

Committee on Natural Resources
Rob Bishop Chairman
Mark-Up Memorandum

September 19, 2016

To: All Natural Resources Committee Members

From: Majority Staff
Subcommittee on Indian, Insular and Alaska Native Affairs (x6-9725)

Mark-Up: H.R. 2387 (Rep. Don Young, AK At Large), To amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans.

H.R. 2387 (Rep. Young), “Alaska Native Veterans Land Allotment Equity Act”

Summary of the Bill:

H.R. 2387, the *Alaska Native Veterans Land Allotment Equity Act* was introduced by Rep. Don Young on May 15, 2015 and was referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. The bill would amend the Alaska Native Claims Settlement Act¹ to provide equitable treatment of Alaska Native Vietnam Veterans in their acquisition of land under the Alaska Native Allotment Act of 1906.²

Background:

It is well known that per capita, American Indian and Alaska Natives have served at a higher rate in the United States Armed Forces than other ethnic groups.³ During the Vietnam War which officially lasted from 1964-1975, approximately 2,800 Alaska Natives served in the military during the conflict. Unfortunately, due to their service to the United States, many of these Veterans were unable exercise their right to apply for their Native allotments under the Alaska Native Allotment Act prior to the enactment of the Alaska Native Claims Settlement Act of 1971 (ANCSA), which repealed the Native Allotment Act.

In 1998, H.R. 4194⁴ included an amendment to amend ANCSA to provide Alaska Native Vietnam veterans an opportunity to obtain an allotment of up to 160 acres (in one or two parcels) of land under the Native Allotment Act.

Three major obstacles emerged which prevented many Alaska Native Vietnam veterans from selecting and obtaining their allotments. First, Alaska Native Vietnam veterans can only

¹ 43 U.S.C. 1617 et seq.

² 34 Stat. 197, as amended, repealed December 1971.

³ U.S. Department of Veterans Affairs. “*American Indian and Alaska Native Veterans: Lasting Contributions.*” September 2006.

⁴ See P.L. 105-276, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999.

apply for land that was vacant, unappropriated, and unreserved when their use of such land first began.

Second, Alaska Native Vietnam veterans can apply only if they served in active military duty from January 1, 1969 to December 31, 1971, despite the conflict beginning and ending before and after this period.

Third, Alaska Native Vietnam veterans must prove they used the land (applied for in their Native allotment application) in a substantially continuous and independent manner, at least potentially exclusive of others, for five or more years. This requirement was not in the original Native Allotment Act, nor has it been required of other Alaska Native applicants in applying for their Native allotment.

Further, adjudication of use and occupancy issues may take years and be very costly. These and several factors supporting the need for this legislation are outlined in the Department of the Interior's study on Alaska Native Veterans for Allotments as required by P.L. 105-276.⁵

Major Provisions/Analysis of H.R. 2387:

H.R. 2387 aims to increase the available land for allotments for Alaska Native veterans by authorizing them to apply for land that is federally owned and vacant. The lack of available land under existing law nullifies the very purpose of granting Alaska Native Vietnam veterans an allotment benefit. Most land in Alaska is not available for Alaska Native Vietnam veteran allotment applications under existing law. For example, there is no land available in southeast Alaska because it either is within the Tongass National Forest or has been selected or conveyed to the State of Alaska or ANCSA Native Corporations.

H.R. 2387 will also expand the military service dates to coincide with the entire Vietnam conflict: August 5, 1964 through May 7, 1975. The expansion of military service dates to include all Alaska Natives who served in the military during the Vietnam conflict is consistent with the federal government's policy of providing benefits to veterans of the Vietnam War. The federal government has given public land benefits to veterans (or their widows or heirs) of every war beginning with the Indian Wars of 1790 and ending with the Korean conflict in 1955. Incidentally, Alaska Native veterans were not eligible for these public land benefits until 1924 because the courts had determined Alaska Natives were not United States citizens.

H.R. 2387 would extend the deadline of the allotment application to three years after the Secretary of the Interior issues final regulations under Section 4 of this bill. It also would correct the dates of Approval of Allotments to accommodate the extension of the application process of an Alaska Native Vietnam veteran.

H.R. 2387 would also assure ANCSA Regional and Village Corporations that if an Alaska Native Vietnam veteran makes his or her allotment selection within lands selected (and not yet conveyed) by those Corporations then said Corporation's lands entitlement will remain intact.

⁵ U.S. Department of the Interior: *A Report Concerning Open Season for Certain Native Alaska Veterans for Allotments*, June 1997.

The bill would prohibit an Alaska Native Vietnam veteran from selecting lands within the right-of-way granted for the TransAlaska Pipeline or the inner and outer corridor of that right-of-way withdrawal. It also would prohibit a veteran from selecting from a unit of the National Park System, National Preserve, or a National Monument.

H.R. 2387 would also allow a veteran who made an allotment selection prior to enactment of the bill, to withdraw that selection and reselect lands if the land was not conveyed to that person prior to enactment of the bill.

Previous Committee Action. Bills with similar intent have been introduced and referred to the Subcommittee since the 105th Congress. The Subcommittee most recently received testimony in the 110th Congress. In the 106th Congress, H.R. 4345 passed the House of Representatives but no action was taken up by the Senate.

Cost

No official CBO score has been received however the committee does not anticipate the bill having an effect on the federal budget.

Administration Position

At the June 10, 2015 hearing on the bill, the Bureau of Indian Affairs testified that the Department of the Interior had concerns with the bill.

Anticipated Amendments

- **Young (AK) Amendment-** The committee anticipates an amendment which would add language to allow Native Alaskan veterans who have already received partial allotments prior to promulgation of regulations established under the bill, to be eligible to receive the difference between the full eligible allotment acreage and what has been received. Qualification for allotments is not contingent on military separation status at the time of discharge or released from military service. Language on consultation and coordination with Alaska Native Organizations on who may eligible to receive allotments has also been included in the amendment.

[Effect on Current Law \(Ramseyer\)](#)