

106TH CONGRESS
1ST SESSION

S. 1702

To amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 1999

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Alaska Native Claims Technical Amendments Act of
6 1999”.

7 (b) **REFERENCE.**—Whenever in this Act a section or
8 other provision is amended or repealed, such amendment

1 or repeal shall be considered to be made to that section
 2 or other provision of the Alaska Native Claims Settlement
 3 Act (43 U.S.C. 1601, et seq.).

4 **SEC. 2. COMMON STOCK TO ADOPTED-OUT DESCENDANTS.**

5 Section 7(h)(1)(C)(iii) of the Act (43 U.S.C.
 6 1606(h)(1)(C)(iii)) is amended by inserting before the pe-
 7 riod at the end the following: “, notwithstanding an adop-
 8 tion, relinquishment, or termination of parental rights
 9 that may have altered or severed the legal relationship be-
 10 tween the gift donor and recipient”.

11 **SEC. 3. RELATION TO CIVIL RIGHTS ACT OF 1964.**

12 Section 29(g) of the Act (43 U.S.C. 1626(g)) is
 13 amended—

14 (1) by inserting “(1)” after “(g)”; and

15 (2) by adding at the end the following new
 16 paragraph:

17 “(2) Any corporation, partnership, joint venture, sole
 18 proprietorship, trust, or affiliate with which a Native Cor-
 19 poration or its affiliate engages in one or more commercial
 20 transactions that exceed a total of \$20,000 in a calendar
 21 year shall, when in the course and scope of such commer-
 22 cial transaction, be within the class of entities excluded
 23 from the definition of ‘employer’ by section 701(b)(1) of
 24 Public Law 88–352 (78 Stat. 253).”.

1 **SEC. 4. DEFINITION OF SETTLEMENT TRUST.**

2 Section 3(t)(2) of the Act (43 U.S.C. 1602(t)(2)) is
 3 amended by striking “sole” and all that follows through
 4 “Stock” and inserting “benefit of shareholders, Natives,
 5 and descendants of Natives,”.

6 **SEC. 5. ALASKA NATIVE VETERANS.**

7 Section 41 of the Alaska Native Claims Settlement
 8 Act (43 U.S.C. 1629g) is amended as follows:

9 (1) In subsection (a)(1), insert “amended”
 10 after “promulgation of”.

11 (2) In subsection (a)(1), strike “subsection (b)”
 12 and insert “subsection (b)(1) or (b)(2)”;

13 (3) In subsection (a)(1), insert “and may sub-
 14 mit an application for an allotment to the Secretary
 15 in accordance with the provisions of this section”
 16 after “December 18, 1971”.

17 (4) Strike subsection (a)(2) and insert the fol-
 18 lowing:

19 “(2) Allotments may be selected only from—

20 “(A) lands that were vacant, unappropri-
 21 ated, and unreserved on the date when the per-
 22 son eligible for the allotment first used and oc-
 23 cupied those lands;

24 “(B) lands in the National Petroleum Re-
 25 serve-Alaska which the person eligible for the
 26 allotment used and occupied;

1 “(C) lands that were not vacant, unappro-
2 priated, and unreserved on the date when the
3 person eligible for the allotment first used and
4 occupied those lands, but which, prior to De-
5 cember 18, 1971, became vacant, unappropri-
6 ated, and unreserved during the time that the
7 person eligible for the allotment used and occu-
8 pied those lands; or

9 “(D) lands that were not vacant, unappro-
10 priated, and unreserved on the date when the
11 person eligible for the allotment first used and
12 occupied those lands, but which became vacant,
13 unappropriated, and unreserved after December
14 18, 1971, and remain vacant, unappropriated,
15 and unreserved.”.

16 (5) In subsection (a)(3)(B), insert “, and not
17 relinquished” after “provision of law”.

18 (6) In subsection (a)(3)(C), strike “Village or
19 Regional” and insert “Regional, Village, Urban, or
20 Group”.

21 (7) In subsection (a)(3)(C), insert “, and not
22 relinquished” after “Corporation”.

23 (8) In subsection (a)(3)(E), insert “Federal”
24 after “acquired”.

