

Union Calendar No. 402

104TH CONGRESS
2D Session

H. R. 401

[Report No. 104-756]

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Entitled the “Kenai Natives Association Equity
Act”.

SEPTEMBER 4, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. YOUNG of Alaska introduced the following bill; which was referred to the
Committee on Resources

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

[For text of introduced bill, see copy of bill as introduced on January 4, 1995]

A BILL

Entitled the “Kenai Natives Association Equity Act”.

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.**

4 *This Act may be cited as the “Kenai Natives Associa-*
5 *tion Equity Act Amendments of 1996”.*

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) *FINDINGS.*—*The Congress finds the following:*

3 (1) *The United States Fish and Wildlife Service*
4 *and Kenai Natives Association, Inc., have agreed to*
5 *transfers of certain land rights, in and near the*
6 *Kenai National Wildlife Refuge, negotiated as di-*
7 *rected by Public Law 102–458.*

8 (2) *The lands to be acquired by the Service are*
9 *within the area impacted by the Exxon Valdez oil*
10 *spill of 1989, and these lands included important*
11 *habitat for various species of fish and wildlife for*
12 *which significant injury resulting from the spill has*
13 *been documented through the EVOS Trustee Council*
14 *restoration process. This analysis has indicated that*
15 *these lands generally have value for the restoration of*
16 *such injured natural resources as pink salmon, dolly*
17 *varden, bald eagles, river otters, and cultural and ar-*
18 *chaeological resources. This analysis has also indi-*
19 *cated that these lands generally have high value for*
20 *the restoration of injured species that rely on these*
21 *natural resources, including wilderness quality, recre-*
22 *ation, tourism, and subsistence.*

23 (3) *Restoration of the injured species will benefit*
24 *from acquisition and the prevention of disturbances*
25 *which may adversely affect their recovery.*

1 (4) *It is in the public interest to complete the*
 2 *conveyances provided for in this Act.*

3 (b) *PURPOSE.—The purpose of this Act is to authorize*
 4 *and direct the Secretary, at the election of KNA, to complete*
 5 *the conveyances provided for in this Act.*

6 **SEC. 3. DEFINITIONS.**

7 *For purposes of this Act, the term—*

8 (1) *“ANCSA” means the Alaska Native Claims*
 9 *Settlement Act of 1971 (43 U.S.C. 1601 et seq.);*

10 (2) *“ANILCA” means the Alaska National Inter-*
 11 *est Lands Conservation Act (Public Law 96–487; 94*
 12 *Stat. 2371 et seq.);*

13 (3) *“conservation system unit” has the same*
 14 *meaning as in section 102(4) of ANILCA (16 U.S.C.*
 15 *3102(4));*

16 (4) *“CIRI” means the Cook Inlet Region, Inc., a*
 17 *Native Regional Corporation incorporated in the*
 18 *State of Alaska pursuant to the terms of ANCSA;*

19 (5) *“EVOS” means the Exxon Valdez oil spill;*

20 (6) *“KNA” means the Kenai Natives Association,*
 21 *Inc., an urban corporation incorporated in the State*
 22 *of Alaska pursuant to the terms of ANCSA;*

23 (7) *“lands” means any lands, waters, or inter-*
 24 *ests therein;*

1 (8) “Refuge” means the Kenai National Wildlife
2 Refuge;

3 (9) “Secretary” means the Secretary of the Inte-
4 rior;

5 (10) “Service” means the United States Fish and
6 Wildlife Service; and

7 (11) “Terms and Conditions” means the Terms
8 and Conditions for Land Consolidation and Manage-
9 ment in the Cook Inlet Area, as clarified on August
10 31, 1976, ratified by section 12 of Public Law 94–204
11 (43 U.S.C. 1611 note).

12 **SEC. 4. ACQUISITION OF LANDS.**

13 (a) OFFER TO KNA.—

14 (1) IN GENERAL.—Subject to the availability of
15 the funds identified in subsection (b)(3), no later than
16 90 days after the date of enactment of this Act, the
17 Secretary shall offer to convey to KNA the interests
18 in land and rights set forth in subsection (b)(2), sub-
19 ject to valid existing rights, in return for the convey-
20 ance by KNA to the United States of the interests in
21 land or relinquishment of ANCSA selections set forth
22 in subsection (b)(1). Payment for the lands conveyed
23 to the United States by KNA is contingent upon
24 KNA’s acceptance of the entire conveyance outlined
25 herein.

