws would be inappropriate give cultural considerations, the non-alienation of stock provision in the Settlement Act, and the changing character of the corporations. (Sec. 6.)

In 1974, the Secretary of Health, Education, and Welfare determined that Settlement Act payments would be disregarded in determining eligibility and benefits for welfare; however, the Secretary of Agriculture made a determination that such pay-

ments should be counted for purposes of determining eligibility for food stamps. The bill would eliminate this inconsistency in Federal policy and insure that Settlement Act benefits would not be counted against eligibility for the food stamp or other Federal programs. (Sec. 7.)

The life of the Joint Federal-State Land Use Planning Commission for Alaska would be extended to June 30, 1979. (Sec. 8.)

S. 1469 would authorize an appropriation to pay $250,000 to each of the four Native corporations in cities where Native populations were once in the majority but are now in the minority (Kodiak, Kenai, Juneau, and Sitka). These corporations have land selection rights but received no funds under the Settlement Act with which to do the necessary organizing and inventorying to make the selections. The bill would also authorize the payment of $100,000 to each of six villages which elected, under the Settlement Act, to obtain fee title to reservation lands rather than receive that Act's land and monetary benefits. These funds would be used to develop management plans for the formerly reservation lands. (Sec. 9.)

The election of the residents of the reservation of Klukwan to accept title to the reservation lands instead of participating in the Settlement Act may have been made under a mistaken legal interpretation as to who controls, and receives the revenues from, mineral production on those lands. S. 1469 would permit those residents who would not receive those revenues to receive benefits under the Settlement Act. Certain Natives on reservations, the residents of which chose to accept ownership of reservation land rather than receive benefits under the Settlement Act, are not presently enrolled either in the Village Corporation which would control the reservation land or on an at-large basis to the Regional Corporation receiving Settlement Act benefits. The bill would permit them to elect to enroll in either Corporation. (Sec. 10.)

Finally, the bill provides that, except where specifically provided otherwise by its provisions, the provisions of the Settlement Act are fully applicable to S. 1469 and nothing in S. 1469 is to be construed as altering or amending the Settlement Act.

II. Background to S. 1469: The Alaska Native Claims Settlement Act

On December 18, 1971, the President signed into law the Alaska Native Claims Settlement Act (the Settlement Act), Public Law 92–203, 85 Stat. 688. This legislation extinguished all aboriginal claims to land in Alaska and in return provided the Natives (individually and through 12 Regional Corporations and approximately 220 Village Corporations established under the law's provisions) with a land settlement of approximately 40 million acres and a monetary settlement of nearly a billion dollars ($462,500,000 from the general fund of the Treasury, and $500 million from mineral revenues from lands in Alaska conveyed to the State under the Statehood Act after the enactment of the Settlement Act and from the remaining Federal lands, except Naval Petroleum Reserve No. 4).

Set forth below is a brief summary of those portions of the Settlement Act to which S. 1469 relates:

ORGANIZATION

The Act provided that, within 2 years from the date of enactment, the Secretary of the Interior was to prepare a roll of all Natives who were born on or before, and who were living on, the date of enactment. Within one year of enactment, the Secretary was required to divide the State of Alaska into 12 geographic regions for purposes of the Settlement Act. The Natives of each region were authorized to establish a Regional Corporation to conduct business for profit under the laws of Alaska, and all 12 Regional Corporations have been organized. The Act also listed 217 villages, the members of which were to establish profit or non-profit Village Corporations. The Secretary was required to review the listed village within 2½ years of enactment, disqualify those that do not meet the Act's criteria, and add those which do meet the criteria but were not listed in the Act. Some 220 Village Corporations have been established.

The Act also revoked existing Native reserves and authorized the Native Village Corporations formed on each reserve to elect to take either title to the reserve lands or the benefits of the Settlement Act. Native groups which were not eligible as villages were also asked to incorporate. Finally, the Natives of four urban centers in which the Native population constitutes a minority (Sitka, Kenai, Juneau, and Kodiak) were also expected to incorporate.

The Corporations are to issue stock to their members, however such stock is inalienable for a period of 20 years.

THE LAND

To permit the Regional and Village Corporations to select 38 million acres, the Act required the Secretary to withdraw approximately 25 townships around each Native village listed in section 11 and, in case of insufficient lands within that area, withdraw nearby lands equal to three times the deficiency. The Secretary was authorized to withdraw and convey an additional 2 million acres outside the otherwise withdrawn areas for specific purposes: cemetery sites and historic places; not more than 23,040 acres for each Native group which does not qualify as a Native village; not more than 23,040 acres for each of the Native Corporations in four urban centers the populations of which are no longer composed predominantly of Natives (Sitka, Kenai, Juneau, and Kodiak); and not more than 160 acreas for each Native living outside the otherwise withdrawn areas.

Of these withdrawn lands, the Village Corporations are to receive title to 22 million acres of surface estate only: 18½ million acres of surface estate in the 25 township areas surrounding each Village, divided among the villages according to population, and 3½ million acres of surface estate, divided among the Village Corporations in 11 regions (excluding the southeastern region, Sealaska) by the Regional Corporations on an equitable basis after considering historic use, subsistence needs, and population. The deadline for selection of lands by the Village Corporations was December 18, 1974.

The 12 Regional Corporations are to receive the subsurface estate in the 22 million acres patented to the Village Corporations, and the full title to 16 million acres selected within the 25 township areas surrounding the villages. This land would be divided among the 12 Regional Corporations on the basis of land areas within each region. The Regional Corporations would also receive the subsurface estate of land selected by Native groups (one township, 23,040 acres, each), individual Natives residing outside villages (160 acres each), and the Native Corporations for Sitka, Kenai, Juneau, and Kodiak (23,404 acres each). The balance remaining from the two million acres withdrawn for the group, individual, and town selections after selection is made is also to go to the Regional Corporations. Finally, Regional Corporations would be conveyed cemetery and historical sites. The deadline for Regional Corporation land selections is December 18, 1975.

THE FUNDS

The Act established in the Treasury an Alaska Native Fund into which is to be paid $462,500,000 in Federal funds over an 11-year period and a 2% overriding royalty from all proceeds received from the disposition of minerals subject to the Mineral Leasing Act in Alaska from both Federal (other than Naval Petroleum Reserve No. 4) and State lands until an additional sum of $500,000,000 is reached.

The Regional Corporations would receive all payments on a quarterly basis as funds are made available on passage of appropriations acts. The payments are divided among the regions on the basis of Native population. The Regional Corporations must also divide among themselves 70 percent of the mineral and timber revenues received by them from lands conveyed to them. Each Regional Corporation must then distribute to the Village Corporations and the class of stockholders who are not residents of these villages not less than 50 percent (45% during the first five years) of the funds granted to it and all timber and mineral revenues from its lands. During the first five years, not less than 10% of all corporate funds from the two above-mentioned sources are to be distributed by the Regional Corporations among their stockholders.

With some minor exceptions, the land and moneys received under the settlement are not taxable at time of receipt.

III. Section-by-Section Analysis

SECTION 1. EXTENSION OF NATIVE ENROLLMENT

Subsection (a).—Subsection (a) of Section 1 of S. 1469, as amended, would permit Alaska Natives to enroll to receive benefits under the Settlement Act for a period of one year from the date of S. 1469's enactment. Section 5(a) of the Settlement Act set a period of two years to complete the roll of Alaska Natives. This timetable was met when, on December 18, 1973, the Secretary of the Interior certified the final roll. Some 77,000 Alaska Natives filed timely enrollment applications and were included in the final roll certified on December 18, 1973.

However, approximately 800 applicants filed after the March 30, 1973, administrative deadline for applications and before December 18, 1973. These applications were summarily denied. In addition, numerous potential applicants were dissuaded from filing after learning that the deadline had passed. There is no count of these people nor those who have filed since December. Almost all parties estimate, however, that the total of late filers and those who failed to file would be substantially greater than 1,000.

The purpose of subsection (a) is to provide to those Natives who failed to meet the original enrollment deadline one last opportunity to enroll. The Committee firmly believes that no purely procedural obstacle should stand in the way of any Native's participation in the Settlement Act's benefits.

Subsection (b).—During the implementation of the Settlement Act, an anomalous situation has developed in which certain Natives are being treated as both residents and non-residents of the same place and, as a result thereof, are denied rights to membership in Native corporations which themselves qualify for benefits under the Settlement Act. In a number of village eligibility proceedings concerning villages principally in the Koniag region, the Secretary of the Interior, through his approval of decisions of the Alaska Native Claims Appeal Board, determined that the places in question lacked the twenty-five Native residents as of April 1, 1970, (the 1970 census enumeration date) required for "village" status by section 11(b)(2)(A) of the Settlement Act. Yet, in the case of each of these places, the Secretary, in preparing the final roll pursuant to section 5(b) of the Settlement Act, had enrolled at least 25 residents in each of those places as of April 1, 1970.

In addition to receiving rights to Settlement Act benefits as individuals, Natives are also provided by that Act rights to membership in Native corporations—corporations established for eligible villages, eligible groups, or the four urban villages specified in section 14(h)(3) of the Settlement Act—which themselves qualify for benefits under the Settlement Act. Membership in these corporations is a valuable right which is determined by the place of residence of a Native as shown on the official roll. As a result, unless their places of residence are changed on the roll, some Natives will suffer from the anomaly of being carried on the roll as residents of places of which they are not residents for the purpose of membership in Native corporations.

Subsection (b) would require the Secretary to redetermine the places of residence, as of April 1, 1970, of the affected Natives. In some cases such redeterminations may result in no change in the April 1, 1970, place of residence as now shown on the roll. The Committee expects, however, that the redeterminations of residence may also result in the placing of some of these Natives in villages or groups the corporations of which receive benefits under the Settlement Act.

Subsection (c).—This subsection (c) sets forth the procedures for making all the changes required by the amendments to the roll resulting from implementation of S. 1469. First, it requires the issuance of stock in the proper Native corporation to any Native who is enrolled or whose place of residence is redetermined pursuant to S. 1469. The bill provides that any stock issued by any corporation to any Native who, as

a result of redetermination of residence, is no longer eligible for membership in that corporation is to be "deemed cancelled". The Committee expects that, to avoid unnecessary confusion in the future, the affected corporations will make every effort to collect any stock certificates which have been transmitted to stockholders and take such action as is necessary to insure that those certificates and the certificates held by the corporations are permanently removed from private hands and entry into the market place. Secondly, it provides that no previous revenue distributions by any Native corporation are to be disturbed by the enrollments and redeterminations of residence. Instead, it requires the issuance to these Natives of such distributions from the corporations to which they are newly enrolled so as to make cumulative distributions to those Natives equal to distributions received by Natives originally enrolled to those corporations. Finally, the subsection provides that no land entitlements are to be affected in any manner and no "village" or "group" eligibility will be gained or lost by the enrollments or redeterminations of residence.

Subsection (d).—This subsection provides that no distribution of funds from the Alaska Native Fund to the Native Regional Corporations made by the Secretary or his delegate under section 6(c) of the Settlement Act prior to enactment of S. 1469 is to be affected. Rather, as with the case of funds distributions from Regional Corporations to individuals under subsection (c) of this section of S. 1469, subsection (d) requires the Secretary to make adjustments in future distributions from the Fund to correspond with enrollments and redeterminations of residence. Clearly, the Secretary is expected to use this authority to adjust future distributions to Regional Corporations to reflect the adjustments in distributions to individual Natives made by those corporations pursuant to subsection (c).

SECTIONS 2 AND 3. DISPOSITION OF MISCELLANEOUS RECEIPTS AND PROCEEDS

Sections 2 and 3 are technical "housekeeping" provisions to correct ambiguities which have arisen during the implementation of the Settlement Act concerning the distribution of certain receipts and proceeds.

Section 2.—Subsection (a) provides the Secretary of the Interior with authority to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to land or resources of land withdrawn for Native selection pursuant to the Settlement Act in an escrow account until such time as disposition is made of the land and then to transfer the receipts to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected are to be paid out as required under law. Subsection 2(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (52 Stat. 1037, 25 U.S.C. 162(a)).

Despite the stricture provided in section 14(a) of the Settlement Act that patents to lands selected by Native corporations are to be conveyed "immediately after selection," delays between the selection of land by a Native corporation and the transfer of title to that corporation

are unfortunately likely to occur. Several reasons for such delays, such as the absence of an easement policy, probably will be eliminated in the near future. Others are likely to continue for the duration of the Native land selection process, in that the Bureau of Land Management appears to lack the manpower and money necessary to process expeditiously the hundreds of selection applications which it has or will soon receive from the twelve Regional Corporations and the approximately 220 Village Corporations which have qualified for benefits under the Settlement Act.

Under existing law, any funds derived from lands owned by the Federal government must be deposited in the Treasury or other appropriate depository until title passes, despite the fact that such lands may have been selected by a Native corporation. Therefore, in the absence of section 2 of S. 1469, no authority exists to establish an escrow fund on behalf of the Native corporations. Accordingly, these corporations could be deprived of a significant asset which they would be entitled to receive but for the existence of problems beyond their control—delays in conveying the selected land and lack of authority to protect Native proceeds in the interim. The Settlement Act vests the Secretary of the Interior with interim authority to grant leases, contracts, permits, rights-of-way, and easements on Native lands. In a growing number of situations, Native corporations have wanted the Secretary to enter into one of these arrangements, but have been forced to abandon their plans due to the lack of escrow authority.

Section 3.—This section relates to public easements reserved in any conveyance pursuant to section 17(b)(3) of the Settlement Act. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation would have been made in the conveyance, section 3 would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued will be paid to the grantee of such conveyance in accordance with the grantee's proportionate share. The Department of the Interior believes it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation without the certainty provided by section 3.

SECTION 4. INTEREST ON THE ALASKA NATIVE FUND

Section 4 corrects an anomalous situation regarding the Alaska Native Fund which has arisen as a result of rulings by the Comptroller General. Appropriations of federal funds under the Settlement Act are credited to the Alaska Native Fund upon enactment of the appropriation measure. Under section 6(c) of the Settlement Act the appropriated funds are not paid to the Native corporations until the end of the fiscal quarter. Thus the funds appropriated in settlement of the Natives' claims may remain in the Treasury for as long as three months before actual payment to the Natives.

Since 1929, federal law has provided that all funds with balances over $500.00 carried on the books of the Treasury to the credit of Indian tribes would bear interest at the rate of 4% per annum (Act of February 12, 1929; 45 Stat. 1164, as amended; 25 U.S.C. § 161a). Since

1938, federal law has permitted the Secretary of the Interior to withdraw such tribal funds from the Treasury for alternative investment (Act of June 24, 1938; 52 Stat. 1037; 25 U.S.C. § 162a). On October 31, 1972, the Comptroller General ruled that the provisions of these two laws were applicable to the Alaska Native Fund "pending enrollment" under the Settlement Act, 52 Comp. Gen. 248 (B–108439). On December 28, 1973, the Comptroller General ruled that as of December 31, 1973, after enrollment had been completed, the Alaska Native Fund would no longer bear interest or be eligible for investment by the Secretary of the Interior. The effect of this latter ruling is that funds appropriated under the Settlement Act for payment to the Natives may remain idle for up to three months without payment of *any* interest to the Natives. The United States in effect can use those funds during that period to offset other obligations as a form of interest-free loan.

According to a 1971 report of the Treasury Department, there were approximately 450 trust accounts maintained by the government to the credit of American Indian groups.[1] All of those funds, with the exception of one with a balance under $500.00, earned interest under federal law. The Committee believes that the Alaska Native Fund should be treated like every other Indian tribal fund. It appears that the Alaska Native Fund is the *only* Indian tribal fund which does not earn interest and is not available for investment by Interior. The Committee believes that the appropriations into the Alaska Native Fund are, in substance, the property of the Natives from the date of enactment of the appropriations bill. The requirement of subsection 6(c) of the Settlement Act that funds be distributed at the end of the fiscal quarter was intended to avoid administrative inconvenience, not to permit the United States to use the Natives' funds during the interim. The provisions of section 4 of this bill would reverse the Comptroller General's decision of December 28, 1973, and restore the Alaska Native Fund to the status it held under his October 31, 1972, ruling and the status held by all other Indian tribal funds. Section 4 applies the provisions of 25 U.S.C. §§ 161a, 162a to the Alaska Native Fund as long as there are funds on deposit in that fund and regardless of the completion of the enrollment process.

SECTION 5. MERGER OF NATIVE CORPORATIONS

Section 5 would amend the Settlement Act by adding a new section 28 to permit mergers or consolidations among Native corporations within the same region. This section is required to permit such mergers because sections 7(h) and 8(c) of the Settlement Act prohibit for a period of twenty years from the date of enactment of that Act the sale or other alienation of corporation shares issued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation.

Many of the 220 Village Corporations appear to lack the financial wherewithal and trained manpower which they must possess to become economically viable entities. Village Corporation income will be derived primarily from two sources: distributions from the appropriate Regional Corporation and money derived from the development of the surface estate. Since many Village Corporations have relatively few shareholders, their monetary allocations from the region may be quite small. Moreover, Village Corporations which do not have lands with recreational, timber, or other surface potential will derive little income from this ownership. Finally, many Village Corporations in the remote areas of Alaska do not now possess a trained leadership group, and it is unlikely that they will be able to develop one or to hire needed personnel in the foreseeable future.

[1] Receipt, Appropriation and other Fund Account Symbols and Titles, as of Jan. 11, 1971, Dept. of the Treasury, Fiscal Services, Bureau of Accounts, Dir. of Govt. Fin. Oper., Accts. 14X7000–14X7498, pp. 111–149.

For these reasons, it is likely that many Village Corporations will fail if merger authority is not provided. Such a result would frustrate the purposes of the Settlement Act, because Native shareholders would be denied the opportunity to participate in the benefits which the Act was intended to provide. Monetary income would be lost, and Native corporations could lose the use and control of their land. Moreover, the lack of sufficient cash flow to a failing corporation might require the hasty and undesired development of those natural resources which the corporation does possess. Such development could jeopardize Native culture, the preservation of which is a central objective of many Native groups. The failure of Native corporations would also have an adverse impact on the general economy of Alaska, for the State and its constituent regional and local areas have much to gain from the existence of financially viable Native entities.

Subsection (a) of the new Section 28 would authorize mergers or consolidations among Native corporations of the same region. It would also allow the subsequent merger or consolidation of merged or consolidated corporations with each other so long as they also are in the same region. The Native corporations affected by this provision are Regional Corporations established pursuant to section 7(d) of the Settlement Act, Village Corporations established pursuant to section 8(a), corporations for Native groups established pursuant to section 14(h)(2), and corporations established for the four urban centers (Sitka, Kenai, Juneau, and Kodiak) pursuant to section 14(h)(3).

Subsection (b) through (d) of the new section 28 set forth the procedures and conditions for such mergers or consolidations.

Subsection (b).—Under subsection (b), all mergers or consolidations would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations, and to such terms and conditions as are approved by the shareholders of the corporations involved. The mergers authorized by corporation shareholders either before or after passage of S. 1469 would be covered and could take place under the provisions of the bill. Thus, subsection (b) would allow a merger to be completed upon enactment of S. 1469 which was approved by corporation stockholders with the merger vote contingent upon subsequent enactment of legislation. This provision is necessary because of ongoing efforts to merge Village Corporations, particularly in the NANA Region of Alaska.

Subsection (b) gives to the merged corporation, upon the effectiveness of the merger, all rights and benefits that the Settlement Act confers upon the individual corporations and also makes it subject to all the restrictions and obligations that were made applicable to the individual corporations by the Settlement Act. The provision specif-

ically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Settlement Act.

Subsection (b) specifically provides for the issuance of stock in the newly merged or consolidated corporations. In particular, it authorizes the issuance of additional shares of Regional Corporation stock in instances where other Native corporations merge or consolidate with the Regional Corporation. This authorization is required because of the Settlement Act's section 7(g) requirement that Regional Corporations issue 100 shares of stock to each Native enrolled in their respective regions. Subsection (b) also states that "the rights accorded under Alaska law to dissenting stockholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act prior to December 19, 1991". The purpose of this provision is to eliminate any ambiguity as to the continued effectiveness of the Settlement Act's section 7(h)(1) prohibition against alienation of Native corporation stock for a period of twenty years.

Subsection (c) concerns the rights of enrolled Natives who are shareholders of a Regional Corporation but are not residents of any of the villages in that region. Section 7(m) of the Settlement Act gives those Natives a right to receive dividends paid to Village Corporations under section 7(j) of that Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of S. 1469 or any other law, no merger or consolidation of Native corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Subsection (e).—Section 14(f) of the Settlement Act provides that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village are to be subject to the consent of the Village Corporation. This provision provides protection to villages from a precipitate decision by Regional Corporations to develop the subsurface estate. This provision seeks to avoid potential conflicts between villages which are holders of the surface estate and which may be more concerned with preserving the use of the land in accordance with traditional local life-styles and subsistence economy and Regional Corporations which are holders of the subsurface estate and which may have as their focus the generation of revenues from the land. Without specific provisions to the contrary, once a Village Corporation merges or consolidates with other corporations under this new section 28 it would lose this authority over its immediate land base. Therefore to preserve this authority, subsection (e) has been included. Subsection (e) requires that any plan of merger or consolidation must provide that the 14(f) right of any affected Village Corporation is to be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of that village.

SECTION 6. TEMPORARY EXEMPTION OF NATIVE CORPORATIONS FROM SECURITIES LAWS

Section 6 adds a new section 29 to the Settlement Act which exempts Native corporations organized under the Settlement Act from the provisions of certain federal securities laws during the time that the stock of those corporations is subject to prohibitions on sale or disposition, i.e., until December 31, 1991. In the 93d Congress, this Committee reported and the Senate passed S. 3530, a bill to extend the Alaska Native enrollment. Section 7 of that legislation would have exempted the Settlement Act corporations from the provisions of the Investment Company Act of 1940 until December 31, 1976. On the basis of testimony at the May 16, 1975, hearing on this and related measures, the Committee is convinced that the exemption should be broadened.

A. The Investment Company Act of 1940

The exemption is necessary because of certain "mechanical" provisions of the Investment Company Act and the present uncertain status under the 1940 Act of Native corporations established pursuant to the Settlement Act. The 1940 Act requires highly technical registration and periodic reports to the Securities Exchange Commission (SEC) from corporations which are by design "investment companies" as well as corporations which are deemed "inadvertent" investment companies because more than 40 percent of their total assets, exclusive of cash and government securities, are held in the form of "investment securities."

The Native corporations are designed to be operating profitmaking business corporations. They are not expected to be "investment companies" as that term is customarily used. All of them will eventually own surface and/or subsurface interests in substantial amounts of land. Once the corporations are fully organized it is apparent that many of them will never be "investment companies" by virtue of their intentional business decisions or because they happen to have more than 40 percent of their non-cash assets in investment securities. The probable value of certain land interests makes it unlikely that several of these corporations will ultimately fall under the 1940 Act because of the 40 percent test.

The structure of the Settlement Act results, however, in substantial cash flowing to these corporations years ahead of conveyance and evaluation of land selections. Over $150 million has been distributed to Native corporations; whereas land selections have not yet resulted in title passing to the corporations, selections will not be completed until the end of 1975, at the earliest, and conveyances will not be completed for perhaps 15 years.

The Native corporations must do something with the money they are receiving. They cannot let it lie fallow in checking accounts, yet they are unprepared now to proceed immediately into profit-oriented business for themselves. To meet this problem corporations are to some extent planning to put money into commercial bank time deposits or

certificates of deposit with interest returns somewhat higher than savings accounts, but lower than "high-risk" investment ventures.

These plans present another potential problem under the 1940 Act. While the Court of Appeals for the Second Circuit has held that "certificates of deposit" are not "investment securities" for 1940 Act purposes, the SEC staff informally takes a contrary position. Thus the Native corporations which prudently try to obtain moderate return by purchasing certificates of deposit may be required to undergo costly and time-consuming registrations under the 1940 Act only to find that three years from now when land selections are complete they are no longer subject to that Act and must then go through costly and time-consuming procedures to deregister. The end result is extensive paperwork and a needless waste of time, money, and manpower.

It is too early for these fledgling corporations to know even what their investment policies and legal and accounting problems may be to make registration practicable for them under the Investment Company Act. On the other hand, the penalty for failure to register under that Act, even for a company which inadvertently becomes subject to its provisions, are severe. It is the purpose of Section 6 of S. 1469, as amended, to provide the corporations formed under the Settlement Act with turnaround time in order to identify any problems which they may ultimately have under the Investment Company Act and to work out appropriate solutions for such problems internally and in consultation with the staff of the Securities and Exchange Commission.

The SEC has promulgated a temporary rule exempting Native corporations which register as investment companies from most of the provisions of the 1940 Act. Nonetheless, the exemption provided for in this section is necessary. The Committee is informed that some Regional Corporations have not registered under the SEC temporary rule and there exists some risk that their corporate acts and contracts might be vulnerable to challenge under the 1940 Act. The exemption will provide necessary breathing room to the SEC and the Native corporations in order to permit resolution of long-range solutions.

Another reason for temporarily exempting these entities from the Investment Company Act is to enable them to merge under provisions of Section 5 of S. 1469. In 1975 the NANA Corporation and the eleven Village Corporations in that region agreed on a plan of merger. The Natives spent about $200,000 in preparation and filing of a prospectus under the Securities Act of 1933. They did so in reliance on a "no-action" letter from the SEC advising them that no application would be necessary under section 17 of the Investment Company Act, a section which prohibits transactions between "affiliated persons" without a prior order from the SEC that the terms of the transaction are fair and equitable. At the last moment, however, the SEC withdrew their no-action letter, insisted on a section 17 application, and advised that no action would be taken on the application until extensive public hearings had been held. This administrative procedure imposes such substantial costs that merger may be impracticable. Since the very purpose of the merger authority in section 5 is to reduce administrative expense and overhead, it is appropriate at the same time to eliminate unnecessary expenses and delays imposed by federal securities laws.

B: The Securities Act of 1933 and the Securities Exchange Act of 1934

During the 20 year period when Native stock cannot be sold or transferred it is not necessary to subject these corporations to the expense and administrative burdens of compliance with the 1933 Securities Act and the 1934 Securities Exchange Act. Until December 1991, there will be no "market" in the stock of Native corporations since the stock is inalienable. Therefore it does not seem necessary to subject these corporations to the requirements of registering stock under the 1933 Act. The SEC has itself recognized that the 1933 Act need not be applied to those corporations in certain cases when it issued a "no-action" letter regarding the issuance of the initial shares of stock to Natives enrolled in Regional and Village Corporations.

The exemption from the 1933 Act is also needed to effectuate the merger authority in section 5. The 1933 Act requires that the stock be registered with the SEC, and a prospectus prepared and mailed to all stockholders to whom the stock is offered, prior to the time at which they make the decision on the merger. Stock registration under the 1933 Act is an extremely elaborate and technical proceeding. The resulting prospectus, to be mailed to the stockholders, is intended to disclose every last detail bearing on the question of whether the person should acquire the stock. In the merger which NANA and the Village Corporations attempted to undertake in the spring of 1975, the prospectus, which had not yet been cleared by the SEC but which resulted from the SEC's initial round of comments on an earlier version submitted, consisted of a total of 80 printed pages, including 50 pages of financial statements, and accompanying footnotes, on all the corporations involved. In view of the lack of sophistication of most of the stockholders, particularly on matters such as complex mergers, such a document clearly is not an appropriate method of informing the stockholders. Yet, such a document would be required. It is extremely costly to prepare, and, as noted in the case of the NANA merger, costs well over $100,000. Clearly such costs for practical purposes would preclude the possibility of merger between two small Village Corporations which might be most in need of it.

Conversely, the tight restrictions of the 1933 Act on the verbal communications which may be made in conjunction with the prospectus virtually preclude any meaningful or simplified discussion at village or community meetings in order to explain merger to the stockholders. Thus the 1933 Act requires for disclosure an extremely complex and expensive document which does not serve its intended purpose at least as to Native corporations, but also precludes the one effective means of communication.

Similarly, application of the 934 Securities Exchange Act is not necessary during the period when Native stock is inalienable. The 1934 Act applies to corporations with over 500 stockholders and $1,000,000 in assets. An exemption of Settlement Act corporations from only the 1940 Investment Company Act would result in all the Regional Corporations and approximately 19 of the Village Corporations being subject to the 1934 Act which requires expensive initial registration with the SEC, the filing of periodic reports with the SEC, and makes

the detailed proxy rules applicable to any vote of stockholders. For the reasons discussed above under the 1940 Act, these requirements again have little proper application to Native corporations and do not fulfill their intended purpose in this context. In fact, in a recent letter to Congressman Lloyd Meeds in connection with the question of exempting the corporations from the 1940 Act, the SEC characterized the 1934 Act as "a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies." Since the stock of Native corporations may not be traded and the "public" may not invest in it until 1991, the 1934 Act has no proper application to these corporations.

Although the SEC has stated that the 1934 Act is designed to inform the "investing public" about securities, the federal securities laws do provide useful information to the stockholders as well as the investing public. Accordingly the new section 29 of the Settlement Act provides that any Native corporation which, but for the provisions of that section, would be subject to the 1934 Act, must transmit an annual report to its stockholders containing substantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee notes that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 7. ELIGIBILITY OF ALASKA NATIVES FOR THE BENEFITS OF OTHER FEDERAL PROGRAMS

Subsection (a).—The background to section 7 is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that payments made under the Alaska Native Claims Settlement Act (P.L. 92–203) should be *disregarded* in determining eligibility for the Food Stamp Program and the extent of the food stamp benefit received by participating households. In addition, it asked for a decision from the USDA as to whether these payments should or should not be disregarded under the Federal regulations and instructions governing the counting of income and resources in the Food Stamp Program.

Alaska based its interpretation on numerous grounds—most notably, the provisions of section 2(c) of the Alaska Native Claims Settlement Act.[1] Section 2(c) of the Act states, in part—

". . . no provision of this Act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska;. . . ."

However, on April 22, 1974, the Washington headquarters of the Food Stamp Program notified its San Francisco regional office that payments to individuals and households under the Alaska Native Claims Settlement Act were *not to be disregarded* as income for purposes of the Food Stamp Program—although stock (in the various native corporations established under the Act) and land granted under the Act were to be disregarded as resources (assets) available to individuals and households applying for food stamps.[2] This notification was transmitted to Alaska—where payments under the Act were beginning—on April 23, 1974.

From discussions with Food Stamp Program personnel in San Francisco and Washington, D.C., it appears that the basic rationale behind the USDA's decision not to disregard these payments as income was that—

> Since the Alaska Native Claims Settlement Act contains no specific language requiring that these payments be disregarded in determining food stamp benefits,
>
> And since it is the general policy under the Food Stamp Program to count all income available for food expenditures unless legislation directs a disregard, and

[1] This description of the rationale behind Alaska's claim that these payments should be disregarded for food stamp purposes is based on information gained through discussions with the Food Stamp Program's San Francisco regional office. For a complete picture of the State's rationale, it would be advisable to obtain a copy of Alaska's letter to the USDA. The letter originated with Alaska's welfare commissioner.

