

KAKE TRIBAL CORPORATION LAND EXCHANGE ACT

OCTOBER 6, 1998.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2756]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2756) to authorize an exchange of property between the Kake Tribal Corporation and the Sealaska Corporation and the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line number of the introduced bill) is as follows:

Page 2, line 7, strike “the Interior” and insert “Agriculture”.

PURPOSE OF THE BILL

The purpose of H.R. 2756 is to authorize an exchange of property between the Kake Tribal Corporation and the Sealaska Corporation and the United States.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2756 provides for a land exchange between Kake Tribal Corporation (KTC) and the United States. In addition, Sealaska Corporation owns the subsurface estate of KTC’s lands; the subsurface estate is exchanged in the same manner as the surface estate under this bill. The exchange would be on an acre-for-acre basis affecting approximately 2,427 acres of land owned by KTC on

the watershed of the City of Kake, and an equal amount of federal land in the vicinity of Kake.

KTC is a Native village corporation organized pursuant to the Alaska Native Claims Settlement Act (ANCSA). It was entitled to select and acquire in private ownership 23,040 acres of public land to settle the aboriginal land claims of Natives from Kake, located in the southeast panhandle of Alaska. ANCSA required that KTC's land selection include the core township and land contiguous to the township in which the village of Kake is located; as a result, KTC owns land on over 2400 acres of the Gunnuk Creek watershed of the City of Kake. The timber on KTC's Gunnuk Creek watershed property may be harvested.

A significant number of KTC shareholders and non-shareholders who are residents of Kake do not want the Gunnuk Creek timber to be harvested out of concern for the watershed, which supplies the city's drinking water. KTC has complied with their wishes, but at the same time, argues that it is under pressure to make economic use of its property to benefit its shareholders. H.R. 2756 was requested by KTC and local residents to resolve this dilemma.

H.R. 2756 authorizes an exchange between KTC and the United States. Under the legislation, KTC would transfer its Gunnuk Creek property (about 2,427 acres) to the United States in exchange for an equal number of acres away from the watershed in the Tongass National Forest, in the vicinity of Kake. With this exchange, KTC can harvest timber for the benefit of its shareholders without causing further concern over the watershed lands.

COMMITTEE ACTION

H.R. 2756 was introduced on October 28, 1997, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. On February 25, 1998, the Committee held a hearing on H.R. 2756, where testimony was received from the Administration, KTC, and an environmental organization from southeast Alaska. On August 5, 1998, the Full Resources Committee met to consider H.R. 2756. An amendment making a technical correction was offered by Chairman Young, and adopted by unanimous consent. The bill as amended was then ordered favorably reported by voice vote to the House of Representatives.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 2756.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2756. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2756 does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill would affect offsetting receipts (which are classified as direct spending), but any increase in direct spending would be less than \$500,000 per year over the 1999–2003 time period.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2756.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2756 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 26, 1998.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2756, the Kake Tribal Corporation Land Exchange Act.

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

Sincerely,

PAUL VAN DE WATER
(For June E. O'Neill, Director).

Enclosure.

H.R. 2756—Kake Tribal Corporation Land Exchange Act

CBO estimates that enacting this bill would not have a significant impact on the federal budget. Because the bill would affect offsetting receipts (which are classified as direct spending), pay-as-you-go procedures would apply, but we estimate that any increase in direct spending would total less than \$500,000 per year. H.R. 2756 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no significant costs on the budgets of state, local, or tribal governments.

H.R. 2756 provides for an exchange of surface and subsurface lands between the federal government and the Kake Tribal Corporation and Sealaska Corporation. If the two corporations convey to the United States the surface and subsurface estates of about 2,425 acres of land specified in the bill, the Secretary of Agriculture would be required to convey to the corporations in exchange the surface and subsurface estate of about 2,425 acres of federal land within the Tongass National Forest. The bill provides that the exchange would be made without any consideration other than that provided for in the bill. According to the Forest Service, the federal land that would be conveyed under H.R. 2756 has a higher fair market value than the land that would be acquired.

Because the federal budget is on a cash basis, CBO estimates the budgetary impact of such land exchanges on the basis of estimated changes in the government's cash flow. CBO estimates that enacting this bill would result in a loss of offsetting receipts to the federal government because, according to the Forest Service, the federal land that would be conveyed to the corporations under the exchange includes areas with timber that is salable under an existing timber contract. In contrast, the land that would be acquired is unlikely to generate offsetting receipts over the next five years. Past logging activities have limited the resources available for harvesting. In addition, the Forest Service considers much of the area unsuitable for harvesting because it lies within the municipal watershed for the city of Kake. CBO estimates that the net increase in direct spending resulting from this exchange would total less than \$500,000 a year over the 1999–2003 period.

According to the Forest Service, the agency would incur additional administrative costs to manage the municipal watershed, including upgrading some roads, obliterating and revegetating other roads, and surveying the area. Based on information from the Forest Service, CBO estimates that such costs would total less than \$500,000 a year, subject to appropriation of the necessary amounts.