1 (2) *LIMITATION.*—*The Secretary may not convey*
2 *any lands or make payment to KNA under this sec-*
3 *tion unless title to the lands to be conveyed by KNA*
4 *under this Act has been found by the United States*
5 *to be sufficient in accordance with the provisions of*
6 *section 355 of the Revised Statutes (40 U.S.C. 255).*

7 **(b) ACQUISITION LANDS.**—

8 (1) *LANDS TO BE CONVEYED TO THE UNITED*
9 *STATES.*—*The lands to be conveyed by KNA to the*
10 *United States, or the valid selection rights under*
11 *ANCSA to be relinquished, all situated within the*
12 *boundary of the Refuge, are the following:*

13 (A) *The conveyance of approximately 803*
14 *acres located along and on islands within the*
15 *Kenai River, known as the Stephanka Tract.*

16 (B) *The conveyance of approximately 1,243*
17 *acres located along the Moose River, known as*
18 *the Moose River Patented Lands Tract.*

19 (C) *The relinquishment of KNA's selection*
20 *known as the Moose River Selected Tract, con-*
21 *taining approximately 753 acres located along*
22 *the Moose River.*

23 (D) *The relinquishment of KNA's remain-*
24 *ing ANCSA entitlement of approximately 454*
25 *acres.*

1 (E) *The relinquishment of all KNA's re-*
2 *maining overselections. Upon completion of all*
3 *relinquishments outlined above, all KNA's enti-*
4 *tlement shall be deemed to be extinguished and*
5 *the completion of this acquisition will satisfy all*
6 *of KNA's ANCSA entitlement.*

7 (F) *The conveyance of an access easement*
8 *providing the United States and its assigns ac-*
9 *cess across KNA's surface estate in the SW¹/₄ of*
10 *section 21, T. 6 N., R. 9 W., Seward Meridian,*
11 *Alaska.*

12 (G) *The conveyance of approximately 100*
13 *acres within the Beaver Creek Patented Tract,*
14 *which is contiguous to lands being retained by*
15 *the United States contiguous to the Beaver Creek*
16 *Patented Tract, in exchange for 280 acres of*
17 *Service lands currently situated within the Bea-*
18 *ver Creek Selected Tract.*

19 (2) *LANDS TO BE CONVEYED TO KNA.—The*
20 *rights provided or lands to be conveyed by the United*
21 *States to KNA, are the following:*

22 (A) *The surface and subsurface estate to ap-*
23 *proximately 5 acres, subject to reservations of*
24 *easements for existing roads and utilities, located*
25 *within the city of Kenai, Alaska, identified as*

1 *United States Survey 1435, withdrawn by Exec-*
2 *utive Order 2934, and known as the old Fish*
3 *and Wildlife Service Headquarters site.*

4 *(B) The remaining subsurface estate held by*
5 *the United States to approximately 13,811 acres,*
6 *including portions of the Beaver Creek Patented*
7 *Tract, the Beaver Creek Selected Tract, and por-*
8 *tions of the Swanson River Road West Tract and*
9 *the Swanson River Road East Tract, where the*
10 *surface was previously or will be conveyed to*
11 *KNA pursuant to this Act. The conveyance of*
12 *these subsurface interests will be subject to the*
13 *rights of CIRI to the coal, oil, and gas, and to*
14 *all rights CIRI, its successors, and assigns would*
15 *have under paragraph 1(B) of the Terms and*
16 *Conditions, including the right to sand and*
17 *gravel, to construct facilities, to have rights-of-*
18 *way, and to otherwise develop its subsurface in-*
19 *terests.*

20 *(C)(i) The nonexclusive right to use sand*
21 *and gravel which is reasonably necessary for on-*
22 *site development without compensation or permit*
23 *on those portions of the Swanson River Road*
24 *East Tract, comprising approximately 1,738.04*
25 *acres; where the entire subsurface of the land is*

