partnerships. This provision enables the Department of Defense to leverage the core competencies of our public sector depots with those of private industry in building the most effective and the most efficient team for maintaining our military's equipment. And it does so in a way that keeps competitive pressures on both the private and the public sector that will ensure that the Pentagon and the U.S. taxpayer continue to get the best value for their defense dollar. The Pentagon has indicated that this is a workable approach to resolving the highly charged issue surrounding Kelly and McClellan Air Logistics Centers.

Second, the depot package amends the 60–40 public-private workload split to 50–50. This provision, in addition to codifying the definition of depot maintenance in a way that protects procurement of upgrades and major modifications for private industry while retaining a core public sector capability, gives the Department of Defense much more flexibility in undertaking maintenance functions. In short, it allows them a significant increase in headroom to prudently shift depot workloads across the private and the public sectors to achieve efficiencies.

Most importantly, this depot provision gives us a window of opportunity to get defense infrastructure reform on track. From my perspective as chairman of the Airland Subcommittee, I see the impact of the Pentagon's procurement shortfall which measures approximately $10 to $15 billion per year. This shortfall is due to this administration's spending too much on defense infrastructure and operations, and too little on vital modernization. I see it in terms of dozens and dozens of broken programs which are not funded at sustainable rates. Consequently, contractors are required to start and stop development and production of major assemblies, if not final products such as in digital communications, ballistic missile defense, tactical vehicles, and the list goes on and on. I also see it in areas where key Pentagon requirements simply are not being addressed because funding is unavailable such as in the Comanche armed reconnaissance helicopter or the Marine Corps advanced amphibious armored vehicle.

In conclusion, I am encouraged that this depot compromise sets the stage for gaining efficiencies in our infrastructure so that we can retain the readiness levels required in the near term, while at the same time providing the means to boost our procurement programs to help ensure the preparedness of our future forces to dominate the uncertain threats of the 21st Century.

AIRLAND

And now I would like to provide a few comments on the Airland aspects of this bill. First, this National Defense Authorization supports the Army's commendable Force XXI effort which significantly enhances the situational awareness and combat effectiveness of our land forces through information technology. Yet, we need to do much more to get the spectrum of digitization efforts which were strongly endorsed by the Pentagon's Quadrennial Defense Review adequately funded. But at least this is a fair start. We also were able to provide significant enhancements in the military's tactical and operational mobility through increases in tactical trucks, the establishment of multi-year procurement for the Family of Medium Tactical Vehicles [FMTV], and increases in V–22 procurement. We also added increases for tactical air and missile defense capabilities such as with the Sentinel Radar, the Avenger Slew-to-Cue modifications, and enhancements to Stinger missile modifications and the Patriot anticruise missile program.

I spoke at length about my concerns with F–22 cost overruns and technology risks during our deliberations over Defense Appropriations. This National Defense Authorization provides the same F–22 funding levels, but goes the very important further step to put key oversight provisions in place that will help Congress and the administration keep this program on track. First, this bill includes the Senate's total cost cap provisions which limits the level of engineering and manufacturing development to approximately $18.7 billion, and production to $43.4B. Second, it require the General Accounting Office to conduct an annual F-22 review that addresses whether the program is meeting established goals in performance, cost, and schedule.

CONCLUSION

This National Defense Authorization makes great strides in supporting the defense strategy of Shape, Respond, and Prepare Now. It provides significant increases in our readiness accounts. It also takes better care of our military servicmembers and their quality of life through a 2.8 percent payraise and a reformed approach to quarters allowances. And it accelerates procurement to address shortfalls in key mission capabilities. Finally, this National Defense Authorization provides a reasonable compromise to the depot issue through a fair and open competition which serves the best interests of the military and the American taxpayer. In short, this bill provides the policy and fiscal provisions representative of the prudent oversight from our Senate authorization process. It provides the framework for setting a course which ensures U.S. military dominance into the 21st Century.

This National Defense Authorization has my full support, and I strongly encourage all members to vote for it.●

CBO ESTIMATE ON S. 967

● Mr. MURKOWSKI. Mr. President, on October 29, 1997, I filed Report 105–119 to accompany S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes. At the time the report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment of S. 967 would ''increase direct spending by about $10 million over the 1998–2002 period.'' I ask that a complete copy of the CBO estimate be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 29, 1997.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the impact on state, local and tribal governments).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

S. 967—A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes

Summary: CBO estimates that enacting S. 967 would increase direct spending by about $10 million over the 1998–2002 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. Assuming appropriation of the authorized amount, implementing S. 967 also would result in discretionary spending of about $1 million over the next five years.

