

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4734

To expand Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal Government within the State of Alaska, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2002

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

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## A BILL

To expand Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal Government within the State of Alaska, 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.**

4       This Act may be cited as the “Alaska Federal Lands  
5       Management Demonstration Project Act”.

6       **SEC. 2. FINDINGS.**

7       (a) FINDINGS.—Congress finds the following:

1           (1) The Alaska National Interest Lands Con-  
2           servation Act (16 U.S.C. 3101 et seq.) established  
3           new and expanded units of the National Park Sys-  
4           tem and the National Wildlife Refuge System in  
5           many areas of Alaska. The purposes of these con-  
6           servation system units include protection of habitat  
7           for fish and wildlife, conservation of fish and wildlife  
8           populations in their natural state, continued oppor-  
9           tunity for subsistence uses by local residents, and  
10          protection of archeological sites associated with Alas-  
11          ka Native cultures.

12          (2) Many rural Alaskan communities are in  
13          close proximity to conservation system units and the  
14          purposes of these conservation system units are  
15          uniquely relevant to the culture and ways of Alaska  
16          Natives and other residents of rural Alaska commu-  
17          nities. Congress recognized this close relationship in  
18          sections 1306, 1307, and 1308 of the Alaska Na-  
19          tional Interest Lands Conservation Act, which di-  
20          rected the Secretary of the Interior to establish pro-  
21          grams whereby Alaska Native lands were given pref-  
22          erence for the siting of conservation system unit fa-  
23          cilities, Alaska Native corporations and local resi-  
24          dents were given preference for the provision of vis-

1       itor services, and local residents were given pref-  
2       erence for employment.

3       (b) PURPOSES.—The purposes of this Act are as fol-  
4       lows:

5               (1) To promote innovative management strate-  
6       gies that are designed to lead to greater efficiency  
7       in conservation system unit management.

8               (2) To expand Alaska Native contracting oppor-  
9       tunities.

10              (3) To increase local employment in Alaska.

11              (4) To further the unique purposes of conserva-  
12       tion system units as they relate to subsistence prac-  
13       tices, Alaska Native culture, and the preservation of  
14       fish and wildlife habitat and populations.

15 **SEC. 3. ALASKA FEDERAL LANDS MANAGEMENT DEM-**  
16 **ONSTRATION PROJECT.**

17       (a) IN GENERAL.—The Secretary shall carry out a  
18       program within the Department of the Interior to be  
19       known as the “Alaska Federal Lands Management Dem-  
20       onstrations Project” by which 12 Indian tribes or tribal or-  
21       ganizations may contract to perform conservation system  
22       unit management functions that are inherently non-Fed-  
23       eral.

24       (b) PARTICIPATION.—During each of the 2 fiscal  
25       years immediately following the date of the enactment of

1 this Act, the Secretary shall select, in a manner to achieve  
2 geographic representation within Alaska, not less than 6  
3 eligible Indian tribes or tribal organizations per year to  
4 participate in the demonstration project.

5 (c) ELIGIBILITY.—To be eligible to participate in the  
6 demonstration project, an Indian tribe or tribal organiza-  
7 tion, shall—

8 (1) request participation by resolution or other  
9 official action of the governing body of the Indian  
10 tribe or tribal organization;

11 (2) demonstrate financial and management sta-  
12 bility and capability, as evidenced by the Indian  
13 tribe or tribal organization having no unresolved sig-  
14 nificant and material audit exceptions for the pre-  
15 vious 3 fiscal years; and

16 (3) demonstrate significant use of or depend-  
17 ency upon the relevant conservation system unit or  
18 other public land unit for which programs, functions,  
19 services, and activities are requested to be placed  
20 under contract.

21 (d) PRIORITY.—If the Secretary receives a request to  
22 contract specific conservation system unit programs, serv-  
23 ices, functions, and activities, or portions thereof, from  
24 more than one Indian tribe or tribal organization meeting  
25 the criteria set forth in subsection (c), the Secretary shall

1 apply the priority selection criteria applied by the Alaska  
2 Region of the Bureau of Indian Affairs for contracting  
3 pursuant to the Indian Self-Determination and Education  
4 Assistance Act. If, after applying such criteria, more than  
5 one eligible Indian tribe or tribal organization remains and  
6 such Indian tribes or tribal organizations have overlapping  
7 requests to negotiate and contract for the same programs,  
8 services, functions, and activities, or portions thereof, the  
9 Secretary may require such Indian tribes or tribal organi-  
10 zations to agree regarding which Indian tribe or tribal or-  
11 ganization shall have the ability to contract or to submit  
12 a joint request prior to entering into negotiations.

