

ALASKA NATIVE VETERANS LAND ALLOTMENT EQUITY
ACT

NOVEMBER 22, 2016.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2387]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2387) to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Alaska Native Veterans Land Allotment Equity Act”.

SEC. 2. CLARIFICATION REGARDING OCCUPANCY OF NATIVE ALLOTMENTS IN NATIONAL FORESTS.

Section 18(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1617(a)) is amended—

(1) by striking “(a) No Native” and inserting the following:

“(a) REVOCATION.—

“(1) IN GENERAL.—No Native”;

(2) in the second sentence, by striking “Further, the” and inserting the following:

“(2) REPEAL.—The”;

(3) in the third sentence, by striking “Notwithstanding the foregoing provisions of this section, any” and inserting the following:

“(3) APPLICATIONS FOR ALLOTMENT.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), any”; and

(4) in paragraph (3) (as designated by paragraph (3)), by adding at the end the following:

“(B) CERTAIN APPLICATIONS APPROVED.—Any allotment application pending before the Department of the Interior on December 18, 1971, that was closed by the Department pursuant to the civil action styled ‘Shields v. United States’ (698 F.2d 987 (9th Cir. 1983), cert. denied (104 S. Ct. 73 (1983))) shall be reopened and considered to be approved pursuant to this paragraph.”.

SEC. 3. OPEN SEASON FOR CERTAIN ALASKA NATIVE VETERANS FOR ALLOTMENTS.

Section 41 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking “IN GENERAL” and inserting “ALASKA NATIVE VETERAN ALLOTMENTS”;

(B) by striking paragraphs (1) through (4) and inserting the following:

“(1) ALLOTMENTS.—

“(A) ELIGIBLE RECIPIENTS.—Any person described in paragraph (1) or (2) of subsection (b) shall be eligible to receive an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) (as in effect before December 18, 1971), of not more than 2 parcels of Federal land, the total area of which shall not exceed 160 acres. Any person described in paragraph (1) and (2) of subsection (b) who, prior to the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act, received an allotment that has a total area of less than 160 acres shall be eligible to receive an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) (as in effect before December 18, 1971), of not more than 1 parcel of Federal land, the total area of which shall not exceed the difference in acres between 160 acres and the total area of the allotment that the person previously received under the Act.

“(B) FILING DEADLINE.—An allotment shall be filed for an eligible recipient not later than 3 years after the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act.

“(2) LAND AVAILABLE FOR ALLOTMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (C), an allotment under this section shall be selected from land that is—

“(i) vacant; and

“(ii) owned by the United States;

“(iii) selected by, or conveyed to, the State of Alaska, if the State voluntarily relinquishes or conveys to the United States the land for the allotment; or

“(iv) selected by, or conveyed to, a Native Corporation, if the Native Corporation voluntarily relinquishes or conveys to the United States the land for the allotment.

“(B) RELINQUISHMENT BY NATIVE CORPORATION.—If a Native Corporation relinquishes land under subparagraph (A)(iii), the Native Corporation may select appropriate Federal land, as determined by the Secretary, the area of which is equal to the area of the land relinquished by the Native Corporation, to replace the relinquished land.

“(C) EXCLUSIONS.—An allotment under this section shall not be selected from land that is located within—

“(i) a right-of-way of the TransAlaska Pipeline;

“(ii) an inner or outer corridor of such a right-of-way; or

“(iii) a unit of the National Park System, a National Preserve, or a National Monument.

“(3) ALTERNATIVE ALLOTMENTS.—A person described in paragraph (1) or (2) of subsection (b) who qualifies for an allotment under this section on land described in paragraph (2)(C) may select an alternative allotment from land that is—

“(A) located within the boundaries of land described in paragraph (2)(C);

“(B) (i) withdrawn under section 11(a)(1)(C); and

“(ii) not selected, or relinquished after selection, under section 11(a)(3);

“(iii) contiguous to an outer boundary of land withdrawn under section 11(a)(1)(C); or

“(iv) vacant, unappropriated, and unreserved; and

“(v) not a unit of the National Park System, a National Preserve, or a National Monument.”; and

