The original documents are located in Box 7, folder "Congressional - Legislation General (1)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

93D CONGRESS
2D SESSION

S. 2951

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1974

Mr. BAYH introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

To provide for public ownership of certain documents of elected public officials.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Documents Act".

SEC. 2. (a) Title 44, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 39—PUBLIC DOCUMENTS OF ELECTED OFFICIALS

"Sec.
"3901. Definitions.
"3902. Papers of elected officials.
"3903. Preservation of public documents.
"3904. Judicial review.

"§ 3901. Definitions

"For purposes of this chapter—

"(1) 'elected official of the United States' means the President, Vice President, Senator, and Member of (or Resident Commissioner or Delegate to) the House of Representatives, including any individual holding such office for any period by reason of appointment to such office or succession to such office; and

"(2) 'public documents' means, with respect to an elected official of the United States, the books, correspondence, documents, papers, pamphlets, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials which shall have been retained by an individual holding elective office under the United States and which were prepared for or originated by such individual in connection with the transaction of public business during the period when such individual held elective office and which would not have been prepared if that individual had not held such office; except that copies of public documents preserved only for convenience of reference, and stocks of publications and of public documents previously processed under this title are not included.

"§ 3902. Papers of elected officials

"Within one hundred and eighty days after an elected official of the United States ceases to hold his office, the Administrator of General Services shall obtain any objects or materials of that elected official which the Administrator determines to be public documents within the meaning of section 3901 (2) of this title, and such elected official shall transmit such documents to the Administrator.

"§ 3903. Preservation of public documents

"The Administrator of General Services shall deposit in the National Archives of the United States the public documents of each elected official of the United States obtained under section 3902 of this title. Sections 2101–2113 of this title shall apply to all public documents accepted under this section.

"§ 3904. Judicial review

"A decision by the Administrator of General Services that any object or material is a public document of an elected official of the United States within the meaning of section 3901 (2) of this title shall be a final agency decision within the meaning of section 702 of title 5.".

(b) The table of chapters, preceding chapter 1 of such title 44, is amended by adding at the end thereof the following:

"39. Public Documents of Elected Officials---------- 3901".

93D CONGRESS
2D SESSION

S. 2951

A BILL

To provide for public ownership of certain documents of elected public officials.

By Mr. BAYH

FEBRUARY 4, 1974

Read twice and referred to the Committee on Government Operations

93D CONGRESS
2D SESSION

S. 2951

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1974

Mr. BAYH introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

To provide for public ownership of certain documents of elected public officials.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Documents Act".

SEC. 2. (a) Title 44, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 39—PUBLIC DOCUMENTS OF ELECTED OFFICIALS

"§ 3901. Definitions

"For purposes of this chapter—

"(1) 'elected official of the United States' means the President, Vice President, Senator, and Member of (or Resident Commissioner or Delegate to) the House of Representatives, including any individual holding such office for any period by reason of appointment to such office or succession to such office; and

"(2) 'public documents' means, with respect to an elected official of the United States, the books, correspondence, documents, papers, pamphlets, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials which shall have been retained by an individual holding elective office under the United States and which were prepared for or originated by such individual in connection with the transaction of public business during the period when such individual held elective office and which would not have been prepared if that individual had not held such office; except that copies of public documents preserved only for convenience of reference, and stocks of publications and of public documents previously processed under this title are not included.

"§ 3902. Papers of elected officials

"Within one hundred and eighty days after an elected official of the United States ceases to hold his office, the Administrator of General Services shall obtain any objects or materials of that elected official which the Administrator determines to be public documents within the meaning of section 3901 (2) of this title, and such elected official shall transmit such documents to the Administrator.

"§ 3903. Preservation of public documents

"The Administrator of General Services shall deposit in the National Archives of the United States the public documents of each elected official of the United States obtained under section 3902 of this title. Sections 2101–2113 of this title shall apply to all public documents accepted under this section.

"§ 3904. Judicial review

"A decision by the Administrator of General Services that any object or material is a public document of an elected official of the United States within the meaning of section 3901 (2) of this title shall be a final agency decision within the meaning of section 702 of title 5.".

(b) The table of chapters, preceding chapter 1 of such title 44, is amended by adding at the end thereof the following:

"39. Public Documents of Elected Officials---------- 3901".

93D CONGRESS
2D SESSION

S. 2951

A BILL

To provide for public ownership of certain documents of elected public officials.