13 (e) PLANNING PHASE.—Each Indian tribe and tribal  
14 organization selected by the Secretary to participate in the  
15 demonstration project shall complete a planning phase  
16 prior to negotiating and entering into a conservation sys-  
17 tem unit management contract. The planning phase shall  
18 be conducted to the satisfaction of the Indian tribe or trib-  
19 al organization and shall include—

- 20 (1) legal and budgetary research; and  
21 (2) internal tribal planning and organizational  
22 preparation.

23 (f) CONTRACTS.—

- 24 (1) IN GENERAL.—Upon request of a partici-  
25 pating Indian tribe or tribal organization that has

1 completed the planning phase pursuant to subsection  
2 (e), the Secretary shall negotiate and enter into a  
3 contract with the Indian tribe or tribal organization  
4 for the Indian tribe or tribal organization to plan,  
5 conduct, and administer programs, services, func-  
6 tions, and activities, or portions thereof, requested  
7 by the Indian tribe or tribal organization and related  
8 to the administration of a conservation system unit  
9 or other public land unit that is substantially located  
10 within the geographic region of the Indian tribe or  
11 tribal organization.

12 (2) TECHNICAL RESEARCH.—At the request of  
13 the Indian tribe or tribal organization, contracts  
14 under this Act shall include provisions for the Indian  
15 tribe or tribal organization to undertake the oper-  
16 ation and support of the regional Federal subsist-  
17 ence advisory councils, including biological research,  
18 harvest monitoring, and other technical research re-  
19 lated to conservation and allocation actions by the  
20 regional Federal subsistence advisory councils, and  
21 such other programs, functions, services, and activi-  
22 ties reasonably necessary to carry out title VIII of  
23 the Alaska National Interest Lands Conservation  
24 Act.

1           (3) TIME LIMITATION FOR NEGOTIATION OF  
2           CONTRACTS.—Not later than 90 days after a partici-  
3           pating Indian tribe or tribal organization has noti-  
4           fied the Secretary that it has completed the planning  
5           phase required by subsection (e), the Secretary shall  
6           initiate and conclude negotiations, unless an alter-  
7           native negotiation and implementation schedule is  
8           otherwise agreed to by the parties. The declination  
9           and appeals provisions of the Indian Self-Determina-  
10          tion and Education Assistance Act, including section  
11          110 of such Act, shall apply to contracts and agree-  
12          ments requested and negotiated under this Act.

13          (g) CONTRACT ADMINISTRATION.—

14               (1) INCLUSION OF CERTAIN TERMS.—At the re-  
15               quest of the contracting Indian tribe or tribal orga-  
16               nization, the benefits, privileges, terms, and condi-  
17               tions of agreements entered into pursuant to titles  
18               I and IV of the Indian Self-Determination and Edu-  
19               cation Assistance Act may be included in a contract  
20               entered into under this Act. If any provisions of the  
21               Indian Self-Determination and Education Assistance  
22               Act are incorporated, they shall have the same force  
23               and effect as if set out in full in this Act and shall  
24               apply notwithstanding any other provision of law.  
25               The parties may include such other terms and condi-

1 tions as are mutually agreed to and not otherwise  
2 contrary to law.

3 (2) AUDIT.—Contracts entered into under this  
4 Act shall provide for a single-agency audit report to  
5 be filed as required by chapter 75 of title 31, United  
6 States Code.

7 (3) TRANSFER OF EMPLOYEES.—Any career  
8 Federal employee employed at the time of the trans-  
9 fer of an operation or program to an Indian tribe or  
10 tribal organization shall not be separated from Fed-  
11 eral service by reason of such transfer. Intergovern-  
12 mental personnel actions may be used to transfer su-  
13 pervision of such employees to the contracting In-  
14 dian tribe or tribal organization. Such transferred  
15 employees shall be given priority placement for any  
16 available position within their respective agency, not-  
17 withstanding any priority reemployment lists, direc-  
18 tives, rules, regulations, or other orders from the  
19 Department of the Interior, the Office of Manage-  
20 ment and Budget, or other Federal agencies.

21 (h) AVAILABLE FUNDING; PAYMENT.—Under the  
22 terms of a contract negotiated pursuant to subsection (f),  
23 the Secretary shall provide each Indian tribe or tribal or-  
24 ganization funds in an amount not less than the Secretary  
25 would have otherwise provided for the operation of the re-



1 requested programs, services, functions, and activities. Con-  
2 tracts entered into under this Act shall provide for ad-  
3 vance payments to the tribal organizations in the form of  
4 annual or semiannual installments.