- (C) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;
- (2) in subsection (b)—
- (A) in paragraph (1), by striking subparagraph (B) and inserting the following:
- “(B) is a veteran who served during the period beginning on August 5, 1964, and ending on May 7, 1975.”;
- (B) by striking paragraph (2) and inserting the following:
- “(2) DECEASED PERSONS.—If an individual who would otherwise have been eligible for an allotment under this section dies before applying for an allotment, an heir of the person may apply for, and receive, an allotment under this section, on behalf of the estate of the person.”; and
- (C) by striking paragraph (3) and inserting the following:
- “(3) LIMITATIONS.—No person who received an allotment or has a pending allotment under the Act of May 17, 1906, may receive an allotment under this section, other than—
- “(A) an heir who applies for, and receives, an allotment on behalf of the estate of a deceased person under paragraph (2); and
- “(B) a person who, prior to the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act, received an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469), that has a total area of less than 160 acres.”;
- (3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively;
- (4) by inserting after subsection (c) the following:
- “(d) APPROVAL OF ALLOTMENTS.—
- “(1) IN GENERAL.—Subject to any valid right in existence on the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, and except as provided in paragraph (3), not later than December 31, 2020, the Secretary shall—
- “(A) approve any application for an allotment filed in accordance with subsection (a); and
- “(B) issue a certificate of allotment under such terms, conditions, and restrictions as the Secretary determines to be appropriate.
- “(2) NOTIFICATION.—Not later than December 31, 2017, on receipt of an application for an allotment under this section, the Secretary shall provide to any person or entity that has an interest in land described in subsection (a)(2) that is potentially adverse to the interest of the applicant a notice of the right of the person or entity, by not later than 90 days after the date of receipt of the notice—
- “(A) to initiate a private contest of the allotment; or
- “(B) to file a protest against the allotment in accordance with procedures established by the Secretary.
- “(3) ACTION BY SECRETARY.—If a private contest or protest relating to an application for an allotment is initiated or filed under paragraph (2), the Secretary shall not issue a certificate for the allotment under paragraph (1)(B) until a final determination has been made with respect to the private contest or protest.
- “(e) RESELECTION.—A person that selected an allotment under this section may withdraw that selection and reselect land in accordance with this section after the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, if the land originally selected—
- “(1) was selected before the date of enactment of the Alaska Native Veterans Land Allotment Equity Act; and
- “(2) as of the date of enactment of that Act, was not conveyed to the person.”; and
- (5) by striking subsection (f), as designated by paragraph (3) and inserting:
- “(f) DEFINITIONS.—For the purposes of this section:
- “(1) The term ‘veteran’ means a person who served in the active military, naval, or air service, and who was discharged or released therefrom.
- “(2) The term ‘Vietnam era’ has the meaning given the term by paragraph (29) of section 101 of title 38.”.

SEC. 4. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall promulgate, after consultation with Alaska Native organizations, final regulations to carry out the amendments made by this Act. During the consultation process, the Secretary shall, in coordination with Alaska Native organizations and to the greatest extent possible, identify persons who are eligible to receive

an allotment under section 3 of this Act. Upon promulgation of the final regulations, the Secretary shall contact each of these persons directly to provide an explanation of the process by which the person may apply for an allotment under section 3 of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 2387 is to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans.

BACKGROUND AND NEED FOR LEGISLATION

It is well known that per capita, American Indian and Alaska Natives have served at a higher rate in the United States Armed Forces than other ethnic groups.¹ During the Vietnam War, which officially lasted from 1964–1975, approximately 2,800 Alaska Natives served in the military during the conflict. Unfortunately, due to their service to the United States, many of these veterans were unable exercise their right to apply for their Native land allotments under the Alaska Native Allotment Act² prior to the enactment of the Alaska Native Claims Settlement Act of 1971³ (ANCSA), which repealed the Native Allotment Act.