[2] The actual text of the notification was—"For FSP [Food Stamp Program] purposes, cash payments made under P.L. 92–203 must be treated as income in accordance with the provisions of the program regulations. Stock and land received under P.L. 92–203 shall be excluded from resources as being unavailable to the household [applying for or participating in the Food Stamp Program]."

> Income from payments under the Alaska Native Claims Settlement Act should be counted for food stamp purposes and to disregard them would grant Alaskan natives a privilege not granted to others applying for the Food Stamp Program.[3]

In addition, two points of "legislative history" were mentioned in discussing the reasoning backing up the USDA's decision. First, it was noted that the Senate version of the Alaska Native Claims Settlement Act (and the report accompanying it) contained language that might be construed to call for the disregarding of payments under the Act for Food Stamp Program purposes. However, this language did not find its way into the final Act, or the conference report. Second, provisions of a later act, P.L. 93–134, called for the disregarding of payments under court settlements of certain Indian claims in determining benefits under the Social Security Act.[4] However, this was *not* done in the case of payments under the Alaska Native Claims Settlement Act, for either Social Security Act programs or the Food Stamp Program.

Cash Welfare Benefits

In March 1974, HEW was notified of the questions existing as to whether to disregard payments under the Alaska Native Claims Settlement Act in determining eligibility for and the amount of cash welfare benefits under the Aid to Families with Dependent Children (AFDC) Program and the Supplemental Security Income (SSI) Program.

On May 3, 1974, Mr. Carlucci, Under Secretary of HEW, announced in Seattle that it had been decided that tax-exempt payments under the Alaska Native Claims Settlement Act *would be disregarded* in determining eligibility and benefits under the AFDC and SSI Programs (authorized by title IV–A and XVI of the Social Security Act). A later program instruction issued on July 3, 1974 (copy attached) confirmed this announcement for the AFDC Program, and SSI Program rules were also changed accordingly.

From discussions with Washington, D.C., personnel of HEW's Social and Rehabilitation Service and the content of the July 3, 1974 program instruction, it appears that HEW's basic rationale in deciding to disregard payments under the Alaska Native Claims Settlement Act in determining AFDC and SSI cash welfare benefits was that—

> The Alaska Native Claims Settlement Act, specifically section 2(c)[5] of the Act, required that the payments be disregarded to the extent they are tax-exempt.[6]

[3] As noted, this description of the reasoning behind the USDA's decision was gained through discussions with Food Stamp Program personnel—both in Washington and the San Francisco regional office. As yet, it has not been possible to obtain any *written* description of the USDA's rationale.

[4] P.L. 93–134 did *not* require that these payments be disregarded for Food Stamp Program purposes.

[5] The relevant portion of section 2(c) of the Act is quoted at the beginning of this report.

[6] As noted, the only available *written* description of the rationale behind HEW's decision is the July 3, 1974 program instruction. As yet, it has not been possible to obtain any other written description of HEW's reasoning.

> In addition it was pointed out in discussions that the provisions of P.L. 93–134 (requiring the disregarding of certain other Indian claims payments) could be construed to indicate a general Congressional intent that payments of Indian claims be disregarded in determining benefits under the Social Security Act programs administered by HEW (i.e., AFDC and SSI).

This inconsistency in Federal policy remained undisturbed until June 23, 1975. On that date, the United States Court of Appeals for the Ninth Circuit rendered a decision in *Hamilton* v. *Butz* (No. 75–1268) reversing the District Court's order denying a preliminary injunction to prohibit the Secretary of Agriculture and other public officials from considering funds paid to Natives under the Settlement Act as "resources" available to Native households in determining whether such households are eligible for assistance under the Food Stamp Act. The Court of Appeals ordered the District Court to permanently enjoin the Secretary from so deeming Settlement Act payments as "resources" and to prescribe "such other relief as may be necessary to restore the eligibility for food stamps to those Native households that have been denied food stamps because of the Secretary's decision that settlement payments are 'resources' and to compensate Native households that may have been overcharged for food stamps because of the Secretary's actions".

The Committee concurs fully in this decision and subsection (a) of section 7, in requiring restoration of Native eligibility for food stamps, provides assurance that the decision will stand.

Subsection (b).—To ensure that no further interpretations are made relative to the Settlement Act similar to that of the Agriculture Department concerning Native eligibility for other governmental programs available to citizens of the United States and Alaska, the Committee adopted as subsection (b) of section 7 the language similar to that contained in subsection 2(d) of S. 35, the Senate version of the Settlement Act in the 92nd Congress.

SECTION 8. EXTENSION OF THE LIFE OF THE JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA[1]

The Joint Federal-State Land Use Planning Commission for Alaska was established pursuant to section 17(a) of the Settlement Act. The principal responsibilities of the Commission were set forth in section 17(a)(7) and 17(b) of the Settlement Act. That the Commission has met its responsibilities in an effective and even-handed manner is best demonstrated by the support for the extension of its term beyond the December 31, 1976, termination date. This support, as demonstrated in hearing testimony and communications with the Committee, comes from the Secretary of the Interior, the Governor of Alaska, the entire Alaska Congressional delegation, the Alaska Federation of Natives and various Regional Corporations, and environmental groups. Pending before the Committee are three separate bills which would extend the Commission's term: S. 1469 (Stevens, Gravel, and Jackson), S. 1501 (Gravel, Stevens, and Jackson), and S. 1824 (Stevens).

As provisions establishing the Joint Federal-State Planning Commission for Alaska were first inserted by this Committee in the Senate

version of the Settlement Act and as the Senate conferees prevailed on the question of retention of Commission provisions in the Conference report, this Committee is pleased with the performance of the Commission and its wide acceptance as a useful public entity.

Section 8 would amend section 17(a)(10) of the Settlement Act to extend the Commission's life until June 30, 1979. In testimony before the Committee on May 16, 1975, the Co-Chairmen of the Commission described the activities it would undertake during the 1976–1979 time frame as follows:

> While it is impossible to specify with certainty what activitives the Commission might undertake in the period beyond 1976, the emerging pattern of land ownership in Alaska, certain continuing issues involving the implementation of the Settlement Act, and other factors indicate several areas of probable effort.
>
> Under the Settlement Act, Congress has until December 18, 1978 to take final legislative action with respect to the lands currently withdrawn under Section 17(d)(2) of this legislation. The current pace of Congressional activity regarding the (d)(2) lands indicates that many issues will probably not have been resolved by December 31, 1976—the date when the Commission is due to terminate under present law. Since the Commission was originally created partly to provide independent information and advice to Congress on such lands, it would seem logical to make its expiration coincide with the deadline for Congressional action.
>
> The emerging pattern of land ownership in Alaska demonstrates a continuing need for the type of intergovernmental coordination and land use planning which the Commission is directed to undertake in various portions of its statutory mandate. Thus, the existence of extensive and intermingled land holdings resulting from further implementation of the Alaska Statehood and Settlement Acts will require the promulgation of joint management agreements, compatible land classification systems, possible land exchanges, and other actions which the Commission would appear capable of analyzing and facilitating.
>
> Since approximately 30 million acres of lands remain for the State to select under the Alaska Statehood Act, it is likely that Section 17(a)(7)(B) of the Commission's statutory mandate, which requires the submission of recommendations on proposed selections, will not have been fulfilled by the end of 1976. In addition, the State has asked the Commission to make recommendations respecting the use and classification of the State public domain. While the Commission is currently gearing up to perform this function, the amount of land involved and the complexity of the issues indicate that all of our recommendations will not have been formulated by December 1976. Since the great bulk of Native selections must be filed by the end of 1975, it is also logical to assume that the Commission would be called upon to provide land use planning assistance—a mandate of the present legislation—after our present termination date.

> As previously indicated, the Commission is directed by Section 17(b) of the Settlement Act to make recommendations to the Secretary of the Interior respecting the reservation of public easements across Native lands. The present pace of the easement reservation process indicates that this responsibility will not have been fulfilled by the end of 1976.
>
> Major land use planning and coastal zone management bills have been introduced in the Alaska State Legislature. As of this date, it does not seem likely that either measure will pass during the present legislative session, and many people believe that the passage of a comprehensive land use planning bill is at least two or three years away. Since the Commission has or will soon consider a number of issues raised by the land use legislation, our ongoing advice could be used by the Legislature when a planning bill is actually considered.
>
> Many of the considerations referred to previously demonstrate the continuing need for the type of socioeconomic, management, and land use studies now being conducted by the Commission. Extension of this agency would help to insure that objective, interdisciplinary analysis of land related issues will occur in the period beyond 1976.
>
> While the Commission will do its best to complete all aspects of its present statutory mandate by the end of 1976, it is clear that parts of certain responsibilities could best be performed when the pattern of land ownership in Alaska has become more certain. For example, the Commission is directed to make recommendations concerning any necessary modifications in existing Federal withdrawals. Yet, we have found it difficult to make such recommendations without knowing more about the surrounding pattern of land ownership. Similar examples could be cited.

SECTION 9. PAYMENTS TO CERTAIN NATIVE CORPORATIONS

Section 9 provides "start up" payments to certain Native corporations which received certain land benefits but no funds under the Settlement Act.

Subsection (a).—Under section 14(h)(3) of the Settlement Act, the Natives of each of four urban centers the populations of which are no longer composed predominantly of Natives are permitted to select 23,040 acres if they incorporate for that purpose. The so-called "four named corporations" have been established and each is attempting to select 23,040 acres. These corporations have only a single potential asset—the land that will be granted to them and put to a productive, income producing use. Although members of these four named corporations are stockholders in their respective Regional Corporations, the four named corporations are not themselves recipients of funds under the Settlement Act. These corporations are, however, incurring expenses in organizing and operating themselves, making land selections, and engaging in appropriate and necessary planning. Understandably, they are reluctant to borrow on the security of future land uses, and financial institutions are equally reluctant to advance funds on any other basis. In addition, meeting the terms of financial institutions

automatically places the corporations in a situation in which the need is felt to make immediate use of land to satisfy creditors, thereby precluding the consideration of all development alternatives.

Subsection (a) would provide for a one-time payment of $250,000 to each of these four named corporations.

Subsection (b).—Section 19(a) of the Settlement Act revoked the various existing Native reserves established in Alaska prior to enactment of the Act with the exception of the Annette Island Reserve established for the people of Metlakatla. Members of the Village Corporations formed in the area of each reserve were given the opportunity to hold an election to decide whether they wished to acquire title to the surface and subsurface estate of the former reserve or to acquire benefits normally accorded to a Village Corporation established under the Settlement Act. Seven villages (including Klukwan, Inc.) chose to retain their reserve status and as such are not eligible to select other land under the Act or receive a distribution of Regional Corporation funds, and the members thereof are not stockholders in their respective Regional Corporations.

Thus, like the four named corporations, the reserve corporations have only one asset—the land. The most significant difference between the two types of corporations is that in the case of the reserve corporations the land has already been selected. Under these circumstances, the reserve corporations' need for start-up funds to plan their land is less than that of the named corporations which must both select and plan their land.

The Committee, therefore, agreed to provide in subsection (b) a smaller $100,000 one-time payment to each of the reserve corporations other than Klukwan, Inc.

Subsection (c) requires that the funds to be paid to the four named corporations and six reserve corporations must be used only for "planning, development, and other purposes for which the corporations . . . are organized under the Settlement Act."

Subsection (d) authorizes the appropriation to the Secretary of the Interior the entire sum of $1,600,000 in fiscal year 1976.

SECTION 10. PROBLEMS CONCERNING NATIVES IN REVOKED RESERVES

Section 10 addresses certain problems relating to certain Natives who reside in revoked reserves. As previously noted, section 19(a) of the Settlement Act revoked the various existing reserves established in Alaska prior to the enactment of the Act, with the exception of the Annette Island Reserve established for the people of Metlakatla. Members of the Village Corporations formed in the area of each reserve were given the opportunity to hold an election to decide whether they wished to acquire title to the surface and subsurface estate of the former reserve or to acquire benefits normally accorded to a Village Corporation formed pursuant to the Settlement Act. Seven Village Corporations elected to take title to reservation land. For certain reasons, however, in at least three places, some Natives may not be able to fully share in benefits derived from the lands of the revoked reservation or to receive Settlement Act benefits.

Subsection (a) concerns one particular reserve—Klukwan. The residents of this reserve voted to retain the reserve lands rather than participate in the Settlement Act. The Committee understands that, at the time of the election, it was generally understood among the voters that the Settlement Act Village Corporation on the reserve (Klukwan, Inc.) and its 255 members would succeed to the lease of certain mineral rights in the reserve negotiated by the Indian Reorganization Act entity, Chilkat Indian Village, with United States Steel Corporation in 1970. This may be erroneous. Instead, the rights of both the lessor and lessee may both survive the enactment of the Settlement Act, and, should these rights be extant, only the Chilkat Indian Village, the membership of which numbers 100, would receive the income from the 1970 lease. Under these circumstances, the 155 members of Klukwan, Inc. who are not also members of Chilkat Indian Village would not receive the benefits of either the lease or the Settlement Act.

Subsection (a) of section 10 would remedy this problem by conveying all reserve land to the Chilkat Indian Village and permitting the Village Corporation for the Village of Klukwan and its shareholders to participate fully in the Settlement Act benefits.

Subsection (b).—The Committee is also aware of a situation that has arisen on St. Lawrence Island where the Village Corporations of Savoonga and Gambell elected to take title to the Island under section 19. Approximately 30 Natives are enrolled to Native groups on St. Lawrence Island, rather than to Savoonga or Gambell. These individuals cannot obtain land benefits under the Settlement Act since title to the island is vested in the two Village Corporations, and they do not share in the benefits of those Village Corporations since they did not enroll in the two recognized villages.

Subsection (b) authorizes the Secretary to poll those 30 or so Natives and allow them to enroll to Savoonga or Gambell, or to the Bering Straits region or an at-large basis. The provision applies only to Natives enrolled in villages or groups that did *not* take title to the former reserve; it does not permit Natives enrolled to Savoonga or Gambell to re-enroll to the region at-large. The language of the section is general and would apply to other situations similar to that on St. Lawrence Island.

SECTION 11. APPLICATION OF SETTLEMENT ACT PROVISIONS

Section 11 of S. 1469 provides that, except as specifically provided in the bill, the provisions of the Settlement Act are fully applicable to the provisions of S. 1469 and nothing in S. 1469 is to be construed as altering or amending the Settlement Act.

IV. LEGISLATIVE HISTORY

S. 1469 is one of several bills amending or related to the Alaska Native Claims Settlement Act introduced this session. S. 131 (Senators Stevens and Gravel, introduced on January 15, 1975), S. 685 (Senator Stevens, introduced on February 17, 1975), S. 1469 (Senators Stevens, Gravel, and Jackson, introduced on April 17, 1975) and S. 1501 (Senators Gravel, Stevens, and Jackson, introduced on April 22, 1975) were the subject of a Full Committee hearing on May 16, 1975. S. 1824 an additional measure containing most of the provisions of the earlier bills and a number of new provisions address-

ing new issues, was introduced by Senator Stevens on May 22, 1975. The Senate Interior Committee, in open mark-up on July 31, 1975, agreed by unanimous voice vote with a quorum present to amend S. 1469 to include modified versions of many of the provisions contained in the other legislation. Several of the provisions in S. 1469, as amended, also appeared in S. 3530 which the Senate passed in the 93d Congress.

S. 1469, as amended, does not address four important issues raised during the May 16, 1975, hearing. Three of these issues concern land selection problems of three Regional Corporations: Cook Inlet, Koniag, and Sealaska. Each of these corporations are experiencing difficulty in selecting from lands withdrawn for them by the Secretary of the Interior either the total acreage to which they are entitled or lands of sufficient quality to provide those corporations with a strong economic base. The Committee has been apprised of several possible legislative solutions to the Cook Inlet problem, and the status of negotiations on those solutions with the State and other interested parties, in communications with officers and attorneys for the Regional Corporation and representatives of the State and the Joint Federal-State Land Use Planning Commission for Alaska. In addition, solutions to the Koniag and Sealaska problems were provided in separate provisions in S. 1824, introduced by Senator Stevens on May 22, 1975.

As the Cook Inlet negotiations are not yet completed and as several parties—including the State, the Commission, the Interior Department, and environmental groups—expressed interest in testifying on the Koniag and Sealaska issues, the Committee decided to defer consideration of the three Corporations' proposals until after the August recess when an additional hearing will be scheduled. The Committee is mindful, however, of the need to act promptly to resolve these Regional Corporations' land selection problems before the December 18, 1975, deadline for regional land selections. Without such action, the promise of the settlement may not be delivered to these three corporations and their Native shareholders.

The fourth and final issue concerns the ruling in *Edwardsen* v. *Morton* (369 F. Supp. 1359, 1973). The Settlement Act had as its principal purpose the provision of a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." (Section 2(a)). On April 19, 1973, Judge Oliver Gasch, the District Court for the District of Columbia, in ruling on a motion by the defendants for summary judgment in *Edwardsen*, held if the Native plaintiffs of the Arctic Slope of Alaska "were in fact disturbed in their use and occupancy by trespassers, i.e., by any parties coming onto the land except for those entering under Congressional authorization, then there accrued a cause of action in tort against the trespassers and a cause of action for trespass and breach of fiduciary duty against Federal officers authorizing such trespass." 369 F. Supp. at 1378–1379. The Court continued, "It is not at all clear that the Settlement Act bars litigation of plaintiffs' claims relating to the alleged trespasses even though they are linked to claims of aboriginal title. * * * In any event, a construction of (the Act's provisions) to bar claims relating to pre-Settlement Act trespasses would appear to create constitutional infirmities in the Act which are better avoided if a constitutionally sound construction does not violate clearly expressed

legislative intent." 369 F. Supp. at 1379. Accordingly, Judge Gasch refused to hold "that a later Act of Congress [Settlement Act] could wipe out all claims against any person * * * simply because Congress has decided to extinguish aboriginal title." Id.

Pursuant to a stipulation entered into by the parties in August of 1974, and approved by the Court in October, 1974, further proceedings in the *Edwardsen* case have been held in abeyance pending an investigation by the Department of the Interior of the extent of the trespass claims involved. "Interior agreed that upon completion of the investigation it would request the Department of Justice to bring appropriate actions against third parties found to have violated the rights of Natives." Response of American Law Division, CRS, to letter of the Chairman cited below.

In its May 16 hearing, the Committee received the testimony of Senator Stevens; Mr. Guy Martin, Commissioner of Natural Resources, State of Alaska; and Mr. O. Yale Lewis, counsel for the Inupiat Community of the Arctic Slope, the Arctic Slope Regional Corporation and the Arctic Slope Native Association, the plaintiffs in the *Edwardsen* suit. The various views expressed differed dramatically in their assessment of potential problems which may have been created by the *Edwardsen* decision and whether any action by the Congress in connection with the *Edwardsen* suit is warranted. Subsequent to the hearing, Senator Stevens introduced S. 1824. Section 15 of that bill sets forth one legislative approach to *Edwardsen*.

To explore fully the advisability and possible implications of taking legislative action on such a sensitive and highly complex issue, on June 3, 1975, the Chairman wrote letters requesting the views of the following parties on certain issues relating to the *Edwardsen* decision: The Department of Justice; the Department of the Interior; the State of Alaska; the Alaska Federation of Natives; the American Law Division, CRS, Library of Congress; and counsel for the paintiffs in *Edwardsen*. The responses have been published in Committee on Interior and Insular Affairs, U.S. Senate, *Amendments to Alaska Native Claims Settlement Act, Part 2*, Hearing, May 16, 1975.

The Committee expects to explore the issues relating to the *Edwardsen* decision more thoroughly in the same post-August recess hearing at which the land selection problems of the three Regional Corporations will be discussed.

V. Cost

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 1469, as amended: Section 8 authorizes the appropriation in fiscal year 1976 of $1,600,000 to be distributed $250,000 each to the four named Native corporations and $100,000 each to the six Native Village Corporations on revoked reservations. In addition, enactment of the measure would result in minor expenditures of funds to administer the extended enrollment and redetermination of residence of Natives pursuant to section 1 and the escrow account for land selected by Natives pursuant to section 2, to pay interest on the Alaska Native Fund pursuant to section 4, to fund the Federal share of the Joint Federal-State Planning Commission during its 2½ year extended term pursuant to sec-

tion 8 and to insure full Native eligibility for food stamps and other Federal programs pursuant to section 7.

VI. Committee Recommendation

The Committee of Interior and Insular Affairs, in open mark-up session on July 31, 1975, by voice vote with a quorum present, unanimously recommended that S. 1469, as amended, be enacted.

VII. Executive Communications

The reports of the Department of the Interior and the Office of Management and Budget on S. 1469 and related legislation are set forth in full below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., May 1, 1975.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This responds to your request for our views on S. 131, S. 685, S. 1469, and S. 1501, four bills which would amend the Alaska Native Claims Settlement Act (85 Stat. 688).

We recommend enactment of both S. 131 and S. 685, if amended as suggested herein. We have no objection to the enactment of either S. 1469 or S. 1501.

S. 131

S. 131 is a bill "To authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, and for other purposes."

Section 1 of the bill authorizes the Secretary of Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973, deadline for filing applications for enrollment as Alaska Natives. The deadline was established by regulations issued pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688). Under section 1, the Secretary would enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline. The section also provides for the issuance of regional corporation stock to those Alaska Natives enrolled pursuant to this provision as well as the distribution of payments to those Natives enrolled pursuant to this section that are equal to payments made to those Natives originally enrolled. It further states that Natives enrolled pursuant to this provision shall not affect the eligibility status of land entitlement of eligible village corporations, regional corporations, the four named cities, or groups as defined by the Alaska Native Claims Settlement Act.

We strongly support the reopening of the rolls of Alaska Natives eligible to receive benefits under the Alaska Native Claims Settlement Act (ANCSA), and to allow otherwise eligible Alaska Natives who missed the enrollment deadline to enroll. Although we make no

apology for the manner in which we handled in a very brief period of time one of the largest enrollment campaigns ever conducted, we recognize that not every eligible Alaska Native learned about the benefits of ANCSA in time to meet the filing deadline of March 30, 1973. Our estimate is that as many as 2,000 otherwise eligible persons had not applied for enrollment by that date. Some of these cases involve substantial equities. For example, some are minors whose guardians neglected to enroll them; others did not receive the enrollment forms or were under misapprehensions concerning their ancestry.

We are also in agreement with the provisions of section 1 that would not allow the addition of these late enrollees to result in changing the status of those villages and groups whose eligibility status was determined pursuant to the figures that were established by the roll certified by the Secretary of the Interior on December 18, 1973. That roll would, under the provision of section 1, establish the proportionate shares of villages, groups, and regional corporations as to their land entitlements and the new enrollment authorized by this amendment would not affect the proportionate share, nor would it be used to disqualify a group because it had more than 24 Natives enrolled as a result of the addition of late filers. We question the need for the inclusion of the four named cities, Sitka, Juneau, Kenai, or Kodiak, in this section because their land entitlement is not determined by the number of Natives enrolled to each of these locations. Therefore, we recommend that all reference to the four named cities be omitted.

Section 1 refers to the enrollment deadline of March 30, 1973, as having been established by section 5(a) of ANCSA. That deadline was established by regulation (25 C.F.R. 43h *et seq.*). We recommend that the reference to the authority of section 5(a) of ANCSA be deleted.

While section 1 provides that the Natives enrolled thereunder shall be issued stock, the section does not clearly authorize regional corporations, village corporations, groups or any of the Native associations for the four named cities to issue stock to the late enrollees. We recommend that after the words "shall be issued" on page 2, line 3 the following language be inserted: "in the appropriate regional, village group or other corporation."

Section 2(a) of the bill provides the Secretary of the Interior with authority from and after the date of enactment, to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA in an escrow account until such time as disposition is made of the land and then to transfer them to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected shall be deposited in the U.S. Treasury or paid out as required under law. Section 2(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (25 U.S.C. 162(a)). However, the section specifically prohibits the creation of a trust relationship with regard to the funds authorized for investment and reinvestment by the section.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selections but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the creation of the escrow account, we cannot support the provisions of section 2(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 2(b) would establish an unfavorable precedent.

Section 2(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands withdrawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporation or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of conveyance to the Natives, thereby making the two payments operative at the same time.

Subsection 2(a) refers to "any and all proceeds derived" from certain less-than-fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. The language of subsection 2(a) should be amended in order to exempt these two payments from the application of this provision.

Section 2 should contain a provision parallel to that of section 26 of ANCSA. We recommend that a new subsection (c) be added:

"(c) To the extent that there is a conflict between the provisions of subsection (a) of this section and any other Federal laws applicable to Alaska, the provisions of subsection (a) of this section shall govern. Any payment made to any corporation or any individual under the authority of subsection (a) of this section shall not be subject to any prior obligation under sections 9(d) and 9(f) of the Alaska Native Claims Settlement Act (85 Stat. 688)."

Sections 3 and 4 of S. 131 clarify certain accounting procedures related to the proceeds in the escrow account established by section 2(a) of the bill. A system is necessary to accurately relate revenues to specific tracts producing the revenues and the tracts selected.

Section 3 relates to public easements reserved in any conveyance pursuant to subsection 17(b)(3) of ANCSA. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation has been made in the conveyance, section 3 would insure that proceeds derived from these subsection 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such

conveyance in accordance with such grantee's proportionate share. Without the certainty provided by section 3, it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation.

We recommend an addition to section 3. On page 4 line 13, after the words "the Settlement Act" the following language should be inserted: "(85 Stat. 688), from or after the date of enactment of this Act,." This addition will render section 3 consistent with section 2(a).

We further recommend that section 3 contain a provision similar to the addition we recommended to section 2 whereby reimbursement for application costs and for the costs of environmental impact statements be exempted from the application of section 3.

Section 4 will clarify accounting procedures under ANCSA, so that although most contracts, leases, permits, rights-of-way and easements may be paid on lands withdrawn for Native selection on an annual basis, payment to be made at the beginning of the year, if a conveyance should be made in the middle of the year, the grantee would receive proportional income from such contracts, leases, permits. rights-of-way, and easements.

We recommend an amendment to section 4 which will provide consistency with section 2(a) of S. 131, and with section 3 of the bill as amended herein. We advise that on page 4, lines 22–23, the words "or from the date of conveyance under the Settlement Act, whichever occurs first.," be deleted.

Section 5 of S. 131 provides that no prior distributions from the Alaska Native Fund under section 6(c) of ANCSA shall be affected by this legislation. Upon certification of the amended final roll pursurant to this bill, the Secretary shall make the necessary adjustments in future distributions from the Fund necessitated by the new final roll to accommodate such role. Such adjustments shall not take effect until the next regularly scheduled distribution period following certification of the amended final roll.

Section 5 will allow the Secretary to make distributions from the Alaska Native Fund so that the regional corporations can continue to receive and invest funds in keeping with their plans and commitments. However, section 5 would also insure that the adjustments necessary to make everyone whole in accordance with section 1 of this bill will be made at the same time.

Section 6 of the bill would add a new section 28 to ANCSA. Section 28 would exempt until December 31, 1976, any corporation organized pursuant to ANCSA from the provisions of the Investment Company Act of 1940 (54 Stat. 789, as amended). We defer in our views concerning the provisions of section 6 of S. 131 to those of the Securities and Exchange Commission who, we understand, will submit a report to the Committee.

Section 7 of this bill would add a new section 29 to ANCSA. New subsection 29(a) would provide that payments and grants made under ANCSA are conpensation for extinguishment of claims to land by Alaska Natives and are not to be deemed to substitute for any governmental program that would otherwise be available to Alaska Natives as citizens of the United States and of the State of Alaska.

New subsection 29(b) of ANCSA would specifically exempt any benefits an Alaska Native might receive, pursuant to ANCSA in,

connection with an aboriginal land claim of such person, from consideration in determining the eligibility of any Native household to participate in the food stamp program under the Food Stamp Act of 1964 (79 Stat. 703).

We recommend a new section 29 of ANCSA in lieu of the section 29 created by section 7 of S. 131:

"SEC. 29. The payments authorized under this Act constitute compensation for extinguishment of claims to land. None of the payments distributed per capita under this Act may be considered as income as the basis for denying or reducing the financial assistance or other benefits to which a household or member thereof would otherwise be entitled to under the Social Security Act, the Food Stamp Act of 1964, or the supplemental security income program for the aged, blind and disabled."

Under section 8, except as specifically provided in S. 131, the provisions of ANCSA are fully applicable to this legislation and this bill shall not alter or amend any such provisions. We have no objection to this section.

S. 685

S. 685 is a bill "To authorize certain corporations under the Alaska Native Claims Settlement Act to merge or consolidate, and for other purposes."

S. 685 authorizes mergers or consolidations among regional or village corporations within the same region and would apply only to corporations authorized pursuant to sections 7 and 8 of the Alaska Native Claims Settlement Act. All mergers would be subject to the applicable provisions of the law of the State of Alaska, as would any resulting corporations. The bill would also allow the subsequent merger or consolidation of merged corporation with each other, as long as they are in the same region. The mergers authorized by corporation shareholders either before or after passage of this bill would be covered and could take place under the provisions of the bill. This provision would allow a merger that was approved by corporation stockholders with the merger vote contingent upon enactment of legislation to be completed upon enactment of the bill. This provision is necessary because of ongoing efforts to merge village corporations, particularly in the NANA Region of Alaska.

The bill gives to the merger corporation, upon the effectiveness of the merger, all rights and benefits that the Alaska Native Claims Settlement Act confers upon the individual corporations and also makes them subject to all the restrictions and obligations that were made applicable to the individual corporations by the Alaska Native Claims Settlement Act. The bill specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Alaska Native Claims Settlement Act.

Under subsection 1(c) of the bill, the shareholders of any corporation participating in any such merger or consolidation may exercise the rights accorded to dissenting shareholders in a merger or consolidation under Alaska law. In our judgment, Alaska law protects those shareholders who may choose to exercise their dissenters' rights under this bill.

Subsection 1(d) deals specifically with the rights of enrolled Alaska Natives who are shareholders of a regional corporation but are not

residents of any of the villages in that region. Section 7(m) of the Alaska Native Claims Settlement Act gives those Alaska Natives a right to receive dividends that represent their pro rata share of the dividends paid to village corporations when the regional corporations make distributions to the village corporations under section 7(j) of the Settlement Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Section 2 of the bill specifically provides that notwithstanding the provisions of this bill or any other law, no merger or consolidation of corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Since enactment of the Settlement Act, many of the village corporations have found that they are too small to effectively manage their resources and responsibilities under the provisions of ANCSA. In the remote areas of Alaska, there is a shortage of trained managers who can run the many corporations, a demand that may be lessened by bringing together several of the smaller villages into one management unit. It would also be easier for the regional corporations to deal with one or two village corporations rather than ten or fifteen. The multiplicity of villages may also dissipate the funds distributed to the villages which can be used for improvements for the Native people rather than being paid out to large members of professional managers.

