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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–899

HUNA TOTEM CORPORATION LAND EXCHANGE ACT

SEPTEMBER 26, 2000.—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

R E P O R T

together with

DISSENTING VIEWS

[To accompany S. 426]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 426) to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purposes of S. 426 are to amend the Alaska Native Claims Settlement Act to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

S. 426 provides for a land exchange between the Huna Totem Corporation, a Village Corporation in Southeast Alaska that was organized under the Alaska Native Claims Settlement Act (ANCSA), and the United States.

The Huna Totem Corporation of the City of Hoonah in Southeast Alaska was awarded lands pursuant to ANCSA. Some of these lands have significant timber resources, and the Corporation has been active in the timber industry because logging provides important economic benefits to its Native shareholders.

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A significant portion of Huna Totem's property lies on part of the local watershed and within view of the City because ANCSA mandated the Corporation's land selection to be within or adjacent to the core township enclosing the village. However, there is considerable controversy within Hoonah over potentially logging this property because of the proximity of the logging to the city and the watershed. Huna Totem would prefer to acquire land away from the City, and by extension away from the local controversy, through an equal-value land exchange with the United States.

S. 426 resolves the local problem through an equal-value land exchange. Under the bill, the Corporation transfers approximately 2,000 acres of the watershed/viewshed lands to the United States in exchange for lands of an equal value and accessible to Hoonah, selected from areas specified in the bill. The lands conveyed to the United States under S. 426 are added to the Tongass National Forest. The bill also contains a provision prohibiting Huna Totem Corporation from exporting unprocessed logs from the new lands it acquires through the exchange.

In the 105th Congress, the Committee on Resources held hearings on and reported a similar bill, H.R. 3088, providing for the same land exchange as that in S. 426. H.R. 3088 was not considered further.

For additional information, please see Senate Report 106–30.

COMMITTEE ACTION

S. 426 was introduced on February 12, 1999, by Senator Frank Murkowski (R–AK). The bill passed the Senate with amendments on April 19, 1999, by unanimous consent. In the House of Representatives, the bill was referred to the Committee on Resources. On September 13, 2000, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported by voice vote to the House of Representatives.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII 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 this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.* Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) 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 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill 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 could affect offsetting receipts and result in an increase in direct spending of less than $500,000 a year, but that this "would not have a significant impact on the federal budget."

3. *Government Reform Oversight Findings.* Under clause 3(c)(4) of rule XIII 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 on this bill.

4. *Congressional Budget Office Cost Estimate.* Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 15, 2000.

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 S. 426, the Huna Totem Corporation Land Exchange Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 426—Huna Totem Corporation Land Exchange Act

CBO estimates that enacting S. 426 would not have a significant impact on the federal budget. Because the legislation could affect offsetting receipts (a credit against direct spending), pay-as-you-go procedures would apply, but we estimate that any increase in direct spending would total less than $500,000 a year. S. 426 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on the budgets of state, local, or tribal governments.

S. 426 would direct the Secretary of Agriculture to convey the surface estate to certain federal lands in the Tongass National Forest to the Huna Totem Corporation, and also to convey the subsurface estate to such federal lands to the Sealaska Corporation. The lands to be conveyed would be selected by the two corporations from federal lands depicted on the map described in the legislation and dated September 1, 1997. The legislation also provides that the Huna Totem Corporation and Sealaska convey to the United States approximately 2,000 acres of surface and subsurface estate.

S. 426 does not specify the federal land to be conveyed to the Huna Totem Corporation, but it provides that the exchange be on the basis of equal value. Because the federal budget is on a cash basis, the budgetary impact of the land exchange is measured by its effect on the government's cash flow, such as changes in offsetting receipts from timber harvests. CBO expects that enacting this legislation could decrease offsetting receipts to the federal government. According to the Forest Service, the agency would generally consider the area acquired from the corporation to be unsuitable for future harvesting because it lies within the watershed and viewshed for the city of Hoonah. Some of the federal land that could be conveyed to the corporation under S. 426 currently does not generate federal timber receipts because it has been logged recently; however, a portion of the federal land that could be conveyed is not currently being harvested because it has been set aside as part of a conservation reserve under the Tongass National Forest management plan. According to the Forest Service, if the corporation harvested those areas following the exchange, then the agency would be obliged under the forest management plan to reserve for conservation another area of federal land within the Tongass National Forest that would otherwise be harvested under current law. We estimate that any resulting loss of timber receipts would be less than $500,000 a year over the 2001–2010 period.

