

Union Calendar No. 465

107TH CONGRESS
2^D SESSION

H. R. 4734

[Report No. 107-745]

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2002

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

OCTOBER 11, 2002

Additional sponsor: Mr. GALLEGLY

OCTOBER 11, 2002

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

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

[For text of introduced bill, see copy of bill as introduced on May 14, 2002]

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:*

8 *(1) The Alaska National Interest Lands Con-*
9 *servaion Act (16 U.S.C. 3101 et seq.) established new*
10 *and expanded units of the National Park System and*
11 *the National Wildlife Refuge System in many areas*
12 *of Alaska. The purposes of these conservation system*
13 *units include protection of habitat for fish and wild-*
14 *life, conservation of fish and wildlife populations,*
15 *continued opportunity for subsistence uses by local*
16 *residents, and protection of archeological sites associ-*
17 *ated with Alaska Native cultures.*

18 *(2) Many rural Alaskan communities are in*
19 *close proximity to conservation system units and the*
20 *purposes of these conservation system units are*
21 *uniquely relevant to the culture and ways of Alaska*
22 *Natives and other residents of rural Alaska commu-*
23 *nities. Congress recognized this close relationship in*
24 *sections 1306, 1307, and 1308 of the Alaska National*
25 *Interest Lands Conservation Act, which directed the*

1 *collection, biological research, and harvest monitoring on*
2 *conservation system units in Alaska.*

3 (b) *PARTICIPATION.*—*During each of the 2 fiscal years*
4 *immediately following the date of the enactment of this Act,*
5 *the Secretary shall select, in a manner to achieve geographic*
6 *representation within Alaska, not less than 6 eligible In-*
7 *dian tribes or tribal organizations per year to participate*
8 *in the demonstration project.*

9 (c) *ELIGIBILITY.*—*To be eligible to participate in the*
10 *demonstration project, an Indian tribe or tribal organiza-*
11 *tion, shall—*

12 (1) *request participation by resolution or other*
13 *official action of the governing body of the Indian*
14 *tribe or tribal organization;*

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

20 (3) *demonstrate significant use of or dependency*
21 *upon the relevant conservation system unit or other*
22 *public land unit for which programs, functions, serv-*
23 *ices, and activities are requested to be placed under*
24 *contract.*

1 (d) *PRIORITY.*—If the Secretary receives a request to
2 contract specific conservation system unit programs, serv-
3 ices, functions, and activities, or portions thereof, from
4 more than one Indian tribe or tribal organization meeting
5 the criteria set forth in subsection (c), the Secretary shall
6 apply the priority selection criteria applied by the Alaska
7 Region of the Bureau of Indian Affairs for contracting pur-
8 suant to the Indian Self-Determination and Education As-
9 sistance Act. If, after applying such criteria, more than one
10 eligible Indian tribe or tribal organization remains and
11 such Indian tribes or tribal organizations have overlapping
12 requests to negotiate and contract for the same programs,
13 services, functions, and activities, or portions thereof, the
14 Secretary may require such Indian tribes or tribal organi-
15 zations to agree regarding which Indian tribe or tribal or-
16 ganization shall have the ability to contract or to submit
17 a joint request prior to entering into negotiations.

18 (e) *PLANNING PHASE.*—Each Indian tribe and tribal
19 organization selected by the Secretary to participate in the
20 demonstration project shall complete a planning phase
21 prior to negotiating and entering into a conservation sys-
22 tem unit management contract. The planning phase shall
23 be conducted to the satisfaction of the Secretary, Indian
24 tribe, or tribal organization, and shall include—