S. 967 contains at least one intergovernmental mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Description of the bill's major provisions: S. 967 would affect the terms and conditions of various property transactions involving Alaska native corporations. Several provisions would affect the property rights of specific native corporations.

S. 967 would amend existing law by assigning a value of $39 million to properties to be conveyed by the Calista Corporation in exchange for monetary credits to certain federal properties if the Department of the Interior (DOI) and the corporation have not agreed on the value of the exchange by January 1, 1998. The bill would allow the Doyon, Limited, native corporation to obtain the subsurface rights retained by the federal government in up to 12,000 acres of public lands surrounded by or contiguous to corporation-owned properties. Another provision would expand the entitlement of the Cook Inlet Region Incorporated (CIRI) to include subsurface rights to an additional 3,520 acres.

S. 967 would amend the Alaska Native Claims Settlement Act to allow the native

residents of five native villages in southeast Alaska to organize as native corporations. The bill would authorize the appropriation of $1 million for planning grants to the five villages.

The bill would permit individual natives to exclude bonds issued by a native corporation from the assets used for determining financial eligibility for federal need-based assistance or benefits.

The bill would extend certain protections to lands exchanged among corporations, clarify the status of applications involving land allotments, and exempt a corporation's revenues from sand, gravel, and certain other resources from the income distribution requirements that apply to regional corporations' development of subsurface property. The bill would specify the method of distributing mining claim revenues related to the Haida Corporation or Haida Traditional Use sites.

Finally, the bill includes administrative provisions affecting training of federal land managers, subsistence uses in Glacier Bay National Park, certain access rights to federal land, contracting preferences for visitor services, and a status report by the Secretary of the Interior on implementing current laws on local hiring and contracting with regard to public lands.

Estimated cost to the Federal Government: CBO estimates that enacting this bill would increase direct spending by about $10 million over the 1998–2002 period and about $17 million over the 1998–2007 period. This bill also would authorize to be appropriated about $1 million for planning grants to certain native villages. The estimated budgetary impact of enacting S. 967 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years in millions of dollars—				
	1998	1999	2000	2001	2002
Spending Under Current Law:					
Estimated Budget Authority	5	0	−1	−1	−1
Estimated Outlays	5	0	−1	−1	−1
Proposed Changes:					
Estimated Budget Authority	21	0	−4	−4	−4
Estimated Outlays	21	0	−4	−4	−4
Spending Under S. 967:					
Estimated Budget Authority	26	0	−5	−5	−5
Estimated Outlays	26	0	−5	−5	−5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	1	0	0	0
Estimated Outlays	0	1	0	0	0

Basis of estimate

Direct spending

CBO estimates that enacting S. 967 would increase direct spending because of provisions that would result in a loss of federal receipts from property sales.

Calista Corporation property account. The costs of this bill would result primarily from section 5, which prescribes the value of the Calista Corporation's properties to be exchanged for monetary credits with the Department of the Interior to complete a land exchange between the two parties. Under current law, the Calista Corporation is to receive monetary credits equal to the value of the lands to be conveyed, and the corporation is authorized to use these monetary credits to purchase other federal properties. The value of monetary credits counts as direct spending in the year they are issued and as receipts in the years in which they are redeemed. If the credits are used to acquire property that otherwise would have been sold by the government, the use of the credits results in a corresponding loss of receipts from such sales. So far no monetary credits have been awarded because DOI and Calista disagree on the valuation of the properties.

The gap between the valuations is substantial: the department's appraisal assigned a value of about $5 million to the properties, while the corporation asserts that the property is worth significantly more. Given the differences in methodologies and values, this impasse could last for some time. Because the department will not award monetary credits until there is an agreement, it is possible that, under current law, Calista would not receive any monetary credits for several years. For the purpose of this estimate, however, we assume an agreement will be reached in fiscal year 1998, because of Calista's interest in acquiring property with the credits. Although a negotiated valuation could exceed DOI's $5 million appraisal, CBO has no basis for estimating whether and to what extent the Secretary would agree to a higher value. Hence, we assume for this estimate that Calista would receive monetary credits of about $5 million in fiscal year 1998 in the absence of this legislation.