1 (9) In subsection (a)(3)(I), strike “, including
2 but not limited to the following” and all that follows
3 through “Cemetery sites”.

4 (10) In subsection (a)(4), insert “described in
5 subsection (b)(1) or (b)(2)” after “A person”.

6 (11) In subsection (a)(4)(B), strike “(C)” after
7 “section 11(a)(1)”.

8 (12) In subsection (a)(4)(B), strike “Park;
9 and” and insert “Park; or”.

10 (13) In subsection (a)(4)(C), insert “, or lands
11 withdrawn solely under section 17(d)(1) of this Act”
12 after “lands”.

13 (14) In subsection (b)(1), strike “A person”
14 and insert “Except as provided in paragraph (3), a
15 person”.

16 (15) In subsection (b)(1)(B), strike “January
17 1, 1969 and December 31, 1971” and all that fol-
18 lows through “December 3, 1971”, and insert “Au-
19 gust 5, 1964, and May 7, 1975, and served on active
20 duty for at least 6 months”.

21 (16) In subsection (b)(2), insert “(as defined
22 pursuant to State law)” after “personal representa-
23 tive”.

24 (17) In subsection (b)(2), strike “who was” and
25 insert “which decedent would have been”.

1 (18) In subsection (b)(2), strike “subsection
2 (b)(1)” and insert “paragraph (1),”.

3 (19) In subsection (b)(2), strike “if, during”
4 and all that follows through “prisoner of war.” and
5 insert “under this section.”.

6 (20) In subsection (b)(3)—

7 (A) insert “previously applied for the same
8 allotment,” after “No person who received an
9 allotment,”;

10 (B) insert “application” after “pending al-
11 lotment”;

12 (C) strike “receive” and insert “apply for”;
13 and

14 (D) insert before the period “, other than
15 a person acting in the capacity of a personal
16 representative of an estate selecting an allot-
17 ment pursuant to paragraph (2)”.

18 (21) In subsection (e)—

19 (A) strike “of this section” and insert “of
20 the Alaska Native Claims Technical Amend-
21 ments Act of 1999”;

22 (B) strike “of the Interior” after “Sec-
23 retary”;

24 (C) insert “amended” after “Alaska Native
25 groups”; and

1 (D) insert “as amended” after “rules to
2 carry out this section”.

3 (22) Add at the end the following new sub-
4 section:

5 “(f) APPROVAL OF ALLOTMENTS.—

6 “(1) IN GENERAL.—Subject to valid existing
7 rights, and except as otherwise provided in this sub-
8 section, within 18 months after close of the applica-
9 tion period, the Secretary shall approve said applica-
10 tion and issue a deed in accordance with the Act of
11 May 17, 1906, which shall be subject to the same
12 terms, conditions, and protections provided for such
13 deeds.

14 “(2) NOTIFICATION.—Upon receipt of an allot-
15 ment application, but in any event, not later than 90
16 days after the close of the application period, the
17 Secretary shall notify the State and all interested
18 parties of the application and the land description
19 contained therein, and any such party shall have 12
20 months following the close of the application period
21 in which to file with the Secretary a protest as pro-
22 vided in paragraph (3).

23 “(3) EFFECT OF PROTEST.—Paragraph (1)
24 shall not apply and the Native allotment application
25 shall be adjudicated pursuant to the requirements of

1 the Act of May 17, 1906 (Chapter 2469; 34 Stat.
2 197), this Act, and other applicable law, if, pursuant
3 to paragraph (2)—

4 “(A) a Native Corporation files a protest
5 with the Secretary stating that the applicant is
6 not entitled to the land described in the allot-
7 ment application, and said land is withdrawn
8 for selection by or has been conveyed to the Na-
9 tive Corporation pursuant to this Act;

10 “(B) the State files a protest with the Sec-
11 retary stating that the land described in the al-
12 lotment application is necessary for access to
13 lands owned by the United States, the State of
14 Alaska, or a political subdivision of the State of
15 Alaska, to resources located thereon, or to a
16 public body of water regularly employed for
17 transportation purposes, and the protest states
18 with specificity the facts upon which the conclu-
19 sions concerning access are based and that no
20 reasonable alternative for access exists;

21 “(C) a person or entity files a protest with
22 the Secretary stating that the applicant is not
23 entitled to the land described in the allotment
24 application and that said land is the situs of

1 improvements claimed by the person or entity;
 2 or

3 “(D) a person who resides in the vicinity
 4 of the land described in the allotment applica-
 5 tion files a protest with the Secretary stating
 6 that the land described in the allotment applica-
 7 tion is land subject to communal use.