This bill is needed to allow mergers or consolidations to take place because the Alaska Native Claims Settlement Act prohibits for a period of twenty years from the date of its enactment the alienation of corporation shares issued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation. S. 685 will modify this restriction on alienation sufficiently to authorize mergers and consolidations.

In our judgment this bill offers the Alaska Natives an opportunity to bring about mergers and consolidations that may better enable them to manage the benefits they are receiving under ANSCA. We recommend its enactment.

S. 1496 and S. 1501

S. 1469 is a bill "To amend the Alaska Native Claims Settlement Act to continue the authority of the Joint Federal-State Land Use Planning Commission for Alaska until June 30, 1979." S. 1501 is a similar bill "To extend the existency of the Joint Federal-State Land Use Planning Commission for Alaska."

S. 1469 would amend section 17(a)(10) of the Settlement Act to extend the life of the Joint Federal-State Land Use Planning Commission to June 30, 1979.

S. 1501 would also amend section 17(a)(10) of ANSCA, but would extend the life of the Planning Commission to December 31, 1978.

Further, S. 1501 would require the Planning Commission to submit a final and comprehensive report, such as the one presently required under section 17(a)(10) of ANSCA, by the date of expiration under this bill.

We have no objection to the provisions of either bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 24, 1975.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: We would like to take this opportunity to comment on an amendment to the Alaska Native Claims Settlement Act—section 12 of S. 1824—that we understand is under consideration by the Interior Committee. This provision would legislate an agreement between the Department of the Interior and the Koniag Regional Corporation concerning the lands withdrawn under section 17(d)(2)(e) of the Claims Act in the area proposed by this Department for establishment as the Aniakchak Caldera National Monument in the National Park System.

The pertinent agreement—which in essence was that the Department of the Interior would not oppose the region's selection of the subsurface estate of certain lands proposed for inclusion in the monument—is embodied in an exchange of correspondence between Royston C. Hughes, Assistant Secretary of the Interior for Program Development and Budget and Chairman of the Department's Alaska Task Force, and Mr. Edward Weinberg, attorney for Koniag, Inc. Copies of this correspondence, which were previously sent to the Committee on January 20, 1975, are enclosed for your convenience.

The specific amendment we refer to has been proposed in the revised Committee print as follows:

"SEC. 12. The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Koniag, Incorporated a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate as is selected by said corporation from lands withdrawn by Public Land Order 5397 for identification for selection by it located in township 36 south, range 52 west; township 37 south, ranges 51–54 west; township 38 south, ranges 51–54 west; township 39 south, ranges 51–54 west, township 40 south, ranges 51–54 west, and township 41 south, ranges 52–54 west. Seward meridian, Alaska, notwithstanding the withdrawal of such lands by Public Land Order 5179, as amended, pursuant to section 17(d)(2) of the Settlement Act: Provided, That notwithstanding the future inclusion in any national monument or other national land system referred to in section 17(d)(2)

(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, Koniag, Incorporated, may use the surface estate, and shall have such right of access thereto, as is reasonably necessary to prospect for and to mine and remove minerals from said subsurface estate, subject to such reasonable regulations by the Secretary as are necessary for the protection of surface values."

We object to the legislation of the agreement at this time. Our primary concern is that such legislation would place one aspect of the consideration of d–2 proposals ahead of the others. The logical time for consideration of the agreement reached between the Department and Koniag is during consideration of the Aniakchak proposal as a whole. Otherwise, a decision will have been reached on one aspect of the proposal without a full appreciation of its scope and rationale. In addition, advance legislation regarding this dual withdrawal problem with Koniag would have a troublesome precedential effect on several other proposals: currently more than 3,000,000 acres are dually withdrawn under section 17(d)(2)(e), and several regional and village corporations are involved. We are currently exploring with several of these Native groups ways to solve the difficulties that dual withdrawals present. In order to serve the interests of Natives as well as of the nation, we recommend that a consistent approach be taken with regard to all dually withdrawn lands, namely that their disposition be considered at the same time that the Committee reviews the "four systems" proposal in which each such withdrawal occurs.

Our other major concern regarding the adoption of this provision centers on the lack of public hearings on the amendment. One of the main reasons that this Department did not itself hold hearings on the d–2 proposals was anticipation of full public participation in the Congressional consideration of the proposals. While this Department continues to support the agreement reflected in the enclosed correspondence, we also feel that there should be the opportunity for public hearings on this important agreement. With the public's recognition and support of this agreement, we would be in a better position to make it work over the long term for the benefit of all parties involved.

We, therefore, recommend deferral of this amendment, pending consideration of the d–2 proposal.

Sincerely yours,

CURTIS BOHLEN,
Acting Assistant Secretary
of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 24, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of April 25, 1975, for the views of the Office of Management and Budget on S. 131, S. 685, S. 1469 and S. 1501, all bills to amend the Alaska Native Claims Settlement Act.

In its report to your Committee, the Department of the Interior recommended enactment of S. 131 if section 2(b) is deleted and certain other specified amendments are incorporated. Further, the Department also recommended enactment of S. 685 and stated that it would have no objection to the enactment of either S. 1469 or S. 1501.

The Office of Management and Budget agrees with the views of the Department and, accordingly, would have no objection to the enactment of S. 131 if amended as suggested by the Department or to the enactment of S. 685 and either S. 1469 or S. 1501.

Sincerely,

JAMES M. FREY,
Assistant Director for
Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1469, as ordered reported, are shown as follows (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):

SELECTED SECTIONS OF THE ACT OF DECEMBER 18, 1971 (85 STAT. 688)

* * * * * * *

THE TLINGIT-HAIDA SETTLEMENT

SEC. 16. (a) All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Klukwan, Southeast.
Saxman, Southeast.
Yakutat, Southeast.

(b) During a period of three years from the date of enactment of this Act, each Village Corporation for the villages listed in subsection (a) shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such township. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

(c) The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431), are in lieu of the additional acreage to be conveyed to qualified villages listed in section 11.

(d) The lands enclosing and surrounding the Village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the Village of Klukwan shall select an area equal to 23,040 acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: Provided, however, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the Village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise.

* * * * * * *

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

SEC. 17. (a) (1) There is hereby established the Joint Federal-State Land Use Planning Commission for Alaska. The Planning Commission shall be composed of ten members as follows:

(A) The Governor of the State (or his designate) and four members who shall be appointed by the Governor. During the Planning Commission's existence at least one member appointed by the Governor shall be a Native as defined by this Act.

(B) One member appointed by the President of the United States with the advice and consent of the Senate, and four members who shall be appointed by the Secretary of the Interior.

(2) The Governor of the State and the member appointed by the President pursuant to subsection (a) (1) (B), shall serve as cochairmen of the Planning Commission. The initial meeting of the Commission shall be called by the cochairmen. All decisions of the Commission shall require the concurrence of the cochairmen.

(3) Six members of the Planning Commission shall constitute a quorum. Members shall serve at the pleasure of the appointing authority. A vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) (A) Except to the extent otherwise provided in subparagraph (B) of this subsection, members of the Planning Commission shall

receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(B) Any member of the Planning Commission who is designated or appointed from the Government of the United States or from the Government of the State shall serve without compensation in addition to that received in his regular employment. The member of the Commission appointed by the President pursuant to subsection (a) (1) (B) shall be compensated as provided by the President at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code.

(5) Subject to such rules and regulations as may be adopted by the Planning Commission, the cochairmen, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(A) to appoint and fix the compensation of such staff personnel as they deem necessary, and

(B) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(6) (A) The Planning Commission, or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence, print or otherwise reproduce and distribute so much of its proceedings and reports thereon, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable.

(B) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by a cochairman, such information as the Commission deems necessary to carry out its functions under this section.

(7) The Planning Commission shall—

(A) undertake a process of land-use planning, including the identification of and the making of recommendations concerning areas planned and best suited for permanent reservation in Federal ownership as parks, game refuges, and other public uses, areas of Federal and State lands to be made available for disposal, and uses to be made of lands remaining in Federal and State ownership;

(B) make recommendations with respect to proposed land selections by the State under the Alaska Statehood Act and by Village and Regional Corporations under this Act;

(C) be available to advise upon and assist in the development and review of land-use plans for lands selected by the Native Village and Regional Corporations under this Act and by the State under the Alaska Statehood Act;

(D) review existing withdrawals of Federal public lands and recommend to the President of the United States such additions to or modifications of withdrawals as are deemed desirable;

(E) establish procedures, including public hearings, for obtaining public views on the land-use planning programs of the State and Federal Governments for lands under their administration;

(F) establish a committee of land-use advisers to the Commission, made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Alaska Natives, and other citizens;

(G) make recommendations to the President of the United States and the Governor of Alaska as to programs and budgets of the Federal and State agencies responsible for the administration of Federal and State lands;

(H) make recommendations from time to time to the President of the United States, Congress, and the Governor and legislature of the State as to changes in laws, policies, and programs that the Planning Commission determines are necessary or desirable;

(I) make recommendations to insure that economic growth and development is orderly, planned and compatible with State and national environmental objectives, the public interest in the public lands, parks, forests, and wildlife refuges in Alaska, and the economic and social well-being of the Native people and other residents of Alaska;

(J) make recommendations to improve coordination and consultation between the State and Federal Governments in making resource allocation and land use decisions; and

(K) make recommendations on ways to avoid conflict between the State and the Native people in the selection of public lands.

(8) (A) On or before January 31 of each year, the Planning Commission shall submit to the President of the United States, the Congress, and the Governor and legislature of the State a written report with respect to its activities during the preceding calendar year.

(B) The Planning Commission shall keep and maintain accurate and complete records of its activities and transactions in carrying out its duties under this Act, and such records shall be available for public inspection.

(C) The principal office of the Planning Commission shall be located in the State.

(9) (A) The United States shall be responsible for paying for any fiscal year only 50 per centum of the costs of carrying out subsections (a) and (b) for such fiscal year.

(B) For the purpose of meeting the responsibility of the United States in carrying out the provisions of this section, there is authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1972, and for each succeeding fiscal year.

[(10) On or before May 30, 1976, the Planning Commission shall submit its final report to the President of the United States, the Congress, and the Governor and Legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be taken or carried out by the United States and the State. The Commission shall cease to exist effective December 31, 1976.]

(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.

* * * * * * *

SEPARABILITY

SEC. 27. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

MERGER OF NATIVE CORPORATIONS

SEC. 28. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created for the same region. Any corporations resulting from said mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: Provided, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger

or consolidation may for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7(j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.

TEMPORARY EXEMPTION FROM CERTAIN SECURITIES LAWS

SEC. 29. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section shall, however, be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.

RELATION TO OTHER PROGRAMS

SEC. 30. (a) The payment and grants authorized under this Act shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefits received by any member of such household under this Act shall be disregarded.

O

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-729

PROVIDING, UNDER OR BY AMENDENT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, FOR THE LATE ENROLLMENT OF CERTAIN NATIVES, THE ESTABLISHMENT OF AN ESCROW ACCOUNT FOR THE PROCEEDS OF CERTAIN LANDS, THE TREATMENT OF CERTAIN PAYMENTS AND GRANTS, AND THE CONSOLIDATION OF EXISTING REGIONAL CORPORATIONS, AND FOR OTHER PURPOSES

December 15, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6644]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6644) To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native village", as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group", as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any "Native group", as defined in such Act shall not lose its status as a Native group because of any enrollment pursuant to this Act.

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as village corporations under section 11 of Alaska Native Claims Settlement Act and which are included within the boundaries of former reserves who elected to receive surface and subsurface entitlement pursuant to subsection 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b)

or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided*, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act.

(c) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, the minimum number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided*, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native Corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further*, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: *Provided further*, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further*, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such reexamination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.

SEC. 2. (a) From and after the date of enactment of this Act; or January 1, 1976, whichever occurs first, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements, issued pursuant to section 14(g) of the Settlement Act, pertaining to land or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under such Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, right-of-way, or easements, pertaining to lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to such Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as would have been required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (25 U.S.C. 162a): *Provided further*, That this section shall not be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Settlement Act, from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act.

SEC. 3. The Settlement Act is amended by adding at the end thereof the following new section:

"SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

SEC. 4. The Settlement Act is further amended by adding at the end thereof the following new section:

"SEC. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Nothwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.".

SEC. 5. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

SEC. 6. The Settlement Act is further amended by adding a new section 30 to read as follows:

"SEC. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merger or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders

which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 19(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

SEC. 7. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

SEC. 8. (a) Notwithstanding the October 6, 1975 Order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. v. Rogers C. B. Morton et al., Civil Action No. 2133-73, and Alaska Federation of Natives, International, Inc., et al. v. Rogers C. B. Morton, et al., Civil Action No. 2141-73 (F. Suppl.), changes in enrollment of Alaska Natives which are necessitated or permitted by such Order shall in no way affect land selection entitlements of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

(b) Stock previously issued by any of the twelve Alaska Native Regional Corporations or by Alaska Native Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said Order shall, upon said enrollment, be cancelled by the issuing corporation without liability to it or the Native whose stock is so cancelled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said Order shall elect to re-enroll in the appropriate Alaska Regional Corporation pursuant to the sixth ordering paragraph of that Order, stock of such Native may be cancelled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Alaska Regional Corporation without liability to either corporation or to the Native.

(c) In the event section 5(a) of the Settlement Act is amended to re-open the Alaska Native Roll for additional enrollment, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to such Act shall, at the time of enrollment elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of the Settlement Act and such election shall apply to all dependent members of such Natives' household who are less than eighteen years of age on the date of such election.

(d) No change in the final roll of Alaska Natives established by the Secretary pursuant to Section 5 of the Settlement Act resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Alaska Natives shall affect land entitlements of any regional or village corporation or any Native village or group eligibility.

SEC. 9. Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection.".

SEC. 10. Section 16(b) of the Settlement Act is amended by adding at the end thereof the following: "Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.".

SEC. 11. Section 7(a) of the Settlement Act is amended by changing the period at the end thereof to a colon and adding the following: "*Provided*, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided further*, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreasonably or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.".

SEC. 12. Cook Inlet Settlement. (a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region, Incorporated ("Region" hereinafter), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

(1) The State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

(2) The Region and all plaintiffs/appellants have withdrawn from Cook Inlet v. Kleppe, No. 75-2232, 9th Circuit, and such proceedings have been dismissed with prejudice; and

(3) All Native village selections under section 12 of the Alaska Native Claims Settlement Act of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area," which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, the terms of which are hereby ratified as to the duties and obligations of the United States set forth therein:

(1) Approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the water-front zone described in the document referred to in this subsection.

(2) Title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

(3) Federal interests in townships 10 South, Range 9 West, F.M., and township 20 North, Range 9 East, S.M.:

(4) Township 1 South, Range 21 West., S.M.: secs. 3–10, 15–22, 29 and 30; and rights to metalliferous minerals in the following sections in township 1 North, Range 21 West, S.M.: secs. 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36;

(5) Twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region; unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement:

(6) Lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(1) of the Alaska Native Claims Settlement Act: *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the Range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the Range with the concurrence of the owner. Section 22(e) of the Alaska Native Claims Settlement Act, concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land without restriction to a native corporation.

No lands outside the exterior boundaries of Cook Inlet Region shall be conveyed to Cook Inlet Region, Inc., unless, in the following circumstances, the consent of other Native Corporations is obtained:

i. Where the township to be nominated is located within an area withdrawn as of December 15, 1975, pursuant to Section 11(a)(1) CIRI shall obtain the consent of the Region and Village Corporation affected.

ii. Where the township to be nominated is located within an area withdrawn pursuant to Section 11(a)(3) as of December 15, 1975, CIRI shall obtain the consent of the Region in which the township is located.

There shall be established a buffer zone outside the withdrawals described in subparagraphs i and ii which zone shall extend one township from any such Section 11(a)(3) withdrawal and one and one-half townships from any Section 11(a)(1). Any nomination of a township within such zone shall be subject to

the consent of the Region, or of the Village Corporation if adjacent to a Section 11(a)(1) withdrawal, provided, however, that the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Region shall designate the enlarged buffer zone, if any, no later than six months following the passage of this act. Any use or development by Cook Inlet Region, Inc., of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Alaska Native Claims Settlement Act unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act. Of such lands, 3.5 townships of subsurface in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any regional corporation or village corporation, notwithstanding any provisions of the Alaska Native Claims Settlement Act to the contrary.

(d)(1) The Secretary shall convey to the State of Alaska, all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more thean 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in the document referred to in subsection (b) except for one compact unit of land which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974: *Provided*, That if the land is not used for the above purposes it shall revert to the United States. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act: *Provided, however*, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this para-

graph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in the document referred to in subsection (b).

(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act.

(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

(g) The Secretary through the National Park Service, shall provide financial assistance, not to exceed $25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land-use plan for the West side of Cook Inlet, including an analysis of alternative uses of such lands.

(h) Village corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Alaska Native Claims Settlement Act, notwithstanding any provision of that act to the contrary.

(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.

SEC. 13. Section 21 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby amended by adding the following subsection at the end thereof:

"(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.".

SEC. 14. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village;
(2) Elim;
(3) Gambell;
(4) Savoonga
(5) Tetlin; and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

Sec. 15(a). The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public

Land Order 5397 for identification for selection by it located in the following described area:

T 36 S, R 52 W
T 37 S, R 51 W
T 37 S, R 52 W
T 37 S, R 53 W, sec. 1–4, 9–12, 13–16, 21–24, north ½ of 25–28
T 38 S, R 51 W, sec. 1–5, 9, 10, 12, 13, 18, 24, 25
T 38 S, R 52 W, sec. 1–35
T 38 S, R 53 W, sec. 1, 12, 13, 24, 25, 36
T 39 S, R 51 W, sec. 6, 7, 16–21, 28–33
T 39 S, R 52 W, sec. 1, 2, 11, 12, 13–16, 21–24
T 39 S, R 53 W, sec. 26, 33–36
T 40 S, R 52 W, sec. 6, 7, 8, 9, 16, 17, 18–21, 27–36
T 40 S, R 53 W, all except sec. 20, 29–33
T 40 S, R 54 W, all except sec. 35 & 36
T 41 S, R 52 W, sec. 4, 8–15
T 41 S, R 54 W, sec. 3
T 41 S, R 53 W, sec. 1, 2, 11, 12, 13

Notwithstanding the withdrawal of such lands by Public Land Order 5179 as amended, pursuant to section 17(d)(2) of the Settlement Act: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

The United States shall make available to Koniag, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect.

(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(e) of the Settlement Act, shall not be available for selection by Koniag Region, Incorporated.

SEC. 16. Within ninety (90) days after the date of enactment of this Act, the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands:

COPPER RIVER MERIDIAN

Township	Range	Section
9.S	3.E	23, 26, 31–35.
0.S	3.E	2–27, 34–36.
1.S	4.E	3, 6, 8, 9, 16, 17, 20–22, 27–29, 33–35.
9.S	3.E	3–6, 9–11.
9.S	3.E	14–16, 21, 22, 27, 28.

The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to Section 12(a) or 12(b) of the Alaska Native Claims Settlement Act (85 Stat. 688) and were withdrawn pursuant to Section 11 of that Act.

The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forests system. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to Section 14(f) of the Alaska Native Claims Settlement Act.

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SEC. 17. Section 22(f) of the Alaska Native Claims Settlement Act is amended to provide as follows:

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations, for the Cities of Juneau, Sitka, Kodiak and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: *Provided*, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

SEC. 18. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PURPOSE

The purpose of H.R. 6644, introduced by Mr. Young of Alaska, is to amend and supplement, in certain respects, the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688). Among other things, the bill as introduced, would accomplish the following:

The roll of Alaska Natives would be reopened for one year from date of enactment to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline established by the Secertary of the Interior. No changes in land selection rights pursuant to the Settlement Act would occur as a result of the new enrollment process. (Sec. 1(a)).

The Secretary would be required to redetermine the place of residence of Nativs who had enrolled in Native "villages" or "groups", as defined in the Settlement Act for purposes of receiving benefits, which villages or groups have subsequently been found ineligible. Prior distribution of benefits and land entitlements under the Act would not be affected (Sec. 1(c)).

Natives who reside on lands of, but are not members of, village(s) which elected to retain their former reservations under section 19(b) of the Act are given the opportunity to enroll to such village corporations. (Sec. 1(b)).

The Secretary is directed to establish an escrow account in which are to be deposited funds earned on lands withdrawn for Native selection pending issuance of patents thereon. Interest will be earned on such account and it will be paid out as interests appear upon issuance of final patents to the Native corporations. (Sec. 2).

Native corporations would be exempt from the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 until December 31, 1991. (Sec. 3).

Clarification is made that (1) payments and grants to Natives under the Act are not to be deemed as a substitute for any government programs Natives otherwise would be eligible for as citizens and that (2) benefits received by Natives under the Act are not to be counted as income or other resources for purposes of the Food Stamp program. (Sec. 4).

Money, in the Alaska Native Fund, pending distribution, is to be

treated as trust funds of Indian tribes for interest and investment purposes. (Sec. 5).

Mergers of Native village corporations which are too small to be economically viable with other village corporations or with the regional corporation would be permitted under certain conditions. (Sec. 6).

The life of the Joint Federal-State Land Use Planning Commission is extended three years until June 30, 1979. (Sec. 7).

The decision of the village of Klukwan to retain their former reservation under section 19(b) of the Settlement Act rather than share in the benefits of the Act resulted in a severe inequity to some of its members because of a prior valid right to the lands of such reservation. This inequity is corrected by, in effect, vitiating such election and allowing Klukwan to share in the Act's land benefits. (Sec. 9).

The Regional Native Corporation of the southeastern region (Sealaska, Inc.) is given authority to select its land entitlement under section 14(h)(8) of the Act from lands withdrawn for, but not selected by, village corporations of that region. (Sec. 10).

The boundary between the southeastern Native region and the Chugach region is confirmed at the 141st meridian. (Sec. 11).

The severe land selection problem encountered by the Cook Inlet Native region in securing its land entitlement under the Act is resolved by providing for certain conveyance of lands to the regional corporation from the U.S. and the State of Alaska. (Sec. 12).

The value of share of stock in Native corporations and the right to receive dividends therefrom are excluded from the gross estate of a Native shareholder for Internal Revenue Code purposes. (Sec. 13).

Grants of $250,000 each are authorized for the Native corporations of Juneau, Sitka, Kodiak, and Kenai and $100,000 each for the villages of Artic Village, Elim, Gambell, Savoonga, Tetlin, and Venetie for planning, development and other purposes for which these corporations were organized. (Sec. 14).

The Koniag Native regional corporation is conveyed title to approximately 186,000 acres of subsurface estate in lands which lands are proposed for inclusion in the Aniakchak Caldera National Monument. (Sec. 15).

BACKGROUND

On December 18, 1971, the President signed into law the Alaska Native Claims Settlement Act (the Settlement Act), Public Law 92-203, 85 Stat. 688. This legislation extinguished all aboriginal claims to land in Alaska and in return provided the Natives (individually and through 12 Regional Corporations and approximately 220 Village Corporations established under the law's provisions) with a land settlement of approximately 40 million acres and a monetary settlement of nearly a billion dollars ($462,500,000) from the general fund of the Treasury, and $500 million from mineral revenues from lands in Alaska conveyed to the State under the Statehood Act after the enactment of the Settlement Act and from the remaining Federal lands, except Naval Petroleum Reserve No. 4).

ORGANIZATION

The Act provided that, within 2 years from the date of enactment, the Secretary of the Interior was to prepare a roll of all Natives who

were born on or before, and who were living on, the date of enactment. Within one year of enactment, the Secretary was required to divide the State of Alaska into 12 geographic regions for purposes of the Settlement Act. The Natives of each region were authorized to establish a Regional Corporation to conduct business for profit under the laws of Alaska, and all 12 Regional Corporations have been organized. The Act also listed 217 villages, the members of which were to establish profit or non-profit Village Corporations. The Secretary was required to review the listed village within 2½ years of enactment, disqualify those that do not meet the Act's criteria, and add those which do meet the criteria but were not listed in the Act. Some 220 Village Corporations have been established.

The Act also revoked existing Native reserves and authorized the Native Village Corporations formed on each reserve to elect to take either title to the reserve lands or the benefits of the Settlement Act. Native groups which were not eligible as villages were also asked to incorporate. Finally, the Natives of four urban centers in which the Native population constitutes a minority (Sitka, Kenai, Juneau, and Kodiak) were also expected to incorporate.

The Corporations are to issue stock to their members, however such stock is inalienable for a period of 20 years.

The Land

To permit the Regional and Village Corporations to select 38 million acres, the Act requires the Secretary to withdraw approximately 25 townships around each Native village listed in section 11 and, in case of insufficient lands within that area, withdraw nearby lands equal to three times the deficiency. The Secretary was authorized to withdraw and convey an additional 2 million acres outside the otherwise withdrawn areas for specific purposes: cemetery sites and historic places; not more than 23,040 acres for each Native group which does not qualify as a Native village; not more than 23,040 acres for each of the Native Corporations in four urban centers the populations of which are no longer composed predominantly of Natives (Sitka, Kenai, Juneau, and Kodiak); and not more than 160 acres for each Native living outside the otherwise withdrawn areas.

Of these withdrawn lands, the Village Corporations are to receive title to 22 million acres of surface estate only: 18½ million acres of surface estate in the 25 township areas surrounding each Village, divided among the villages according to population, and 3½ million acres of surface estate, divided among the Village Corporations in 11 regions (excluding the southeastern region, Sealaska) by the Regional Corporations on an equitable basis after considering historic use, subsistence needs, and population. The deadline for selection of lands by the Village Corporations was December 18, 1974.

The 12 Regional Corporations are to receive the subsurface estate in the 22 million acres patented to the Village Corporations, and the full title to 16 million acres selected within the 25 township areas surrounding the villages. This land would be divided among the 12 Regional Corporations on the basis of land areas within each region. The Regional Corporations would also receive the subsurface estate

of land selected by Native groups (one township, 23,040 acres, each), individual Natives residing outside villages (160 acres each), and the Native Corporations for Sitka, Kenai, Juneau, and Kodiak (23,404 acres each). The balance remaining from the two million acres withdrawn for the group, individual, and town selections after selection is made is also to go to the Regional Corporation. Finally, Regional Corporations would be conveyed cemetery and historical sites. The deadline for Regional Corporation land selections is December 18, 1975.

The Funds

The Act established in the Treasury an Alaska Native Fund into which is to be paid $462,500,000 in Federal funds over an 11-year period and a 2% overriding royalty from all proceeds received from the disposition of minerals subject to the Mineral Leasing Act in Alaska from both Federal (other than Naval Petroleum Reserve No. 4) and State lands until an additional sum of $500,000,000 is reached.

The Regional Corporations would receive all payments on a quarterly basis as funds are made available on passage of appropriations acts. The payments are divided among the regions on the basis of Native population. The Regional Corporations must also divide among themselves 70 percent of the mineral and timber revenues received by them from lands conveyed to them. Each Regional Corporation must then distribute to the Village Corporations and the class of stockholders who are not residents of these villages not less than 50 percent (45% during the first five years) of the funds granted to it and all timber and mineral revenues from its lands. During the first five years, not less than 10% of all corporate funds from the two abovementioned sources are to be distributed by the Regional Corporations among their stockholders.

With some minor exceptions, the land and moneys received under the settlement are not taxable at time of receipt.

Explanation

The Alaska Native Claims Settlement Act is a very complicated, far-ranging law. It was the subject of exhaustive congressional hearings, consideration and debate. The final product represents a delicate balancing of the myriad of interests within the State of Alaska and the Nation as a whole.

The primary purpose of the Act was to finally settle the long-standing land claims of the Alaska Natives in a fair, expeditious manner. In addition, however, the Act attempted to secure the interests of the public at large preserving the unique status and value of certain lands in the State, in providing for the orderly development of the resources of Alaska, and in preserving the ecological and environmental balance on this land.

The Act also sought to permit the development of the vast energy potential of the State to aid in meeting the growing energy shortages of the Nation while meeting the needs of the Natives and of the public at large.

In light of the many issues and circumstances which the Act attempted to meet and equitably resolve, it is little wonder that

experience in the implementation of the Act has disclosed some deficiencies and oversights on the legislation. This is particularly true with respect to insuring that the Native beneficiaries of the Act obtained the rights to which they were entitled.

The Committee, in the exercise of its oversight responsibilities and in extensive hearings on the Settlement Act has identified several pressing deficiencies in the Act and resultant inequities which require legislative remedy. H.R. 6644, as amended, will provide that remedy.

Section-By-Section Analysis

SECTION 1

Subsection (a) of the bill authorizes the Secretary of the Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973 deadline for filing applications for enrollment as Alaska Natives. The Secretary would then enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline.

In addition, section 1(a) sets forth the procedures for making all the changes required by amendments to the roll resulting from the new enrollments thereunder, specifically with regard to issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Also, the subsection provides that no land entitlements of "village" or "group" eligibility will be affected by the changes in enrollment thereunder.

Some 77,000 Alaska Natives filed timely enrollment applications and were included on the final roll certified by the Secretary of the Interior on December 18, 1973. However, approximately 800 applicants filed after the March 30, 1973 deadline. There applications were summarily denied. In addition, numerous other Natives were dissuaded from filing upon learning that the deadline had passed. Further, because of the remoteness and isolation of Native settlements in Alaska, the subsistence hunting and fishing culture of many Natives, and the wide dispersion of other Natives throughout the United States and foreign countries, many Natives did not receive timely notice about the enrollment process.

This new enrollment period will afford these Natives the opportunity to share in the benefits Congress intended for them. While there is no accurate count of eligible Natives who missed enrollment, estimates indicate that the number would be greater than 1,000.

Subsection 1(b) provides that the Secretary is authorized to poll Natives enrolled to villages or groups not recognized as village corporations under the Settlement Act and which are located within the boundaries of former reserves where village corporations elected surface and subsurface rights under section 19(b) of the Settlement Act. The Secretary may allow these natives to enroll to a section 19(b) village corporation or to remain enrolled on an at-large basis in the Regional Corporation of the region in which the village or group is located.

Although the language of the provisions is general and would apply to any case falling within its terms, the provision is specifically

directed toward an inequitable situation identified by the Committee on the Island of St. Lawrence. The villages of Gambell and Savoonga elected to retain and take title to their former reservation pursuant to section 19 of the Settlement Act. That former reservation constituted the entire Island.