In 1998, Congress enacted legislation to provide Alaska Native Vietnam veterans an additional opportunity to obtain an allotment of up to 160 acres of land (in one or two parcels) under the Native Allotment Act.⁴

Three major obstacles to this goal emerged, preventing many Alaska Native Vietnam veterans from selecting and obtaining their allotments. First, Alaska Native Vietnam veterans were able to apply only for land that had been vacant, unappropriated, and unreserved at the time their use of such land first began. Second, Alaska Native Vietnam veterans could apply only if they had served in active military duty from January 1, 1969, to December 31, 1971, despite the Vietnam conflict beginning and ending before and after this period. Third, such veterans were required to prove they had been using the allotment for which they applied in a substantially continuous and independent manner, at least potentially exclusive of others, for five or more years. This requirement was not in the original Native Allotment Act, nor was it required of other Alaska Native allotment applicants. Furthermore, adjudication of use and occupancy issues could take years and be very costly.

These and several factors supporting the need for H.R. 2387 are explained in the Department of the Interior's study on Alaska Native Veterans for Allotments as required by Public Law 105–276.⁵

H.R. 2387 aims to increase the available land for allotments for Alaska Native Vietnam veterans by authorizing them to apply for land that is federally owned and vacant. The lack of available land under existing law nullifies the very purpose of granting Alaska

¹ U.S. Department of Veterans Affairs. *American Indian and Alaska Native Veterans: Lasting Contributions.* September 2006.

² 34 Stat. 197, as amended, repealed December 1971.

³ 43 U.S.C. 1617 et seq.

⁴ See Public Law 105–276, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999.

⁵ U.S. Department of the Interior: *A Report Concerning Open Season for Certain Native Alaska Veterans for Allotments*, June 1997.

Native Vietnam veterans an allotment benefit. Most land in Alaska is not available for Alaska Native Vietnam veteran allotment applications under existing law. For example, there is virtually no land available in southeast Alaska because such land is located within the Tongass National Forest or other federal reservations or conservation units, or it has been selected or conveyed to the State of Alaska or ANCSA Native Corporations or other individuals and entities through the operation of various public lands laws.

H.R. 2387 will also expand the military service dates by which Native veterans become eligible to apply for an allotment to coincide with the entire Vietnam conflict: August 5, 1964, through May 7, 1975. The expansion of military service dates to include all Alaska Natives who served in the military during the Vietnam conflict is consistent with the federal government's policy of providing benefits to veterans of the Vietnam War. The federal government has given public land benefits to veterans (or their widows or heirs) of every war beginning with the Indian Wars of 1790 and ending with the Korean conflict in 1955. Incidentally, Alaska Native veterans were not eligible for these public land benefits until 1924 because the courts had determined Alaska Natives were not United States citizens.

H.R. 2387 would extend the deadline of the allotment application to three years after the Secretary of the Interior issues final regulations under section 4 of the bill. It also would correct the dates by which the Secretary of the Interior approves the allotments to accommodate the extension of the application process for Alaska Native Vietnam veterans.

H.R. 2387 would also assure ANCSA Regional and Village Corporations that if an Alaska Native Vietnam veteran made his or her allotment selection within lands selected (and not yet conveyed) to those Corporations, the Corporation's lands entitlement would remain intact.

The bill would prohibit an Alaska Native Vietnam veteran from selecting lands within the right-of-way granted for the Trans-Alaska Pipeline or the inner and outer corridor of that right-of-way withdrawal. It also would prohibit an applicant from selecting land from a unit of the National Park System, a National Preserve, or a National Monument.

H.R. 2387 would also allow a veteran who made an allotment selection prior to enactment of the bill to withdraw that selection and reselect lands if the selected land was not conveyed to that person prior to enactment of the bill.

COMMITTEE ACTION

H.R. 2387 was introduced on May 15, 2015, by Congressman Don Young (R-AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. On June 10, 2015, the Subcommittee held a hearing on the bill. On September 21, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Don Young (R-AK) offered an amendment designated #1; it was adopted by voice vote. No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote on September 22, 2016.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and Section 308(a) of the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 2016.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2387, the Alaska Native Veterans Land Allotment Equity Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2387—Alaska Native Veterans Land Allotment Equity Act

Summary: H.R. 2387 would amend the Alaska Native Claims Settlement Act to provide certain Alaska Natives or their heirs the opportunity to apply for allotments of land in the state. The bill also would require that some previously rejected applications for allotments of land in national forests in Alaska be reopened.

