

Calendar No. 710

115TH CONGRESS
2D SESSION

S. 785

To amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2017

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

DECEMBER 4, 2018

Reported by Ms. MURKOWSKI, with an amendment and an amendment to the title

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

A BILL

To amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans.

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 Native Vet-
5 erans Land Allotment Equity Act”.

1 **SEC. 2. OPEN SEASON FOR CERTAIN ALASKA NATIVE VET-**
 2 **ERANS FOR ALLOTMENTS.**

3 Section 41 of the Alaska Native Claims Settlement
 4 Act (~~43~~ U.S.C. 1629g) is amended—

5 (1) in subsection (a)—

6 (A) in the subsection heading, by striking
 7 “IN GENERAL” and inserting “ALASKA NATIVE
 8 VETERAN ALLOTMENTS”;

9 (B) by striking paragraphs (1) through (4)
 10 and inserting the following:

11 “(1) ALLOTMENTS.—

12 “(A) ELIGIBLE RECIPIENTS.—Any person
 13 described in paragraph (1) or (2) of subsection
 14 (b) shall be eligible to receive an allotment
 15 under the Act of May 17, 1906 (34 Stat. 197,
 16 chapter 2469) (as in effect before December 18,
 17 1971), of not more than 2 parcels of Federal
 18 land, the total area of which shall not exceed
 19 160 acres. Any person described in paragraphs
 20 (1) and (2) of subsection (b) who, prior to the
 21 date on which the Secretary promulgates regu-
 22 lations pursuant to section 3 of the Alaska Na-
 23 tive Veterans Land Allotment Equity Act, re-
 24 ceived an allotment that has a total area of less
 25 than 160 acres shall be eligible to receive an al-
 26 lotment under the Act of May 17, 1906 (34

1 Stat. 197, chapter 2469) (as in effect before
 2 December 18, 1971), of not more than 1 parcel
 3 of Federal land, the total area of which shall
 4 not exceed the difference in acres between 160
 5 acres and the total area of the allotment that
 6 the person previously received under the Act.

7 “(B) RULE OF CONSTRUCTION.—The civil
 8 action styled ‘Shields v. United States’ (698
 9 F.2d 987 (9th Cir. 1983), cert. denied (104 S.
 10 Ct. 73 (1983))) shall not be construed to dimin-
 11 ish or modify the eligibility of any person de-
 12 scribed in paragraph (1) or (2) of subsection
 13 (b).

14 “(C) FILING DEADLINE.—An allotment
 15 shall be filed for an eligible recipient not later
 16 than 3 years after the date on which the Sec-
 17 retary promulgates regulations pursuant to sec-
 18 tion 3 of the Alaska Native Veterans Land Al-
 19 lotment Equity Act.

20 “(2) LAND AVAILABLE FOR ALLOTMENTS.—

21 “(A) IN GENERAL.—Subject to subpara-
 22 graph (C), an allotment under this section shall
 23 be selected from land that is—

24 “(i)(I) vacant; and

25 “(ii) owned by the United States;

1 “(ii) selected by, or conveyed to, the
2 State of Alaska, if the State voluntarily re-
3 linquishes or conveys to the United States
4 the land for the allotment; or

5 “(iii) selected by, or conveyed to, a
6 Native Corporation, if the Native Corpora-
7 tion voluntarily relinquishes or conveys to
8 the United States the land for the allot-
9 ment.

10 “(B) RELINQUISHMENT BY NATIVE COR-
11 PORATION.—If a Native Corporation relin-
12 quishes land under subparagraph (A)(iii), the
13 Native Corporation may select appropriate Fed-
14 eral land, as determined by the Secretary, the
15 area of which is equal to the area of the land
16 relinquished by the Native Corporation, to re-
17 place the relinquished land.