Approximately 30 Natives who live on the Island enrolled to places other than Gambell or Savoonga. Since all the land was taken by the two villages as the former reserve, these Natives cannot realistically obtain land benefits as a Native group. The subsection will correct this and other such inequitable and unintended results of the Settlement Act.

The Committee adopted an amendment which makes clear that no enrollment changes resulting from subsection (c) will affect any land entitlements under section 12(b) or 14 (h)(8) of the Settlement Act. The Committee does not intend that the addition of the proviso be taken to be a congressional determination that any such enrollment change might or might not otherwise affect such entitlements.

Section 1(c) provides that, in those cases where, under the enrollment provisions of the Settlement Act, there were enrolled as residents of a place the minimum number of Natives necessary to qualify as a Native village or group and where it is later determined by the Secretary that such place is not eligible for land benefits as a village or group on grounds which include an insufficient number of residents, the Secretary is required to redetermine the place of residence of such Native as of April 1, 1970, and to enroll such Native in the appropriate Native corporation or corporations.

The subsection maintains existing or past distributions of funds or land entitlements under the Settlement Act notwithstanding such redetermination of residence. In addition, it affords an opportunity for notice and a hearing for those Natives whose residence is being redetermined and for those Native corporations gaining or losing stockholders.

SECTION 2

Section 2 contains provisions to correct ambiguities which have arisen during the implementation of the Settlement Act concerning the distribution of certain receipts and proceeds.

Subsection (a) provides the Secretary of the Interior with authority to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to land or resources of land withdrawn for Native selection pursuant to the Settlement Act in an escrow account until such time as disposition is made of the land and then to transfer the receipts to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected are to be paid out as required under law. Subsection 2(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (52 Stat. 1037, 25 U.S.C. 162(a)).

Despite the stricture provided in section 14(a) of the Settlement Act that patents to lands selected by Native corporations are to be conveyed "immediately after selection," delays between the selection of land by a Native corporation and the transfer of title to that corporation are unfortunately likely to occur. Several reasons for such delays, such as the absence of an easement policy, probably will be eliminated in the near future. Others are likely to continue for the duration of the Native land selection process, in that the Bureau of Land Management appears to lack the manpower and money necessary to process expeditiously the hundreds of selection applications which it has or will soon receive from the twelve Regional Corporations and the approximately 220 Village Corporations which have qualified for benefits under the Settlement Act.

Under existing law, any funds derived from lands owned by the Federal government must be deposited in the Treasury or other appropriate depository until title passes, despite the fact that such lands may have been selected by a Native corporation. Therefore, in the absence of section 2 of H.R. 6644, no authority exists to establish an escrow fund on behalf of the Native corporations. Accordingly, these corporations could be deprived of a significant asset which they would be entitled to receive but for the existence of problems beyond their control—delays in conveying the selected land and lack of authority to protect Native proceeds in the interim. The Settlement Act vests the Secretary of the Interior with interim authority to grant leases, contracts, permits, rights-of-way, and easements on Native lands. In a growing number of situations, Native corporations have wanted the Secretary to enter into one of these arrangements, but have been forced to abandon their plans due to the lack of escrow authority.

Subsection (c) relates to public easements reserved in any conveyance pursuant to section 17(b)(3) of the Settlement Act. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation would have been made in the conveyance, section 2 would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued will be paid to the grantee of such conveyance in accordance with the grantee's proportionate share. The Department of the Interior believes it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation without the certainty provided by section 2.

Subsection (d) provides that, where there is a conflict between the provisions of this section and other Federal law applicable to Alaska, this section will prevail. In addition, it provides that payments made to any corporation or individual from the escrow account shall not be considered revenue for purposes of the mineral revenue sharing section 9(d) and (f) of the Settlement Act.

SECTION 3

Section 3 adds a new section 28 to the Settlement Act which exempts Native corporations organized under that Act from the provisions of certain federal securities laws during the time that the stock of those

corporations is subject to prohibitions on sale or disposition, i.e. December 31, 1991.

A. The Investment Company Act of 1940

The exemption is necessary because of certain "mechanical" provisions of the Investment Company Act and the present uncertain status under the 1940 Act of Native corporations established pursuant to the Settlement Act. The 1940 Act requires highly technical registration and periodic reports to the Securities Exchange Commission (SEC) from corporations which are by design "investment companies" as well as corporations which are deemed "inadvertent" investment companies because more than 40 percent of their total assets, exclusive of cash and government securities, are held in the form of "investment securities."

The Native corporations are designed to be operating profitmaking business corporations. They are not expected to be "investment companies" as that term is customarily used. All of them will eventually own surface and/or subsurface interests in substantial amounts of land. Once the corporations are fully organized it is apparent that many of them will never be "investment companies" by virtue of their intentional business decisions or because they happen to have more than 40 percent of their non-cash assets in investment securities. The probable value of certain land interests makes it unlikely that several of these corporations will ultimately fall under the 1940 Act because of the 40 percent test.

The structure of the Settlement Act results, however, in substantial cash flowing to these corporations years ahead of conveyance and evaluation of land selections. Over $150 million has been distributed to Native corporations; whereas land selections have not yet resulted in title passing to the corporations, selections will not be completed until the end of 1975, at the earliest, and conveyances will not be completed for perhaps 15 years.

The Native corporations must do something with the money they are receiving. They cannot let it lie fallow in checking accounts, yet they are unprepared now to proceed immediately into profit-oriented business for themselves. To meet this problem corporations are to some extent planning to put money into commercial bank time deposits or certificates of deposit with interest returns somewhat higher than savings accounts, but lower than "high-risk" investment ventures.

These plans present another potential problem under the 1940 Act. While the Court of Appeals for the Second Circuit has held that "certificates of deposit" are not "investment securities" for 1940 Act purposes, the SEC staff informally takes a contrary position. Thus the Native coporations which prudently try to obtain moderate return by purchasing certificates of deposit may be required to undergo costly and time-consuming registrations under the 1940 Act only to find that three years from now when land selections are complete they are no longer subject to that Act and must then go through costly and time-consuming procedures to deregister. The end result is extensive paperwork and a needless waste of time, money, and manpower.

It is too early for these fledgling corporations to know even what their investment policies and legal and accounting problems may be to

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make registration practicable for them under the Investment Company Act. On the other hand, the penalty for failure to register under that Act, even for a company which inadvertently becomes subject to its provisions, are severe. It is the purpose of Section 3 of H.R. 6644, amended, to provide the corporations formed under the Settlement Act with turnaround time in order to identify any problems which they may ultimately have under the Investment Company Act and to work out appropriate solutions for such problems internally and in consultation with the staff of the Securities and Exchange Commission.

The SEC has promulgated a temporary rule exempting Native corporations which register as investment companies from most of the provisions of the 1940 Act. Nonetheless, the exemption provided for in this section is necessary. The Committee is informed that some Regional Corporations have not registered under the SEC temporary rule and there exists some risk that their corporate acts and contracts might be vulnerable to challenge under the 1940 Act. The exemption will provide necessary breathing room to the SEC and the Native corporations in order to permit resolution of long-range solutions.

Another reason for temporarily exempting these entities from the Investment Company Act is to enable them to merge under provisions of Section 6 of H.R. 6644. In 1975 the NANA Corporation and the eleven Village Corporations in that region agreed on a plan of merger. The Natives spent about $200,000 in preparation and filing of a prospectus under the Securities Act of 1933. They did so in reliance on a "no-action" letter from the SEC advising them that no application would be necessary under section 17 of the Investment Company Act, a section which prohibits transactions between "affiliated persons" without a prior order from the SEC that the terms of the transaction are fair and equitable. At the last moment, however, the SEC withdrew their no-action letter, insisted on a section 17 application, and advised that no action would be taken on the application until extensive public hearings had been held. This administrative procedure imposes such substantial costs that merger may be impracticable. Since the very purpose of the merger authority in section 6 is to reduce administrative expense and overhead, it is appropriate at the same time to eliminate unnecessary expenses and delays imposed by federal securities laws.

B. The Securities Act of 1933 and the Securities Exchange Act of 1934

During the 20 year period when Native stock cannot be sold or transferred it is not necessary to subject these corporations to the expense and administrative burdens of compliance with the 1933 Securities Act and the 1934 Securities Exchange Act. Until December 1991, there will be no "market" in the stock of Native corporations since the stock is inalienable. Therefore it does not seem necessary to subject these corporations to the requirements of registering stock under the 1933 Act. The SEC has itself recognized that the 1933 Act need not be applied to those corporations in certain cases when it issued a "no-action" letter regarding the issuance of the initial shares of stock to Natives enrolled in Regional and Village Corporations.

The exemption from the 1933 Act is also needed to effectuate the merger authority in section 6. The 1933 Act requires that the stock be registered with the SEC, and a prospectus prepared and mailed

to all stockholders to whom the stock is offered, prior to the time at which they make the decision on the merger. Stock registration under the 1933 Act is an extremely elaborate and technical proceeding. The resulting prospectus, to be mailed to the stockholders, is intended to disclose every last detail bearing on the question of whether the person should acquire the stock. In the merger which NANA and the Village Corporations attempted to undertake in the spring of 1975, the prospectus, which had not yet been cleared by the SEC but which resulted from the SEC's initial round of comments on an earlier version submitted, consisted of a total of 80 printed pages, including 50 pages of financial statements, and accompanying footnotes, on all the corporations involved. In view of the lack of sophistication of most of the stockholders, particularly on matters such as complex mergers, such a document clearly is not an appropriate method of informing the stockholders. Yet, such a document would be required. It is extremely costly to prepare, and, as noted in the case of the NANA merger, costs well over $100,000. Clearly such costs for practical purposes would preclude the possibility of merger between two small Village Corporations which might be most in need of it.

Conversely, the tight restrictions of the 1933 Act on the verbal communications which may be made in conjunction with the prospectus virtually preclude any meaningful or simplified discussion at village or community meetings in order to explain merger to the stockholders. Thus the 1933 Act requires for disclosure an extremely complex and expensive document which does not serve its intended purpose at least as to Native corporations, but also precludes the one effective means of communication.

Similarly, application of the 1934 Securities Exchange Act is not necessary during the period when Native stock is inalienable. The 1934 Act applies to corporations with over 500 stockholders and $1,000,000 in assets. An exemption of Settlement Act corporations from only the 1940 Investment Company Act would result in all the Regional Corporations and approximately 19 of the Village Corporations being subject to the 1934 Act which requires expensive initial registration with the SEC, the filing of periodic reports with the SEC, and makes the detailed proxy rules applicable to any vote of stockholders. For the reasons discussed above under the 1940 Act, these requirements again have little proper application to Native corporations and do not fulfill their intended purpose in this context. In fact, in a recent letter to Congressman Lloyd Meeds in connection with the question of exempting the corporations from the 1940 Act, the SEC characterized the 1934 Act as "a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies." Since the stock of Native corporations may not be traded and the "public" may not invest in it until 1991, the 1934 Act has no proper application to these corporations.

Although the SEC has stated that the 1934 Act is designed to inform the "investing public" about securities, the federal securities laws do provide useful information to the stockholders as well as the investing public. Accordingly the new section 28 of the Settlement Act provides that any Native corporation which, but for the provisions of that section, would be subject to the 1934 Act, must transmit an annual

report to its stockholders containing subsantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

payments made under the Alaska Native Claims Settlement Act (P.L. 92–203) should be *disregarded* in determining eligibility for the Food Stamp Program and the extent of the food stamp benefit received by participating households. In addition, it asked for a decision from the USDA as to whether these payments should or should not be disregarded under the Federal regulations and instructions governing the counting of income and resources in the Food Stamp Program.

Alaska based its interpretation on numerous grounds—most notably, the provisions of section 2(c) of the Alaska Native Claims Settlement Act.[1] Section 2(c) of the Act states, in part—

". . . no provision of this Act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; . . ."

However, on April 22, 1974, the Washington headquarters of the Food Stamp Program notified its San Francisco regional office that payments to individuals and households under the Alaska Native Claims Settlement Act were *not to be disregarded* as income for purposes of the Food Stamp Program—although stock (in the various native corporations established under the Act) and land granted under the Act were to be disregarded as resources (assets) available to individuals and households applying for food stamps.[2] This notification was transmitted to Alaska—where payments under the Act were beginning—on April 23, 1974.

From discussions with Food Stamp Program personnel in San Francisco and Washington, D.C., it appears that the basic rationale behind the USDA's decision not to disregard these payments as income was that—

> Since the Alaska Native Claims Settlement Act contains no specific language requiring that these payments be disregarded in determining food stamp benefits,
>
> And since it is the general policy under the Food Stamp Program to count all income available for food expenditures unless legislation directs a disregard, and
>
> Income from payments under the Alaska Native Claims Settlement Act should be counted for food stamp purposes and to disregard them would grant Alaskan natives a privilege not granted to others applying for the Food Stamp Program.[3]

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[1] This description of the rationale behind Alaska's claim that these payments should be disregarded for food stamp purposes is based on information gained through discussions with the Food Stamp Program's San Francisco regional office. For a complete picture of the State's rationale, it would be advisable to obtain a copy of Alaska's letter to the USDA. The letter originated with Alaska's welfare commissioner.

[2] The actual text of the notification was—"For FSP [Food Stamp Program] purposes, cash payments made under P.L. 92–203 must be treated as income in accordance with the provisions of the program regulations. Stock and land received under P.L. 92–203 shall be excluded from resources as being unavailable to the household [applying for or participating in the Food Stamp Program]."

[3] As noted, this description of the reasoning behind the USDA's decision was gained through discussions with Food Stamp Program personnel—both in Washington and the San Francisco regional office. As yet, it has not been possible to obtain any *written* description of the USDA's rationale.

In addition, two points of "legislative history" were mentioned in discussing the reasoning backing up the USDA's decision. First, it was noted that the Senate version of the Alaska Native Claims Settlement Act (and the report accompanying it) contained language that might be construed to call for the disregarding of payments under the Act for Food Stamp Program purposes. However, this language did not find its way into the final Act, or the conference report. Second, provisions of a later act, P.L. 93–134, called for the disregarding of payments under court settlements of certain Indian claims in determining benefits under the Social Security Act.[4] However, this was *not* done in the case of payments under the Alaska Native Claims Settlement Act, for either Social Security Act programs or the Food Stamp Program.

Cash Welfare Benefits

In March 1974, HEW was notified of the questions existing as to whether to disregard payments under the Alaska Native Claims Settlement Act in determining eligibility for and the amount of cash welfare benefits under the Aid to Families with Dependent Children (AFDC) Program and the Supplemental Security Income (SSI) Program.

On May 3, 1974, Mr. Carlucci, Under Secretary of HEW, announced in Seattle that it had been decided that tax-exempt payments under the Alaska Native Claims Settlement Act *would be disregarded* in determining eligibility and benefits under the AFDC and SSI Programs (authorized by title IV–A and XVI of the Social Security Act). A later program instruction issued on July 3, 1974 (copy attached) confirmed this announcement for the AFDC Program, and SSI Program rules were also changed accordingly.

From discussions with Washington, D.C., personnel of HEW's Social and Rehabilitation Service and the content of the July 3, 1974 program instruction, it appears that HEW's basic rationale in deciding to disregard payments under the Alaska Native Claims Settlement Act in determining AFDC and SSI cash welfare benefits was that—

> The Alaska Native Claims Settlement Act, specifically section 2(c)[5] of the Act, required that the payments be disregarded to the extent they are tax-exempt.[6]

In addition it was pointed out in discussions that the provisions of P.L. 93–134 (requiring the disregarding of certain other Indian claims payments) could be construed to indicate a general Congressional intent that payments of Indian claims be disregarded in determining benefits under the Social Security Act programs administered by HEW (i.e., AFDC and SSI).

[4] P.L. 93–134 did *not* require that these payments be disregarded for Food Stamp Program purposes.

[5] The relevant portion of section 2(c) of the Act is quoted at the beginning of this report.

[6] As noted, the only available *written* description of the rationale behind HEW's decision is the July 3, 1974 program instruction. As yet, it has not been possible to obtain any other written description of HEW's reasoning.

This inconsistency in Federal policy remained undisturbed until June 23, 1975. On that date, the United States Court of Appeals for the Ninth Circuit rendered a decision in *Hamilton* v. *Butz* (No. 75–1268) reversing the District Court's order denying a preliminary injunction to prohibit the Secretary of Agriculture and other public officials from considering funds paid to Natives under the Settlement Act as "resources" available to Native households in determining whether such households are eligible for assistance under the Food Stamp Act. The Court of Appeals ordered the District Court to permanently enjoin the Secretary from so deeming Settlement Act payments as "resources" and to prescribe "such other relief as may be necessary to restore the eligibility for food stamps to those Native households that have been denied food stamps because of the Secretary's decision that settlement payments are 'resources' and to compensate Native households that may have been overcharged for food stamps because of the Secretary's actions".

The Committee concurs fully in this decision and subsection (b) of section 4, in requiring restoration of Native eligibility for food stamps, provides assurance that the decision will stand.

SECTION 5

Section 5 corrects an anomalous situation regarding the Alaska Native Fund which has arisen as a result of rulings by the Comptroller General. Appropriations of federal funds under the Settlement Act are credited to the Alaska Native Fund upon enactment of the appropriation measure. Under section 6(c) of the Settlement Act the appropriated funds are not paid to the Native corporations until the end of the fiscal quarter. Thus the funds appropriated in settlement of the Natives' claims may remain in the Treasury for as long as three months before actual payment to the Natives.

Since 1929, federal law has provided that all funds with balances over $500.00 carried on the books of the Treasury to the credit of Indian tribes would bear interest at the rate of 4% per annum (Act of February 12, 1929; 45 Stat. 1164, as amended; 25 U.S.C. § 161a). Since 1938, federal law has permitted the Secretary of the Interior to withdraw such tribal funds from the Treasury for alternative investment (Act of June 24, 1938; 52 Stat. 1037; 25 U.S.C. § 162a). On October 31, 1972, the Comptroller General ruled that the provisions of these two laws were applicable to the Alaska Native Fund "pending enrollment" under the Settlement Act, 52 Comp. Gen. 248 (B–108439). On December 28, 1973, the Comptroller General ruled that as of December 31, 1973, after enrollment had been completed, the Alaska Native Fund would no longer bear interest or be eligible for investment by the Secretary of the Interior. The effect of this latter ruling is that funds appropriated under the Settlement Act for payment to the Natives may remain idle for up to three months without payment of *any* interest to the Natives. The United States in effect can use those funds during that period to offset other obligations as a form of interest-free loan.

According to a 1971 report of the Treasury Department, there were approximately 450 trust accounts maintained by the government to the

credit of American Indian groups.[1] All of those funds, with the exception of one with a balance under $500.00, earned interest under federal law. The Committee believes that the Alaska Native Fund should be treated like every other Indian tribal fund. It appears that the Alaska Native Fund is the *only* Indian tribal fund which does not earn interest and is not available for investment by Interior. The Committee believes that the appropriations into the Alaska Native Fund are, in substance, the property of the Natives from the date of enactment of the appropriations bill. The requirement of subsection 6(c) of the Settlement Act that funds be distributed at the end of the fiscal quarter was intended to avoid administrative inconvenience, not to permit the United States to use the Natives' funds during the interim. The provisions of section 5 of this bill would reverse the Comptroller General's decision of December 28, 1973, and restore the Alaska Native Fund to the status it held under his October 31, 1972, ruling and the status held by all other Indian tribal funds. Section 5 applies the provisions of 25 U.S.C. §§ 161a, 162a to the Alaska Native Fund as long as there are funds on deposit in that fund and regardless of the completion of the enrollment process.

The Committee adopted an amendment to this provision which make clear its intent that nothing in the amendment shall be taken to create or terminate any trust relationship between the United States and Alaska Native individual or corporation.

SECTION 6

Section 6 would amend the Settlement Act by adding a new section 30 to permit mergers or consolidations among Native corporations within the same region. This section is required to permit such mergers because sections 7(h) and 8(c) of the Settlement Act prohibit for a period of twenty years from the date of enactment of that Act the sale or other alienation of corporation shares isued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation.

Many of the 220 Village Corporations appear to lack the financial wherewithal and trained manpower which they must possess to become economically viable entities. Village Corporation income will be derived primarily from two sources: distributions from the appropriate Regional Corporation and money derived from the development of the surface estate. Since many Village Corporations have relatively few shareholders, their monetary allocations from the region may be quite small. Moreover, Village Corporations which do not have lands with recreational, timber, or other surface potential will derive little income from this ownership. Finally, many Village Corporations in the remote areas of Alaska do not now possess a trained leadership group, and it is unlikely that they will be able to develop one or to hire needed personnel in the foreseeable future.

For these reasons, it is likely that many Village Corporations will fail if merger authority is not provided. Such a result would frustrate

[1] Receipt, Appropriation and other Fund Account Symbols and Titles, as of Jan. 11, 1971, Dept. of the Treasury, Fiscal Services, Bureau of Accounts, Dir. of Govt. Fin. Oper., Accts. 14X7000–14X7498, pp. 111–149.

the purposes of the Settlement Act, because Native shareholders would be denied the opportunity to participate in the benefits which the Act was intended to provide. Monetary income would be lost, and Native corporations could lose the use and control of their land. Moreover, the lack of sufficient cash flow to a failing corporation might require the hasty and undesired development of those natural resources which the corporation does possess. Such development could jeopardize Native culture, the preservation of which is a central objective of many Native groups. The failure of Native corporations would also have an adverse impact on the general economy of Alaska, for the State and its constituent regional and local areas have much to gain from the existence of financially viable Native entities.

Subsection (a) of the new Section 30 would authorize mergers or consolidations among Native corporations of the same region. It would also allow the subsequent merger or consolidation of merged or consolidated corporatins with each other so long as they also are in the same region. The Native corporations affected by this provision are Regional Corporations established pursuant to section 7(d) of the Settlement Act, Village Corporations established pursuant to section 8(a), corporations for Native groups established pursuant to section 14(h)(2), and corporations established for the four urban centers (Sitka, Kenai, Juneau, and Kodiak) pursuant to section 14(h)(3).

Subsections (b) through (d) of the new section 30 set forth the procedures and conditions for such mergers or consolidations.

Subsection (b). Under subsection (b), all mergers or consolidations would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations, and to such terms and conditions as are approved by the shareholders of the corporations involved. The mergers authorized by corporation shareholders either before or after passage of H.R. 6644 would be covered and could take place under the provisions of the Bill. Thus, subsection (b) would allow a merger to be completed upon enactment of H.R. 6644 which was approved by corporation stockholders with the merger vote contingent upon subsequent enactment of legislation. This provision is necessary because of ongoing efforts to merger Village Corporations, particularly in the NANA Region of Alaska.

Subsection (b) gives to the merger corporation, upon the effectiveness of the merger, all rights and benefits that the Settlement Act confers upon the individual corporations and also makes it subject to all the restrictions and obligations that were made applicable to the individual corporations by the Settlement Act. The provision specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Settlement Act.

Subsection (b) specifically provides for the issuance of stock in the newly merged or consolidated corporations. In particular, it authorizes the issuance of additional shares of Regional Corporation stock in instances where other Native corporations merge or consolidate with the Regional Corporation. This authorization is required because of the Settlement Act's section 7(g) requirement that Regional Corporations issue 100 shares of stock to each Native enrolled in their respective regions. Subsection (b) also states that "the rights accorded under

Alaska law to dissenting stockholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act prior to December 19, 1991". The purpose of this provision is to eliminate any ambiguity as to the continued effectiveness of the Settlement Act's section 7(h)(1) prohibition against alienation of Native corporation stock for a period of twenty years.

The Committee adopted an amendment to subsection (b) which provides that if a village corporation which elected to retain its former reservation under section 19 of the Settlement Act merges or consolidates with another Native corporation within such region, nothing in such merger or consolidation shall affect any land entitlements, fund distributions, or revenue sharing rights under the Settlement Act. As in the case of section 1(b) of the bill, some question exists as to whether or not members of the so-called "19(b) Village Corporations" are to be counted as regional enrollees. The amendment adopted is merely to preserve the named entitlements or rights in any case and is not meant to be a congressional determination of that issue.

Subsection (c) concerns the rights of enrolled Natives who are shareholders of a Regional Corporation but are not residents of any of the villages in that region. Section 7(m) of the Settlement Act gives those Natives a right to receive dividents paid to Village Corporations under section 7(j) of that Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of H.R. 6644 or any other law, no merger or consolidation of Native corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Subsection (e).—Section 14(f) of the Settlement Act provides that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village are to be subject to the consent of the Village Corporation. This provision provides protection to villages from a precipitate decision by Regional Corporations to develop the subsurface estate. This provision seeks to avoid potential conflicts between villages which are holders of the surface estate and which may be made concerned with preserving the use of the land in accordance with traditional local life-styles and subsistence economy and Regional Corporations which are holders of the subsurface estate and which may have as their focus the generation of revenues from the land. Without specific provisions to the contrary, once a Village Corporation merges or consolidates with other corporations under this new section 30, it would lose this authority over its immediate land base. Therefore to preserve this authority, subsection (e) has been included. Subsection (e) requires that any plan of merger or consolidation must provide that the 14(f) right of any

affected Village Corporation is to be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of that village.

SECTION 7

Section 7 extends the life of the Joint Federal-State Land Use Planning Commission for three years from December 31, 1976 to June 30, 1979.

The Joint Federal-State Land Use Planning Commission for Alaska was established pursuant to section 17(a) of the Settlement Act. The principal responsibilities of the Commission were set forth in section 17(a)(7) and 17(b) of the Settlement Act. That the Commission has met its responsibilities in an effective and even-handed manner is best demonstrated by the support for the extension of its term beyond the December 31, 1976, termination date. This support, as demonstrated in hearing testimony and communications with the Committee, comes from the Secretary of the Interior, the Governor of Alaska, the entire Alaska Congressional delegation, the Alaska Federation of Natives and various Regional Corporations, and environmental groups.

SECTION 8

Section 8 of H.R. 6644, as introduced, provided for the establishment of a 13th Region and the incorporation of a 13th Regional Corporation for the benefit of enrolled Natives who were not permanent residents of the State of Alaska.

Section 5(c) of the Settlement Act provided that such "non-resident" Natives (eighteen years of age or older) would elect, when they filed their application for enrollment, whether they wish to enroll in a 13th Region or in one of the twelve Alaska regions. If a majority of such non-residents voted for a 13th Region, the Secretary was required to establish such region and authorize the creation of a 13th regional corporation for their benefit to administer distribution of funds from the Alaska Native Fund. Those who voted against the 13th would be enrolled to the appropriate Alaska region.

In the event less than a majority voted for the 13th, the issue filed and all non-residents were enrolled to their appropriate region in Alaska.

When the Secretary of the Interior certified the final Native roll on December 18, 1973, he also declared that less than a majority of the non-resident Natives voted for the 13th and the 13th region issue had failed. All non-residents were, accordingly, enrolled in the appropriate Alaska region.

Two organizations (Alaska Federation of Natives International, Inc. and the Alaska Native Association of Oregon) representing the interests of non-residents and the concept of the 13th region, separately, brought suit against the Secretary in the United States District Court for the District of Columbia. Requesting that the declaration of the Secretary be declared invalid and that the 13th region be established, the Plaintiffs alleged, inter alia, that:

(1) certain departmental officials involved in the enrollment process had evidenced a bias against the 13th region;

(2) the Secretary had failed to recognize amendments by

non-residents to their original enrollment application changing their vote from "no" to "yes";

(3) the Secretary had improperly counted non-residents who had abstained as "no" votes; and

(4) there was a general denial of due process in the secretarial enrollment-election process.

Legislation was introduced in the 93rd Congress which would have established the 13th Region, notwithstanding the determination of the Secretary, but which failed of enactment. H.R. 6644, as introduced, contained similar language.

On October 6, 1975, the District Court entered a final order implementing an earlier order in 1974, directing the Secretary to create the 13th Region, enroll therein all non-resident Natives who had indicated, on his last formal communication with the Secretary, his desire to enroll in a 13th region, and to provide for the incorporation of the 13th regional corporation. As the Committee considered the bill, the implementation of that order by the Secretary was well underway.

As a consequence, the Committee struck all of section 8 of the bill as being made moot by the Court's order. However, it added back language as section 8 which it deemed necessary to supplement the Court's order. The amendment provides that no change in enrollment to either the 13th region or to one of the twelve Alaska regions which is required or permitted by the Court's order shall affect any land entitlements of an Alaska Native corporation existing at the time of the creation of the 13th region. Also, it provides that, in furtherance of the Court's order, any cancellation of stock of a Native shall be without liability to either the corporation or the individual. Finally, it provides that in the event the Native roll is re-opened for new enrollment, eligible Natives who are permenant non-residents of Alaska shall elect whether they wish to enroll in the 13th Region or the appropriate Alaska region at the time of their enrollment.

In addition, the Committee adopted an amendement which preserves land entitlements notwithstanding administrative changes in the Alaska Native roll. Under section 14 of the Settlement Act, land entitlements of villages corporations are established on a scale based upon population. Proposed Interior Department regulations setting up a procedure for challenging enrollments of individual Natives has raised the possibility that a village having a minimum number of shareholders for its existing entitlement could lose an entire township if only one of its shareholders is successfully challenged and disenrolled. While the Committee, by this amendment, has not determined whether the Secretary has or has not the authority to make such administrative changes in the roll, this amendment would preserve existing land entitlements notwithstanding any such changes in the roll.

SECTION 9

Section 9 amends section 16 of the Settlement Act by adding a new subsection (d).

Under section 19 of the Settlement Act, former reservations in Alaska established by Executive or Secretarial order or by Act of Congress, with the exception of the Annette Island Reserve, were abolished. Native villages within such reserves had the option of retaining the lands, surface and subsurface, set aside as a reservation or of participating in land entitlements under the Settlement Act, in which case they received no subsurface rights. These rights are reserved for the regional corporations.

A reservation was set aside by the Act of September 2, 1957 for the Chilkat Indian Village which was organized pursuant to the provisions of the Indian Reorganization Act, as amended. The land was near the village of Klukwan and was an enlargement of an Executive order reservation. The same Act permitted the IRA corporation to lease the minerals underlying the lands for its benefit. This was done.

The Natives of the Klukwan village area voted to retain the former reserve. However, section 19 made such lands, in the hands of the Native corporations, subject to valid existing rights. One such right was the existing iron ore mineral lease by the IRA corporation which remained separate from the ANCSA corporation.

While all of the members of the IRA corporation are also members of the ANCSA corporation, the reverse is not true. Since the IRA corporation has a vested right to the subsurface of lands and very likely to the surface also, the net effect is that the ANCSA corporation and its shareholders have no real assets whatsoever.

The new subsection (d) of section 16 would, in effect, vitiate the election of Klukwan, Inc. to retain their former reserve. Lands which were withdrawn for them for selection prior to that election are to be rewithdrawn for a period of one year after the date of enactment of this section and Klukwan, Inc. is to select an area equal to 23,040 acres in accordance with the Act. The corporation and its shareholders will share fully in the benefits of the Act as if there had been no election under 19(b).