CBO estimates that implementing H.R. 2387 would cost \$50 million over the 2017–2021 period and \$80 million after 2021, assuming appropriation of the necessary amounts.

Enacting H.R. 2387 would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO expects that net changes in direct spending would be insignificant in any year and over the 2017–2026 period. Enacting the bill would not affect revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2387 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2387 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development) and 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Allotments to Alaska Native Veterans:						
Estimated Authorization Level	2	2	3	8	15	30
Estimated Outlays	2	2	3	8	15	30
Allotment Applications Claiming Ancestral Land Use:						
Estimated Authorization Level	1	3	3	5	8	20
Estimated Outlays	1	3	3	5	8	20
Total Increases:						
Estimated Authorization Level	3	5	6	13	23	50
Estimated Outlays	3	5	6	13	23	50

Basis of estimate: CBO estimates that implementing H.R. 2387 would increase administrative costs for the Department of the Interior (DOI) to review and approve applications for allotments of land. For this estimate, CBO assumes that H.R. 2387 will be enacted near the end of 2016, that the estimated amounts will be provided each year, and that outlays will follow historical patterns of spending for similar activities.

Allotments to Alaska Native veterans

H.R. 2387 would authorize DOI to grant allotments of up to 160 acres of vacant, federally owned land in Alaska to Alaska Natives who served in the armed forces between August 5, 1964, and May 7, 1975, or the heirs of such veterans who are deceased. Any such land could not be located within a national park, a national preserve, a national monument, or a right-of-way of the TransAlaska Pipeline. The bill also would allow certain other Alaska Native people and organizations with existing allotments to withdraw those allotments and select other lands instead. Under the bill, eligible people would not be required to have personally used the land for which they submit applications.

Based on an analysis of information from DOI, CBO estimates that approximately 2,100 veterans or their heirs would be eligible to apply for allotments under H.R. 2387. Based on historical application rates for such allotments, CBO expects that about 70 percent of eligible people (or about 1,500 people) would submit applications for allotments totaling about 240,000 acres of land. Eligible people would have three years from the time final regulations are published to file an application for an allotment. Accordingly, CBO expects that the majority of allotments would not begin to be processed until 2020. Based on DOI's historical spending patterns for the administration of land allotments in Alaska, CBO estimates that reviewing applications, acquiring lands that are not federally owned, and completing necessary land surveys prior to allotment would take between 10 and 13 years, and would cost \$30 million over the 2017–2021 period and \$60 million after 2021.⁶ Such spending would be subject to appropriation.

The majority of those costs would stem from the need to travel to remote areas of Alaska to complete surveys of the land to be al-

⁶Under the bill, people could apply for and be allotted land that is owned by the state of Alaska or Alaska Native Corporations if the state or relevant corporations voluntarily convey the land to the United States. If an Alaska Native Corporation gives up certain land the bill would allow the corporation to replace such land with other federal land of an equal size. The bill would not allow the state the same authority to swap land.

lotted. Based on an analysis of information from DOI, CBO estimates that travel to and survey of federally owned lands would cost \$14 million over the 2017–2021 period and \$20 million after 2021. Furthermore, based on information from DOI, CBO expects that about half of the applicants would seek land that is not currently federally owned and that land would need to be acquired from the State of Alaska or Native Corporations before it could be allotted to applicants. That process would require additional fieldwork and paperwork, including multiple physical surveys of the land, which CBO estimates would cost \$10 million over the five-year period, and \$30 million after 2021. Finally, CBO also expects that DOI would need to hire eight additional employees and conduct additional work at its headquarters and at regional offices in Alaska to implement H.R. 2387. CBO estimates that those additional efforts would cost \$6 million over the 2017–2021 period and \$9 million after 2021.

Allotment applications claiming ancestral land use

H.R. 2387 also would reopen certain previously rejected applications for allotments of land under the Alaska Native Allotment Act of 1906. Affected applications include all those that were rejected because applicants claimed a right to the land on the basis that their ancestors had used the land, rather than on the basis that the applicants had personally used the land. Under the bill, eligible people could apply for allotments of up to 160 acres of certain types of federal land as specified in the bill, including lands located within national forests.