8 “(4) APPROVAL PROCEDURE.—Upon expiration
 9 of the 18 months following the close of the applica-
 10 tion period pursuant to subsection (a)(1), the Sec-
 11 retary shall—

12 “(A) if no protest is timely filed, approve
 13 the application pursuant to paragraph (1); or

14 “(B) if a protest is timely filed, adjudicate
 15 the legal sufficiency of any such protest, and—

16 “(i) if the protest is legally insuffi-
 17 cient, approve the application; or

18 “(ii) if the protest is valid, issue a de-
 19 cision that closes the application and that
 20 is final for the Secretary.”.

21 **SEC. 6. APPLICABILITY OF NATIONAL WILDLIFE REFUGE**
 22 **RESTRICTIONS.**

23 Section 22(g) of the Act is amended by striking “Not-
 24 withstanding” and all that follows through “of such Ref-
 25 uge.”.

1 **SEC. 7. ELIM NATIVE CORPORATION LAND RESTORATION.**

2 The Alaska Native Claims Settlement Act (43 U.S.C.
3 1601 et seq.) is amended by adding at the end the fol-
4 lowing new section:

5 “ELIM NATIVE CORPORATION LAND RESTORATION

6 “SEC. 42. (a) FINDINGS.—The Congress finds that—

7 “(1) approximately 350,000 acres of land were
8 withdrawn by Executive Orders in 1917 for the use
9 of the United States Bureau of Education and of
10 the Natives of Indigenous Alaskan race;

11 “(2) these lands comprised the Norton Bay
12 Reservation (later referred to as Norton Bay Native
13 Reserve) and were set aside for the benefit of the
14 Native inhabitants of the Eskimo Village of Elim,
15 Alaska;

16 “(3) in 1929, an Executive Order deleted
17 50,000 acres of land from the Norton Bay Reserva-
18 tion, without the informed consent of the Native
19 residents living on the Reservation, and the people
20 of Elim believe this deletion violated the Act of
21 March 3, 1927 (44 Stat. 1347);

22 “(4) there appears to have been only minimal
23 consultation conducted by the United States Govern-
24 ment with the inhabitants of Elim prior to this dele-
25 tion of lands;

1 “(5) the lands were deleted from the Reserva-
2 tion for the benefit of others;

3 “(6) the deleted lands were not offered to be re-
4 stored to the original Reservation when lands com-
5 prising the Reservation were made available to the
6 Native inhabitants of Elim under section 19(b) of
7 this Act at the time of passage of this Act;

8 “(7) the failure to replace these lands has been
9 and continues to be a source of deep concern to the
10 indigenous people of Elim;

11 “(8) until this matter is dealt with equitably, it
12 will continue to be a source of great frustration and
13 sense of loss among the shareholders of the Elim
14 Native Corporation and their descendants; and

15 “(9) in light of the above, to replace the lands
16 deleted in 1929 from the Norton Bay Reservation,
17 which was established for the benefit of the inhab-
18 itants of the Village of Elim, 50,000 acres of land
19 should be conveyed to the Elim Native Corporation.

20 “(b) WITHDRAWAL AND AVAILABILITY FOR SELEC-
21 TION.—The lands described in subsection (c) are with-
22 drawn, subject to valid existing rights, from all forms of
23 appropriation or disposition under the public land laws,
24 including the mining and mineral leasing laws, for a period

1 of 2 years from the date of enactment of this section, for
2 selection by the Elim Native Corporation.