The foregoing provision will not become effective until Klukwan, Inc. quitclaims to Chilkat, Inc. any interest it may have in the former reserve lands which are quieted in Chilkat, Inc., in fee simple.

The Committee adopted an amendment to section 9 which provides that the United States and Klukwan, Inc., must also quitclaim any interest they may have in certain funds earned on the lease of the mineral resources of the former reserve since enactment of the Settlement Act to Chilkat, Inc.

In addition, the Committee adopted another amendment which provides that nothing in the new subsection shall affect existing land entitlements in 14(h)(8) of the Settlement Act.

SECTION 10

The Native region created by the Settlement Act for southeastern Alaska was precluded, generally, by the Congress from sharing in the land benefits of the Act. This area encompasses the Tlingit-Haida Indians. Prior to enactment of the Settlement Act, this tribe recovered an award of several million dollars against the United States for extinguishment of their aboriginal land claims in the southeastern area.

In consideration of this fact, the southeast region (Sealaska, Inc.) does not generally share in the land benefits accorded to other regional corporations. However, Sealaska, Inc., does receive certain land entitle-

ments under section 14(h)(8) of the Act. The estimate is that Sealaska's share will approximate 200,000 acres.

Practically the entire area of southeastern Alaska is encompassed by the Tongass National Forest. What remains is either State or privately-owned lands, national monuments, village selected lands, mountain tops or glaciers, or otherwise valueless lands. If Sealaska's entitlement under section 14(h)(8) is not to be meaningless, it must be allowed to select lands within the Tongass National Forest.

This section provides that Sealaska, Inc., may select its approximately 200,000 acre entitlement from lands which were withdrawn in the National Forest for selection by village corporation of the southeastern region, but which were not so selected. The section provides that Sealaska, Inc., may not select any lands an Admiralty Island in the withdrawal for the village of Angoon. In addition, no selections can be made in the withdrawal for the villages of Yakutat and Saxman, unless the Governor of the State of Alaska or his delegate consents to such selection.

SECTION 11

Section 11 resolves a dispute between the Chugach Regional Corporation and Sealaska on the boundary between the two regions. It confirms the boundary at the 141st meridian, but provides that the members of the southeastern regional village of Yakutat must be accorded certain traditional uses of lands in the vicinity of Icy Bay in the Chugach region. It is the intent of the Committee that the phrase "in the vicinity of Icy Bay" be construed narrowly to those areas to which the Natives of Yakutat can clearly show past and current traditional uses and that such use right shall not unreasonably restrain Chugach, Inc. from developing its lands in accordance with the purposes of the Settlement Act.

SECTION 12

From the outset of the implementation of the Settlement Act, there have been extreme difficulties encountered in adequately fulfilling the land entitlements of the Cook Inlet Regional Corporation under section 12(c) of the Settlement Act. Under the Statehood Act, the State had already obtained patents to much of the low-lying lands in the region, except for lands within the Kenai National Moose Range. In addition, the Secretary, in an agreement with the State of Alaska in 1972, committed additional lands to the State even though there had not yet been withdrawn sufficient lands for Cook Inlet Region. The subsequent efforts of the Secretary to fulfill his statutory obligation to Cook Inlet has yielded, for the region, selections largely comprised of mountains and glaciers, hardly the settlement contemplated by the Congress. Since early 1972, the Region has been attempting to resolve these issues by litigation, negotiation, and now by legislation.

In the last eight months, a series of intense discussions with the Secretary, the State, and various other interested groups (including local government, mining interests, and environmental groups) has resulted in a negotiated settlement entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area." The document harmonizes conflicting interests, seeking to adjust an equitable settlement for Cook Inlet Region consistent with the needs of Alaska and the public at large. As such, it is more than a Cook Inlet Region, Inc. settlement. It seeks to resolve harmful jurisdictional conflicts and arbitrary ownership patterns within the Cook Inlet region. It opens for development lands that should be in private ownership and conserves for public use lands that should have that status.

The section accomplishes this complex task by ratifying and incorporating the proposed "Terms and Conditions" as a part of the bill.

Under the bill, the Region agrees to shift more than half of its statutory entitlement away from the populated Cook Inlet area and, with the consent of the other regions (where applicable), into the adjacent regions.

The Federal government conveys approximately 50 townships of land to the State in addition to other valuable consideration (including a key tract near Anchorage and improved selection rights for the State under the Statehood Act) in exchange for approximately 20.5 townships of land to be conveyed to the United States for the benefit of the Cook Inlet Region and certain of its village corporations.

The Federal government conveys approximately 10,000 acres of the Kenai National Moose Range and certain other lands to the Cook Inlet Region, Inc., in addition to the lands received from the State. The lands thus received by Cook Inlet are in complete satisfaction of its entitlement under section 12(c) and section 14(h)(8) of the Settlement Act.

The settlement.—This section directs and authorizes the Secretary to perform the obligations imposed upon the United States by the section and the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," which document has been submitted to the House Committee on Interior and Insular Affairs, is incorporated into the section by reference, and is printed in full elsewhere in this report.

State participation.—The Committee views the context of an ongoing need for federal-state cooperation in the resolution of land issues in Alaska. The concentration of State patented land, selected within the Cook Inlet Region prior to the 1969 land freeze, makes State participation virtually indispensable. With respect to Cook Inlet, the bill provides the State with a more substantial role in the designation of any land to be received than was true under the Alaska Native Claims Settlement Act. The bill clears the opportunity for the Secretary to convey certain important tracts to the State and precludes the need for Regional selections that would impact important State interests. Resolution of the outstanding Cook Inlet issues precludes the need for Congressional evaluation of the Secretary's 1972 agreement with the State, subsequent to the passage of the Alaska Native Claims Settlement Act, making available to the State lands that might otherwise have satisfied the Cook Inlet Region entitlement. In addition, the Region relinquishes rights it may have to the Swanson River, Beaver Creek and certain other proven oil and gas fields, to lands in the Chelatna area, and to lands located near potential capital sites in the State. Under the bill, the Secretary must report to the

Congress, by April 15, 1976 on the State's final consent to the land consolidation and management plan. Until the issues are resolved, the Secretary is precluded from making conveyances to the State, as identified in the legislation, that would limit the opportunity of the Congress to devise a suitable legislated resolution.

Kenai National Moose Range.—The Secretary is directed to convey sixteen sections of unrestricted surface and subsurface estate, except for a zone along lake and river frontage in which the surface only is transferred and is subject to significant restraints to protect the environment. In addition, the Secretary is directed to convey up to 9.5 townships of subsurface in the Range. There are 3.5 townships in lieu of the Region's entitlement under section 14(h)(8) of the Act. In addition, the Secretary is directed to convey, up to the statutory limit, such subsurface under the Moose Range, as indicated in the "Terms and Conditions," to supplant "in lieu" entitlement under section 12(a) of ANCSA, to compensate for subsurface loss in the Lake Clark area, and in lieu of certain subsurface that would otherwise be obtained under section 14 of ANCSA. The subsurface rights in the Moose Range are to oil and gas and coal, but the extraction of coal is explicitly restricted to carefully supervised insitu liquefaction and gassification processes.

Extra-regional selection.—The Secretary is directed to convey approximately 29.66 townships from outside the boundaries of Cook Inlet Region. These will come from five named Regions unless there is specific consent from another Region and the Secretary and the State. The Regions from which the lands are to be selected have the power to consent. It is not anticipated that the consent will be unreasonably withheld. It was envisioned that the consent would provide, for the other Regions, the ability to protect, primarily, the subsistence interests of their stockholders and certain economic activities. The power to consent, as understood by the Committee, will not be linked to the extraction of consideration from Cook Inlet Region, Inc. Nor is it foreseen that the power would be exercised in withdrawals where the Region involved has no selection itself or where no villages within the Region have selections.

Exchange pool.—The Secretary is directed to maximize a pool of federal properties available to reduce the extent of out-of-region acreage. The Region, after such properties are declared surplus, would be permitted first priority. To the extent properties are made available pursuant to the process described in Section 3(e) of the Alaska Native Claims Settlement Act, only those clearance procedures, if any, there required, will apply. Village corporations may exercise Section 12(b) rights in the pool on the same basis as the Region, but only when the Region determines that it would be appropriate in light of the pool's primary function.

Village selection.—Because of the uncertainties rising from the negotiations, additional time is necessary for the village corporations in the Region to file their selections. The legislation provides an additional year. In case of failure of the agreement, the Region also needs the opportunity to alter its priorities but it is the hope of the Committee that this will be done administratively by the Secretary.

The Committee feels that the Cook Inlet Region was under some

constraints in the negotiations resulting in this agreement. It is expected that ambiguities and uncertainties in the complex, delicately balanced settlement will be resolved favorably, where appropriate, to the Cook Inlet Region.

SECTION 13

Section 13 amends section 21 of the Settlement Act by adding a new subsection (f).

The new subsection provides that, until January 1, 1992, the stock of any Native corporation, including the right to receive dividends therefrom, shall not be included in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

SECTION 14

This section directs the Secretary to pay, by grant, $250,000 to each of the Native corporations of the cities of Juneau, Sitka, Kodiak, and Kenai, and $100,000 to each of the village corporations of Artic Village, Elim, Gambell, Savoonga, Tetlin, and Venetie.

Under the terms of the Settlement Act, the Native corporations organized for the Natives of the four named cities received limited land benefits. However, they are not entitled to share in the fund distribution of the Act. Without funds, these corporations have been severely hampered in carrying out their obligations and duties under the Settlement Act, to plan for the development of the resources, and to preserve and protect those resources.

The listed village corporations elected to retain their former reserves pursuant to section 19(b) of the Settlement Act. As a consequence, they are also precluded from sharing in the monetary compensation of the Act. They too, are severely hampered in carrying out the functions which Congress intended.

SECTION 15

Section 15 directs the Secretary to convey to the Koniag, Inc., the Native Regional Corporation for the Kodiak Region, approximately 186,000 acres of subsurface estate in the area which was withdrawn for that purpose by Public Land Order 5397 and for the proposed Aniakchak Caldera National Monument under Public Land Order 5179. Koniag is permitted access to the surface as reasonably necessary to explore for and extract oil and gas, subject to reasonable regulations by the Secretary.

Under the terms of the Settlement Act, the regional corporations are entitled to the subsurface estate underlying the surface of lands selected by the village corporations of that region, except in cases where such selections are made in a National Wildlife Refuge or in Naval Petroleum Reserve Numbered 4. In that case, the region has the right to an "in lieu" subsurface selection of equal acreage from other lands withdrawn pursuant to section 11(a) of the Act, within the region if possible.

All of the villages of the Koniag region are on Kodiak Island which constitutes the Kodiak National Bear Refuge. As a consequence,

Koniag must take an "in lieu" selection to its subsurface entitlement from other available lands. The nearest such lands are across the straits on the Alaska peninsula.

Pursuant to section 17(d)(2) of the Settlement Act, the Secretary, by Public Land Order 5179, as amended, withdrew approximately 580,000 acres of land for the proposed Aniakchak Caldera National Monument.

Koniag's subsurface entitlement is approximately 600,000 acres. Approximately 380,160 acres were withdrawn by Public Land Order 5397 within the area withdrawn for the Aniakchak Caldera National Monument for purposes of such selection. Under the terms of the Settlement Act, such dual withdrawals are reserved for the Congress to decide.

Under the terms of an agreement reached with the Secretary, Koniag agrees to limits its rights in the 17(d)(2) withdrawal to approximately 186,000 acres of lands designated by the Secretary, with a limitation of oil and gas extraction subject to reasonable regulations by the Secretary to preserve surface values from permanent harm. As amended by the Committee, the section requires the Secretary to reasonably make available to Koniag sand and gravel necessary to exercise the rights conveyed.

SECTION 16

Section 16 is intended to prevent the Village Corporation for the Village of Tatitlek from losing part of its land entitlement as a result of a misunderstanding. Tatitlek relied on a consultant firm's advice and the apparent approval of the Interior Department in selecting two townships of its five township entitlement in an area withdrawn by the Secretary pursuant to section 17(d)(2) of the Settlement Act. Subsequently, however, the Bureau of Land Management disapproved the selection of the two townships. Because Tatitlek assumed that its selection had Departmental approval, it did not over-select other lands to provide alternate lands for selection in case its first selections were not approved. The deadline for village selections has passed and the Department has advised Tatitlek that no administrative remedy exists to allow re-selection of the two townships elsewhere. This amendment provides that Tatitlek can select the remainder of its entitlement—40,000 acres—from within the village deficiency area originally withdrawn for its selection.

SECTION 17

Section 17 amends subsection (f) of section 22 of the Settlement Act which provides certain authorities for land exchanges by Federal agencies with other land owners in Alaska.

In order to facilitate the Cook Inlet Area agreement provided for in section 12, the Department of the Interior advised that additional authorities for land exchanges would be needed.

The existing language of the subsection would not permit direct exchanges of land between the State and with Native corporations.

Secondly, section 6(i) of the Alaska Statehood Act prohibits the State from transferring the mineral interest to third parties in patents of lands selected by it under the Statehood Act.

Finally, the existing language of subsection (f) requires exchanges to be on the basis of equal value.

The amended language will permit direct exchanges of land between the State and Native corporations. It will permit the State or transfer mineral interests, notwithstanding section 6(i) of the Statehood Act, to Federal agencies in such exchanges. Finally, it will permit exchanges under the subsection to be on a basis other than equal value if the parties agree to the exchange and the Secretary deems it to be in the public interest.

SECTION 18

Section 18 is merely a savings clause which provides, that except as specifically provided in this legislation, the provisions of the Settlement Act are fully applicable to this legislation and nothing herein shall be construed to alter or amend those provisions.

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA

Section 12 of H.R. 6644, as amended by the Committee, implements an agreement reached among the United States, the State of Alaska, the Cook Inlet Regional Corporation, and other interested parties to resolve the problem Cook Inlet Region, Inc., encountered in realizing its land entitlements under the Settlement Act. That section is general in terms and incorporates into it, by reference, the text of the agreement reached by the parties. The Committee intends that section 12 and the implementing agreement be construed together to give effect to the settlement of the Cook Inlet problem in a manner that is fair and equitable to the Cook Inlet Regional Corporation and the other parties.

The agreement is as follows:

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA, DECEMBER 10, 1975

I. The United States shall convey to Cook Inlet Region, Inc., the following lands:

A. Sixteen (16) sections of land, as described in Appendix A, presently within the boundaries of the Kenai National Moose Range, excluding the bed of Lake Tustamina, but to be removed from the boundaries of the Range. The conveyance of these lands shall be subject to the following conditions:

(1) Included in the lands described in this paragraph shall be a restricted zone of lake front and river front lands, not to exceed an average of 160 acres per linear mile, to be measured from the high water line, the exact boundaries to be determined by mutual agreement between CIRI and the Secretary no later than September 1, 1976. The conveyance of the lands within this zone shall contain the following restrictions so long as Lake Tustumena remains a part of the Range:

(a) A restrictive convenant running with the land which provides that no development shall take place or facilities be

constructed within the zone, except those which are directly necessary to support water dependent activities, such as a boat dock, airplane tie-up and marina. Reasonable access to these facilities will be permitted. It is contemplated that a lodge may also be located within the restricted zone, provided, however, that the lodge shall be of such a design, size and at a location agreed upon by the United States Fish and Wildlife Service. CIRI must submit a request in writing to the Fish and Wildlife Service for approval of any construction or development within the zone, which approval will not be unreasonably withheld. The Fish and Wildlife Service will notify CIRI of its decision on any such request within 120 days of receipt of such request, and failure of any response will be considered as approval.

(b) a provision that CIRI will not sell the lands to any third party for a period of 25 years from the date of the conveyance, without the consent of the Secretary.

(c) a provision that CIRI and its assigns will offer the United States the right of first refusal to purchase the lands if the lands are ever sold. The right of first refusal shall be for a period of 120 days from the date of notice in writing to the United States that the owner of the land has received a bonafide offer of purchase. The United States shall not be deemed to have exercised its right of first refusal if the owner does not consummate this sale in accordance with notice to the United States.

(d) the conveyance of the lands comprising this restricted zone shall not include the bed of Lake Tostamena and shall only convey the surface estate to CIRI. The United States shall retain the rights in oil and gas and all minerals, including but not limited to common varieties of minerals.

(e) the United States reserves the right of re-entry on these lands to be exercised upon occurrence of the following conditions:

(1) The United States obtains a final judgment in a proceeding in law or equity to enforce in whole or in part the restrictive covenants contained in the conveyance of the lands described in this section; and

(2) subsequent to such final judgment, the United States institutes proceedings in law or equity to enforce the provisions of the restrictive covenants which were the subject of the final judgment obtained in subparagraph (1) of this paragraph. The right of re-entry shall be asserted in such subsequent action but may not be actually exercised except upon and in accordance with the final judgment in favor of the United States in such subsequent action.

(3) such right of re-entry shall be limited, in any case, to the lands which were the subject of the final judgment referred to in subparagraph (1) hereof.

(2) The remainder of the lands described in Appendix A shall be conveyed to CIRI without restriction, other than the reservation of those easements authorized by 17(b) of ANCSA or other applicable federal statutes. The conveyance of such remainder shall include both the surface and the subsurface estates to such lands.

B. Three and fifty-eight one hundreds (3.58) townships of the subsurface estate to oil and gas and coal as identified in Appendix B; provided that the United States shall retain all other minerals including but not limited to common varieties of minerals; and provided that the right to extract coal shall be conditioned upon the opening for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. The extraction of oil and gas and coal shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by CIRI, its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction. The United States shall make available to CIRI, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect. By mutual consent of CIRI and the Secretary, CIRI may exchange any interest described in this paragraph for other mineral interests of equal value outside the boundaries of the Kenai National Moose Range.

(1) All federal lands and interests in lands within the following:

(a) T. 10 S., R. 9 W., F. M. (Healy); and

(b) T. 20 N., R. 9 E., S. M. (Glenn Highway).

(2) T 1 N R 21 W, S. M. (sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36). The Secretary shall only convey the rights to metalliferous minerals in the land herein described. Extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary. Surface use of the purposes of exploration, extraction, access and benefaciation shall be conducted in accordance with the most advanced technology commercially available at that time consistent with the exercise of the rights conveyed under this subparagraph. CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights.

(3) T 1 S, R 21 W, S. M. (Sections 3–10, 15–22, 29 nd 30). The Secretary shall transfer to CIRI the above described lands in fee simple. Such conveyance shall be subject to a restrictive convenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRI, an easement for a port which shall reasonably provide for receiving, shipping, storage and incidental handling, and incidental facilities thereto, of the minerals extracted from the lands conveyed under

this subparagraph. The Secretary shall also convey to CIRI a transportation easement to provide for transportation by road, rail or pipeline, of the minerals from the above described lands to the port easement. The Secretary and CIRI shall mutually agree upon the location of the port and transportation easements.

C. (1) Twenty nine and sixty six one hundredths (29.66) townships from any federal public lands withdrawn under sections 11(a)(1), 11(a)(3), and 17(d)(1) without the exterior boundaries of Cook Inlet Region; to be identified in the manner herein provided; provided that if CIRI's total entitlement under Section 12(c) of ANCSA is determined to be greater or less than 54 townships, the number of townships to be conveyed under this paragraph (hereinafter out-of-Region entitlement) shall be increased or decreased one for one.

(a) lands to be nominated and conveyed under this paragraph C–1 shall be limited as follows: The entitlement shall be satisfied from lands within Ahtna Region, Bristol Bay Region, Calista Region, Chugach Region, and Doyon Region. With the concurrence of the Secretary and the State and any affected Region other than those described above, selections may be made from one or more of the other Regions, on the basis hereinafter described or on such other basis as the parties shall contemporaneously agree. CIRI shall not nominate any of the following:

(1) lands located west of the 161 degree west longitude of Greenwich Meridian

(2) lands within Areas of Environmental Concern as described in the Secretary's 1973 Four Systems proposals to Congress

(3) lands within any of the Secretary's 1973 Four Systems proposals to Congress

(4) lands made available to the State for selection pursuant to Sections 2 and 5 of the State-Federal Agreement of September 1, 1972.

(b) By May 1, 1976 the Secretary shall, after consultation with the State, submit to CIRI a list of areas where approval of out-of-Region selections is unlikely. CIRI may thereafter nominate to the Secretary, with simultaneous notice to the State, a township or townships for selection. Within 120 days after such nomination, the Secretary after consultation with the State shall approve or disapprove it for withdrawal for placement in the selection pool as described herein. By October 18, 1978 CIRI must nominate at least 6 times its remaining out-of-Region entitlement. If the Secretary fails to approve a pool of three times that remaining out-of-Region entitlement from said nominations, then he and CIRI, by mutual consultation and study, shall agree by January 18, 1979 on sufficient additional townships to compose that number. The Secretary must, on that date, report to Congress as to the operation of this selection mechanism, and the need for remedial legislation, if required. Upon completion of the pool, the State and CIRI shall commence a striking and selecting process. The State may strike ten percent of the pool and the Region may select a number of townships equal to ten percent of the original pool. Alternate strikes and selections of five percent of the

original pool shall continue until CIRI's out-of-Region entitlement is, as defined in this paragraph, satisfied. The State and CIRI must complete this process within four months of completion of the pool. Notwithstanding the foregoing, with the consent of the United States, State of Alaska, and CIRI, lands may be conveyed wihout resort to the pool and striking mechanism herein provided, or in the manner described in subparagraph 2 of this paragraph C, in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Statehood Act which may be affected by this paragraph C, provided however, that any Regional nomination made hereunder shall be superior to and take precedence over any such State selection made after July 18, 1975. None of those lands selected by the State under the Statehood Act after July 18, 1975, and also nominated by CIRI pursuant to this paragraph C, shall be tentatively approved for patent to the State by the Department of the Interior for so long as these lands are potentially available to CIRI under this subparagraph unless CIRI has consented to such tentative approval.

(d) Lands approved by the Secretary for the out-of-Region pool shall, as of the date of such approval, be withdrawn from all forms of entry and location under the Public Land Laws including the mining and mineral leasing laws, but not from selection by the State, for so long as the said lands shall be included in the said pool.

(e) Prior to nomination of any townships for secretarial approval, the Region shall obtain the consent of other Native Corporations where applicable, and a copy of such consent shall be attached to such nomination.

(f) CIRI shall select its out-of-Region entitlement in blocks no less than 36 sections in size, along section lines, with no segment of an exterior line less than six miles in length, unless the Secretary specifically authorizes another manner of selection.

(g) CIRI may, with the consent of the Secretary and the State, select that portion of the mineral estate reserved by the United States in a township if the remainder of the estate may not be legally or readily available for selection, in which case, however, such substitute selection shall be treated as full satisfaction of the entitlement represented by the acreage involved and no additional selection rights shall arise by reason of the lack of conveyance of the entire estate.

(h) It is the intent of the Secretary and the State that all out-of-Region selections shall be as compact as is practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately-owned lands.

(i) Nothing in this paragraph shall be construed as limiting any Congressional review and approval of the Secretary's 1973 four systems proposals to Congress.

2(a) The Secretary, in conjunction with the General Services Administrator, shall promptly identify and take the necessary steps by

January 15, 1978, to create a selection pool which shall consist of all the following lands, within the exterior boundaries of the Cook Inlet Region, now in existence or hereafter coming into existence by January 15, 1978:

(i) abandoned or unperfected public land entries, provided however, that the United States shall not be obligated to initiate any adversary proceedings other than an adjudication by the BLM to determine if such entries are abandoned or unperfected, and the burden of identifying such lands shall be on CIRI;

(ii) federal surplus property;

(iii) revoked federal reserves;

(iv) cancelled or revoked power site reserves, with the exception of the Bradley Lake reserve, reserves in the Lake Clark proposal, and the Chakachamna Lake reserve, if any are ever cancelled or revoked;

(v) public lands created by the reduction of federal installations as defined in Section 3(e) of ANCSA, except that, if such lands are within a Section 11(a)(1) withdrawal area, they shall be subject to prior Village Corporation selections properly filed prior to December 18, 1975; and

(vi) any other federal lands as agreed by the State the Region and the Secretary, including but not limited to lands withdrawn under Section 17(d)(1) of ANCSA and not withdrawn for any other purpose.

The Secretary shall notify CIRI after any above-described lands have been placed in the pool. With the concurrence of CIRI, the State and any other concurrence that may be required under paragraph I–C(1)(e) of this Document, the Secretary may, in his discretion, contribute to such pool properties of one or more of the foregoing categories from without the boundaries of the Cook Inlet Region, provided that properties described in subparagraphs (2)(a)(ii) and (2)(a)(iii) of this paragraph shall be removed from the pool if not selected by CIRI within 90 days after the Secretary notifies CIRI that such properties have been placed in the pool or valued by the Secretary in Subparagraph 2(c) of this document whichever date is later.

(b) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph 2(a) and may require Secretarial consultation with the Joint Land Use Planning Commission with respect to any specific piece of property so included, except those in subparagraph 2(a)(i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land-management principles; provided, that the Secretary shall not be bound by any recommendation of the Joint Land Use Planning Commission. The Secretary shall notify the State, CIRI and the Commission of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres, described in paragraph 2(a)(i) and 2(a)(iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal values. Lands not included in the pool as result of the State's conclusive objection or which have been replaced by the

State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

(c) Unless specifically excepted by the Secretary, all tracts of land and improvements thereto in said pool shall be appraised by one or more appraisers mutually agreeable to CIRI and the Secretary.

(d) CIRI shall be entitled to select any tract of land from said pool in exchange for its out-of-Region selection rights, in part or in whole and *pro tanto*, in satisfaction thereof, in the following manner:

(1) any tract of land and improvements thereto specifically excepted from appraisal by the Secretary as described in subparagraph (c) of this paragraph may be exchanged acre for acre;

(2) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at less than $500 per acre at fair market value may be exchanged acre for acre;

(3) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at $500 per acre or more at fair market value shall be exchanged as follows:

(i) for each acre of land in said tract, each valued increment of $500 or proportion thereof shall be considered an acre of land or proportion thereof, in the same proportion, hereinafter called an "acre/equivalent"; and

(ii) any acre/equivalents may be exchanged for any acres of CIRI's out-of-region entitlement.

(e) Anything in the foregoing provisions notwithstanding, the selection pool created hereunder shall not include or affect lands within the Point Woronzof, Point Campbell, Goose Lake, and Campbell tracts, to which CIRI waives any claim which it may have had; and such lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this Document.

(f) The Secretary shall utilize his best efforts to maximize the pool through the use of all available properties within the described categories in order to enhance the opportunity for the land exchanges described herein. If, by January 15, 1978, the Secretary and the General Services Administrator have not identified for the pool at least 138,240 acres, or acre/equivalents of lands within the exterior boundaries of Cook Inlet Region, the Secretary shall add to the pool an amount equal to the difference between 138,240 acres, or acre/equivalents, and the number of acres so identified from the following:

(1) with the consent of the State, lands located within the boundaries of the Region, withdrawn for the purposes of section 17(d)(1) of ANCSA, and valued by the Secretary and CIRI at $200 per acre, or more.

(2) with the consent of the State and CIRI, lands described in subparagraph I–C(3)(a) of this Document from without the exterior boundaries of Cook Inlet Region.

CIRI must select all lands in the pool located within the Region which are valued by the Secretary and CIRI at $200 per acre, or more, until CIRI has selected 138,240 acres, or acre/equivalents as described in subparagraph 3(i) of this paragraph.

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(g) No later than 90 days following the conclusion of the period for creation of the pool as specified in subparagraph (1) hereof, the Secretary shall, with the assistance of the General Services Administrator, report to Congress on the status of the conveyances under paragraph C and the need for remedial legislation, if required.

(h) Conveyances under this subparagraph I–C(2) shall not be subject to the provisions of Section 22(1) of ANCSA.

II. Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document. Said lands shall be considered State lands until the United States accepts the State deed of title. Upon acceptance of a State deed of title, the Secretary shall withdraw the lands conveyed thereby, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended; such withdrawal to expire upon reconveyance of said lands to CIRI.

III. A. The Secretary shall convey to the State of Alaska all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of lands from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River and Koksetna drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to Appendix D hereof; and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in Appendix E hereof.

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act; provided, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6 of the Alaska Statehood Act.

B. The Secretary shall convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in Appendix F hereof except for one compact unit of land which he determines, after consultation by the State of Alaska, is actually needed by the Bureau of Land Management for its present operations; provided, that in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in conformance with the generalized land use plan outlined in the Far North Bicentennial Park master development plan of September, 1974.

As a result of Section 12(a) of ANCSA, selections by Village corporations within the Kenai National Moose Range, or as a result of any section 14(h)(1), (2) or (5) of ANCSA selections within the Kenai National Moose Range or within the Secretary's 1973 Lake Clark proposal; and to the extent that CIRI's section 12(a) of ANCSA subsurface rights are reduced by virtue of exchanges resulting in the relinquishment of village selections in the Secretary's 1973 Lake Clark proposal or lands in paragraph VI CIRI shall take, in lieu thereof, an equal acreage from the following:

(a) The subsurface estate to oil and gas and coal in those lands described in Appendix B to the extent that such interests are not transferred under paragraph I–B of this Document, and are subject to the restrictions therein described; and

(b) Up to 46,080 acres of lands within section 11(a)(3) of ANCSA withdrawals in the Talkeetna Mountains; provided CIRI shall make all 12(b) selections in this withdrawal contiguous to existing 12(a) selections, first selecting all over-selected 12(a) lands in this withdrawal.

(c) If sufficient acreage to satisfy any such selections does not exist in those areas described in subparagraphs (1) and (2) of this paragraph, the Secretary shall make available lands outside the Region, in his discretion, for selection by CIRI.

Except as provided otherwise in this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act; provided, however, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

C. The Secretary shall make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in Appendix G.

IV. The lands and interests conveyed to CIRI under paragraphs I and II of this Document shall constitute CIRI's full entitlement under Section 12(c) of ANCSA, except that the mineral estate conveyed pursuant to subparagraph I–B of this Document shall constitute full entitlement of CIRI's surface and subsurface entitlement under Section 14(h)(8) of ANCSA. The lands which would comprise the difference in acreage between the lands actually conveyed under paragraphs I and II of this Document, and any final determination of what CIRI's acreage rights under Section 12(c) and 14(h)(8) of ANCSA would have been notwithstanding the provisions of this Document, shall be retained by the United States, and this Document shall create no right or interest in any other Regional Corporation or Village Corporation notwithstanding any provisions of ANCSA to the contrary.