The number of people who would be eligible to apply for allotments under this provision is uncertain. According to DOI, approximately 1,000 previously rejected applications would be automatically reopened under the bill. In addition, based on an analysis of information from DOI, CBO estimates that the provision could make up to 1,800 additional people newly eligible for allotments of land on the basis of ancestral land use. CBO has no basis for predicting how many of this additional group of people would apply for allotments; for the purpose of this estimate, we assume that half of them would apply for allotments under H.R. 2387, for a total of 1,900 new applications under the bill. CBO expects that those 1,900 applicants would be awarded lands in the Tongass or Chugach National Forests totaling approximately 300,000 acres, that all such applications would be received within two years of enacting H.R. 2387, and that the majority of allotments would begin to be processed in 2019. Based on historical spending for administrative costs related to allotting lands in Alaska, CBO estimates that completing those transactions would take 10 years, cost \$20 million over the 2017–2021 period, and \$20 million after 2021, assuming appropriation of the necessary amounts. Such costs would primarily cover expenses for federal staff to travel to, survey, and prepare environmental assessments of land to be allotted.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. CBO expects that some of the lands in the Tongass and Chugach National Forests that would be allotted to Alaska Natives under H.R. 2387 will, under current law, generate income from the sale of timber. As a

result, CBO estimates that enacting the bill would reduce offsetting receipts, which would be equivalent to an increase in direct spending. Based on an analysis of information provided by the Forest Service, CBO estimates that such forgone receipts would total \$1 million over the 2017–2026 period. However, because the Forest Service can spend a portion of timber receipts without further appropriation action, CBO estimates that any such forgone receipts would be largely offset by a corresponding reduction in direct spending, resulting in no significant net effect on direct spending in any year and over the 10-year period.

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 2387 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Robert Reese; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman believes that this bill directs the Secretary of the Interior to conduct one specific rule-making proceeding.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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, and existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

* * * * *

REVOCATION OF INDIAN ALLOTMENT AUTHORITY IN ALASKA

SEC. 18. **[(a) No Native]** (a) *REVOCATION.*—

(1) *IN GENERAL.*—*No Native* covered by the provisions of this Act, and no descendant of his, may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887 (24 Stat. 389), as amended and supplemented, or the Act of June 25, 1910 (36 Stat. 363). **[(Further, the]**

(2) *REPEAL.*—*The* Act of May 17, 1906 (34 Stat. 197), as amended, is hereby repealed. **[(Notwithstanding the foregoing provisions of this section, any]**

(3) *APPLICATIONS FOR ALLOTMENT.*—

(A) *IN GENERAL.*—*Notwithstanding paragraphs (1) and (2), any* application for an allotment that is pending before the Department of the Interior on the date of enactment of this Act may, at the option of the Native applicant, be approved and a patent issued in accordance with said 1887, 1910, or 1906 Act, as the case may be, in which event the Native shall not be eligible for a patent under subsection 14(h)(5) of this Act.

(B) *CERTAIN APPLICATIONS APPROVED.*—*Any allotment application pending before the Department of the Interior on December 18, 1971, that was closed by the Department pursuant to the civil action styled “Shields v. United States” (698 F.2d 987 (9th Cir. 1983), cert. denied (104 S. Ct. 73 (1983))) shall be reopened and considered to be approved pursuant to this paragraph.*

(b) Any allotments approved pursuant to this section during the four years following enactment of this Act shall be charged against the two million acre grant provided for in subsection 14(h).

(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (commonly referred to as the "Alaska Statehood Act"), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.

(d)(1) If an allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (43 U.S.C. 1634) had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

(2) A written concurrence shall—

(A) include a finding that the land description proposed by the Secretary is acceptable; and

(B) attest that the Native Corporation or the State has not—

(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and

(ii) stored or allowed the deposit of hazardous waste on the land.

(3) On receipt of an acceptable written concurrence, the Secretary, shall—

(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

(B) issue a certificate of allotment to the allotment applicant.

(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.