By Mr. BAYH

FEBRUARY 4, 1974

Read twice and referred to the Committee on Government Operations

THE WHITE HOUSE

WASHINGTON

September 27, 1974

MEMORANDUM FOR: MR. WILLIAM E. TIMMONS

FROM: Philip W. Buchen P.W.B.

SUBJECT: Status of General Privacy Legislation

This responds to your memorandum of September 18, relative to the status of general privacy legislation exclusive of specialized bills dealing with criminal justice information, Federal employees rights, IRS tax returns and military surveillance.

The House negotiations conducted by OMB and Privacy Committee staff with the majority and minority leadership of the House Government Operations Committee, resulted in an offer of the Administration's support for H.R. 16373, reported unanimously from the Government Operations Committee, September 24, provided that the exemption for Federal personnel investigatory records is restored to the bill. Congressman Erlenborn is prepared to lead the floor fight for restoration. Every effort should be made to assure passage of an appropriate amendment.

On the Senate side, OMB and the Privacy Committee have submitted extensive detailed comments on S. 3418. This bill is close to the more acceptable House version, but significant changes must be made before we can consider supporting this measure. The Senate has made significant progress in the direction of the House bill by eliminating from its scope the private sector, contractors and grantees, and by watering down significantly the powers of the Privacy Commission.

Our position is that there should be no slackening of effort to secure legislative action for this session. We are committed to issuing an Executive order only in the event that Congress fails to act this year. OMB, I believe, has been dealing effectively in allaying certain agency concerns about privacy legislation. Having first-hand knowledge of the extensive inter-agency dialogue of the past four or five months, I do not believe that we will have a significant problem in dealing with agency comments, particularly if Civil Service and Defense can make a pursuasive case for their exemption.

Doug Metz can give you a more detailed and up to the minute run-down on the foregoing matters. I suggest that you convene a legislative strategy session involving Doug and those with whom he has worked closely at OMB, including Walter Haase, Bob Marik and Stan Ebner.

cc: Robert Marik
Douglas Metz

THE WHITE HOUSE

WASHINGTON

September 27, 1974

MEMORANDUM FOR: MR. WILLIAM E. TIMMONS

FROM: Philip W. Buchen P.W.B.

SUBJECT: Legislation Protecting IRS Tax Returns

In response to your memo of September 23, 1974, Wilf Rommel, OMB, has been asked to prepare a letter containing the Administration's position on the Weicker-Litton legislation. Wilf is getting initial input from Treasury and Justice. I have asked Doug Metz to coordinate this for me.

As you know, Secretary Simon sent our bill to the Hill September 11, 1974, followed by issuance of an Executive order on September 20, establishing specific restrictions on White House access to tax returns. We should take immediate steps to assure that the advantages of our bill and our specific objections to the Weicker-Litton measure are more widely publicized on the Hill. We have been unnecessarily on the defensive.

cc: Richard Albrecht, DOL
Douglas Metz, Privacy Committee
Wilf Rommel, OMB
Laurence Silberman, Justice

THE WHITE HOUSE

WASHINGTON

August 29, 1974

MEMORANDUM FOR: Phil Buchen

FROM: Bill Casselman

The President will shortly have on his desk for signature the juvenile delinquency bill. (The last day for action is September 7). The Justice Department has some serious reservations about this legislation which I feel we should hear out. If in my absence this matter should be considered, I recommend that you talk to Larry Silberman and especially Pete Velde (the new LEAA Administrator) before taking any action.

THE WHITE HOUSE

WASHINGTON

January 2, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: BOBBIE GREENE KILBERG

SUBJECT: S. 1469 -- Amend Alaska Native Claims Settlement Act of 1971

Attached are arguments in favor of the Sealaska selection provision and in favor of the temporary exemption from the federal securities laws. There is merit on both sides of this controversy. As a political matter, the Counsel's Office defers to you and Jack Marsh. As a legal or domestic policy matter, we withdraw our objection to the signing of the bill.

cc: Paul O'Neill
Ted Marrs
Lynn May

Selection of "bonus lands" by Sealaska Corporation from within Tongass National Forest. This provision would permit the Native Southeast Alaska Regional Corporation (Sealaska) to select some 200,000 to 250,000 acres of "bonus lands" from within the Tongass National Forest.