18 “(C) EXCLUSIONS.—An allotment under
19 this section shall not be selected from land that
20 is located within—

21 “(i) a right-of-way of the TransAlaska
22 Pipeline;

23 “(ii) an inner or outer corridor of
24 such a right-of-way; or

1 “(iii) a unit of the National Park Sys-
2 tem, a National Preserve, or a National
3 Monument.

4 “(D) RULE OF CONSTRUCTION.—The civil
5 action styled ‘Shields v. United States’ (698
6 F.2d 987 (9th Cir. 1983), cert. denied (104 S.
7 Ct. 73 (1983))) shall not be construed to limit
8 the land that is eligible for allotment under this
9 paragraph.

10 “(3) ALTERNATIVE ALLOTMENTS.—A person
11 described in paragraph (1) or (2) of subsection (b)
12 who qualifies for an allotment under this section on
13 land described in paragraph (2)(C) may select an al-
14 ternative allotment from land that is—

15 “(A) located within the boundaries of land
16 described in paragraph (2)(C);

17 “(B)(i)(I) withdrawn under section
18 11(a)(1)(C); and

19 “(II) not selected, or relinquished after se-
20 lection, under section 11(a)(3);

21 “(ii) contiguous to an outer boundary of
22 land withdrawn under section 11(a)(1)(C); or

23 “(iii) vacant, unappropriated, and unre-
24 served; and

1 “(C) not a unit of the National Park Sys-
2 tem, a National Preserve, or a National Monu-
3 ment.”; and

4 (C) by redesignating paragraphs (5) and
5 (6) as paragraphs (4) and (5), respectively;
6 (2) in subsection (b)—

7 (A) in paragraph (1), by striking subpara-
8 graph (B) and inserting the following:

9 “(B) is a veteran who served during the
10 period beginning on August 5, 1964, and end-
11 ing on May 7, 1975.”;

12 (B) by striking paragraph (2) and insert-
13 ing the following:

14 “(2) DECEASED PERSONS.—If an individual
15 who would otherwise have been eligible for an allot-
16 ment under this section dies before applying for an
17 allotment, an heir of the person may apply for, and
18 receive, an allotment under this section, on behalf of
19 the estate of the person.”; and

20 (C) by striking paragraph (3) and insert-
21 ing the following:

22 “(3) LIMITATIONS.—No person who received an
23 allotment or has a pending allotment under the Act
24 of May 17, 1906, may receive an allotment under
25 this section, other than—

1 “(A) an heir who applies for, and receives,
2 an allotment on behalf of the estate of a de-
3 ceased person under paragraph (2); and

4 “(B) a person who, prior to the date on
5 which the Secretary promulgates regulations
6 pursuant to section 3 of the Alaska Native Vet-
7 erans Land Allotment Equity Act, received an
8 allotment under the Act of May 17, 1906 (34
9 Stat. 197, chapter 2469), that has a total area
10 of less than 160 acres.”;

11 (3) by redesignating subsections (d) and (e) as
12 subsections (f) and (g), respectively;

13 (4) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) APPROVAL OF ALLOTMENTS.—

16 “(1) IN GENERAL.—Subject to any valid right
17 in existence on the date of enactment of the Alaska
18 Native Veterans Land Allotment Equity Act, and ex-
19 cept as provided in paragraph (3), not later than 5
20 years after the date of the enactment of the Alaska
21 Native Veterans Land Allotment Equity Act, the
22 Secretary shall—

23 “(A) approve any application for an allot-
24 ment filed in accordance with subsection (a);
25 and

1 “(B) issue a certificate of allotment under
2 such terms, conditions, and restrictions as the
3 Secretary determines to be appropriate.

4 “(2) NOTIFICATION.—Not later than 2 years
5 after the date of the enactment of the Alaska Native
6 Veterans Land Allotment Equity Act, on receipt of
7 an application for an allotment under this section,
8 the Secretary shall provide to any person or entity
9 that has an interest in land described in subsection
10 (a)(2) that is potentially adverse to the interest of
11 the applicant a notice of the right of the person or
12 entity, by not later than 90 days after the date of
13 receipt of the notice—

14 “(A) to initiate a private contest of the al-
15 lotment; or

16 “(B) to file a protest against the allotment
17 in accordance with procedures established by
18 the Secretary.