(e)(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of the date of enactment of this subsection may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

(A) the application—

(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this Act; or

(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

(2) The land description in an allotment application may not be revised under this section unless the Secretary has determined—

(A) that the allotment application is valid or would have been approved under section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) had the land in the allotment application been in Federal ownership on December 2, 1980;

(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); and

(C) that the proposed revision will facilitate completion of a land transfer in the State.

(3)(A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

(B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.

(f)(1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have

been timely filed with an agency of the Department of the Interior, the United States—

(A) may seek voluntary reconveyance of any land described in the application that is reinstated or reconstructed after the date of enactment of this subsection; but

(B) shall not file an action in any court to recover title from a current landowner.

(2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after the date of enactment of this subsection shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.

* * * * *

OPEN SEASON FOR CERTAIN ALASKA NATIVE VETERANS FOR ALLOTMENTS

SEC. 41. (a) **[IN GENERAL]** *ALASKA NATIVE VETERAN ALLOTMENTS*.—**[(1)** During the eighteen month period following promulgation of implementing rules pursuant to subsection (e), a person described in subsection (b) shall be eligible for an allotment of not more than two parcels of federal land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.]

[(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

[(3) The Secretary may not convey allotments containing any of the following—

[(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;

[(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;

[(C) lands selected by, but not conveyed to, a Village or Regional Corporation;

[(D) lands designated as wilderness by statute;

[(E) acquired lands;

[(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;

[(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;

[(H) National Forest Lands; and

[(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:

[(1) Lands within a recorded mining claim.

[(2) Home sites.

[(3) Trade and Manufacturing sites.

[(4) Reindeer sites or headquarters sites.

【(5) Cemetery sites.

【(4) A person who qualifies for an allotment on lands prohibited from conveyance by a provision of subsection (a)(3) may select an alternative allotment from the following lands located within the geographic boundaries of the same Regional Corporation as the excluded allotment—

【(A) lands withdrawn pursuant to section 11(a)(1) of this Act which were not selected, or were relinquished after selection;

【(B) lands contiguous to the outer boundary of lands withdrawn pursuant to section 11(a)(1)(C) of this Act, except lands excluded from selection by a provision of subsection (a)(3) and lands within a National Park; or

【(C) vacant, unappropriated and unreserved lands.】

(1) ALLOTMENTS.—

(A) *ELIGIBLE RECIPIENTS.*—Any person described in paragraph (1) or (2) of subsection (b) shall be eligible to receive an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) (as in effect before December 18, 1971), of not more than 2 parcels of Federal land, the total area of which shall not exceed 160 acres. Any person described in paragraph (1) and (2) of subsection (b) who, prior to the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act, received an allotment that has a total area of less than 160 acres shall be eligible to receive an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) (as in effect before December 18, 1971), of not more than 1 parcel of Federal land, the total area of which shall not exceed the difference in acres between 160 acres and the total area of the allotment that the person previously received under the Act.

(B) *FILING DEADLINE.*—An allotment shall be filed for an eligible recipient not later than 3 years after the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act.

(2) LAND AVAILABLE FOR ALLOTMENTS.—

(A) *IN GENERAL.*—Subject to subparagraph (C), an allotment under this section shall be selected from land that is—

- (i)(I) vacant; and
- (II) owned by the United States;
- (ii) selected by, or conveyed to, the State of Alaska, if the State voluntarily relinquishes or conveys to the United States the land for the allotment; or
- (iii) selected by, or conveyed to, a Native Corporation, if the Native Corporation voluntarily relinquishes or conveys to the United States the land for the allotment.

(B) *RELINQUISHMENT BY NATIVE CORPORATION.*—If a Native Corporation relinquishes land under subparagraph (A)(iii), the Native Corporation may select appropriate Federal land, as determined by the Secretary, the area of which is equal to the area of the land relinquished by the Native Corporation, to replace the relinquished land.

(C) *EXCLUSIONS.*—An allotment under this section shall not be selected from land that is located within—

(i) a right-of-way of the TransAlaska Pipeline;

(ii) an inner or outer corridor of such a right-of-way;

or

(iii) a unit of the National Park System, a National Preserve, or a National Monument.