3 “(c) LANDS DESCRIBED.—The lands described in
4 this section are within the boundary of a parcel of land
5 in the vicinity of Elim, Alaska, more particularly depicted
6 and designated ‘Temporary Withdrawal Area’ on the map
7 dated August 1, 1999, and entitled Land Withdrawal Elim
8 Native Corporation Land Restoration.

9 “(d) AUTHORIZATION TO SELECT AND RECEIVE
10 TITLE TO LANDS; RESERVATION OF EASEMENT.—The
11 Elim Native Corporation is authorized to select and re-
12 ceive title to 50,000 acres of lands within the boundary
13 of the lands described in subsection (c) to replace the
14 lands deleted from the original Norton Bay Reservation.
15 The Secretary is authorized and directed to receive and
16 adjudicate a selection application filed by the Elim Native
17 Corporation, and to convey the surface and subsurface es-
18 tate in the selected lands to the Elim Native Corporation
19 subject to the following rules, conditions, and limitations:

20 “(1) The Elim Native Corporation shall have 2
21 years from the date of the enactment of the Alaska
22 Native Claims Technical Amendments Act of 1999
23 in which to file its selection of no more than 60,000
24 acres of land from the area described in subsection
25 (c). The selection application shall be filed with the

1 Bureau of Land Management, shall describe a single
2 tract adjacent to U.S. Survey No. 2548, Alaska, and
3 shall be reasonably compact, contiguous, and in
4 whole sections except when separated by unavailable
5 land or when the remaining entitlement is less than
6 a whole section. The Elim Native Corporation shall
7 prioritize its selections made pursuant to this section
8 at the time such selections are filed, and such
9 prioritization shall be irrevocable. Any lands selected
10 shall remain withdrawn until conveyed or full entitle-
11 ment has been achieved.

12 “(2) The selection filed by the Elim Native Cor-
13 poration pursuant to this section shall be subject to
14 valid existing rights and may not supersede prior se-
15 lections of the State of Alaska, any Native corpora-
16 tion, or valid entries of any private individual unless
17 such selection or entry is relinquished prior to any
18 selection by the Elim Native Corporation. Any lands
19 held within the exterior boundaries of lands con-
20 veyed to the Elim Native Corporation shall have all
21 rights of ingress and egress to be vested in the
22 inholder and the inholder’s agents, employees, co-
23 venturers, licensees, or subsequent grantees, and
24 such easements shall be reserved in the conveyance
25 to the Elim Native Corporation.

1 “(3) The Bureau of Land Management shall re-
2 serve easements to the United States for the benefit
3 of the public pursuant to section 17(b) of this Act
4 in the conveyance to the Elim Native Corporation.

5 “(4) The Bureau of Land Management may re-
6 serve an easement for the Iditarod National Historic
7 Trail in the conveyance to the Elim Native Corpora-
8 tion.

9 “(e) FINALITY OF SELECTIONS.—Selection by the
10 Elim Native Corporation of lands under subsection (d)
11 and final conveyance of those lands to Elim Native Cor-
12 poration shall constitute full satisfaction of any claim of
13 entitlement of the Elim Native Corporation—

14 “(1) with respect to its land entitlements under
15 section 19(b); and

16 “(2) with respect to the extinguishment of the
17 Norton Bay Reservation (as withdrawn by Executive
18 Order No. 2508, dated January 3, 1917, as amend-
19 ed by Executive Order No. 2525, dated February 6,
20 1917).”.

21 **SEC. 8. CLARIFICATION OF LIABILITY FOR CONTAMINA-**
22 **TION.**

23 The Act is further amended by adding after the sec-
24 tion added by section 7 of this Act, the following new sec-
25 tion:

1 “CLARIFICATION OF LIABILITY FOR CONTAMINATION

2 “SEC. 43. Notwithstanding section 107 of the Com-
3 prehensive Environmental Response, Compensation, and
4 Liability Act of 1980, or any other provision of law, no
5 person acquiring any interest in land under this Act shall
6 be liable for the costs of removal or remedial action, any
7 damages, or any third party liability arising out of or as
8 a result of any contamination on that land at the time
9 that such land was acquired under this Act unless such
10 person was directly responsible for such contamination.”.

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