19 “(3) ACTION BY SECRETARY.—If a private con-
20 test or protest relating to an application for an allot-
21 ment is initiated or filed under paragraph (2), the
22 Secretary shall not issue a certificate for the allot-
23 ment under paragraph (1)(B) until a final deter-
24 mination has been made with respect to the private
25 contest or protest.

1 “(e) RESELECTION.—A person that selected an allot-
 2 ment under this section may withdraw that selection and
 3 reselect land in accordance with this section after the date
 4 of enactment of the Alaska Native Veterans Land Allot-
 5 ment Equity Act, if the land originally selected—

6 “(1) was selected before the date of enactment
 7 of the Alaska Native Veterans Land Allotment Eq-
 8 uity Act; and

9 “(2) as of the date of enactment of that Act,
 10 was not conveyed to the person.”; and

11 (5) by striking subsection (f), as designated by
 12 paragraph (3) and inserting:

13 “(f) DEFINITIONS.—For the purposes of this section:

14 “(1) The term ‘veteran’ means a person who
 15 served in the active military, naval, or air service,
 16 and who was discharged or released therefrom.

17 “(2) The term ‘Vietnam era’ has the meaning
 18 given the term by paragraph (29) of section 101 of
 19 title 38.”.

20 **SEC. 3. REGULATIONS.**

21 Not later than 1 year after the date of enactment
 22 of this Act, the Secretary of the Interior shall promulgate,
 23 after consultation with Alaska Native organizations, final
 24 regulations to carry out the amendments made by section
 25 2. During the consultation process, the Secretary shall,

1 in coordination with Alaska Native organizations and to
 2 the greatest extent possible, identify persons who are eligi-
 3 ble to receive an allotment under the amendments made
 4 by section 2. Upon promulgation of the final regulations,
 5 the Secretary shall contact each of these persons directly
 6 to provide an explanation of the process by which the per-
 7 son may apply for an allotment under the amendments
 8 made by section 2.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Alaska Native Vietnam*
 11 *Era Veterans Land Allotment Act”.*

12 **SEC. 2. PURPOSE.**

13 *The purpose of this Act is to provide an opportunity*
 14 *for certain Alaska Native Vietnam era veterans to select and*
 15 *receive an allotment of Federal land in the State of Alaska.*

16 **SEC. 3. DEFINITIONS.**

17 *In this Act:*

18 (1) *AVAILABLE FEDERAL LAND.*—

19 (A) *IN GENERAL.*—*The term “available*
 20 *Federal land” means Federal land in the State*
 21 *that—*

22 (i) *is vacant, unappropriated, and un-*
 23 *reserved;*

24 (ii) *has been selected by, but not yet*
 25 *conveyed to—*

1 (I) *the State, if the State agrees to*
 2 *voluntarily relinquish the selection of*
 3 *the Federal land for selection by an eli-*
 4 *gible individual; or*

5 (II) *a Regional Corporation or a*
 6 *Village Corporation, if the Regional*
 7 *Corporation or Village Corporation*
 8 *agrees to voluntarily relinquish the se-*
 9 *lection of the Federal land for selection*
 10 *by an eligible individual; or*

11 (iii) *is identified as available for selec-*
 12 *tion under section 4(d)(1).*

13 (B) *EXCLUSIONS.—The term “available*
 14 *Federal land” does not include any Federal land*
 15 *in the State that is—*

16 (i)(I) *a right-of-way of the*
 17 *TransAlaska Pipeline; or*

18 (II) *an inner or outer corridor of such*
 19 *a right-of-way;*

20 (ii) *withdrawn or acquired for pur-*
 21 *poses of the Armed Forces;*

22 (iii) *under review for a pending right-*
 23 *of-way for a natural gas corridor;*