(3) *ALTERNATIVE ALLOTMENTS.*—A person described in paragraph (1) or (2) of subsection (b) who qualifies for an allotment under this section on land described in paragraph (2)(C) may select an alternative allotment from land that is—

(A) located within the boundaries of land described in paragraph (2)(C);

(B)(i)(I) withdrawn under section 11(a)(1)(C); and

(II) not selected, or relinquished after selection, under section 11(a)(3);

(ii) contiguous to an outer boundary of land withdrawn under section 11(a)(1)(C); or

(iii) vacant, unappropriated, and unreserved; and

(C) not a unit of the National Park System, a National Preserve, or a National Monument.

[(5)] (4) After consultation with a person entitled to an allotment within a Conservation System Unit, the Secretary may convey alternative lands of equal acreage, including lands within a Conservation System Unit, to that person if the Secretary determines that the allotment would be incompatible with a purpose for which the Conservation System Unit was established.

[(6)] (5) All conveyances under this section shall—

(A) be subject to valid existing rights, including any right of the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement; and

(B) reserve to the United States deposits of oil, gas and coal, together with the right to explore, mine, and remove these minerals, on lands which the Secretary determines to be prospectively valuable for development.

(b) *ELIGIBLE PERSON.*—(1) A person is eligible to select an allotment under this section if that person—

(A) would have been eligible for an allotment under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971 (except that the term “non-mineral”, as used in that Act, shall for the purpose of this subsection be defined as provided in section 905(a)(3) of the Alaska National Interest Lands Conservation Act (42 U.S.C. 1634(a)(3)), except that such definition shall not apply to land within a conservation system unit); and

[(B) is a veteran who served during the period between January 1, 1969 and December 31, 1971 and—

[(i) served at least 6 months between January 1, 1969 and December 31, 1971; or

[(ii) enlisted or was drafted into military service after June 2, 1971 but before December 3, 1971.]

(B) is a veteran who served during the period beginning on August 5, 1964, and ending on May 7, 1975.

[(2)(A) The personal representative or special administrator, appointed in an Alaska State court proceeding of the estate of a dece-

dent who was eligible under subsection (b)(1)(A) may, for the benefit of the heirs, select an allotment if the decedent was a veteran who served in South East Asia at any time during the period beginning August 5, 1964, and ending December 31, 1971, and during that period the decedent—

[(i) was killed in action;

[(ii) was wounded in action and subsequently died as a direct consequence of that wound, as determined by the Department of Veterans Affairs or based on other evidence acceptable to the Secretary; or

[(iii) died while a prisoner of war.

[(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

[(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

[(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

[(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.

[(3) No person who received an allotment or has a pending allotment under the Act of May 17, 1906 may receive an allotment under this section.]

(2) *DECEASED PERSONS.*—*If an individual who would otherwise have been eligible for an allotment under this section dies before applying for an allotment, an heir of the person may apply for, and receive, an allotment under this section, on behalf of the estate of the person.*

(3) *LIMITATIONS.*—*No person who received an allotment or has a pending allotment under the Act of May 17, 1906, may receive an allotment under this section, other than—*

(A) *an heir who applies for, and receives, an allotment on behalf of the estate of a deceased person under paragraph (2); and*

(B) *a person who, prior to the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act, received an allotment under the Act of May 17, 1906 (34 Stat. 197, chapter 2469), that has a total area of less than 160 acres.*

(c) *STUDY AND REPORT.*—(1) The Secretary of the Interior shall conduct a study to identify and assess the circumstances of veterans of the Vietnam era who—

(A) served during a period other than that specified in subsection (b)(1)(B);

(B) were eligible for an allotment under the Act of May 17, 1906; and

(C) did not apply for an allotment under that Act.

(2) The Secretary shall, within one year of the enactment of this section, issue a written report on the study, including findings and recommendations, to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

(d) *APPROVAL OF ALLOTMENTS.*—

(1) *IN GENERAL.*—Subject to any valid right in existence on the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, and except as provided in paragraph (3), not later than December 31, 2020, the Secretary shall—

(A) approve any application for an allotment filed in accordance with subsection (a); and

(B) issue a certificate of allotment under such terms, conditions, and restrictions as the Secretary determines to be appropriate.