A. The State of Alaska and the Sierra Club both support this selection. The State originally had a number of resource and social conflict problems with the provision, all of which were resolved to its satisfaction. The following excerpts from the testimony of Guy R. Martin, Alaska's Commissioner of Natural Resources, before the Senate Interior and Insular Affairs Committee explains much of the State's reasoning:

> "There is no reason, now that resource and social conflicts are resolved, why SEALASKA should not be entitled to acquire commercial forest lands in Southeastern Alaska. The lands involved are to be logged at any event, and the State can see no appreciable difference between SEALASKA as a merchandiser and the Forest Service. If anything, the State, under the circumstances, must favor SEALASKA.
>
> First, SEALASKA cannot, as the Forest Service and its logging contractors do, invoke the Supremacy Clause to avoid and violate State laws which protect salmon spawning streams from the felled trees and other disruptions of logging. With casual disregard for Alaska's foremost industry, the Forest Service lays out and logs one important drainage after another. Second, unlike the Forest Service, SEALASKA, as a private and not Federal, forest manager, will be subject to a forest practices act. Third, SEALASKA, unlike the Forest Service, will log in accordance with State law,

economics, and silvicultural demands -- not in accordance with the mystical slogan: Old, decadent trees must go; new, thrifty, young trees will grow. "

B. The Joint Federal-State Land Use Planning Commission for Alaska also supports the provision for selection from the National Forest as a "full and fair solution" to the problems with Sealaska's entitlement and as a provision which "minimizes[ing] adverse social, environmental, and land management impacts." The excerpts reproduced below are from the testimony of David S. Jackman, State Co-Chairman of the Joint Commission before the Senate Interior Committee. Mr. Jackman was speaking for the Commission:

"The Sealaska proposal would confine regional selections to lands previously withdrawn for village selection which were not selected by the village corporations. This would avoid potential conflicts with certain areas withdrawn under wither Section 17(d)(1) or (d)(2) of the Settlement Act, and with other sensitive resource areas. In addition, the consolidation of private land ownership within the village withdrawals, as required by the amendment, should facilitate the development of sound management programs by Sealaska and its constituent villages, as well as permit the continuance of good land ownership patterns and management practices within the national forest.

The amendment would protect certain lands on Admiralty Island having important natural values by precluding selections from within the Angoon Village withdrawal . . .

Key portions of the withdrawal, including the well known Mitchell Bay area, contain valuable scenic, fisheries, and wildlife resources. Because of this, land and estuarine areas within the Angoon withdrawal are used extensively by the residents of Angoon and the general public for recreational and subsistence purposes, and the living resources dependent on these areas are important for the entire region. Negotiations which have taken place over the last three months indicate that the land use conflicts created by further private ownership on Admiralty Island, with the concomitant possibility of large-scale timber harvesting, would have been difficult to resolve.

The amendment will also provide a mechanism for protecting important public resource values within the Yakutat and Saxman withdrawals by requiring concurrence by the Governor of Alaska in selections from these areas. In these two cases, existing values and patterns of public use do not appear to require a total prohibition against selection, and a procedure requiring the Governor's concurrence should assure that Sealaska's selections are consonant with environmental protection, and other public and community needs.

Although important natural values also exist within other village withdrawals, we believe that many of the most critical areas would be protected by the preclusions and limitations just discussed. In addition, requirements specified in State law, including statutes relating to the protection of water quality and anadromous fish streams, and in regulations implementing the Settlement Act, most notably those regulations dealing with the compactness and contiguity of Native land selections, will help to insure that Sealaska's selections and future land use are compatible with the objectives previously discussed. It should also be noted in this regard that until 1983, the harvesting of timber from Sealaska's land will remain subject to the sustained yield and other environmental stipulations contained in Section 22(k)(2) of the Settlement Act and that Sealaska has expressed support for the enactment of a state forest practices act which would require the use of sound timber management and harvest techniques on all private lands.

Finally, the Sealaska amendment requires selections from many areas which the Forest Service has already earmarked for future timber harvest. Accordingly, even assuming Sealaska would embark on a timber harvesting program, enactment of the amendment would not create major changes in anticipated land use for most of these areas. Rather, the amendment would serve to transfer revenues and other benefits to Sealaska - through the revenue sharing formula in the Settlement Act, to the other eleven regional corporations - in further satisfaction of the objectives of the settlement legislation enacted in 1971.

Exemption from Federal securities laws. This provision would exempt the Native Corporations from the operation of the securities laws administered by the Securities and Exchange Commission until 1991 (until that date Native corporate stock cannot be alienated). The rationale behind the exemption involves congressional belief that the complex and highly technical requirements of the securities laws would be costly and involve extended administrative delays. The legislative history indicated the congressional belief that the laws of the State of Alaska are adequate to protect the Natives and that the Federal laws can be reimposed if experience proves this to be necessary.