1 *presently owned by the United States. The Unit-*
2 *ed States shall retain the ownership of all other*
3 *sand and gravel located within the subsurface*
4 *and KNA shall not sell or dispose of such sand*
5 *and gravel.*

6 *(ii) The right to excavate within the sub-*
7 *surface estate as reasonably necessary for struc-*
8 *tures, utilities, transportation systems, and other*
9 *development of the surface estate.*

10 *(D) The nonexclusive right to excavate with-*
11 *in the subsurface estate as reasonably necessary*
12 *for structures, utilities, transportation systems,*
13 *and other development of the surface estate on*
14 *the SW¹/₄, section 21, T. 6 N., R. 9 W., Seward*
15 *Meridian, Alaska, where the entire subsurface of*
16 *the land is owned by the United States and*
17 *which public lands shall continue to be with-*
18 *drawn from mining following their removal from*
19 *the Refuge boundary under subsection (c)(1)(B).*
20 *The United States shall retain the ownership of*
21 *all other sand and gravel located within the sub-*
22 *surface of this parcel.*

23 *(E) The surface estate of approximately 280*
24 *acres known as the Beaver Creek Selected Tract.*
25 *This tract shall be conveyed to KNA in exchange*

1 *for lands conveyed to the United States as de-*
2 *scribed in subsection (b)(1)(B).*

3 (3) *PAYMENT.*—*The United States shall make a*
4 *total cash payment to KNA for the above-described*
5 *lands of \$4,443,000, contingent upon the appropriate*
6 *approvals of the Federal or State of Alaska EVOS*
7 *Trustees (or both) necessary for any expenditure of*
8 *the EVOS settlement funds.*

9 (4) *NATIONAL REGISTER OF HISTORIC PLACES.*—
10 *Upon completion of the acquisition authorized in sub-*
11 *section (a), the Secretary shall, at no cost to KNA, in*
12 *coordination with KNA, promptly undertake to nomi-*
13 *nate the Stephanka Tract to the National Register of*
14 *Historic Places, in recognition of the archaeological*
15 *artifacts from the original Dena'ina Settlement. If the*
16 *Department of the Interior establishes a historical,*
17 *cultural, or archaeological interpretive site, KNA*
18 *shall have the exclusive right to operate a Dena'ina*
19 *interpretive site on the Stephanka Tract under the*
20 *regulations and policies of the department. If KNA*
21 *declines to operate such a site, the department may*
22 *do so under its existing authorities. Prior to the de-*
23 *partment undertaking any archaeological activities*
24 *whatsoever on the Stephanka Tract, KNA shall be*
25 *consulted.*

1 (c) *GENERAL PROVISIONS.*—

2 (1) *REMOVAL OF KNA LANDS FROM THE NA-*
3 *TIONAL WILDLIFE REFUGE SYSTEM.*—

4 (A) *Effective on the date of closing for the*
5 *Acquisition Lands identified in subsection (b)(2),*
6 *all lands retained by or conveyed to KNA pursu-*
7 *ant to this Act, and the subsurface interests of*
8 *CIRI underlying such lands shall be automati-*
9 *cally removed from the National Wildlife Refuge*
10 *System and shall neither be considered as part*
11 *of the Refuge nor subject to any laws pertaining*
12 *solely to lands within the boundaries of the Ref-*
13 *uge. The conveyance restrictions imposed by sec-*
14 *tion 22(g) of ANCSA (i) shall then be ineffective*
15 *and cease to apply to such interests of KNA and*
16 *CIRI, and (ii) shall not be applicable to the in-*
17 *terests received by KNA in accordance with sub-*
18 *section (b)(2) or to the CIRI interests underlying*
19 *them. The Secretary shall adjust the boundaries*
20 *of the Refuge so as to exclude all interests in*
21 *lands retained or received in exchange by KNA*
22 *in accordance with this Act, including both sur-*
23 *face and subsurface, and shall also exclude all*
24 *interests currently held by CIRI. On lands with-*
25 *in the Swanson River Road East Tract, the*