(2) *NOTIFICATION.*—Not later than December 31, 2017, on receipt of an application for an allotment under this section, the Secretary shall provide to any person or entity that has an interest in land described in subsection (a)(2) that is potentially adverse to the interest of the applicant a notice of the right of the person or entity, by not later than 90 days after the date of receipt of the notice—

(A) to initiate a private contest of the allotment; or

(B) to file a protest against the allotment in accordance with procedures established by the Secretary.

(3) *ACTION BY SECRETARY.*—If a private contest or protest relating to an application for an allotment is initiated or filed under paragraph (2), the Secretary shall not issue a certificate for the allotment under paragraph (1)(B) until a final determination has been made with respect to the private contest or protest.

(e) *RESELECTION.*—A person that selected an allotment under this section may withdraw that selection and reselect land in accordance with this section after the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, if the land originally selected—

(1) was selected before the date of enactment of the Alaska Native Veterans Land Allotment Equity Act; and

(2) as of the date of enactment of that Act, was not conveyed to the person.

[(d) *DEFINITIONS.*—For the purposes of this section, the terms “veteran” and “Vietnam era” have the meanings given those terms by paragraphs (2) and (29), respectively, of section 101 of title 38, United States Code.]

(f) *DEFINITION.*—For the purposes of this section:

(1) The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released therefrom.

(2) The term “Vietnam era” has the meaning given the term by paragraph (29) of section 101 of title 38.

[(e)] (g) *REGULATIONS.*—No later than 18 months after enactment of this section, the Secretary of the Interior shall promulgate,

after consultation with Alaska Natives groups, rules to carry out
this section.

* * * * *

ADDITIONAL VIEWS

The Alaska Native Allotment Act of 1906,¹ as amended, gave the Secretary of the Interior authority to convey up to 160 acres of non-mineral land to individual Alaska Natives.

The Alaska Native Claims Settlement Act (ANCSA)² repealed the 1906 Act, but with a savings provision for individual allotment claims then pending before the BLM. Certain Alaska Native veterans of the Vietnam War may have missed an opportunity to apply for an allotment because they were serving in the armed forces immediately prior to the 1971 enactment of ANCSA.

In 1998, the Alaska Native Vietnam Veterans Allotment Act³ was enacted to redress any unfairness that may have resulted. Pursuant to the Act, the Department of Interior reopened Native allotment applications for an 18-month period ending in January 2002.

Altogether about 10,000 Alaska Natives filed allotment applications for more than 16,000 parcels. To date, the BLM has completed final patent to approximately 98 percent (over 13,100 parcels) of individual Native allotments.

H.R. 2387 will once again reopen Native allotment applications for Alaska Native Vietnam War-era veterans, but will expand the criteria for allottee status and increase the available land that can be selected for allotment.

Unlike the original Alaska Native Vietnam Veterans Allotment Act, H.R. 2387 does not preclude selecting land in wildlife refuges, national forests, wilderness areas or national defense withdrawn areas.

It also overrides the 1983 Ninth Circuit Court of Appeals decision in *Shields v. United States*, which held that, for purposes of understanding ANCSA, “the Allotment Act [of 1906] requires the applicant to establish personal, rather than ancestral, use and occupancy of the land prior to its withdrawal for national forests.”

Therefore, H.R.2387 would retroactively reopen and approve all applications for lands within the Tongass and Chugach National Forests which were pending by December 18, 1971 (the date of the enactment of ANCSA). According to the BLM, this would require approval of over 1,000 scattered new inholdings within the two National Forests.

While the goals of the bill are laudable, H.R. 2387 as written proposes impractical solutions. It would re-open numerous land claims which are already resolved, allow for the selection of any vacant Federal land in the State with few exceptions, and disrupt settled land use arrangements under existing statutes. Finally, it could give rise to new issues of fairness related to other Alaska Natives

¹34 Stat. 197.

²P.L. 92-203 (codified, as amended, at 43 U.S.C. 1601-1629).

³P.L. 105-276.

and Native Vietnam-era veterans who were required to choose their allotment under more restrictive limitations.

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