25 (1) legal and budgetary research; and

1 (2) *internal tribal planning and organizational*
2 *preparation.*

3 (f) *CONTRACTS.—*

4 (1) *IN GENERAL.—*Upon request of a partici-
5 *parting Indian tribe or tribal organization that has*
6 *completed the planning phase pursuant to subsection*
7 *(e), the Secretary shall negotiate and enter into a con-*
8 *tract with the Indian tribe or tribal organization for*
9 *the Indian tribe or tribal organization to plan, con-*
10 *duct, and administer programs, services, functions,*
11 *and activities, or portions thereof, as described in sub-*
12 *section (a), requested by the Indian tribe or tribal or-*
13 *ganization and related to the administration of a*
14 *conservation system unit that is substantially located*
15 *within the geographic region of the Indian tribe or*
16 *tribal organization.*

17 (2) *TIME LIMITATION FOR NEGOTIATION OF CON-*
18 *TRACTS.—*Not later than 90 days after a partici-
19 *parting Indian tribe or tribal organization has noti-*
20 *fied the Secretary that it has completed the planning*
21 *phase required by subsection (e), the Secretary shall*
22 *initiate and conclude negotiations, unless an alter-*
23 *native negotiation and implementation schedule is*
24 *otherwise agreed to by the parties. The declination*
25 *and appeals provisions of the Indian Self-Determina-*

1 *tion and Education Assistance Act, including section*
2 *110 of such Act, shall apply to contracts and agree-*
3 *ments requested and negotiated under this Act.*

4 *(g) CONTRACT ADMINISTRATION.—*

5 *(1) INCLUSION OF CERTAIN TERMS.—At the re-*
6 *quest of the contracting Indian tribe or tribal organi-*
7 *zation, the benefits, privileges, terms, and conditions*
8 *of agreements entered into pursuant to titles I and IV*
9 *of the Indian Self-Determination and Education As-*
10 *sistance Act may be included in a contract entered*
11 *into under this Act. If any provisions of the Indian*
12 *Self-Determination and Education Assistance Act are*
13 *incorporated, they shall have the same force and effect*
14 *as if set out in full in this Act and shall apply not-*
15 *withstanding any other provision of law. The parties*
16 *may include such other terms and conditions as are*
17 *mutually agreed to and not otherwise contrary to law.*

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

22 *(3) TRANSFER OF EMPLOYEES.—Any career Fed-*
23 *eral employee employed at the time of the transfer of*
24 *an operation or program to an Indian tribe or tribal*
25 *organization shall not be separated from Federal serv-*

1 *ice by reason of such transfer. Intergovernmental per-*
2 *sonnel actions may be used to transfer supervision of*
3 *such employees to the contracting Indian tribe or*
4 *tribal organization. Such transferred employees shall*
5 *be given priority placement for any available position*
6 *within their respective agency, notwithstanding any*
7 *priority reemployment lists, directives, rules, regula-*
8 *tions, or other orders from the Department of the In-*
9 *terior, the Office of Management and Budget, or other*
10 *Federal agencies.*

11 *(h) AVAILABLE FUNDING; PAYMENT.—Under the terms*
12 *of a contract negotiated pursuant to subsection (f), the Sec-*
13 *retary shall provide each Indian tribe or tribal organiza-*
14 *tion funds in an amount not less than the Secretary would*
15 *have otherwise provided for the operation of the requested*
16 *programs, services, functions, and activities. Contracts en-*
17 *tered into under this Act shall provide for advance pay-*
18 *ments to the tribal organizations in the form of annual or*
19 *semiannual installments.*

20 *(i) TIMING; CONTRACT AUTHORIZATION PERIOD.—An*
21 *Indian tribe or tribal organization selected to participate*
22 *in the demonstration project shall complete the planning*
23 *phase required by subsection (e) not later than 1 calendar*
24 *year after the date that it was selected for participation*
25 *and may begin implementation of its requested contract no*

1 *later than the first day of the next fiscal year. The Indian*
2 *tribe or tribal organization and the Secretary may agree*
3 *to an alternate implementation schedule. Contracts entered*
4 *into pursuant to this Act are authorized to remain in effect*
5 *for 5 consecutive fiscal years, starting from the fiscal year*
6 *the participating Indian tribe or tribal organization first*
7 *entered into its contract under this Act.*