1 *boundary adjustment shall only include the sur-*
2 *face estate where the subsurface estate is retained*
3 *by the United States.*

4 *(B)(i) The Secretary, KNA, and CIRI shall*
5 *execute an agreement within 45 days of the date*
6 *of enactment of this Act which preserves CIRI's*
7 *rights under paragraph 1(B)(1) of the Terms*
8 *and Conditions, addresses CIRI's obligations*
9 *under such paragraph, and adequately addresses*
10 *management issues associated with the boundary*
11 *adjustment set forth in this Act and with the dif-*
12 *fering interests in land resulting from enactment*
13 *of this Act.*

14 *(ii) In the event that no agreement is exe-*
15 *cuted as provided for in clause (i), solely for the*
16 *purposes of administering CIRI's rights under*
17 *paragraph 1(B)(1) of the Terms and Conditions,*
18 *the Secretary and CIRI shall be deemed to have*
19 *retained their respective rights and obligations*
20 *with respect to CIRI's subsurface interests under*
21 *the requirements of the Terms and Conditions in*
22 *effect on June 18, 1996. Notwithstanding the*
23 *boundary adjustments made pursuant to this*
24 *Act, conveyances to KNA shall be deemed to re-*
25 *main subject to the Secretary's and CIRI's rights*

1 *and obligations under paragraph 1(B)(1) of the*
2 *Terms and Conditions.*

3 *(C) The Secretary is authorized to acquire*
4 *by purchase or exchange, on a willing seller basis*
5 *only, any lands retained by or conveyed to KNA.*
6 *In the event that any lands owned by KNA are*
7 *subsequently acquired by the United States, they*
8 *shall be automatically included in the Refuge*
9 *System. The laws and regulations applicable to*
10 *Refuge lands shall then apply to these lands and*
11 *the Secretary shall then adjust the boundaries*
12 *accordingly.*

13 *(D) Nothing in this Act is intended to en-*
14 *large or diminish the authorities, rights, duties,*
15 *obligations, or the property rights held by CIRI*
16 *under the Terms and Conditions, or otherwise*
17 *except as set forth in this Act. In the event of the*
18 *purchase by the United States of any lands from*
19 *KNA in accordance with paragraph (1)(B), the*
20 *United States shall reassume from KNA the*
21 *rights it previously held under the Terms and*
22 *Conditions and the provisions in any patent im-*
23 *plementing section 22(g) of ANCSA will again*
24 *apply.*

1 (E) *By virtue of implementation of this*
2 *Act, CIRI is deemed entitled to 1,207 acres of in-*
3 *lieu subsurface entitlement under section*
4 *12(a)(1) of ANCSA. Such entitlement shall be*
5 *fulfilled in accordance with paragraph*
6 *1(B)(2)(A) of the Terms and Conditions.*

7 (2) *MAPS AND LEGAL DESCRIPTIONS.—Maps and*
8 *a legal description of the lands described above shall*
9 *be on file and available for public inspection in the*
10 *appropriate offices of the United States Department*
11 *of the Interior, and the Secretary shall, no later than*
12 *90 days after enactment of this Act, prepare a legal*
13 *description of the lands described in subsection*
14 *(b)(1)(G). Such maps and legal description shall have*
15 *the same force and effect as if included in the Act, ex-*
16 *cept that the Secretary may correct clerical and typo-*
17 *graphical errors.*

18 (3) *ACCEPTANCE.—KNA may accept the offer*
19 *made in this Act by notifying the Secretary in writ-*
20 *ing of its decision within 180 days of receipt of the*
21 *offer. In the event the offer is rejected, the Secretary*
22 *shall notify the Committee on Resources of the House*
23 *of Representatives and the Committee on Energy and*
24 *Natural Resources and the Committee on Environ-*
25 *ment and Public Works of the Senate.*

1 (4) *FINAL MAPS*.—Not later than 120 days after
 2 the conclusion of the acquisition authorized by sub-
 3 section (a), the Secretary shall transmit a final report
 4 and maps accurately depicting the lands transferred
 5 and conveyed pursuant to this Act and the acreage
 6 and legal descriptions of such lands to the Committee
 7 on Resources of the House of Representatives and the
 8 Committee on Energy and Natural Resources and the
 9 Committee on Environment and Public Works of the
 10 Senate.