5 (i) TIMING; CONTRACT AUTHORIZATION PERIOD.—

6 An Indian tribe or tribal organization selected to partici-  
7 pate in the demonstration project shall complete the plan-  
8 ning phase required by subsection (e) not later than 1 cal-  
9 endar year after the date that it was selected for participa-  
10 tion and may begin implementation of its requested con-  
11 tract no later than the first day of the next fiscal year.  
12 The Indian tribe or tribal organization and the Secretary  
13 may agree to an alternate implementation schedule. Con-  
14 tracts entered into pursuant to this Act are authorized to  
15 remain in effect for 5 consecutive fiscal years, starting  
16 from the fiscal year the participating Indian tribe or tribal  
17 organization first entered into its contract under this Act.

18 (j) REPORT.—Not later than 90 days after the close  
19 of each of fiscal years 2003 and 2006, the Secretary shall  
20 present to the Congress detailed reports, including a nar-  
21 rative, findings, and conclusions on the costs and benefits  
22 of this demonstration project. The reports shall identify  
23 remaining institutional and legal barriers to the con-  
24 tracting of conservation system unit management to Alas-  
25 ka Native entities and shall contain recommendations for

1 improving, continuing, and expanding the demonstration  
2 project. The reports shall be authored jointly with, and  
3 shall include the separate views of, all participating Indian  
4 tribes and tribal organizations.

5 (k) LIMITATIONS.—

6 (1) REVENUE PRODUCING VISITOR SERVICES.—

7 Contracts authorized under this Act shall not in-  
8 clude revenue-producing visitor services, unless an  
9 agreement is reached with the most directly affected  
10 Alaska Native corporations to allow such services to  
11 be included in the contract. Such contracts shall not  
12 otherwise repeal, alter, or otherwise modify section  
13 1307 or 1308 of the Alaska National Interests  
14 Lands Conservation Act.

15 (2) DENALI NATIONAL PARK.—The Denali Na-  
16 tional Park shall not be subject to any of the provi-  
17 sions of this Act.

18 (l) PLANNING GRANTS.—

19 (1) IN GENERAL.—Subject to the availability of  
20 appropriated funds, upon application the Secretary  
21 shall award a planning grant in the amount of  
22 \$100,000 to any Indian tribe or tribal organization  
23 selected for participation in the demonstration  
24 project to enable it to plan for the contracting of  
25 programs, functions, services, and activities as au-

1       thorized under this Act and meet the planning phase  
2       requirement of subsection (e). An Indian tribe or  
3       tribal organization may chose to meet the planning  
4       phase requirement without applying for a grant  
5       under this subsection. No Indian tribe or tribal or-  
6       ganization may receive more than 1 grant under this  
7       subsection.

8               (2) AUTHORIZATION OF APPROPRIATIONS.—  
9       There is authorized to be appropriated \$600,000 for  
10      each of the 2 fiscal years immediately following the  
11      date of the enactment of this Act to fund planning  
12      grants under this section.

13 **SEC. 4. KOYUKUK AND KANUTI NATIONAL WILDLIFE REF-**  
14 **UGES DEMONSTRATION PROJECT.**

15      (a) IN GENERAL.—Notwithstanding any other provi-  
16      sion of law, except as provided in this section, the Sec-  
17      retary shall enter into contracts, compacts, or funding  
18      agreements under the Indian Self-Determination and  
19      Education Assistance Act (25 U.S.C. 450 et seq.) with  
20      the Koyukuk River Moose Co-Management Team, Inc.,  
21      upon receipt of authorizing resolutions from its member  
22      tribal or village councils, to establish a demonstration  
23      project providing all programs, functions, services, and ac-  
24      tivities of the Koyukuk and Kanuti National Wildlife Ref-  
25      uges.

1 (b) ASSIGNMENT OF EMPLOYEES.—To the maximum  
2 extent possible, contracts and compacts under subsection  
3 (a) shall provide that the United States Fish and Wildlife  
4 Service shall assign employees assigned to the Koyukuk  
5 and Kanuti National Wildlife Refuges to the contractor  
6 pursuant to the Intergovernmental Personnel Act (5  
7 U.S.C. 3371 et seq.) with all such employees maintained  
8 as Federal employees retaining all benefits and status of  
9 Federal service.

10 **SEC. 5. DEFINITIONS.**

11 For the purposes of this Act:

12 (1) CONSERVATION SYSTEM UNIT.—The term  
13 “conservation system unit” shall have the meaning  
14 given that term in section 102(4) of the Alaska Na-  
15 tional Interest Lands Conservation Act.

16 (2) INDIAN TRIBE.—The term “Indian tribe”  
17 shall have the meaning given that term in section  
18 4(e) of the Indian Self-Determination and Education  
19 Assistance Act.

20 (3) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior.

22 (4) TRIBAL ORGANIZATION.—The term “tribal  
23 organization” shall have the meaning given that

- 1 term in section 4(*l*) of the Indian Self-Determination
- 2 and Education Assistance Act.

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