24 (iv) *within the Arctic National Wild-*
 25 *life Refuge;*

1 (v) *within a unit of the National For-*
2 *est System; or*

3 (vi) *within a unit of the National Park*
4 *System, a National Preserve, or a National*
5 *Monument.*

6 (2) *ELIGIBLE INDIVIDUAL.—The term “eligible*
7 *individual” means an individual who, as determined*
8 *by the Secretary in accordance with section 4(a)—*

9 (A) *is—*

10 (i) *a Native veteran who served during*
11 *the period between August 5, 1964, and De-*
12 *cember 31, 1971; or*

13 (ii) *a personal representative, acting*
14 *for the benefit of the heirs, of the estate of*
15 *a deceased Native veteran who served dur-*
16 *ing the period between August 5, 1964, and*
17 *December 31, 1971; and*

18 (B) *has received fewer than 157.5 acres pur-*
19 *suant to—*

20 (i) *the Act of May 17, 1906 (34 Stat.*
21 *197, chapter 2469) (as in effect on Decem-*
22 *ber 17, 1971); and*

23 (ii) *section 41 of the Alaska Native*
24 *Claims Settlement Act (43 U.S.C. 1629g).*

1 (3) *NATIVE; REGIONAL CORPORATION; VILLAGE*
2 *CORPORATION.—The terms “Native”, “Regional Cor-*
3 *poration”, and “Village Corporation” have the mean-*
4 *ings given those terms in section 3 of the Alaska Na-*
5 *tive Claims Settlement Act (43 U.S.C. 1602).*

6 (4) *SECRETARY.—The term “Secretary” means*
7 *the Secretary of the Interior.*

8 (5) *STATE.—The term “State” means the State*
9 *of Alaska.*

10 (6) *VETERAN.—The term “veteran” has the*
11 *meaning given the term in section 101 of title 38,*
12 *United States Code.*

13 **SEC. 4. ALLOTMENTS FOR CERTAIN NATIVE VETERANS.**

14 (a) *INFORMATION TO DETERMINE ELIGIBILITY.—*

15 (1) *IN GENERAL.—Not later than 180 days after*
16 *the date of enactment of this Act, the Secretary of De-*
17 *fense, in coordination with the Secretary of Veterans*
18 *Affairs, shall provide to the Secretary a list of all*
19 *members of the Armed Forces who served during the*
20 *period between August 5, 1964, and December 31,*
21 *1971.*

22 (2) *USE.—The Secretary shall use the informa-*
23 *tion provided under paragraph (1) to determine*
24 *whether an individual meets the military service re-*
25 *quirements under section 3(2)(A).*

1 (3) *OUTREACH AND ASSISTANCE.*—*The Sec-*
2 *retary, in coordination with the Secretary of Veterans*
3 *Affairs, shall conduct outreach, and provide assistance*
4 *in applying for allotments, to eligible individuals.*

5 (b) *SELECTION BY ELIGIBLE INDIVIDUALS.*—

6 (1) *IN GENERAL.*—*An eligible individual—*

7 (A) *subject to paragraphs (2) and (3), may*
8 *select not more than 2 parcels of available Fed-*
9 *eral land totaling not more than 160 acres; and*

10 (B) *on making a selection pursuant to sub-*
11 *paragraph (A), shall submit to the Secretary an*
12 *allotment selection application for the applicable*
13 *parcels of available Federal land.*

14 (2) *MINIMUM ACREAGE.*—*A parcel of available*
15 *Federal land selected pursuant to paragraph (1)(A)*
16 *shall be not less than 2.5 acres.*

17 (3) *TREATMENT OF CERTAIN ACRES.*—*The fol-*
18 *lowing acres held by an eligible individual shall be*
19 *counted toward the 160-acre limitation under para-*
20 *graph (1)(A):*

21 (A) *Any acres received pursuant to the Act*
22 *of May 17, 1906 (34 Stat. 197, chapter 2469) (as*
23 *in effect on December 17, 1971).*

1 (B) Any acres received pursuant to section
2 41 of the Alaska Native Claims Settlement Act
3 (43 U.S.C. 1629g).