On March 11, 1999, CBO transmitted a cost estimate for S. 426, the Huna Totem Corporation Public Interest Land exchange Act, as ordered reported by the Senate Committee on Energy and Natural Resources on March 4, 1999. The two versions of the legislation are nearly identical, and our estimates of their costs are the same.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGE IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, as shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

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SEC. . HUNA TOTEM CORPORATION LAND EXCHANGE.

(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Huna Totem Corporation pursuant

to subsection (c). The values of the lands and interests therein exchanged pursuant to this section shall be equal.

(b) The surface estate to be conveyed by Huna Totem Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

MUNICIPAL WATERSHED AND GREENBELT BUFFER T43S, R61E, C.R.M.

Portion of Section	***Approximate Acres***
16	*2*
21	*610*
22	*227*
23	*35*
26	*447*
27	*400*
33	*202*
34	*76*
Approximate total	*1,999.*

(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and subsurface estate described in subsection (b), Huna Totem Corporation shall be entitled to identify lands readily assessible to the Village of Hoonah and, where possible, located on the road system to the Village of Hoonah, as depicted on the map dated September 1, 1997, and labeled Attachment B. Huna Totem Corporation shall notify the Secretary of Agriculture in writing which lands Huna Totem Corporation has identified.

(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Huna Totem Corporation pursuant to subsection (c).

(e) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section shall not be exported as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

(f) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

(g) MAPS.—The maps referred to 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, D.C. The acreage cited in this section is approximate, and if there is any discrepancy between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.

DISSENTING VIEWS

This same dubious land exchange was brought before the Committee in the 105th Congress. That bill failed to pass the House; this one deserves to meet the same ignominious fate. [See: H.R. 3088, H. Rept. 105–784 (Dissenting views)].

We again oppose this legislation because it is contrary to the public interest and imposes a fundamentally undesirable exchange of lands upon the U.S. Forest Service. Under S. 426, the Forest Service would be forced to accept lands nearby the Southeast Alaskan community of Hoonah that they do not want to acquire and do not want to manage. To make matters worse, the Huna Corporation would be authorized to self-select and obtain lands from the Tongass National Forest.

Simply put, the situation is this: the Huna corporation can not long more lands near the community because of local opposition to additional clear-cutting so they want to acquire and log more lands from the national forest. Huna corporation has already logged the vast majority of the 23,000 acres they received under the Alaska Native Claims Settlement Act of 1971. In effect, they want to unilaterally rewrite that settlement to obtain more desirable lands, while foisting upon the Forest Service management responsibilities for core lands around the village of Hoonah.

This is clearly not a case where Congress would ratify a mutually negotiated land exchange. It's not even clear how much national forest land the Huna corporation would seek to obtain, since the export restrictions in the bill make the Tongass land less valuable for logging than the village lands the corporation currently owns. In order to equalize exchange values under the terms of this bill, Huna may argue that more than 2,000 acres of national forest should be conveyed out of public ownership. Prime sitka spruce logs, for example, may be a dozen times more valuable to the corporation if exported than if processed domestically. But if left standing as old-growth national forest, without this exchange, the values to future generations greatly exceed any short-term logging profit.

S. 426, which seeks to have Congress impose an adversarial land exchange on the Forest Service, has failed to change or improve with age. Both the Secretaries of Agriculture and Interior oppose the bill and have stated that they will recommend a veto if it is enacted by Congress. The House should reject this legislation.

GEORGE MILLER

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