11 **SEC. 5. ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.**

12 Upon acquisition of lands by the United States pursu-
 13 ant to section 4(b)(1), that portion of the Stephanka Tract
 14 lying south and west of the Kenai River, consisting of ap-
 15 proximately 592 acres, shall be included in and managed
 16 as part of the Kenai Wilderness and such lands shall be
 17 managed in accordance with the applicable provisions of
 18 the Wilderness Act and ANILCA.

19 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**
 20 **MANAGEMENT AREA.**

21 (a) *PURPOSE*.—To balance the potential effects on fish,
 22 wildlife, and habitat of the removal of KNA lands from the
 23 Refuge System, the Secretary is hereby directed to with-
 24 draw, subject to valid existing rights, from location, entry,
 25 and patent under the mining laws and to create as a special

1 management unit for the protection of fish, wildlife, and
2 habitat, certain unappropriated and unreserved public
3 lands, totaling approximately 37,000 acres adjacent to the
4 west boundary of the Kanuti National Wildlife Refuge to
5 be known as the “Lake Todatonten Special Management
6 Area”, as depicted on the map entitled Proposed: Lake
7 Todatonten Special Management Area, dated June 13,
8 1996, and to be managed by the Bureau of Land Manage-
9 ment.

10 (b) MANAGEMENT.—

11 (1) Such designation is subject to all valid exist-
12 ing rights as well as the subsistence preferences pro-
13 vided under title VIII of ANILCA. Any lands con-
14 veyed to the State of Alaska shall be removed from the
15 Lake Todatonten Special Management Area.

16 (2) The Secretary may permit any additional
17 uses of the area, or grant easements, only to the extent
18 that such use, including leasing under the mineral
19 leasing laws, is determined to not detract from nor
20 materially interfere with the purposes for which the
21 Special Management Area is established.

22 (3)(A) The BLM shall establish the Lake
23 Todatonten Special Management Area Committee.
24 The membership of the Committee shall consist of 11
25 members as follows:

1 (i) *Two residents each from the villages of*
2 *Alatna, Allakaket, Hughes, and Tanana.*

3 (ii) *One representative from each of Doyon*
4 *Corporation, the Tanana Chiefs Conference, and*
5 *the State of Alaska.*

6 (B) *Members of the Committee shall serve with-*
7 *out pay.*

8 (C) *The BLM shall hold meetings of the Lake*
9 *Todatonten Special Management Area Committee at*
10 *least once per year to discuss management issues*
11 *within Special Management Area. The BLM shall not*
12 *allow any new type of activity in the Special Man-*
13 *agement Area without first conferring with the Com-*
14 *mittee in a timely manner.*

15 (c) *ACCESS.—The Secretary shall allow the following:*

16 (1) *Private access for any purpose, including*
17 *economic development, to lands within the boundaries*
18 *of the Special Management Area which are owned by*
19 *third parties or are held in trust by the Secretary for*
20 *third parties pursuant to the Alaska Native Allotment*
21 *Act (25 U.S.C. 336). Such rights may be subject to*
22 *restrictions issued by the BLM to protect subsistence*
23 *uses of the Special Management Area.*

1 (2) *Existing public access across the Special*
2 *Management Area. Section 1110(a) of ANILCA shall*
3 *apply to the Special Management Area.*

4 (d) *SECRETARIAL ORDER AND MAPS.—The Secretary*
5 *shall file with the Committee on Resources of the House of*
6 *Representatives and the Committee on Energy and Natural*
7 *Resources and the Committee on Environment and Public*
8 *Works of the Senate, the Secretarial Order and maps setting*
9 *forth the boundaries of the Area within 90 days of the com-*
10 *pletion of the acquisition authorized by this Act. Once estab-*
11 *lished, this Order may only be amended or revoked by Act*
12 *of Congress.*

13 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
14 *authorized to be appropriated such sums as may be nec-*
15 *essary to carry out the purposes of this Act.*