A. Provision for 15-year exemption from Investment Company Act of 1940.

The House Report explains in detail the reasons behind the exemption provision. Particular problems have arisen to date:(1) with the SEC staff's inclusion of "certificates of deposit" as "investment securities" within the definition of the 1940 Act; and (2) with Section 17 of the Act as it has affected the right of village corporations to merge on a regional basis. The section of the House Report on the exemption from the 1940 Investment Company Act is attached at Tab A.

B. Protection of Stockholders.

One of the reasons for the SEC's opposition to the temporary exemption from the securities laws is its concern about protecting Native stockholders (under section 17 of the 1940 Act) from the possibility of corporate officer mismanagement to the detriment of the stockholders. In answer to this concern, it has been argued that the stockholders of the corporations would be protected by reason of Alaska's own securities laws and other state statutes, as well as the more general common law principles which are applicable to corporations and their stockholders.

For example, Alaska statutes make it a crime for corporate officers to steal or embezzle corporate funds (AS 11.20.140, 11.20.280), to falsify corporate records (AS 11.20.430), or to attempt to defraud by making false statements about the corporation's financial position (AS 11.20.440). In addition, common law principles

put the corporate officials in a fiduciary relationship to the corporation and the stockholders, and they are personnally liable for breach of that duty. In this connection, the legislative history of S. 1469 makes clear Congress' intent that Alaska courts "look to precedents under Federal securities laws for appropriate standards of conduct by management . . . ." H. Rept. 94-729 at 20. Native corporations have also assured the House Interior Committee that they "intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection." Id.

The temporary exemption is viewed by Congress as experimental in nature. The Secretary of the Interior retains oversight functions with respect to ANCSA corporations and those corporations must submit annual audits to the Secretary and to the Congress. 43 U.S.C. §1606(o). Congress was aware of the possibility of abuses if the limited exemptions were enacted, and it addressed this problem in the Committee reports:

> "It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be

viewed by the Natives as an experiment which will be stopped if it is abused." H. Rept. at 20, S. Rept. 94-361 at 18.

The SEC exemption is a necessary aspect of the merger provisions in section 6 of S. 1469. That section would allow Native corporations to merge in order to reduce the burdens of managerial overhead and limited pools of Native talent. Due to application of the Investment Co. Act by the SEC, one merger has already been frustrated and this could be viewed as contrary to the fulfillment of the policy of the Settlement Act.

The Natives believe that regulation by the Alaska authorities would be more sensitively attuned to their special situation. The SEC has proposed a role which it considers to be specifically tailored to the special nature of the Native Corporations. However, the Native groups view the SEC's proposal as creating great difficulties for transactions between regional corporations and villages within a region in opposition to the 1971 Settlement Act's intent that the regions lend significant managerial and financial assistance to the villages in recognition of the limited talent available at the village level.

I have spoken with SEC Chairman Hills, Commissioner Loomis and General Counsel Pitt today and they all continue to feel strongly that the Federal securities laws protection is necessary and that the Alaska State Laws are not adequate. Commissioner Loomis' letter to Jim Lynn is attached at Tab B. SEC is also preparing a one-page summary sheet of the problems with the state statutes which will be added to Tab B if it arrives in time. However, if a Presidential veto is to be decided solely on the SEC grounds, the General Counsel would like the opportunity to poll the Commission members again.

DEPARTMENT OF AGRICULTURE ARGUMENTS

It is my understanding that the arguments used on page 3 of the USDA "Supplemental Statement" on S. 1469 in opposition to Section 10 (Sealaska "bonus laws" selection) are inaccurate for the following reasons: (See Tab C for USDA memo.)

1. USDA contends §10 gives SEALASKA greater selection rights than intended under the 1971 Settlement Act. It is my understanding that this is inaccurate. Under the Settlement Act itself, SEALASKA is entitled to select about 200,000 acres. Section 10 controls the location of that selection but does not alter the land size.

2. USDA contends §10 would adversely affect other regions by reducing the amount of lands they would receive. It is my understanding that this is inaccurate. Section 10 cannot have any effect on the lands allocated under section 12 of the bill. Section 12 does reduce lands allocated to the regions by the amount conveyed under section 16, but section 10 of S. 1469 concerns lands conveyed under section 14 of the 1971 Settlement Act and those lands are not deducted in making the section 12 allocation. In fact, the other regions would benefit under section 10 of S. 1469 since they would share on a per capita basis in 70 percent of the revenues generated by development of the forests. The other 11 regions support section 10 of S. 1469 and their support appears in the legislative record.