H.R. 2756 contains no intergovernmental mandates as defined in UMRA and would impose no significant costs on the budgets of state, local, or tribal governments. In any event, the costs to the tribal corporations for transferring ownership would be voluntary. The state of Alaska may lose some revenue sharing from decreased timber sales, but CBO estimates this to be a minimal amount.

On October 6, 1997, CBO prepared a cost estimate for S. 1159, the Kake Tribal Corporation Land Exchange Act, as ordered reported by the Senate Committee on Energy and Natural Resources on September 24, 1997. H.R. 2756 is similar to S. 1159, but H.R. 2756 more specifically identifies the federal land proposed for con-

veyance to the corporations. We do not expect that either bill will affect mandatory or discretionary spending by more than \$500,000 a year.

The CBO staff contacts for this estimate are Victoria V. Heid (for federal costs) and Leo Lex (for the state and local impact). This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2756 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic):

SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

SEC. 41. KAKE TRIBAL CORPORATION PROPERTY EXCHANGE.

(a) *AUTHORITY FOR EXCHANGE.*—Upon transfer to the United States of all right, title, and interest of the Kake Tribal Corporation and the Sealaska Corporation in and to the property described in subsection (b)(1), the Secretary of Agriculture shall transfer—

(1) to the Kake Tribal Corporation, subject to valid existing rights, all right, title, and interest of the United States in and to the surface estate of the property described in subsection (b)(2); and

(2) to the Sealaska Corporation, subject to valid existing rights, all right, title, and interest of the United States in and to the subsurface estate of the property described in subsection (b)(2).

(b) *PROPERTY DESCRIPTIONS.*—

(1) *PROPERTY TO BE TRANSFERRED TO THE UNITED STATES.*—The property to be transferred to the United States pursuant to subsection (a) is described as the surface estate owned by the Kake Tribal Corporation and the subsurface estate owned by the Sealaska Corporation, of the approximately 2,427 acres depicted on the map dated September 1, 1997, and labeled “Attachment A”, and further described as follows:

COPPER RIVER MERIDIAN

T56S, R72E

Sections 13, 23, 24, 25, 26, 34, 35, and 36.

(2) *PROPERTY TO BE TRANSFERRED TO KAKE TRIBAL CORPORATION AND SEALASKA CORPORATION.*—The property to be transferred to the Kake Tribal Corporation and the Sealaska Corporation pursuant to paragraphs (1) and (2) of subsection (a) is the surface estate and the subsurface estate, respectively, to the approximately 2,427 acres of Federal land depicted on the maps dated September 1, 1997, and labeled “Attachment B” and “Attachment C”, and further described as follows:

COPPER RIVER MERIDIAN

T57S, R74E

Sections 18 and 19;

COPPER RIVER MERIDIAN

T57S, R72E

Sections 31 and 32;

COPPER RIVER MERIDIAN

T58S, R71E

Section 13; and

COPPER RIVER MERIDIAN

T58S, R72E

Sections 5, 6, 7, 8, 17, 18, 19, and 20.

(c) *MAPS AND LEGAL DESCRIPTION ON FILE.*—The maps and the legal description of the property described in this section shall be maintained on file in the Office of the Chief, United States Forest Service and in the Office of the Secretary of the Interior, Washington, District of Columbia. The acreage cited in this section is approximate. If a discrepancy arises between the cited acreage and the acreage depicted on the maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private property.

(d) *CONSIDERATION.*—The transfers authorized by this section shall be made without consideration, except as provided in this section.

(e) *RELATION TO OTHER SECTIONS.*—The property transferred pursuant to this section shall be considered land conveyed under and shall be subject to the provisions of this Act.

DISSENTING VIEWS

H.R. 2756 would allow Kake Tribal Corporation to swap about 2,500 acres of lands in the watershed of the City of Kake, on an acre for acre basis, for non-contiguous, old-growth forest lands from the Tongass National Forest. As is the case with the proposed Huna exchange (H.R. 3088), the Administration opposes this exchange because it would establish an unwelcome precedent of re-opening village corporation land entitlements established by the Alaska Native Claims Settlement Act of 1971.

While protecting the watershed of the City of Kake from the impacts of clear-cut logging on private, corporate lands is an admirable goal, this is primarily a local land use matter which the State of Alaska should address. The State is entitled to select 104 million acres under the Alaska Statehood Act, including lands nearby the existing 23,040 acres owned by Kake Corporation. Rather than impose upon the Forest Service unwanted management responsibilities for the municipal watershed lands, and convey into private ownership additional Tongass National Forest lands to be logged, it would be preferable if the State of Alaska would engage Kake Tribal Corporation in a land exchange or other agreement which would protect the remaining uncut lands in the community watershed.

GEORGE MILLER.