8 (j) *REPORT.—Not later than 90 days after the close*
9 *of each of fiscal years 2003 and 2006, the Secretary shall*
10 *present to the Congress detailed reports, including a nar-*
11 *rative, findings, and conclusions on the costs and benefits*
12 *of this demonstration project. The reports shall identify re-*
13 *maining institutional and legal barriers to the contracting*
14 *of conservation system unit management to Alaska Native*
15 *entities and shall contain recommendations for improving,*
16 *continuing, and expanding the demonstration project. The*
17 *reports shall be authored jointly with, and shall include the*
18 *separate views of, all participating Indian tribes and tribal*
19 *organizations.*

20 (k) *LIMITATIONS.—*

21 (1) *REVENUE PRODUCING VISITOR SERVICES.—*
22 *Contracts authorized under this Act shall not include*
23 *revenue-producing visitor services, unless an agree-*
24 *ment is reached with the most directly affected Alaska*
25 *Native corporations to allow such services to be in-*

1 *cluded in the contract. Such contracts shall not other-*
2 *wise repeal, alter, or otherwise modify section 1307 or*
3 *1308 of the Alaska National Interests Lands Con-*
4 *serva-tion Act.*

5 (2) *CONTRACTS.—Contracts authorized under*
6 *this Act shall not grant or include any authority to*
7 *administer or otherwise manage or oversee permits,*
8 *licenses, or contracts related to sport hunting and*
9 *fishing guiding activities.*

10 (3) *DENALI NATIONAL PARK.—The Denali Na-*
11 *tional Park shall not be subject to any of the provi-*
12 *sions of this Act.*

13 (4) *STATE’S MANAGEMENT AUTHORITY FOR FISH*
14 *AND WILDLIFE.—Nothing in this Act is intended to*
15 *enlarge or diminish the responsibility and authority*
16 *of the State of Alaska for management of fish and*
17 *wildlife.*

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 project*
24 *to enable it to plan for the contracting of programs,*
25 *functions, services, and activities as authorized under*

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

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

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

14 (a) *IN GENERAL.—The Secretary shall enter into con-*
 15 *tracts, compacts, or funding agreements under the Indian*
 16 *Self-Determination and Education Assistance Act (25*
 17 *U.S.C. 450 et seq.) with the Koyukuk River Basin Moose*
 18 *Co-Management Team, Inc., upon receipt of authorizing*
 19 *resolutions from its member tribal or village councils, to*
 20 *establish a demonstration project providing programs, func-*
 21 *tions, services, and activities of the Koyukuk and Kanuti*
 22 *National Wildlife Refuges.*

23 (b) *ASSIGNMENT OF EMPLOYEES.—To the maximum*
 24 *extent possible, contracts and compacts under subsection (a)*
 25 *shall provide that the United States Fish and Wildlife Serv-*

1 ice shall assign employees assigned to the Koyukuk and
2 Kanuti National Wildlife Refuges to the contractor pursu-
3 ant to the Intergovernmental Personnel Act (5 U.S.C. 3371
4 et seq.) with all such employees maintained as Federal em-
5 ployees retaining all benefits and status of Federal service.

6 **SEC. 5. DEFINITIONS.**

7 *For the purposes of this Act:*

8 (1) *CONSERVATION SYSTEM UNIT.*—*The term*
9 *“conservation system unit” shall have the meaning*
10 *given that term in section 102(4) of the Alaska Na-*
11 *tional Interest Lands Conservation Act.*

12 (2) *INDIAN TRIBE.*—*The term “Indian tribe”*
13 *shall have the meaning given that term in section 4(e)*
14 *of the Indian Self-Determination and Education As-*
15 *sistance Act.*

16 (3) *SECRETARY.*—*The term “Secretary” means*
17 *the Secretary of the Interior.*

18 (4) *TRIBAL ORGANIZATION.*—*The term “tribal*
19 *organization” shall have the meaning given that term*
20 *in section 4(l) of the Indian Self-Determination and*
21 *Education Assistance Act.*

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