S. 967 provides that if the parties do not agree on a value of the Calista properties to be exchanged, the value would be established at $39 million. If the exchange does not occur before January 1, 1998, the bill directs the Secretary of the Treasury to credit the Calista property account with two-thirds of the established value of the Calista property ($26 million) in monetary credits in fiscal year 1998. The corporation would be permitted to use up to one-half of that amount in fiscal year 1998 and the remaining one-half of the amount credited in fiscal year 1999. If the two parties have not completed the exchange by October 1, 2002, the bill directs the Secretary of the Treasury to credit the account with monetary credits equal to the remaining $13 million. These actions would result in a net increase of $34 million in the amount of credits issued.

Increasing the amount of the credits would increase the budgetary cost of the exchange if Calista's use of the credits in a loss of cash receipts from the sale of federal property. The bill provides that only that federal property which is not scheduled for disposition by sale prior to fiscal year 2003 may be transferred to the Secretary of the Interior for use in the Calista land exchange. Therefore, Calista's use of monetary credits would not result in a loss of receipts to the federal government before fiscal year 2003. Assuming that Calista would use half of its monetary credits to acquire properties that the federal government would have sold anyway, CBO estimates that the bill would increase the net cost of the Calista exchange by about $17 million over the 1998–2007 period. The net increase in outlays over the 1998–2002 period would be $10 million.

Subsurface conveyance to the Doyon Corporation. Section 2 would allow Doyon, Limited, a regional corporation, to acquire up to 12,000 acres of federally owned mineral estate surrounded by or contiguous to subsurface lands owned by that corporation. According to DOI, the federally-owned mineral estate that Doyon, Limited, could acquire under the bill currently has no mineral development. Based on information from the agency, we estimate that although the federal land to be conveyed has some potential for future development, any forgone receipts from the conveyance would total less than $500,000 per year.

Change in eligibility for certain federal assistance. Section 3 would permit Alaska natives to exclude bonds issued by a native corporation from the assets and resources used to determine financial eligibility for federal need-based assistance or benefits. Under current law, natives may exclude certain assets, including stocks issued or distributed by a native corporation as a dividend, from federal financial eligibility tests. This provision would expand the permitted exclusions to include bonds issued by native corporations. Enacting this provision could have limited effects on the federal budget in certain situations. For example, according to a representative of Cook Inlet Region Incorporated (CIRI), this provision would give CIRI greater flexibility in financing a corporate buyback of its shares, which it seeks in order to keep shares in native ownership. (Because CIRI is the only native corporation currently authorized (under Public Law 104–10) to purchase stock from its shareholders, natives in other native corporations would not be affected in this case.) Enacting the provision could increase federal spending by allowing CIRI shareholders, who had planned to sell their shares to CIRI in exchange for a bond and would have stopped receiving federal assistance payments once their assets exceeded financial eligibility tests, to continue to receive federal assistance. We estimate that any such increase in federal assistance payments would total less than $500,000 per year.

Change in CIRI's subsurface rights. Section 4 would increase the entitlement of CIRI to include subsurface rights to an additional 3,520 acres of federal land. Based on information from CIRI representatives and DOI, it seems likely that the corporation would choose properties in the Talkeetna Mountains area. According to DOI, the federal government currently generates no offsetting receipts from that land and does not expect any significant income from it over the next ten years. Therefore, we estimate that any budgetary effect of enacting this provision would be negligible.

Spending subject to appropriation

Section 8 would amend the Alaska Native Claims Settlement Act to allow native residents of five native villages in Southeast Alaska to organize as native corporations. The bill would direct the Secretaries of the Interior and Agriculture to recommend to the Congress the land conveyances and other compensation that should be conveyed to those native corporations; however, it would not entitle those corporations to any federal lands without further Congressional action. This section would authorize the appropriation of about $1 million for planning grants to the five villages.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. As shown in the following table, CBO estimates that enacting S. 967 would affect direct spending by increasing the amount of monetary credits issued to the Calista Corporation by $34 million over the 1998–2007 period, and that the net increase in direct spending over the 10-year period would total about $17 million. Other provisions could also affect direct spending by giving various native corporations the rights to income-producing federal lands, but we estimate that any such additional effects would be negligible. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the subsequent four years are counted.

SUMMARY OF EFFECTS ON DIRECT SPENDING AND RECEIPTS

	By fiscal year in millions of dollars—									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays	21	0	−4	−4	−4	14	−2	−2	−2	−2
Change in receipts	Not applicable									

Estimated impact on State, local, and tribal governments: S. 967 contains at least one intergovernmental mandate as defined in UMRA, but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation).