To the extent that CIRI is or becomes entitled to subsurface rights;

V. The Secretary, CIRI, and the State shall seek legislation authorizing the Secretary to convey title to those selections by Native Corporations within the exterior boundaries of Power Site Classifica-

tion 443, February 13, 1958, provided however, that the patents conveying the above described lands shall contain the reservations required by Section 24 of the Federal Power Act, 16 U.S.C. 818.

VI. A. The State shall not select any of the following lands, so that such lands may be added to a management unit in the Lake Clark Area:

T 4 S R 23 W (N ½), S.M.
T 3 S R 20–24 W, S.M.
T 2 S R 24–25 W, S.M.
T 1 S R 24–26 W, S.M.
T 1 S R 27 W (sections 1–6, 8–15, 23–25), S.M.
T 1 S R 28 W (sections 1–6), S.M.
T 1 S R 29 W (sections 1–6), S.M.
T 1 N R 24–29 W, S.M.
T 2 N R 24–30 W, S.M.
T 3 N R 28–30 W and 31 W (E½), S.M.
T 4 N R 30 W and 31 W (E ½), S.M.

B. The Secretary, CIRI and the State recognize that there are nationally significant resources in the Lake Clark area. Management of this area should be flexible and recognize the scenic, recreational, and inspirational resources that should be preserved as well as State and local interests including subsistence and sport hunting.

VII. A. In fulfillment of its obligation to equitably reallocate acreage among villages pursuant to section 12(b) of the Act, CIRI shall allocate section 12(b) selections to the following areas:

1. Four and one-half townships in the Talkeetna Mountain withdrawal, provided that such selections shall be compact and contiguous to 12(a) selection in said withdrawals and 12(a) over-selections shall be selected first;

2. All lands that will not otherwise be conveyed to the villages under 12(a) on the Iniskin Peninsula;

3. To the extent necessary to fulfill any remaining 12(b) entitlement lands within the following:

T 7 S, R 25 & 26 (Except Secs. 29–31) W, S.M.
T 6 S, R 25 W and 26 (E½) W, S.M.
T 5 S, R 25 W, S.M. (except sections 18, 19, and 30).
T 4 S, R 24 W (S½), S.M.
T 4 N, R 19 W, S.M.
T 4 N, R 20 W (E½) S.M.
T 4 N, R 18 W (W½) S.M.
T 3 N, R 17–20 W, S.M.
T 3 N, R 21 W (Secs. 31–36, and 25–30 in the Tuxedni River Watershed), S.M.
T 2 N, R 18–20 W, S.M.
T 2 N, R 21 W (North and East of the Tuxedni River and Bay), S.M.

B. By mutual consent of the Secretary and CIRI, Village Corporations within the Region may exchange selections or selection rights under section 12 of ANCSA for acres, or acre/equivalents contained in the pools established out in paragraph I–C(2)(a) of this document.

C. Up to two townships without the exterior boundaries of Cook Inlet Region, to be mutually agreed upon by the Secretary, CIRI, and

the State, shall be made available for 12(b) selection. To the extent acreage is allocated to a Native village pursuant to this subparagraph C, the village must have an equal amount of acreage, in section units, from 12(a) selections in the hereinafter described acres on an acre-for-acre basis outlined in this subparagraph in the out of Region townships identified in this paragraph:

T 4 S, R 23 W (N½) S.M.
T 3 S, R 20, 21, and 23 W, S.M.
T 2 S, R 19–21 W, S.M.
T 1 S, R 19–21 W, S.M.
T 1 N, R 20 W, S.M.

Provided that should the respective village not have any 12(a) selections in the above, 12(a) selection for the following shall be traded under the provision of this paragraph:

T 2 N, R 18–21 W, S.M.
T 3 N, R 18–20 W, S.M.
T 4 N, R 19–21 W, S.M.
T 5 N, R 19–20 W, S.M.

VIII. A. CIRI and the Secretary shall publicly support the establishment of a unit of the National Park System in the Lake Clark area including those lands withdrawn under section 17(d)(2) of ANCSA and those lands described in paragraph VI–A of this agreement. The Secretary and CIRI shall also agree to seek a provision in said legislation that would provide that before entering into any contract arrangement to provide new revenue producing services within the proposed Lake Clark Unit of the National Park System within the boundaries of the Cook Inlet Region, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days. CIRI and the Secretary shall seek legislation that provides that the United States may acquire lands selected by Village Corporations within the boundaries of the Lake Clark unit established by that legislation, but only with the consent of the appropriate Village Corporation.

B. CIRI and the Secretary shall publicly support the establishment of the Caribou Hills, Swanson River, Mystery Creek, and Andy Simons Wilderness Areas within the Kenai National Moose Range. CIRI and the Secretary shall seek a provision in such legislation that would provide that before entering into any contract or agreement to provide new revenue producing services within the Kenai National Moose Range, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days.

IX. Lands conveyed to CIRI and/or its Village and Group Corporations in accordance with this document, notwithstanding their source (whether federal or state), shall upon conveyance to CIRI and/or the appropriate Village or Group Corporation, be considered and treated as conveyances under and pursuant to ANCSA, except as may be expressly provided otherwise in this document.

X. As soon as practicable after any estate or interest in federal lands to be patented to CIRI in accordance with this document is identified,

CIRI and the Secretary shall review all leases, contracts, permits, rights-of-way and easements covering or concerning such estate or interest to determine whether the administration thereof may be waived by the Secretary, in his discretion, in accordance with the provisions of section 17(g) of ANCSA.

XI. Effective the date that State lands to be conveyed to the United States for CIRI are designated by CIRI pursuant of paragraph II of this document, the State, if so authorized, shall place all revenues received from such lands in escrow to be transferred to the Region when appropriate. The administration of all leases, contracts, permits, rights-of-way and easements prior to the conveyance of such lands to the United States shall be by the State, except that all decisions concerning modification, conversion, renewal or appraisal of such interests will be with the concurrence of the Region. Effective the date of conveyance of such lands from the State to the Secretary, the State shall waive in favor of CIRI administration of all leases, contracts, permits, rights-of-way and easements totalling embraced by such lands. The State shall give timely written notice of the change of ownership and administration to the holders of rights on such lands.

XII. The responsibilities of and benefits accruing to the Secretary, the State and CIRI under this document shall become binding only when such legislation as is necessary has been enacted. Upon passage of such legislation, CIRI and all plaintiffs/appellants shall, with the consent of the Secretary, dismiss their pending appeal in *Cook Inlet Region vs. Kleppe*, No. 75-2232, (9th Cir.) by executing and filing pursuant to Rule 42(h) of the Federal Rules of Appellate procedure an agreement that the proceeding may be dismissed.

XIII. A. For the purposes of this document, a township shall be considered 23,040 acres.

B. The words "land" and "lands" as used in this document shall not include properties owned by the State of Alaska under section 6(m) of the Alaska Statehood Act and the Submerged Lands Act.

Appendix A

T. 1 N., R 11 W S.M.

Secs. 1-4, 9-12, 16, W½S17—comprising approx. 6,080 acres, more or less

T. 2 N., R 11 W S.M.

Sec. 9, approx. 70 acres in the SW¼ lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 16, approx. 430 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 21, all.

Sec. 22, approx. 130 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 27, approx. 330 acres comprising all moose range lands in this section lying west of the high water mark on the west bank of the Kasilof River and those lands in this section lying south and west of the high water line on the south and west shore of Tustemena Lake.

Sec. 28, all.

Sec. 33, all.

Sec. 34, approx. 600 acres comprising all moose range lands in this section lying south and west of the high water line on the south shore and west shore of Tustemena Lake.

Sec. 35, approx. 290 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.

Sec. 36, approx. 360 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.

Comprising approximately 4,160 acres, more or less.

Appendix B

Appendix B-1

82,560 acres of the specified mineral estate to be selected from the following described lands:*

Priority

1—T. 8 N., R. 9 W: Secs. 1-8; Sec. 9 excluding E/2 SE/4, NW/4 SE/4, SE/4 NE/4; Sec. 10 excluding SW/4, S/2 SE/4, NW/4 SE/4, S/2 NW/4, NW/4; Secs. 11-14; Sec. 16 W/2; Secs. 17-20; Sec. 21 excluding NE/4, E/2 NW/4, NE/4 SW/4, N/2 SE/4, SE/4 SE/4; Secs. 23-26; Sec. 27 excluding N/2, SW/4, W/2 SE/4; Sec. 28 excluding SE/4, E/2 SW/4, E/2 NE/4, SW/4 NE/4; Secs. 29-31; Sec. 32 excluding S/2 SE/4, NE/4 SE/4, Sec. 33 excluding S/2, NE/4, S/2 NW/4, NE/4 NW/4; Sec. 34 excluding W/2, W/2 NE/4; Secs. 35-36-comprising approx. 18,440 acres.

1—T. 8 N., R. 10 W.: Secs. 1; 12-14; 23-26; 32-36-comprising approx. 7,680 acres.

1—T. 7 N., R. 9 W.: Sec. 3, E/2; Sec. 5 excluding S/2, NE/4; Secs. 6; 7; 8 excluding E/2, E/2 SW/4, E/2 NW/4, NW/4 NW/4; Sec. 10 excluding W/2 SW/4, W/2 NW/4, NE/4 NW/4; Sec. 14 excluding NE/4; Sec. 15; Sec. 16 excluding NW/4, N/2 NE/4, SW/4 NE/4; Sec. 17 excluding NE/4 NE/4; Secs. 18-36-comprising approx. 16,560 acres.

1—T. 7 N., R 10 W.: Secs. 1-5; 7-25; Sec. 26 excluding W1/2 SW1/4; Sec. 27 excluding S1/2 N1/2; Sec. 28 excluding S1/2 NE1/4, SE1/4, E1/2 SW1/4; Secs. 29-32; Sec. 35 excluding W1/2, S36 comprising approx. 19,920 acres.

2—T. 6 N., R 10 W.: Sec. 1; Sec. 2 excluding W/2 NW/4; Sec. 4 excluding N/2, SE/4, E/2 SW/4; Sec. 5-8; Sec. 9 excluding N/2 NE/4; Sec. 12; 16-17; 20-21-comprising approx. 7,600 acres.

4—T. 7 N., R 11 W., Sec. 23-26; 35; 36-comprising approx. 3,840 acres.

3—T. 6 N., R 11 W., Sec. 1-2; 11-14-comprising approx. 3,840 acres.

3—T. 10 N., R 7 W., Sec. 19-21; 28 (N/2); 29-82-comprising approx. 4,800 acres.

*These lands total approximately 82,680 acres (3.58 townships). Any unselected portions of the above described lands shall be first priority selection for in-lieu selections from appendix B-2 below.

APPENDIX B–2

Up to 138,240 acres (6.0 townships) of specified mineral in lieu estate to be selected from the following described lands by priority ranking and in the order listed.

Priority

2—T. 9 N., R 9 W.: Sec. 13; 23 excluding SE/4 SE/4; Sec. 24 excluding W/2 SE/4, SW/4; Sec. 25 excluding W/2 E/2, W/2; Sec. 26 excluding E/2 E/2; Sec. 27; Sec. 31 E/2; Sec. 32–35; Sec. 36 excluding W/2 NE/4, NW/4, and N/2 SW/4–comprising approx. 6,120 acres.

3—T. 9 N., R 8 W.: Sec. 1–5; 7–36–comprising approx. 22,400 acres.

2—T. 6 N., R 9 W.: Sec. 1–17; 20–29; 34–36–comprising approx. 19,200 acres.

3—T. 8 N., R 8 W.: All-comprising approx. 23,040 acres.

2—T. 4 N., R 10 W.: Sec. 9–10; 13–36–comprising approx. 16,640 acres.

2—T. 4 N., R 11 W.: Sec. 25; 36-comprising approx. 1,280 acres.

3—T. 1 N., R 11 W.: Sec. 17 (E/2); Sec. 21–28; Sec. 33–36–comprising approx. 6,720 acres.

3—T. 3 N., R 11 W.: Sec. 1; 12–15; 22–27; 34–35–comprising approx. 8,320 acres.

3—T. 3 N., R 10 W.: Sec. 1–30–comprising approx. 19,200 acres.

3—T. 4 N., R 9 W.: Sec. 2 excluding SE/4; 3–10; 11 excluding E/2; Sec. 14 excluding E/2; 15–20; 21 excluding SE/4; 29–34–comprising approx. 12,480 acres.

Appendix C

If CIRI has on or before January 12, 1976 presented evidence satisfactory to the State that the villages of Kink, Chickaloon, Alexander Creek, Ninilchik and Salamatof have withdrawn selection applications for and relinquished all claims to land in the Lake Clark, Lake Kontrashibuna and Malchatna River areas, the State shall convey under paragraph II of this document to the United States for reconveyance to CIRI all of the state lands identified or to be identified in this Appendix C. All conveyances of lands made in accord with this document shall pass all of the State's right, title and interest in the lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway or other rights-of-way may be reserved to the State.

1. Acreage from each of the five pools identified in this paragraph in the amounts therein set forth. Out of each such pool, the identity of the required acreage shall be determined to the extent possible by mutual agreement of the State and CIRI. For so many of the required acres as have not been so determined by agreement in each pool within eighteen months following implementation of this document, those remaining required acres shall be identified by CIRI's selecting acreage in that remaining amount from an array of 1½ that many acres within the pool, said array to be identified to CIRI by the State.

A. *Point McKenzie.*—3,200 acres must be identified from state lands within the following areas:

T 15 N, R3 W through 5W, S.M.
T 14 N, R4 W through 5W, S.M.
T13 N, R4 W S.M. (North of Knik Arm)

B. *Knik-Willow Pool.*—4,480 acres must be identified from state-lands within the following areas:

T 16 N through 18 N, R 2W through 5W, S.M.

C. *Kaskwitna Pool.*—38,400 acres must be identified from state-lands within the following areas:

T 21 N through 25N, R3 and 4W, S.M. (or other nearby lands).

D. *Chickaloon Pool.*—4,800 acres must be identified from state lands within the following areas:

T 19 N, R3 E through 5E, S.M.
T 20 N, R4 E through 7E, S.M.

E. *Kenai Pool.*—115,200 acres must be identified from state lands on the Kenai Peninsula.

Provided however that the State may with CIRI's concurrence supplant acreage otherwise to be identified from the Kenai pool in subparagraph E on an acre-for-acre basis with lands near Alexander Creek, Ninilchik or Salamatof. Supplanting lands near any one of these villages may not exceed in acreage that number of acres to which the State is obligated under paragraph 3 to provide in respect of each of those three villages.

2.(a) Thirteen and one-half townships of lands in the Beluga Area Townships listed in this paragraph. The identity of those lands shall be determined by CIRI within eighteen months following the implementaiton of this document by nomination of compact units no less than ¼ township in size lying along township lines, provided that where constrained by selection pool boundaries or water bodies they may be smaller; *Provided*, However that if Tyonek Corporation desires to trade the surface estate it holds in the Kenai National Moose Range for State surface lands within the vicinity of its village lands but within CIRI's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRI's selection pool lands, CIRI shall select an equivalent acreage of other surface estate from within its selection pool.

T. 16 N., R. 14 W., S.M.;
T. 16 N., R. 13 W., S.M.;
T. 16 N., R. 12 W., S.M., Secs. 7, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;
T. 16 N., R. 11 W., S.M., Secs. 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;
T. 15 N., R. 14 W., S.M.;
T. 15 N., R. 13 W., S.M.;
T. 15 N., R. 12 W., S.M.;
T. 15 N., R. 11 W., S.M.;
T. 15 N., R. 10 W., S.M., W½, excluding Sec. 4;
T. 14 N., R. 15 W., S.M.;
T. 14 N., R. 14 W., S.M.;
T. 14 N., R. 13 W., S.M., W½;
T. 14 N., R. 11 W., S.M.;

T. 14 N., R. 10 W., S.M., W½;
T. 13 N., R. 15 W., S.M.;
T. 13 N., R. 14 W., S.M.;
T. 13 N., R. 10 W., S.M., E½ excluding lands east of the west bank of the Beluga River;
T. 12 N., R. 15 W., S.M.;
T. 12 N., R. 14 W., S.M., excluding Secs. 23, 24, 25, 26, 29, 31, 32, 33, 36;
T. 12 N., R. 10 W., S.M.;
T. 11 N., R. 13 W., S.M., Secs. 12, 13 excluding W½SW¼; 24 NE/4 NE/4.
T. 11 N., R. 12 W., S.M., Secs. 18, 19 excluding SW¼, S½ SE/4; 20.

(b) Provided, However, that the following described lands shall *not* be available for CIRI's selection of *subsurface* estate:

Beluga

T. 13 N., R. 10 W., S.M., Secs. 11, E–½; 12, 13, 14, 22, 23, 24, 25, 26, 27, 34, 35, 36.
T. 12 N., R. 10 W., S.M., Secs. 2, 3, 4, 5, 8, 9, 10.

Nicolaick

T. 11 N., R. 12 W., S.M., Secs. 16, SW–¼; 17, SW–½; 18, SE–¼; 19, E–½, E–½ W–½; 20; 21, W–½; 28, W–½; 29, 30, 31, 32.

(c) The State shall provide a floating, public, 300 foot wide transportation easement from T. 13 N., R. 14 W., S.M. to the shore of Cook Inlet in T. 11 N., R. 12 W., S.M. Said easement to be determined upon the ground at such future time as a need exists and there are adequate field data available upon which the State may finally plan and locate the corridor.

3. Lands in an amount equal to ¼ of the acres to which each of the villages of Knik, Chickaloon, Alexander Creek, Ninilchik, and Salamsatof are or would be entitled under ANCSA Sec. 12(a), under selection applications on file with the BLM as of July 18, 1975, in the Lake Clark, Lake Kartrashibuna and Mulchatna River areas. Each acre identified for conveyance by the State hereunder must be located within or near the 11(a)(1) withdrawal of the village to which the displaced ANCSA acreage to which that acre corresponds would otherwise have passed under ANCSA. The lands so identified in respect to displaced acres attributable to Alexander Creek and Salamstof shall be conveyed by the State if and only if the village to which the displaced acres are attributable retains its village eligibility status under ANCSA.

Appendix D

Lands in the Lake Iliamna Area and in the Nushagak River and Lake Clark Drainages

Paragraph III(A)(1))

I. The Secretary shall convey to the State at least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River or Lake Clark drainages near lands heretofore selected by the State.

II. The following townships shall be conveyed to the State as part of the minimum of 22.8 townships to be conveyed to the State from lands identified in paragraph I.

T 4N, R 36 W, S.M.
T 3N, R 36 W, S.M.
T 2N, R 36 W, S.M.
T 1N, R 36 W, S.M.
T 1S, R 37 and 38 W, S.M.
T 2S, R 37 and 38 W, S.M.
T 3S, R 37 and 38 W, S.M.
T 4S, R 37–39 W, S.M.
T 5S, R 40–42 W, S.M.
T 6S, R 40 W, S.M. (except sections 21–28, 33–36).
T 6S, R 41 and 42 W, S.M.
T 7S, R 42 W, S.M. (secs. 3–10, 15–18).

III. For each acre of valid village 12(a) selections relinquished in the Lake Clark, Lake Kontrash/buna and Mulchatna River areas pursuant to paragraph II of the document to which this forms an Appendix, the Secretary shall convey to the State, on an acre for acre basis, lands from within the 17(d)(2) area described in Paragraph I up to a total of 4.2 townships.

IV. To the extent that lands to be conveyed to the State pursuant to Paragraphs II and III above are not specifically identified in this Appendix, they shall be identified by mutual consent of the State and the Secretary from lands described in Paragraph I within 60 days of the date the State becomes bound to this document, or within 60 days of the date that any entitlement vests in the State pursuant to Paragraph III of this Appendix, whichever shall come first.

V. All lands granted to the State of Alaska pursuant to this Appendix D shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

Appendix E

Lands in the Talkeetna Mountains, Kamishak Bay and Tutna Lakes Areas

(Paragraph III(A)(2))

The Secretary shall convey to the State the following described lands, subject to valid village selections under section 12(a), but not 12(b), of ANCSA.

T 22N, R 2W, S.M.
T 23N, R 2W, S.M.
T 24N, R 1 and 2 W, S.M.
T 26N, R 1 and 2 W, S.M.
T 27N, R 2W, S.M.

T 29N, R 2W, S.M.
T 7S, R 26W, S.M. secs. 29–31
T 7S, R 27–29 W, S.M.
T 8S, R 26–29 W, S.M.
T 9S, R 26–30W, S.M.
T 10S, R 28–30 W, S.M.
T 11S, R 28–30 W, S.M.
T 4N, R 33–35 W, S.M.
T 3N, R 34 and 35 W, S.M.
T 2N, R 34 and 35 W, S.M.

Appendix F

Far North Bicentennial Park

(Paragraph III B)

T 12 N, R 3 W, S.M.:
Section 1.
Section 2.
Section 3 (except SW ¼).
Section 10 (except S ½).
Section 11 (except S ½).
Section 12.

T 13 N, R 3 W, S.M.:
Section 34 (except N ½ NE ¼ NE ¼)
Section 35 (except NW ¼ NW ¼, N ½ SW ¼ NE ¼ NE ¼)
Section 36 (except NE ¼ SE ¼ SE ¼ NE ¼)

Appendix G

Talkeetna Mountains—Koksetna River Lands

(Paragraph III(c))

The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described below.

T 4N, R 31 W, S.M. (W ½).
T 4N, R 32 W, S.M.
T 3N, R 31 W, S.M. (W ½).
T 3N, R 32 and 33 W, S.M.
T 2N, R 31–33 W, S.M.

Subject to valid village 12(a) and 12(b) selections under ANCSA, the following lands located south of the Susitna River:

T 29N, R 11E—1 W, S.M.
T 30N, R 11E—2 W, S.M.
T 31N, R 9E—1 W, S.M.

Edwardsen v. *Morton*

During the Subcommittee hearings H.R. 6644, the Committee was made aware of an issue which may have long-range significance for the Native land claims settlement contained in the Settlement Act.

This issue concerns the decision in the case of *Edwardsen* v. *Morton* (369 F. Supp. 1359), 1973. The Settlement Act had as its principal purpose the provision of a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." (Section 2(a)). On April 19, 1973, Judge Oliver Gasch, the District Court for the District of Columbia, in ruling on a motion by the defendants for summary judgment in *Edwardsen*, held if the Native plaintiffs of the Arctic Slope of Alaska "were in fact disturbed in their use and occupancy by trespassers, i.e., by any parties coming onto the land except for those entering under Congressional authorization, then there accrued a cause of action in tort against the trespassers and a cause of action for trespass and breach of fiduciary duty against Federal officers authorizing such trespass." 369 F. Supp. at 1378–1379. The Court continued, "It is not at all clear that the Settlement Act bars litigation of plaintiffs' claims relating to the alleged trespasses even though they are linked to claims of aboriginal title. * * * In any event, a construction of (the Act's provisions) to bar claims relating to pre-Settlement Act trespasses would appear to create constitutional infirmities in the Act which are better avoided if a constitutionally sound construction does not violate clearly expressed legislative intent." 369 F. Supp. at 1379. Accordingly, Judge Gasch refused to hold "that a later Act of Congress [Settlement Act] could wipe out all claims against any person * * * simply because Congress has decided to extinguish aboriginal title." Id.

Pursuant to a stipulation entered into by the parties in August of 1974, and approved by the Court in October, 1974, further proceedings in the *Edwardsen* case were held in abeyance pending an investigation by the Department of the Interior of the extent of the trespass claims involved. That investigation has been completed and the United States, acting as trustee for the Natives involved, has filed suit in the United States District Court for the District of Alaska against several corporate and individual defendants, including the State of Alaska, for damages arising from such trespasses.

It is not clear just what impact a final decision upholding the *Edwardsen* ruling might have on the Settlement Act and the orderly development of the State of Alaska. As a consequence, the Committee determined not to deal with that critical issue in H.R. 6644. This decision should not be interpreted to mean that the Committee finds the ruling to be either correct or incorrect with respect to the congressional intent in barring or not barring such claims. At this point, that is a judicial matter.

However, the Committee intends to follow the course of this litigation and the impact that it has or may have on the Settlement Act and the development of lands and resources in Alaska. Should circumstances warrant, the Committee then will consider the matter further.

Inflationary Impact Statement

The Federal expenditures and costs authorized and required by this legislation are relatively small and would have no significant inflationary impact.

Cost and Budget Act Compliance

The bill authorizes appropriations of $25,000 in section 12(g) and $1,600,000 in section 14.

In addition, extension of the Land Use Planning Commission by section 7 for three years will mean an extension of the appropriation authorized by section 17(a)(9)(B) of the Settlement Act which is for $1,500,000 for each fiscal year.

Indirect costs can be attributed to the payment of interest on the escrow account authorized by section 2; the payment of interest on the Alaska Native Fund authorized by section 5; and loss of tax revenue from the exemption contained in section 13. It would be impossible to ascertain such indirect costs at this time, but they would be relatively minimal.

Oversight Statement

The development and consideration of the bill, H.R. 6644, was in large part due to the oversight activities of the Subcommittee on Indian Affairs. The Subcommittee held oversight field hearings on the Settlement Act in Alaska in the 93rd Congress and again in August of 1975.

Committee Recommendation

The Committee on Interior and Insular Affairs, by a voice vote, recommends enactment of H.R. 6644, as amended.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (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):

Act of December 18, 1971 (85 Stat. 688)

* * * * * * *

Sec. 7. (a) For purposes of this Act, the State of Alaska shall be divided by the Secretary within one year after the date of enactment of this Act in twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by operations of the following existing Native associations: . . . . Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved [.] *: Provided, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: Provided further, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.*

* * * * * * *

(b) . . .

Sec. 16. (a) * * *

(b) During a period of three years from the date of enactment of this Act, each Village Corporation for the villages listed in subsection (a) shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such township. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Land Survey System. *Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.*

(c) * * *

(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: Provided, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands persuant to section 14(h)(8) of this Act: Provided further, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250); all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: Provided further, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in

and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection.

* * * * * * *

SEC. 17. (a) * * *

[(10) On or before May 30, 1976, the Planning Commission shall submit its final report to the President of the United States, the Congress, and the Governor and Legislature of the State with respect to its planning and other activities under this Act, together with its recomendations for programs or other actions which it determines should be taken or carried out by the United States and the State. The Commission shall cease to exist effective December 31, 1976.]

(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and Legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.

* * * * * * *

SEC. 21. (a) * * *

(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organizedpursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

* * * * * * *

SEC. 22. (a) * * *

[(f) The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange lands or interests therein in Alaska under their jurisdiction for lands or interests therein of the Village Corporations, Regional Corporations, individuals, or the State for purpose of effecting land consolidations or to facilitate the management or development of the land. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.]

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations for the Cities of Juneau, Sitka, Kodiak and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the mangament or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: Provided, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74) and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.

* * * * * * *

SEC. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.

* * * * * * *

SEC. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: Provided, That the rights accorded under Alaska law to dis-

senting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: Provided, That where a village Corporation organized pursuant to section 19(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

Departmental Reports

The Committee received two reports from the Department of Interior; one dated May 12, 1975 which addressed H.R. 6644, as originally introduced, and one dated December 10, 1975, which addressed the bill as reported by the Subcommittee. In addition, the Securities and Exchange Commission, and the Department of Agriculture commented on the legislation. The letters follow:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., May 12, 1975.

Hon. James A. Haley,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This responds to your request for the views of this Department on H.R. 6644, a bill "To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes."

We recommend enactment of H.R. 6644, if amended as suggested herein.

Section 101 of the bill authorizes the Secretary of Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973, deadline for filing applications for enrollment as Alaska Natives. The deadline was established by regulations issued pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688). Under section 101, the Secretary would enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline. The section also provides for the issuance of regional corporation stock to those Alaska Natives enrolled pursuant to this provision as well as the distribution of payments to those Natives enrolled pursuant to this section that are equal to payments made to those Natives originally enrolled. It further states that Natives enrolled pursuant to this provision shall not affect the eligibility status of land entitlement of eligible village corporations, regional corporations, the four named cities, or groups as defined by the Alaska Native Claims Settlement Act.

We strongly support the reopening of the rolls of Alaska Natives eligible to receive benefits under the Alaska Native Claims Settlement Act (ANCSA), and to allow otherwise eligible Alaska Natives who missed the enrollment deadline to enroll. Although we make no apology for the manner in which we handled in a very brief period of time one of the largest enrollment campaigns ever conducted, we recognize that not every eligible Alaska Native learned about the benefits of ANCSA in time to meet the filing deadline of March 30, 1973. Our estimate is that as many as 2,000 otherwise eligible persons had not applied for enrollment by that date. Some of these cases involve substantial equities. For example, some are minors whose guardians neglected to enroll them; others did not receive the enrollment forms or were under misapprehensions concerning their ancestry.

We are also in agreement with the provisions of section 101 that would not allow the addition of these late enrollees to result in changing the status of those villages and groups whose eligibility status was determined pursuant to the figures that were established by the roll certified by the Secretary of the Interior on December 18, 1973. That roll would, under the provision of section 101, establish the proportionate shares of villages, groups, and regional corporations as to their

land entitlements and the new enrollment authorized by this amendment would not affect the proportionate share, nor would it be used to disqualify a group because it had more than 24 Natives enrolled as a result of the addition of late filers. We question the need for the inclusion of the four named cities, Sitka, Juneau, Kenai, or Kodiak, in this section because their land entitlement is not determined by the number of Natives enrolled to each of these locations. Therefore, we recommend that all reference to the four named cities be omitted.

Section 101 refers to the enrollment deadline of March 30, 1973, as having been established by section 5(a) of ANSCA. That deadline was established by regulation (25 C.F.R. 43h *et seq.*). We recommend that the reference to the authority of section 5(a) of ANCSA be deleted.

Section 102(a) of the bill provides the Secretary of the Interior with authority from and after the date of enactment, to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA in an escrow account until such time as disposition is made of the land and then to transfer them to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected shall be deposited in the U.S. Treasury or paid out as required under law. Section 102(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (25 U.S.C. 162(a)). However, the section specifically prohibits the creation of a trust relationship with regard to the funds authorized for investment and reinvestment by the section.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the creation of the escrow account, we cannot support the provisions of section 102(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 102(b) would establish an unfavorable precedent.

Section 102(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands withdrawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporation or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of conveyance to the Natives, thereby making the two payments operative at the same time.

While subsection 102(a) establishes an escrow account, and addresses the issue of the disposition of receipts from activities by the Secretary on lands withdrawn for Native selection but not yet conveyed, it does not clarify certain accounting procedures related to these activities. A system is necessary to accurately relate revenues to specific tracts producing the revenues and tracts selected. To clarify these accounting procedures we recommend the addition of subsections (c) and (d) to section 102.

Subsection 102(c) relates to public easements reserved in any conveyance pursuant to subsection 17(b)(3) of ANCSA. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation has been made in the conveyance, subsection 102(c) would insure that proceeds derived from these subsection 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share:

"(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Alaska Native Claims Settlement Act (85 Stat. 688), from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share."