4 (c) *CONFLICTING SELECTIONS.*—If 2 or more eligible
5 individuals submit to the Secretary an allotment selection
6 application under subsection (b)(1)(B) for the same parcel
7 of available Federal land, the Secretary shall—

8 (1) give preference to the selection application re-
9 ceived on the earliest date; and

10 (2) provide to each eligible individual the selec-
11 tion application of whom is rejected under paragraph
12 (1) an opportunity to select a substitute parcel of
13 available Federal land.

14 (d) *IDENTIFICATION OF AVAILABLE FEDERAL LAND*
15 *FOR ALLOTMENT SELECTION.*—

16 (1) *IN GENERAL.*—Not later than 2 years after
17 the date of enactment of this Act, subject to para-
18 graphs (2) and (3), the Secretary, in consultation
19 with the State, Regional Corporations, and Village
20 Corporations, shall identify not more than 500,000
21 acres of Federal land as available Federal land for al-
22 lotment selection to meet the purpose of this Act.

23 (2) *LIMITATION ON WILDLIFE REFUGE ACRE-*
24 *AGE.*—

1 (A) *YUKON DELTA NATIONAL WILDLIFE*
2 *REFUGE ACREAGE.*—*Of the available Federal*
3 *land identified under paragraph (1), not more*
4 *than 42,000 acres shall be located in the Yukon*
5 *Delta National Wildlife Refuge.*

6 (B) *TOGIAK NATIONAL WILDLIFE REFUGE*
7 *ACREAGE.*—*Of the available Federal land identi-*
8 *fied under paragraph (1), not more than 10,000*
9 *acres shall be located in the Togiak National*
10 *Wildlife Refuge.*

11 (3) *CERTIFICATION; SURVEY.*—*The Secretary*
12 *shall—*

13 (A) *certify that the available Federal land*
14 *identified under paragraph (1) is free of known*
15 *contamination; and*

16 (B) *survey the available Federal land under*
17 *paragraph (1) into aliquot parts and lots, segre-*
18 *gating all navigable and meanderable waters*
19 *and land not available for allotment selection.*

20 (4) *MAPS.*—*As soon as practicable after the date*
21 *on which available Federal land is identified under*
22 *paragraph (1), the Secretary shall submit to Con-*
23 *gress, and publish in the Federal Register, 1 or more*
24 *maps depicting the identified available Federal land.*

1 (e) *CONVEYANCES.*—*Any available Federal land con-*
2 *veyed to an eligible individual under this section shall be*
3 *subject to—*

4 (1) *valid existing rights;*

5 (2) *the reservation of minerals to the United*
6 *States; and*

7 (3) *if the available Federal land conveyed is*
8 *within the boundaries of a unit of the National Wild-*
9 *life Refuge System, the laws (including regulations)*
10 *applicable to the use and development of the unit of*
11 *the National Wildlife Refuge System.*

12 (f) *INTENT OF CONGRESS.*—*It is the intent of Congress*
13 *that not later than 2 years after the date on which an eligi-*
14 *ble individual submits an allotment selection application*
15 *under subsection (b)(1)(B) that meets the requirements of*
16 *this Act, as determined by the Secretary, the Secretary shall*
17 *issue to the eligible individual a certificate of allotment*
18 *with respect to the available Federal land covered by the*
19 *allotment selection application, subject to the requirements*
20 *of subsection (e).*

Amend the title so as to read: “A bill to provide an opportunity for certain Alaska Native Vietnam era veterans to select and receive an allotment of Federal land in the State of Alaska.”.

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