Mandates

Section 1 of this bill would amend the Alaska National Interest Lands Conservation Act to clarify what lands are eligible for automatic land protections, including exemption from property taxes. This provision would impose a mandate on the state of Alaska and its constituent local governments because it could increase the amount of land exempt from state and local property taxes. (UMRA defines the direct costs of mandates to include revenues that state, local, or tribal governments would be prohibited from collecting.) Based on information provided by Alaska state officials, we estimate that the impact would be negligible, because Alaska has no state property tax and most of the land affected would be in areas of the state and no local property taxes.

By exempting the bonds of native corporations and the income from those bonds from the determination of eligibility for some means-tested federal assistance programs, Section 3 would increase spending for those programs. Because states share these costs, this provision would impose costs on state governments. CBO cannot determine whether some of these costs would result from an intergovernmental mandate, as defined in UMRA. In any event, CBO estimates that any additional costs of states would be minimal.

Other impacts

Other sections of the bill would result in both costs and benefits for state, local, and tribal governments. Several sections of the bill would benefit specific Alaska native corporations, but some of these provisions could affect the distribution of land and other resources among the corporations. For example, section 7 would allow regional corporations to dispose of sand, gravel, and similar materials without distributing part of the proceeds among the other regional corporations, as required by current law. This change would allow village corporations to gain greater access to these resources.

Other provisions would benefit Alaska native corporations by expanding their rights to property and resources currently held by the federal government. Section 5 would specify the value of the properties to be exchanged by the Calista Corporation for other federal properties. This section would effectively increase the amount of property that the corporation could obtain. Section 2 would allow Doyon, Ltd., a regional native corporation, to obtain additional subsurface rights now retained by the federal government. Section 4 would give CIRI subsurface rights to an additional 3,520 acres.

Section 8 would authorize the creation of five additional native corporations. This section would authorize the appropriation of $1 million for planning grants for the new corporations, but would not give them any entitlement to federal land. This provision would not affect the entitlements of any other native corporations.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Victoria V. Heid. Impact on State, Local, and Tribal Governments: Marjorie Miller.

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

ORDER OF BUSINESS

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

TECHNICAL CORRECTIONS TO THE SATELLITE HOME VIEWER ACT OF 1994

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 672, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 672) to make technical amendments to certain provisions of title 17 of the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1541

(Purpose: To make clarifying amendments to section 303 of title 17, United States Code)

Mr. GRASSLEY. Mr. President, Senator HATCH has an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. HATCH, proposes an amendment numbered 1541.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 11. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) by striking ''Copyright'' and inserting ''(a) Copyright''; and

(2) by inserting at the end the following:

''(b) The distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein.''.

Mr. LEAHY. Mr. President, in March, the House passed H.R. 672. On April 17, the Senate Judiciary Committee reported our companion bill, S. 506.

The only substantive difference between the two bills is that S. 506 provides that the reasonable costs of a ratemaking proceeding conducted by a copyright arbitration royalty panel will be split 50–50 between the parties who would receive royalties from the royalty rate adopted in the proceeding and the parties who would pay the royalty rate so adopted. H.R. 672 provides that the costs shall be borne by the parties in direct proportion to their share of the distribution. The Copyright Office believes that the House version provides the copyright arbitration royalty panels with greater flexibility in certain circumstances. It is for this reason that the Senate is taking up the House version of the bill.

Last year, when the House considered and passed a similar bill, H.R. 1861, it included another section clarifying that the distribution of phonorecords prior to 1978 did not constitute action divesting copyright for the musical composition. This section was intended to clarify the Copyright Law of 1909 on an issue that has become a matter of increasing litigation in a number of Federal Circuits since the Ninth Circuit decision in the ZZ Top case. I was disappointed last year that the Senate did not proceed to consider and pass that bill.

We now have that opportunity. The amendment to H.R. 672 adds back into the bill clarifications, which Chairman Hatch and I have cosponsored as part of another measure this year. This improvement will clarify an esoteric but increasingly important point of copyright law under the 1909 Act with respect to copyrights of musical compositions created more than 20 years ago.

I therefore urge the adoption of the amendment to H.R. 672 and the immediate passage of the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be considered read, agreed to, the bill be considered read for a third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1541) was agreed to.