Without the certainty provided by subsection 102(c), it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation.

Subsection 102(d) will clarify accounting procedures under ANCSA, so that although most contracts, leases, permits, rights-of-way and easements may be paid on lands withdrawn for Native selection on an annual basis, payment to be made at the begining of the year, if a conveyance should be made in the middle of the year, the grantee would receive proportional income from such contracts, leases, permits, rights-of-way, and easements:

"(d) Any and all income on all earnings from contracts, leases, permits, rights-of-way, or easements issued for the surface or minerals covered under the conveyance prior to the issuance of such conveyance under the Alaska Native Claims Settlement Act (85 Stat. 688), shall be paid to the grantee of such conveyance on that portion of the lands conveyed pro-rated from the date of enactment of this Act."

Subsection 102(a) refers to "any and all proceeds derived" from certain less-than-fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. The language of subsection 102(a) should be amended in order to exempt these two payments from the application of this provision.

Section 102 should contain a provision parallel to that of section 26 of ANCSA. We recommend that a new subsection (e) be added:

"(e) To the extent that there is a conflict between the provisions of subsection (2) of this section and any other Federal laws applicable to Alaska, the provisions of subsection (a) of this section shall govern.

Any payment made to any corporation or any individual under the authority of subsection (a) of this section shall not be subject to any prior obligation under sections 9(d) and 9(f) of the Alaska Native Claims Settlement Act (85 Stat. 688)."

Section 103 of the bill would add a new section 28 to ANCSA. Section 28 would exempt until December 31, 1976, any corporation organized pursuant to ANCSA from the provisions of the Investment Company Act of 1940 (54 Stat. 789, as amended). We defer in our views concerning the provisions of section 103 of H.R. 6644 to those of the Securities and Exchange Commission who, we understand, will shortly submit its report to the Congress.

Section 104 of this bill would add a new section 29 to ANCSA. New subsection 29(a) would provide that payments and grants made under ANCSA are compensation for extinguishment of claims to land by Alaska Natives and are not to be deemed to substitute for any governmental program that would otherwise be available to Alaska Natives as citizens of the United States and of the State of Alaska.

New subsection 29(b) of ANCSA would specifically exempt any benefits an Alaska Native might receive pursuant to ANCSA from consideration in determining the eligibility of any Native household to participate in the food stamp program under the Food Stamp Act of 1964.

With regard to the provisions of section 104 of this legislation, we have not yet formulated a position and, therefore, we are not able to offer comments at this time. This provision is currently under examination within the Administration.

Section 105 of the legislation provides that the funds deposited in the Alaska Native Fund under ANCSA are to be considered funds held in trust by the United States Government for Indian tribes pursuant to the provisions of Section 1 of the Act of February 12, 1929 (25 U.S.C. 161(a)).

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of Natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ."

Under section 106, except as specifically provided in H.R. 6644, the provisions of ANCSA are fully applicable to this legislation and this bill shall not alter or amend any such provisions. We have no objection to this section.

Section 107 of the bill authorizes mergers or consolidations among regional and village corporations within the same region and would apply only to corporations authorized pursuant to sections 7 and 8 of the Alaska Native Claims Settlement Act. All mergers would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations. Section 107 would also allow the subsequent merger or consolidation of merged corporation with each other, provided they are in the same region. The mergers authorized by corporation shareholders either before or after passage of this bill would be covered and could take place under the provisions of the bill. This provision would allow a merger that was approved by corporation stockholders with the merger vote contingent upon enactment of legislation of the type set out in this bill to be completed upon enactment of the bill. This provision is necessary because of ongoing efforts to merge village corporations, particularly in the NANA Region of Alaska.

The section gives to the merged corporation, upon the effectiveness of the merger, all rights and benefits that ANCSA confers upon the individual corporations and also makes them subject to all the restrictions and obligations that were made applicable to the individual corporations by the Alaska Native Claims Settlement Act. The section specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Alaska Native Claims Settlement Act.

Subsection (c) deals specifically with the rights of enrolled Alaska Natives who are shareholders of a regional corporation but are not residents of any of the villages in that region. Section 7(m) of the Alaska Native Claims Settlement Act gives those Alaska Natives a right to receive dividends that represent their pro-rata share of the dividends paid to village corporations when the regional corporations make distributions to the village corporations under secton 7(j) of the Settlement Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of this bill or any other law, no merger or consolidation of corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Since enactment of the Settlement Act, many of the village corporations have found that they are too small to effectively manage their resources and responsibilities under the provisions of ANCSA. In the remote areas of Alaska, there is a shortage of trained managers who can run the many corporations, a demand that would be lessened by the bringing together of several of the smaller villages into one management unit. It would also be easier for the regional corporations to deal with one or two village corporations rather than ten or fifteen. The multiplicity of villages also dissipates the funds that are distributed to the villages, funds that can be used for improvements for Native people rather than being paid out to large numbers of professional managers necessitated by the large number of villages.

This section is needed to allow mergers or consolidations to take place because the Alaska Native Claims Settlement Act prohibits for a period of twenty years from the date of its enactment the alienation of corporation shares issued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation. H.R. 6644 will modify this restriction on alienation sufficiently to authorize mergers and consolidations.

In our judgment this section offers sufficient safeguards and offers

the Alaska Natives the opportunity to bring about mergers and consolidations that will better enable them to manage the benefits they are receiving under ANCSA. We recommend its enactment.

Section 108 extends the life of the Joint Federal-State Land Use Planning Commission, created by section 17(a)(10) of ANCSA, to June 30, 1979. We have no objection to the provisions of this section.

Section 109 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation. Section 110 of the bill creates a new section 30 of ANCSA which sets out the procedures to be followed by the Secretary of the Interior in carrying out his responsibilities in creating the thirteenth region. These responsibilities include: (1) enrolling therein those Alaska Natives who wish to participate; (2) how the corporation for the thirteenth region shall be created and how its interim Board of Directors is to be selected; (3) the instructions for submission of the articles of incorporation for the thirteenth regional corporation; (4) provisions covering the distributions made from the Alaska Native Fund and the impact of the thirteenth region on that fund; (5) authority to make adjustment in the distributions from the Alaska Native Fund when the thirteenth region enrollment is completed; and (6) the authority of regional corporations to cancel, without any liability, the stock of those of their members who shift their enrollement to the thirteenth region.

While we support the enactment of sections 109 and 110, we recommend that section 110 be amended as suggested herein.

It appears that little purpose would be served in prohibiting a potential enrollee in the 13th region from notifying the Secretary of his decision before the end of 60 days after enactment of this section. A Native should not be punished for immediately notifying the Department of his decision. Therefore, we recommend that the phrase "not less than 60 days nor" be deleted from the new section 30(a) of ANCSA.

In carrying out the provision of ANCSA, some of the time constraints under which the Department has had to operate have been extremely limited. We recommend that the time provided for each Alaska Native to inform the Secretary of his intention be extended.

Further, some Natives attempted to amend their enrollment applications before December 1, 1973, to indicate a change in whether they wished to be enrolled in the 13th region. Section 110 provides in the new section 30(a) of ANCSA that any Native who does not file a change with the Secretary within the 60 to 90 day period must return to the status in his "original enrollment application." It would seem more appropriate to place such Native under the "election last filed," and we recommend that this language be substituted instead.

New section 30(a) requires the Secretary to prepare and certify a "final roll" within 120 days which will supersede the temporary roll authorized by "this subsection." Subsection 30(a) does not authorize a temporary roll. This could result in a construction in subsection 30(a) of reference to the roll of December 18, 1973. New subsection 30(f) of ANSCA created by section 110 of this bill authorizes a temporary roll, and if subsection 30(a) refers to this temporary roll then the word "subsection" should be changed to "section."

The fourth provision of new section 30(a) directs the Secretary to prepare and certify a final roll under that section within 120 days of the section's enactment. New section 30(a) would require a second enrollment campaign in addition to that authorized by section 101 of this legislation. In our judgment, the enrollment requirement upon the Secretary of 120 days after enactment under new section 30(a), running simultaneously with the one year enrollment requirement under section 101, would impose a prohibitive administrative burden. We recommend that the words "Within one hundred and twenty days of the enactment of this section" in the fourth provision of new section 30(a) be amended to read "Within one year of the enactment of this section."

The final provision of new section 30(a) allows the Secretary to incorporate in the final roll authorized here "other changes made by the Secretary in accordance with the Act." The changes presently being made in the roll are not literally "in accordance with the Act" but are changes made on earlier principles of law which have been construed as applicable to the Settlement Act. Therefore, this last phrase should be deleted. The presence of this last sentence raises the possibility of the construction that the temporary roll referred to earlier will be the roll of December 18, 1973. It cannot be expected that all corrections in that roll will be made in time for the applicability of this section.

New Section 30(c) of ANCSA provides the instructions for the submission of the articles of incorporation for the 13th region. The time periods specified are so short for each of the proposed steps that carrying them out will be administratively prohibitive. We recommend these time periods be extended.

New section 30(d) requires that articles of incorporation for the 13th region be approved in accordance with subsection 7(c) of the Settlement Act. Section 109 of this bill amended that section and the amended language is inapplicable to the last sentence of section 30(d). The reference intended is probably to that of section 7(e) of ANCSA.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

STANLEY B. DOREMUS,
Acting Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRATARY,
Washington, D.C., December 10, 1975.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This Department would like to offer its views on H.R. 6644, as reported by the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs on September 30, 1975. H.R. 6644 is a bill "To provide, under or by amendment of

the Alaska Native Claims Settlement Act, for the later enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes."

We recommend enactment of H.R. 6644 as reported by the Subcommittee on Indian Affairs if amended as suggested herein.

SECTION 1

Section 1(a) of the bill authorizes the Secretary of the Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973, deadline for filing applications for enrollment as Alaska Natives. The Secretary would then enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act (ANCSA) except for their failure to meet the March 30, 1973, deadline.

Further, section 1(a) sets forth the procedures for making all the changes required by the amendments to the roll resulting from the new enrollments thereunder, specifically with regard to the issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Section 1(a) also provides that no land entitlements of regions, villages or groups, or eligibility of villages or groups, will be affected by the changes in enrollment thereunder. We support the provisions of section 1(a).

Under section 1(b), thee Secretary is authorized to poll Natives enrolled to villages or groups not recognized as village corporations under ANCSA, and which are located within the boundaries of former reserves where village corporations elected surface and subsurface rights under section 19(b) of ANCSA. The Secretary may allow these Natives to enroll to a section 19(b) village corporation, or enroll on an at-large basis to the region in which the village or group is located.

On St. Lawrence Island, where the village corporations of Gambell and Savoonga elected to take title to their former reserves, approximately 20 Natives enrolled to places on the Island itself other than to Gambell or Savoonga. Therefore, they are not members of either village, and are not entitled to benefits received by these village corporations under ANCSA. These individuals are currently shareholders at-large in their regional corporation. Under section 1(b) they would be given the opportunity to enroll in one of the villages, or remain shareholders at-large in their region. The language of section 1(b) is general and would apply to other situations similar to St. Lawrence Island.

While we support the provisions of section 1(b), we would note that St. Lawrence Island is not a village or group, but a place. This section would better serve its purpose if the words "Native villages or Native groups" on page 3, line 6, were deleted, and the word "places" substituted instead, and the words "village or group is" on line 13, page 3, were deleted, and the words "those places are" substituted. Otherwise, the bill may not resolve the problem of the major category of people it was designed to help—the Natives enrolled to places on St. Lawrence Island.

Section 1(b) is unclear as to whether the Secretary may allow these individuals to enroll to the section 19(b) villages at their option, or at the option of the villages concerned. We construe section 1(b) to mean the former.

Further, we would note that the individuals eligible to elect under section 1(b) are currently enrolled at-large to their region and, if they do not elect to enroll to a section 19(b) village corporation, they will remain at-large shareholders. Accordingly, we recommend that the words "to enroll" on page 3, line 12 be deleted and the words "remain enrolled" be substituted in their place.

We would also note that section 1(b) may impact the Regional entitlements under sections 12(b) and 14(h)(8) of ANCSA by changing the Regional population factors.

While we support the provisions of sections 1 (a) and (b), we cannot support the provisions of section 1(c) and recommend that it be deleted.

Section 1(c) directs the Secretary to redetermine the places of residence, as of April 1, 1970, for those Natives who, in the enrollment process, designated their domicile as a place that was later determined ineligible as a Native village or group on grounds which include an insufficient number of residents. Such redetermined residence shall be such Native's place of residence as of April 1, 1970, for all purposes under ANCSA.

We oppose the provisions of section 1(c) for a number of reasons: First, the Natives affected by section 1(c) theoretically designated their residence properly, and this provision would authorize forum shopping to give these Natives a chance to circumvent the consequences of their original choice. These Natives would not only qualify for additional benefits, but would dilute the benefits of those Natives enrolled in those villages or groups to which these section 1(c) Natives would redetermine their residence. In fact, under this interpretation of section 1(c), those Natives who redetermine their residence would receive a greater per capita distribution than those Natives who enrolled properly in the beginning.

Second, section 1(c) discriminates among Natives who are at-large shareholders in a region. Many Natives designated their place of residence on their enrollment application at a location that did not qualify as a Native village under the provisions of ANCSA. Many of the locations failed to qualify as villages because of an insufficient number of enrollees, while other locations failed to qualify for other reasons. All Natives whose place of enrollment failed to qualify as a village were enrolled as at-large members of their respective Regional Corporation. Therefore, those at-large shareholders who enrolled to a location determined ineligible as a village because of an insufficient number of residents get a second chance, while those at-large shareholders who enrolled to a location found ineligible as a village on other grounds, do not. This result is inequitable.

Third, many of the villages determined ineligible by the Department have appealed the determination, so the issue of eligibility is presently in litigation. Further, the Department has not yet determined the eligibility of any Native groups. Therefore, section 1(c) is premature and speculative.

Finally, section 1(c) is unclear as to whether the section applies only to those Natives enrolled to villages found ineligible because of insufficient number of residents, or to villages also found ineligible on other grounds.

SECTION 2

Under section 2(a), the Secretary is given the authority to deposit proceeds received by the Federal government which are derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANSCA in an escrow account until such time as disposition is made of the land and then to transfer such proceeds to the person or entity receiving title to the land. This provision would be effective from either the date of enactment of H.R. 6644 or January 1, 1976, whichever occurs first.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the provisions of section 2(a), we recommend a number of clarifying amendments.

First, on page 5, line 2, we recommend that the words "or January 1, 1976, whichever occurs first," be deleted. To administer the escrow account it will be necessary to develop a system which will accurately relate revenues to the tracts producing the revenues and the tracts selected. If H.R. 6644 is enacted after January 1, 1976, the escrow account will be partially retroactive, and the accounting procedures will present administrative and legal difficulties. Further, the monies derived between January 1, 1976 and the date of enactment of H.R. 6644 may have already been distributed to either the State of Alaska under the Mineral Leasing Act, or to the Alaska Native Fund, and thus expended.

Second, the refernce to section 14(g) of ANSCA on page 5, line 2, is incorrect. These leases, licenses, permits or rights-of-way were not issued pursuant to section 14(g), but, rather, were outstanding at the time of conveyance to the Native Corporation and were reserved by section 14(g). Thus, we recommend that the following language be inserted between the words "to" and "section" on line 4, page 5: "appropriate law and which would be reserved in any conveyance in accordance with."

Third, section 2(a) refers to "any and all proceeds derived" from certain less-than-fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. We recommend that the language of section 2(a) be amended to exempt these two payments from the application of this provision.

Finally, section 2(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands withdrawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporations or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of conveyance to the Natives, or when the Secretary determines that these lands will not be conveyed to the selecting corporation. Otherwise, the monies in the escrow account may be tied up for a considerable length of time.

While we support the creation of the escrow account, we cannot support the provisions of section 2(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 2(b) would establish an unfavorable precedent.

Section 2(c) relates to public easements reserved pursuant to section 17(b)(3) of ANSCA. Section 2(c) would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. Without the certainty provided by section 2(c), it would be administratively prohibitive to distribute the income to the owners of land covered by the easement reservation.

However, we would note the potential ambiguity with regard to the interpretation of the word "proceeds," in section 2(c). It is unclear whether the term applies to fees derived from permits issued by the U.S. for hauling timber and minerals over these reserved easements, or to the receipts from the sale of the items hauled. Accordingly, we recommend substituting the words "rental and use fees" for the word "proceeds" in section 2(c), line 18, page 6.

Further, we recommend that the words "paid by commercial users for" be inserted right after the term "rental and use fees" on line 18, page 6. It should be recognized that most easements will produce little or no income. However, commercial uses will generate income, which should be made available to the Native owners.

We would also recommend that the period on line 22, page 6, be changed to a comma, and the following words be added: "to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act."

Finally, we would suggest an additional sentence after our amended sentence on line 22, page 6. This sentence reads as follows: "As used in this subsection rental and use fees shall not include road maintenance or other cost-recovery charges levied to a non-Federal user." These costs would not be in the nature of proceeds, but go to the actual cost of maintaining the easement by the United States.

These recommendations are the result of discussions between this Department and the United States Forest Service.

Section 2(d) provides that to the extent there is a conflict between the provisions of section 2 and any other Federal laws applicable to

Alaska, the provisions of section 2 will govern. Further, any payment made to any corporation or individual under section 2(a) of H.R. 6644 shall not be subject to any prior obligations under sections 9(d) or (f) of ANCSA. This Department recommended the addition of a provision to section 2 parallel to that of section 26 of ANCSA in our report on H.R. 6644 as introduced, dated May 12, 1975. This recommendation has become section 2(d) of H.R. 6644 as reported by the Subcommittee on Indian Affairs and we support its enactment.

SECTION 3

Section 3 amends ANCSA to exempt, until December 31, 1991, corporations organized thereunder from the provisions of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities and Exchange Commission Act of 1934. We defer in our views to the Securities and Exchange Commission.

SECTION 4

Section 4(a) amends ANCSA to provide that payments and grants thereunder shall not be deemed to substitute for any governmental programs otherwise available to the Natives as citizens of the United States and of Alaska.

Section 4(b) further amends ANCSA to exempt benefits received by any member of a household under the Settlement Act from being used in a determination of that individual's eligibility to participate in the Food Stamp Act.

The provisions of section 4 are currently under examination within the Administration.

SECTION 5

Section 5 relates to a December 28, 1973, decision by the Comptroller General that the Alaska Native Fund will not bear interest or be eligible for reinvestment by the Secretary pursuant to sections 161a and 162a of title 25 of the United States Code. The actual language of section 5 states that for purposes of 25 U.S.C. 161a and 162a the Alaska Native Fund shall, pending distributions under Section 6(c) of ANCSA, "be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes." Section 5 further provides that nothing in the section will be construed to create or terminate any trust relationship between the U.S. and any corporation or individual entitled to receive benefits under ANCSA.

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ." Although the proviso in section 6(e), on page 14, lines 12–13, there is no definition as to what constitutes "within the boundaries of the Native village." We would note that the majority of Native villages are not municipalities and, therefore, do not have boundaries created by State statute as do other Alaskan communities.

SECTION 7

We have no objection to the provisions of section 7, which would extend the life of the Joint Federal-State Land Use Planning Commission for Alaska to June 30, 1979.

SECTION 8

Section 8 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th Region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation.

With the exception of the savings clause proviso of new section 7(c)(9), we recommend that section 8 be deleted. Pursuant to an order entered October 6, 1975, by the United States District Court for the District of Columbia, the 13th Region has already been established and the 13th Regional Corporation is in the process of being formed. The manner of formation of the corporation is similar to that prescribed by section 8, with the exception of the election of eligible non-resident Alaska Natives to be in or out of the 13th Region. The manner of this election has also been prescribed by the October 6, court order.

Effective October 1, 1975, this Department established the 13th Region. On October 11, by computer effort, 4,534 persons were transferred from the twelve Alaska Regions into the 13th Region according to their last written request made on or before August 15, 1973. Pursuant to the October 6 court order the Department has invited eight bona fide organizations presently known by the Secretary to represent non-resident Alaska Natives to submit the names of no more than five consenting nominees for election as incorporators and members of the interim board of directors of the 13th Regional Corporation. The Department prepared ballots with the names of 24 such nominees and on November 10 sent one ballot to each of the 3,100 adult 13th Region enrollees with instructions to vote for not more than 5 nominees and to return the ballot by December 1. The results will be tabulated by December 10 and the nominees receiving the highest number of votes shall be recognized as incorporators for the purpose of preparing and submitting the proposed articles of incorporation and bylaws for the 13th Regional Corporation. Those so recognized will also constitute the initial board of directors to serve until the first meeting of shareholders or until their successors are elected and qualify.

The proposed articles of incorporation and bylaws are to be approved by early January 1976; the first meeting of the shareholders and election of the board of directors is to be held by early February, 1976; and by February 15, 1976, the corporation is to be paid its share of monies in the Alaska Native Fund. Pursuant to the October 6 order, when the 13th Regional Corporation makes its first distribution, all adult non-resident Native enrollees, whether or not presently enrolled in the 13th Region, shall be given a final opportunity to elect their preference for enrollment in the 13th Region or one of the other 12 Regions.

Accordingly, we recommend that section 8 be deleted as it is unnecessary, but that the savings clause of amended section 7(c)(9) of ANCSA under section 8 of this bill be retained.

SECTION 9

Under section 19(b) of ANCSA, seven Native villages elected to acquire title to the surface and subsurface estate of former reserves in lieu of receiving both benefits as a Native village under ANCSA, and regional corporation benefits.

Section 9 concerns one of the seven villages, Klukwan, Inc., which voted to retain the former reserve, the Klukwan Reserve or Reservation. Chilkat Indian Village, the organization of Natives who actually reside on the reserve, had negotiated a mineral lease in 1970, and it has been alleged in pending litigation that valid existing rights under this lease may survive the enactment of ANCSA and the extinguishment of the reserve itself. While all the residents of the reserve are members of Chilkat Indian Village, many of those non-residents who enrolled there and are stockholders in Klukwan, Inc., are not members of Chilkat. The mineral deposit is the major element of value in the lands of the former reserve and if the Chilkat position is correct the majority of Kluwan's shareholders would not receive the benefit of either the lease or the Settlement Act.

Section 9 would amend section 16 of ANCSA to allow the shareholders of Klukwan, Inc., to participate in the Act's benefits as if they had not elected to acquire title to their former reserve, including the selection of land, providing that Klukwan, Inc., will quit claim all its rights, title and interest in the reserve to Chilkat Indian Village.

We support the provisions of section 9. However, while section 9 would take care of the reserve land and rights thereto, it may not extend to $100,000 in lease rentals already derived from the lease after the passage of the Settlement Act. In our judgment, the United States and Klukwan, Inc., should also quit claim to Chilkat all rights to rentals and other benefits paid by the lessee prior to the passage of this bill. Further, Chilkat should also relinquish any claims it might have against Klukwan, Inc., the United States or the lessee, for mispayment.

We would note that section 9 may affect the Regions under section 12(c) of ANCSA by decreasing the acreage factor by 23,933, and under section 14(h)(8) by changing the Regional population factor.

SECTION 10

Section 10 would amend section 16(b) of ANCSA. Pursuant to amended section 16(b), the allocations received by the Southeastern Alaska Regional Corporation under section 14(h)(8) of ANCSA would be selected and conveyed from lands withdrawn by section 16(a) of ANCSA that were not selected by the village corporations, with the exception of lands on Admiralty Island in the Angoon withdrawal area, and lands in the Yakutat and Saxman withdrawal areas without the consent of the Governor of Alaska.

With the exception of some small amounts of public domain land around the Village of Klukwan, section 10 would permit the Sealaska Regional Corporation to make land selections pursuant to section 14(h)(8) of ANCSA primarily within the Tongass National Forest. Accordingly, this Department defers to the views of the U.S. Forest Service, as they are the agency with jurisdiction over those lands.

We would point out, however, that section 10 of H.R. 6644 as reported by the Subcommittee on Indian Affairs could have an impact upon section 12(c) of ANCSA. Part of the section 12(c) formula concerns allocations among the Regional Corporations based upon lands selected under section 16 of the Settlement Act. Since section 10 of H.R. 6644 amends section 16(b) rather than section 14(h)(8) of ANCSA, section 10 could be interpreted to effect the formula, and thus the entitlements of the other Regions, under section 12(c) of the Settlement Act.

SECTION 11

Section 11 of H.R. 6644 would amend section 7(a) of ANCSA to fix the boundary between the Southeastern and Chugach Regions at the 141st meridian provided that with regard to lands conveyed to it in the vicinity of Icy Bay, the Chugach Regional Corporation shall accord to Natives enrolled to the village of Yakutat the same rights and privileges for traditional purposes on such lands as it would accord its own shareholders.

The effect of this amendment would be to settle the boundary dispute between the two Regions, and within the settled boundary allow the Natives of the village of Yakutat, which is in the Southeastern Alaska Region, to use the lands around Icy Bay, in the Chugach Region, for subsistence purposes.

Although the boundary question is presently in arbitration in accordance with section 7(a) of ANCSA, if this amendment is acceptable to the two Regions involved, then we would support it. However, we would note that we construe this provision to be self-executing, with the rights and obligations therefrom flowing between the two Regions, and conferring no obligation upon this Department to write this language into patents issued pursuant to ANCSA.

Further, we would suggest that the term "in the vicinity of Icy Bay" on lines 14–15, page 30, be more precisely defined.

SECTION 12

Section 12 of H.R. 6644 as reported by the Subcommittee on Indian Affairs contains provisions to resolve the land selection problem of the Cook Inlet Region, Inc. For several months now representatives of the Department, the State of Alaska, and Cook Inlet have engaged in extensive discussions about possible solutions to this problem. The parties to these discussions have not yet arrived at a mutually acceptable settlement. As of this writing, the final details are still being negotiated.

SECTION 13

Under section 13, a new subsection (f) would be added to section 21 of ANCSA. This new section 21(f) would provide that until December 18, 1991, the stock of any regional corporation organized pursuant to section 7 of ANCSA, including the right to receive distributions under section 7(j), and the stock of any Village Corporation organized pursuant to section 8 of ANCSA, shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

We have no objection to the provisions of section 13. However, we would note that section 7(h)(3) of ANCSA prohibits alienation of stock until January 1, 1992, not December 18, 1991. Accordingly, we recommend that the date "December 18, 1991," on line 4, page 33, be deleted, and the date "January 1, 1992" be substituted in its place.

SECTION 14

Section 14(a) would provide a one-time payment of $250,000 to each of the corporations organized pursuant to section 14(h)(3) of ANCSA. Although the members of these four corporations (Kenai, Sitka, Juneau and Kodiak) are stockholders in their respective regional corporations, these corporations are not themselves recipients of funds under ANCSA. These corporations, however, are incurring expenses in organizing and operating themselves, making land selections and in engaging in necessary planning.

Section 14(b) provides for payments of $100,000 each to six of the seven villages (excluding Klukwan, Inc.) who chose to retain former reserves under section 19(b) of ANCSA. These villages chose title to former reserves in lieu of the benefits accorded a village under ANCSA and, as such, are not eligible to select other land or receive a distribution of regional corporation funds. Further, the members thereof are not shareholders in their respective regional corporations.

Under section 14(c), the funds provided under 14 (a) and (b) are to be used only for planning and development, and for other purposes for which these corporations were organized under ANCSA.

Section 14(d) authorizes $1,600,00 in fiscal year 1976 to implement section 14.

We believe there is no basis for increasing the total amount of the Alaska Native Claims Settlement Act by $1.6 million in addition to the $962,500 million already provided. Any funds provided for these 10 corporations should be authorized from the present Alaska Native Fund.

SECTION 15

Section 15 of H.R. 6644 would direct the Secretary of the Interior to convey to the Koniag Regional Corporation the subsurface estate of certain lands selected by such corporation located within the Aniakchak Caldera National Monument. Further, notwithstanding the inclusion of the surface estate of these lands in any national monument or other national land system referred to in section 17(d)(2) of ANCSA, Koniag, Inc., may use the surface estate as is reasonably necessary to mine the subsurface, subject to regulations by the Secretary to protect the surface.

This provision would legislate an agreement between this Department and Koniag, Inc., concerning the lands within the area proposed by this Department for establishment as the Aniakchak Caldera National Monument in the National Park System under section 17(d)(2) of ANCSA. The Department had agreed to recommend to the Congress, at the time the Aniakchak proposal was being considered, that Koniag, Inc., be permitted to make specific subsurface selections within the Monument.

We believe, however, that a Congressional decision regarding the lands available for selection within the Monument be made at the same time Congress considers the establishment of the Monument. In that way Congress would have before it all of the relevant information concerning the resource values in the area and it would be in the best position to make a judgment on the matter. Further, we believe that public hearings on the amendment should be held. We continue to believe that the better course would be to consider all aspects of each D–2 proposal together, rather than in piecemeal fashion. However, should the Committee decide to go forward with the Koniag amendment at this time, we have no objection to the substance of the amendment in section 15 of H.R. 6644 as reported by the Subcommittee on Indian Affairs.

Time has not permitted securing advice from the Office of Management and Budget as to the relationship of this report to the program of the President.

Sincerely yours,

KENT FRIZZELL,
Acting Secretary of the Interior.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

Hon. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, House Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that your Committee is now considering H.R. 6644,[1] a bill to amend the Alaska Native Claims Settlement Act of 1971.[2] The staff of the Commission has recently conferred with representatives of the Department of the Interior and the Office of Management and Budget, and, as a result of that conference, we wish to offer comments with respect to two sections of the proposed bill, Sections 103 and 107, which involve the securities laws, the Investment Company Act of 1940 ("1940 Act") in particular.

Section 103 would add a new provision to the Settlement Act giving the corporations organized pursuant thereto ("ANCSA Corporations") a temporary exemption from the 1940 Act until December 31, 1976. In introducing this bill to the House, Congressman Young indicated that without such an exemption, certain ANCSA Corporations investing some of their funds "in commercial bank time deposits or certificates of deposit" might "risk being classified as investment companies." He further indicated that such an exemption would "provide necessary breathing room to the SEC and the Native corporations to permit resolution of long-range problems." [3]

As I indicated in my letter to you of February 1, 1975, commenting upon an identical provision in H.R. 12355,[4] I believe it would be unwise to exempt the ANCSA Corporations from all provisions of the 1940 Act. The Commission's position was then, and continues to be,

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[1] 94th Cong., 1st Sess. (1975), 121 Cong. Rec. H–3596 (daily ed., May 1, 1975).
[2] 85 Stat. 688.
[3] *Supra* n. 1, at 3596, 3597.
[4] 93rd Cong., 2nd Sess. (1974); 120 Cong. Rec. H–299 (daily ed., January 29, 1974).

that certain provisions of the Act should be applied to ANCSA Corporations falling within the 1940 Act's definition of investment company in order to protect the substantial pools of liquid capital which these companies hold in trust for the benefit of numerous unsophisticated Alaska native shareholders.

ANCSA Corporations are not restricted by the Settlement Act, the securities laws, or Alaska law to investing in bank time deposits or certificates of deposit; and, in fact, it is our understanding that certain of them are investing in other types of securities. In any event, the application of the 1940 Act to a corporation investing in certificates of deposit and other securities of a relatively non-speculative character is more than a technical complication. Numerous so-called money market funds registered under the 1940 Act voluntarily restrict their investments to certificates of deposit, government securities, and like investments; and certain of the protections afforded shareholders of such funds by the 1940 Act would be appropriate for an ANCSA Corporation with similar voluntary investment restrictions.

As you are probably aware, in accordance with my earlier letter to you, the Commission acted promptly last year to exempt the ANCSA Corporations from all but the most essential provisions of the 1940 Act by adopting temporary Rule 6c–2(T).[5] The Commission has received a number of comments on the proposed rule, and, having analyzed these, the Commission's staff has recently submitted a revised version of the proposed rule to the Commission. The Commission intends promptly to consider the staff recommendations and either to adopt a permanent exemptive rule or ask for further public comments on a revised proposal. As presently proposed by the staff, Rule 6c–2 would add the proxy, reporting and record-keeping requirements of the Act to the group of provisions from which ANCSA Corporations registering under the rule would not be exempt. It should be emphasized that both the temporary rule and the proposed permanent rule affect only those ANCSA Corporations which choose to register with the Commission pursuant to Section 8(a) of the 1940 Act.

We should also point out that, if the Congress exempts the ANCSA Corporations from the 1940 Act, a number of the companies would continue to be subject to the Securities Exchange Act of 1934 ("Exchange Act") as companies having 500 or more shareholders and more than $1,000,000 in assets. Such companies would have to comply with the registration, reporting, and proxy solicitation provisions of the Exchange Act. We believe that these provisions provide significant protections to the shareholders of the ANCSA Corporations and that such shareholders should not be given any less protection under the Exchange Act than Congress has given to shareholders of other, more conventional corporations. However, we believe it would be most unfortunate if the ANCSA Corporations were exempted during the time they are investment companies from a statute specifically designed to regulate investment companies and be subject only to the requirements of a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies.

[5] Rule 6c–2(T) exempts ANCSA Corporations registering pursuant to Section 8(a) of the Act from all provisions of the 1940 Act except Sections 9, 17, 36, and 37 (Investment Company Act Release No. 8251, February 26, 1974, attached).

Section 107 of the bill would authorize the ANCSA Corporations to merge or consolidate under Alaska law. First, assuming that Section 103 is not adopted, we do not think this provision standing alone would exempt merger transactions from the Commission's jurisdiction under Section 17 of the 1940 Act, which relates to the transactions between affiliates.

Second, if the bill were changed to exempt such mergers from the 1940 Act, we do not feel that such a change would serve the interests of ANCSA shareholders. Any mergers of ANCSA Corporations which constitute transactions of affiliated persons or companies within the meaning of Section 17 should remain subject, in our view, to the standards of fairness imposed by that section. Commission review of these mergers is especially important because of the difficulty of ascertaining the value of ANCSA Corporation assets for purposes of an exchange of shares or an acquisition of assets.

We have gained some familiarity recently with at least one proposed merger involving ANCSA Corporations, that proposed by the NANA Regional Corporation and a number of its village corporations. As we understand it, that merger would involve the exchange of rights now vested in natives belonging to the various corporations. Such vested rights, although difficult to value at this time, would presumptively differ from one corporation to another; yet, subsequent to the exchange, the affected natives would all have equal rights. We are troubled that such a shift in vested rights among investors who now have the protections of the 1940 Act might, if the proposed bill were adopted, take place without any consideration of its fairness. Our view in this regard is buttressed by our understanding that there is no provision of Alaska Corporation law which provides protections comparable to those afforded by Section 17.

Thank you for the opportunity of commenting on H.R. 6644. We trust that our comments will be of assistance to you and we stand ready to provide you with whatever further assistance you may desire.

Sincerely,

RAY GARRETT, JR., *Chairman.*

Enclosure.

INVESTMENT COMPANY ACT OF 1940

Release No. 8251/February 26, 1974

NOTICE OF ADOPTION OF TEMPORARY RULE 6C–2(T) AND OF PROPOSAL TO ADOPT RULE 6C–2, BOTH UNDER THE INVESTMENT COMPANY ACT OF 1940 CONDITIONALLY EXEMPTING CORPORATIONS ORGANIZED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT FROM ALL PROVISIONS OF THE INVESTMENT COMPANY ACT OF 1940 EXCEPT SECTIONS 8(a), 9, 17, 36, AND 37. (FILE NO. S7–514)

Notice is hereby given that the Securities and Exchange Commission hereby adopts temporary Rule 6c–2(T) and proposes to adopt Rule 6c–2, both under the Investment Company Act of 1940 ("Act") to exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971[1] ("Settlement Act") (such corporations here-

[1] 85 Stat. 688.

inafter referred to collectively as "ANCSA Corporations"). Such exemptions are conditioned upon adherence by the ANCSA Corporations to reporting and other requirements specified herein. Rule 6c–2(T) is effective as of December 18, 1971, the date of the enactment of the Settlement Act; it will be superseded at such time as the Commission takes action on proposed Rule 6c–2, which, as proposed, would provide the same relief on a permanent basis as is now provided by Rule 6c–2(T).

The ANCSA Corporations have been (or will soon be) organized to hold and administer the extensive land grants, mineral rights, cash, and mineral revenues intended by the Government of the United States to recompense Alaska's native Indian Aleut and Eskimo population ("Alaska Natives") for lands within the State of Alaska. In accordance with this statutory purpose, the ANCSA Corporations will be owned and managed exclusively by Alaska Natives, who will be given shares of stock in the ANCSA Corporations. The ANCSA Corporations consist of twelve "Regional Corporations," representing the Alaska Natives residing in twelve geographical districts designated by the Department of the Interior, and more than 200 "Village Corporations" within these districts each representing Alaska Natives residing in a village.

Although the ANCSA Corporations are to be given substantial real estate and subsurface mineral interests, many of such interests are not presently specifically identifiable as they are to be selected and acquired over a four-year period in accordance with the provisions of the Settlement Act. Distribution of a significant portion of monetary compensation was made almost immediately upon enactment of the Settlement Act, however, and $130,000,000 of such monies has already been received by the twelve Regional Corporations. Furthermore, large additional distributions of cash will be made to the ANCSA Corporations in the next few years, so that, during this period, at least until they have fully exercised their land grant privileges and have begun to engage primarily in owning land or operating a business, many of the ANCSA Corporations may be investment companies within the meaning of Sections 3(a)(1) and 3(a)(3) of the Act.[2]

It appears that, without compliance with the Act or exemptive relief by the Commission, questions may be raised whether many ANCSA Corporations may operate in interstate commerce or buy securities in interstate commerce.[3] Several ANCSA Corporations have filed applications for orders of the Commission pursuant to Section 3(b)(2) of the Act, each claiming, in effect, that the applicant is primarily engaged in a business other than that of being an investment company.[4] In view of the large number of ANCSA Corporations, many of which are potential applicants of this type, and the serious question as to whether such ANCSA Corporations can meet the operational prerequisites for a Section 3(b)(2) order, the Commission has determined to grant appropriate temporary exemptive relief by the promulgation of a rule pursuant to Section 6(c) of the Act and to propose that such relief be made permanent.

[2] Section 3(a)(1) defines "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) defines "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (excluding Government securities and cash items) on an unconsolidated basis.

[3] Such activities might be precluded by Sections 7(a)(4) and 7(b)(3) of the Act, which provide, respectively, that an unregistered investment company may not engage in any business in interstate commerce and that no depositor or trustee of or underwriter for any unregistered investment company may sell or purchase for the account of such company, by the use of the mails or any means or instrumentality of interstate commerce, any security or interest in a security, by whomever issued.

Rule 6c–2(T) temporarily removes all ANCSA Corporations from the burden of complying with various requirements of the Act. Such corporations will be obliged to comply with only those provisions which provide essential protection for the substantial pools of liquid capital they hold in trust for the Alaska Natives. Accordingly, Rule 6c–2(T) provides that the ANCSA Corporations shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37, provided, however, that such corporations must comply with certain reporting and other requirements set forth in the rule. Rule 6c–2 would provide exactly the same relief on a permanent basis, if adopted.

Section 8(a) of the Act requires the ANCSA Corporations to register with the Commission by filing a Form N–8A disclosing basic information such as the name and address of the corporation, the names of its officers, directors, and adviser and the identity of other companies substantial amounts of the securities of which are held by the registrant. The more detailed Form N–8B–1 registration statement will not be required.

Section 9 of the Act prohibits a person convicted of certain crimes or enjoined from certain specified activities, generally crimes and activities involving securities transactions and the functions of underwriters, brokers, dealers and financial institutions, from serving as an officer, director, member of an advisory board, investment adviser, or depositor of a registered investment company. Section 9 also provides procedures for the removal of this prohibition under appropriate circumstances.

Section 17, generally speaking, requires Commission approval before the ANCSA Corporations may engage in certain transactions with affiliated persons.

Section 36 authorizes the Commission or a shareholder to bring a civil action against officers, directors, members of advisory boards, investment advisers, depositors or underwriters of registered companies for breach of fiduciary duty involving personal misconduct. It further provides that an investment adviser is deemed to have a fiduciary duty with respect to the receipt of compensation for services or payments of a material nature paid by the investment company.

Section 37 makes it a crime under the Act to steal or embezzle the property of an investment company.

The exemptions granted by the rules may be claimed only by ANCSA Corporations which meet conditions requiring them to file annually with the Commission copies of reports required by Section 7(o) of the Settlement Act, and to maintain the records used as the basis for such reports for examination by the Commission.

[4] Section 3(b)(2) provides, in pertinent part, that if the Commission finds that an issuer is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, such issuer will not be an investment company within the meaning of the Act.

Rule 6(c)-2(T) is hereby adopted pursuant to Sections 6(c), 38(a), and 39 of the Act. Proposed Rule 6(c)-2 would be adopted pursuant to the same provisions. Section 6(c) of the Act provides that the Commission by rule, regulation, or order may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) states, in part, that the Commission shall have the authority from time to time to make, issue and amend such rules and regulations as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act. Section 39 states in part that, subject to the Federal Register Act, rules and regulations of the Commission under the Act shall be effective upon publication in the manner prescribed by the Commission.

The text of Rule 6c-2(T) is as follows:

Rule 6c-2(T): Temporray Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporations") shall be temporarily exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certification thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

The Commission finds that the adoption of Rule 6c-2(T) is appropriate in the public interest and is consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. The Commission further finds, in accordance with the requirements of the Administrative Procedure Act,[5] that notice of Rule 6c-2(T) prior to its adoption and public procedure thereon are impracticable and unnecessary since the rule will be temporary in its effect and will not exempt any ANCSA Corporations from those provisions of the Act needed to provide essential protections for the assets being held for the benefit of the Alaska Natives until such time as the rule is adopted.[6] Accordingly, Rule 6c-2(T) shall become effective on February 26, 1974, retroactive to December 18, 1971, the date of enactment of the Settlement Act.

[5] 5 U.S.C. § 551 et seq. (1970).
[6] Id. § 553(d)(1).

The text of proposed Rule 6c-2 is as follows:

Rule 6c-2: Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporation") shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certifications thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

All interested persons are invited to submit views and comments with respect to proposed Rule 6c-2, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 10, 1974. All communications with respect to this matter should refer to File No. S7-514. Such communications will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 3, 1975.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department of Agriculture would like to offer its views on certain provisions of the Subcommittee Print of H.R. 6644, a bill "To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing corporations and for other purposes."

The bill was ordered reported to the full Committee on October 2 by the Subcommittee on Indian Affairs. We understand that the Committee will consider the bill early in December.

The Department of Agriculture has major concerns about certain provisions of the Subcommittee Print which affect the responsibilities of this Department. These include (1) the definition of "proceeds" from public easements as contained in section 2(c); (2) the special treatment provided in section 10 relating to Sealaska's entitlement

under 14(h)(8) of the Settlement Act; (3) the settlement of Cook Inlet Regional Corporation's land selection difficulties as proposed in section 12; and (4) the conveyance of subsurface estate in the proposed Aniakchack Caldera National Monument to Koniag Regional Corporation. Our recommendations on each of these provisions are presented in the enclosed supplemental statement. If H.R. 6644 is amended as recommended in our statement, this Department would have no objection to the enactment of the bill.

This Department is seriously concerned with the repeated efforts to amend the Settlement Act. In our view, the Alaska Native Claims Settlement Act represents a fair and equitable settlement of the interests of the Alaska Natives, the State of Alaska and the nation at large. The Act resulted from long and careful deliberation by several Congresses and represents a careful balance and compromise of the various interests. We are concerned that amendments to the Settlement Act will ultimately result in major alterations of the settlement and lead to the reopening of issues that the Congress and the Executive Branch clearly thought were settled by passage of the Act. This Department would prefer that amendments to the Act be limited to resolving conflicts that are inherent in the Act and to resolving procedural matters which have developed in trying to implement the Act.

The Office of Management and Budget advises that the presentation of this report is consistent with the Administration's objectives.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

SUPPLEMENTAL STATEMENT OF THE U.S. DEPARTMENT OF AGRICULTURE ON SUBCOMMITTEE PRINT OF H.R. 6644

Section 2(c)—Proceeds From Public Easements

Section 2(c) provides that proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. The intent of the provision is not clear, and we are concerned about how the term "proceeds" might be construed.

Two types of easements are being reserved in support of the National Forest System program in Alaska. The first type includes those necessary to maintain the existing rights of third parties. Proceeds from these easements will pass to the Natives under the provisions of section 14(g) of the Settlement Act. No easements are being reserved by the Forest Service solely for the future use of third parties.

The second type of easement includes those necessary to provide access to the National Forests and to otherwise support management of National Forest programs. We do not participate any proceeds from these public easements.

We would strongly object to section 2(c) if the intent is to interpret the term "proceeds" to include receipts from sale or use of National Forest resources which require use of a reserved easement—for example, a timber sale contract which required hauling logs over a road on a reserved easement—or if the "proceeds" were to include road maintenance or cost-recovery charges levied by the Forest Service on a non-Federal user. We do not believe that such receipts or cost-recovery charges should be considered as proceeds.

Therefore, if the Committee determines that Natives should receive certain proceeds from public easements reserved pursuant to section 17(b)(3), we recommend that section 2(c) be amended as follows:

"(c) Any and all rental and use fees paid by commercial users of public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share, to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act. As used in this subsection, the term rental and use fee shall not include road maintenance or other cost-recovery charges levied to a non-Federal user."

This proposed amendment has been developed by this Department and the Department of the Interior. It accommodates our concerns about what constitutes a proceed derived from these easements. Under this provision, the receipts from sale or use of National Forest resources which required use of a reserved easement would clearly not fall within the meaning of rental and use fees. In addition, charges levied to commercial users by the Forest Service to recover direct costs would also not be subject to distribution under section 2(c).

Section 10—Sealaska Amendment

Section 10 of the Subcommittee Print would amend section 16(b) of the Settlement Act to permit Sealaska Regional Corporation to select the lands to which it is entitled under section 14(h)(8) from lands withdrawn for but not conveyed to Village Corporations within the Region. However, Sealaska could not select lands on Admiralty Island and, without the consent of the Governor of Alaska, could not select lands in the Saxman and Yakutat withdrawal areas.

The Department of Agriculture strongly recommends that section 10 not be incorporated into H.R. 6644, as amended by the Subcommittee.

The Alaska Native Claims Settlement Act (ANCSA) was the result of long and careful deliberation, negotiation, and compromise by the Congress, the Executive Branch, the State of Alaska, and the Alaska Natives. The resulting settlement represented a carefully constructed balance which was deemed equitable to the interests of the American people, the Alaska Natives, and the State of Alaska. To amend the Act now with regard to land selection would, in our view, undo the balance and equity achieved by ANCSA and lead to the reopening of issues which Congress and the Executive Branch clearly thought were settled by enactment of the Alaska Native Claims Settlement Act.

An important aspect of the balance achieved by ANCSA was the special treatment of land selection by the natives of southeast Alaska. In 1968 the Court of Claims entered judgment in behalf of the Tlingit and Haida Indians of southeast Alaska in the amount of some $7.5 millions. Most of this amount represented compensation for the Federal taking of land which became the Tongass National Forest. In formulating ANCSA, the Congress recognized this cash settlement. It also recognized that the value of lands in southeast Alaska with its water access and commercial timber is greater than that of other regions in Alaska and that there was a need to prevent conflict between

the purposes of the Act and the purposes for which the National Forests were established. Accordingly, under ANCSA, the southeast native village corporations were limited to selections of 23,040 acres each, and the Southeast Regional Corporation (Sealaska) was excluded from land selection under section 12. The only land which Congress entitled Sealaska to select was a share of the balance of the two million acres withdrawn under section 14(h). By specifically authorizing conveyances from the National Forests for section 14(h)(1), (2) (3), and (5), it is clear that Congress did not intend for 14(h)(8) conveyances to be made from National Forest lands.

Section 10 of the Subcommittee Print would alter the balance of the Act by awarding Sealaska a greater settlement than Congress intended and by giving Sealaska selection rights on lands for which compensation has already been granted. It would also have a detrimental effect on land selections by the other Regional Corporations and represent an inequity to them. First, by amending section 16, the Sealaska amendment would affect the formula under section 12 which governs the amount of lands that all other Regional Corporations may select and would reduce the amount of lands to which these corporations are entitled. The effect would be to prevent the conveyance of the full 40 million acres provided for in the Act. Secondly, Sealaska Region would receive 14(h)(8) lands of far greater surface value than would the other Regional Corporations. Moreover, if section 10 is enacted, it is probable that the Chugach and Koniag Regions would desire similar treatment for their entitlements under 14(h)(8). These Regions are claiming difficulty in selecting the full amount of lands to which they are entitled under section 12(c) because of the limitation on selections from the National Forests and the National Wildlife Refuge System.

In our view, the proposal contained in section 10 of H.R. 6644 represents the kind of conflict between National Forest purposes and the interests of the Alaska Natives that ANCSA sought to eliminate. Section 10 would likely result in an additional 200–250,000 acres being withdrawn from the Tongass National Forest. These lands contain the full range of resource values for which the National Forest was established. The public values include significant wildlife habitat, recreation use areas, access to major fishing areas, and lands suited to timber harvest. We believe the benefits of multiple resource management can best be achieved by retaining these lands as part of the National Forest System.

In summary, we urge the Committee not to incorporate section 10 in H.R. 6644. There are sufficient D–1 lands within southeastern Alaska to provide for Sealaska Corporation's selection as originally contemplated in the Alaska Natives Claims Settlement Act. We believe that selections from these lands would be comparable to lands available to other regional corporations under section 14(h)(8) of the Act.

Section 12—Cook Inlet Regional Corporation

Section 12 of the Subcommittee Print would amend section 12 of the Settlement Act by adding a new subsection (f) to permit exchange of Federal lands withdrawn under section 17(d) for State patented lands and interests therein. These State lands would then be conveyed to Cook Inlet Regional Corporation along with two townships of National Forest lands. In addition, subsection (3) would permit the Cook

Inlet Region to select lands withdrawn for village selection in other regions.

We oppose section 12. The proposed conveyance of two townships of National Forest land represents precisely the kind of conflict between the purposes of the Settlement Act and the purposes of National Forests that Congress sought to resolve in passing the Settlement Act.

We understand from the Department of the Interior that a mutually acceptable settlement has not yet been reached with Cook Inlet Regional Corporation. For this reason, we recommend that congressional action on this issue be deferred.

Section 15—Conveyance to Koniag Regional Corporation

Section 15 of the Subcommittee Print would convey to Koniag Regional Corporation the subsurface estate under certain lands proposed for establishment as the Aniakchak Caldera National Monument.

While the lands and interests involved in this conveyance are not under the jurisdiction of this Department, we are opposed to the inclusion of this provision in H.R. 6644.

The Settlement Act provides for dual withdrawals of the d–2 lands and for these dual withdrawls to be considered at the time the Congress considers the d–2 proposals for new national forests, parks, refuges, and wild and scenic rivers. We are unaware of any urgency which would necessitate resolving the selection of Koniag Regional Corporation's land selection problems now. In our view, the better course is to consider all aspects of each d–2 proposal together as the Settlement Act provides. Accordingly, we recommend that section 15 not be enacted.

O

S. 1469

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is directed to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native village", as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group", as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any "Native group", as defined in such Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as Village Corporations under section 11 of the Settlement Act and which are included within the boundaries of former reserves the Village Corporation or Corporations of which elected to acquire title to the surface and subsurface estate of said reserves pursuant to subsection 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided*, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act.

(c) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, a sufficient number of Natives required for a Native

village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided*, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further*, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: *Provided further*, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further*, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such redetermination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.

SEC. 2. (a) From and after the date of enactment of this Act, or January 1, 1976, whichever occurs first, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under such Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds, together with interest which derive from contracts, leases, permits, rights-of-way, or easements, pertaining to such lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to such Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be paid as would have been required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury

to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (52 U.S.C. 1037): *Provided further*, That this section shall not be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

(c) Any and all proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act, from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act.

SEC. 3. The Settlement Act is amended by adding at the end thereof the following new section:

"TEMPORARY EXEMPTION FROM CERTAIN SECURITIES LAWS

"SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

SEC. 4. The Settlement Act is further amended by adding at the end thereof the following new section:

"RELATION TO OTHER PROGRAMS

"SEC. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.".

SEC. 5. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship

between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

SEC. 6. The Settlement Act is further amended by adding a new section 30 to read as follows:

"MERGER OF NATIVE CORPORATIONS

"SEC. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which and who participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 19(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

SEC. 7. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

SEC. 8. (a) Notwithstanding the October 6, 1975, order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. against Rogers C. B. Morton et al., Civil Action Numbered 2133–73, and Alaska Federation of Natives International, Inc., et al. against Rogers C. B. Morton, et al., Civil Action Numbered 2141–73 (F. Supp.), changes in enrollment of Natives which are necessitated or permitted by such order shall in no way affect land selection entitlements of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

(b) Stock previously issued by any of the twelve Regional Corporations in Alaska or by Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said order shall, upon said enrollment, be canceled by the issuing corporation without liability to it or the Native whose stock is so canceled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said order shall elect to re-enroll in the appropriate Regional Corporation in Alaska pursuant to the sixth ordering paragraph of that order, stock of such Native may be canceled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Regional Corporation in Alaska without liability to either corporation or to the Native.

(c) Whenever additional enrollment under the Settlement Act is permitted pursuant to this Act or any other provision of law, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to the Settlement Act shall, at the time of enrollment, elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of such Act and such election shall apply to all dependent members of such Native's household who are less than eighteen years of age on the date of such election.

(d) No change in the final roll of Natives established by the Secretary pursuant to section 5 of the Settlement Act resulting from any regulation promulgated by the Secretary of the Interior providing for

the disenrollment of Natives shall affect land entitlements of any Regional or Village Corporation or any Native village or group eligibility.

SEC. 9. Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand and forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597), after the date of enactment of this Act and prior to the date of enactment of this subsection.".

SEC. 10. Section 16(b) of the Settlement Act is amended by adding at the end thereof the following: "Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.".

SEC. 11. The boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided*, That the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the Village of Yakutat the same rights and privileges to use any lands which may be conveyed to the Regional Corporation in the vicinity of Icy Bay for such purposes as such Natives have traditionally made thereof, including, but not limited to, subsistence hunting, fishing and gathering, as the Regional Corporation accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose and having the effect, of impairing or curtailing such rights and privileges.

SEC. 12. (a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region, Incorporated (hereinafter in this section referred to as the "Region"), and the State of Alaska,

within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

(1) the State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

(2) the Region and all plaintiffs/appellants have withdrawn from Cook Inlet against Kleppe, numbered 75–2232, ninth circuit, and such proceedings have been dismissed with prejudice; and

(3) all Native village selections under section 12 of the Settlement Act of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area", which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, the terms of which are hereby ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law:

(1) title to approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the waterfront zone described in the document referred to in this subsection;

(2) title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

(3) title to Federal interests in township 10 south, range 9 west, F.M., and township 20 north, range 9 east, S.M.;

(4) title to township 1 south, range 21 west, S.M.: sections 3 to 10, 15 to 22, 29, and 30; and rights to metalliferous minerals in the following sections in township 1 north, range 21 west, S.M.: sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36;

(5) title to twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region: unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement;

(6) title to lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(l) of the Settlement Act: *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the range and subject

to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the range with the concurrence of the Region so long as the Region owns such lands. Section 22(e) of the Settlement Act, concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land conveyed without restriction to a native corporation.

No lands outside the exterior boundaries of Cook Inlet Region shall be conveyed to the Region, unless, in the following circumstances, the consent of other Native Corporations is obtained:

(i) Where the township to be nominated is located within an area withdrawn as of December 15, 1975, pursuant to section 11(a)(1) of the Settlement Act, the Region shall obtain the consent of the Regional Corporation and Village Corporation affected.

(ii) Where the township to be nominated is located within an area withdrawn pursuant to section 11(a)(3) of the Settlement Act as of December 15, 1975, the Region shall obtain the consent of the Region in which the township is located.

There shall be established a buffer zone outside the withdrawals described in subparagraphs (i) and (ii) which zone shall extend one township from any such section 11(a)(3) withdrawal and one and one-half townships from any section 11(a)(1) withdrawal. Any nomination of a township within such zone shall be subject to the consent of the Region, or of the Village Corporation if adjacent to a section 11(a)(1) withdrawal: *Provided, however*, That the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Regional Corporation shall designate the enlarged buffer zone, if any, no later than six months following the passage of this Act. Any use or development by the Region of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Settlement Act unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h)(8) of the Settlement Act. Of such lands, 3.58 townships of oil and gas and coal in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Settlement Act would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any Regional Corporation or Village Corporation, notwithstanding any provisions of the Settlement Act to the contrary.

(d)(1) The Secretary shall convey to the State of Alaska all right, title, and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27 townships of land from those presently withdrawn under section 17(d)(2) of the Settlement Act in the Lake Iliamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

(ii) 26 townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided, however*, That this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title, and interest of the United States in and to all of that tract generally known as the Campbell tract and more particularly identified in the document referred to in subsection (b) except for one compact unit of land which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act, and the conveyance of such lands shall also contain a provision that, if the lands cease to be used for the purposes for which they were conveyed; the lands and title thereto shall revert to the United States: *Provided, however*, That the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in the document referred to in subsection (b).

(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act. This conveyance shall be considered and treated as a conveyance under the Settlement Act.

(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein,

as if those conveyances were made pursuant to section 22(f) of the Settlement Act, except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

(g) The Secretary, through the National Park Service, shall provide financial assistance, not to exceed $25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land use plan for the west side of Cook Inlet, including an analysis of alternative uses of such lands.

(h) Village Corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Settlement Act, notwithstanding any provision of that Act to the contrary.

(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof, and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.

SEC. 13. Section 21 of the Settlement Act is amended by adding the following subsection at the end thereof:

"(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033, or any successor provisions, of the Internal Revenue Code.".

SEC. 14. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village;
(2) Elim;
(3) Gambell;
(4) Savoonga;
(5) Tetlin; and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

SEC. 15. (a) The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public Land Order 5397 for identification for selection by it located in the following described area:

Township 36 south, range 52 west;
Township 37 south, range 51 west;

Township 37 south, range 52 west;
Township 37 south, range 53 west, sections 1–4, 9–12, 13–16, 21–24, north half of 25–28;
Township 38 south, range 51 west, sections 1–5, 9, 10, 12, 13, 18, 24, 25;
Township 38 south, range 52 west, sections 1–35;
Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, 36;
Township 39 south, range 51 west, sections 6, 7, 16–21, 28–33;
Township 39 south, range 52 west, sections 1, 2, 11, 12, 13–16, 21–24;
Township 39 south, range 53 west, sections 26, 33–36;
Township 40 south, range 52 west, sections 6, 7, 8, 9, 16, 17, 18–21, 27–36;
Township 40 south, range 53 west, all except sections 20, 29–33;
Township 40 south, range 54 west, all except sections 35 and 36;
Township 41 south, range 52 west, sections 4, 8–15;
Township 41 south, range 54 west, section 3;
Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S. M., Alaska, notwithstanding;

The withdrawal of such lands by Public Land Order 5179, as amended, pursuant to section 17(d)(2) of the Settlement Act: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

The United States shall make available to Koniag, its successors and assigns, such sand and gravel as is reasonably necessary for the construction of facilities and rights-of-way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of section 601 et seq., title 30, United States Code, and the regulations implementing that statute which are then in effect.

(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(E) of the Settlement Act, shall not be available for selection by Koniag Region, Incorporated.

SEC. 16. Within ninety days after the date of enactment of this Act, the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands:
Copper River Meridian

Township 9 south, range 3 east, sections 23, 26, 31–35.
Township 10 south, range 3 east, sections 2–27, 34–36.
Township 11 south, range 4 east, sections 5, 6, 8, 9, 16, 17, 20–22, 27–29, 33–35.
Township 9 south, range 3 east, sections 3–6, 9–11.
Township 9 south, range 3 east, sections 14–16, 21, 22, 27, 28.

The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12(a) or 12(b) of the Settlement Act and were withdrawn pursuant to section 11 of that Act.

The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forest System. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to section 14(f) of the Settlement Act.

SEC. 17. Section 22(f) of the Settlement Act is amended to provide as follows:

"(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including Native selection rights, with the corporations organized by Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in this Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: *Provided*, That when the parties agree to an exchange and the appropriate Secretary determines it is in the public interest, such exchanges may be made for other than equal value.".

SEC. 18. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

JANUARY 2, 1976

Office of the White House Press Secretary

NOTICE TO THE PRESS

The President has signed S. 1469--Amend Alaska Native Claims Settlement Act of 1971.

This bill amends the Alaska Native Claims Settlement Act to: rectify certain inequities and inadequacies in the Act, authorize additional benefits and special treatment for specified Native Corporations; assure that benefits under the Act are not taken into account under other federally assisted programs such as food stamps; exempt Native Corporations from the operation of the Federal securities laws such as the Investment Company Act of 1940, and for other purposes.

# # #

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

H.J. Res. 749	H.R. 8304	H.R. 11184
H.R. 4016	H.R. 9968	S.J. Res. 157
H.R. 4287	H.R. 10035	S. 95
H.R. 4573	H.R. 10284	S. 322
H.R. 5900	H.R. 10355	S. 1469
H.R. 6673	H.R. 10727	S. 2327

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.