3. USDA states that there are sufficient other lands in southeastern Alaska to permit selection outside the Tongass Forest. USDA fails to note that these "other" lands are either proposed for inclusion in the Wrengell-St. Elias National Park or are simply mountaintops.

corporations is subject to prohibitions on sale or disposition, i.e. December 31, 1991.

A. The Investment Company Act of 1940

The exemption is necessary because of certain "mechanical" provisions of the Investment Company Act and the present uncertain status under the 1940 Act of Native corporations established pursuant to the Settlement Act. The 1940 Act requires highly technical registration and periodic reports to the Securities Exchange Commission (SEC) from corporations which are by design "investment companies" as well as corporations which are deemed "inadvertent" investment companies because more than 40 percent of their total assets, exclusive of cash and government securities, are held in the form of "investment securities."

The Native corporations are designed to be operating profitmaking business corporations. They are not expected to be "investment companies" as that term is customarily used. All of them will eventually own surface and/or subsurface interests in substantial amounts of land. Once the corporations are fully organized it is apparent that many of them will never be "investment companies" by virtue of their intentional business decisions or because they happen to have more than 40 percent of their non-cash assets in investment securities. The probable value of certain land interests makes it unlikely that several of these corporations will ultimately fall under the 1940 Act because of the 40 percent test.

The structure of the Settlement Act results, however, in substantial cash flowing to these corporations years ahead of conveyance and evaluation of land selections. Over $150 million has been distributed to Native corporations; whereas land selections have not yet resulted in title passing to the corporations, selections will not be completed until the end of 1975, at the earliest, and conveyances will not be completed for perhaps 15 years.

The Native corporations must do something with the money they are receiving. They cannot let it lie fallow in checking accounts, yet they are unprepared now to proceed immediately into profit-oriented business for themselves. To meet this problem corporations are to some extent planning to put money into commercial bank time deposits or certificates of deposit with interest returns somewhat higher than savings accounts, but lower than "high-risk" investment ventures.

These plans present another potential problem under the 1940 Act. While the Court of Appeals for the Second Circuit has held that "certificates of deposit" are not "investment securities" for 1940 Act purposes, the SEC staff informally takes a contrary position. Thus the Native coporations which prudently try to obtain moderate return by purchasing certificates of deposit may be required to undergo costly and time-consuming registrations under the 1940 Act only to find that three years from now when land selections are complete they are no longer subject to that Act and must then go through costly and time-consuming procedures to deregister. The end result is extensive paperwork and a needless waste of time, money, and manpower.

It is too early for these fledgling corporations to know even what their investment policies and legal and accounting problems may be to

make registration practicable for them under the Investment Company Act. On the other hand, the penalty for failure to register under that Act, even for a company which inadvertently becomes subject to its provisions, are severe. It is the purpose of Section 3 of H.R. 6644, amended, to provide the corporations formed under the Settlement Act with turnaround time in order to identify any problems which they may ultimately have under the Investment Company Act and to work out appropriate solutions for such problems internally and in consultation with the staff of the Securities and Exchange Commission.

The SEC has promulgated a temporary rule exempting Native corporations which register as investment companies from most of the provisions of the 1940 Act. Nonetheless, the exemption provided for in this section is necessary. The Committee is informed that some Regional Corporations have not registered under the SEC temporary rule and there exists some risk that their corporate acts and contracts might be vulnerable to challenge under the 1940 Act. The exemption will provide necessary breathing room to the SEC and the Native corporations in order to permit resolution of long-range solutions.

Another reason for temporarily exempting these entities from the Investment Company Act is to enable them to merge under provisions of Section 6 of H.R. 6644. In 1975 the NANA Corporation and the eleven Village Corporations in that region agreed on a plan of merger. The Natives spent about $200,000 in preparation and filing of a prospectus under the Securities Act of 1933. They did so in reliance on a "no-action" letter from the SEC advising them that no application would be necessary under section 17 of the Investment Company Act, a section which prohibits transactions between "affiliated persons" without a prior order from the SEC that the terms of the transaction are fair and equitable. At the last moment, however, the SEC withdrew their no-action letter, insisted on a section 17 application, and advised that no action would be taken on the application until extensive public hearings had been held. This administrative procedure imposes such substantial costs that merger may be impracticable. Since the very purpose of the merger authority in section 6 is to reduce administrative expense and overhead, it is appropriate at the same time to eliminate unnecessary expenses and delays imposed by federal securities laws.

B. The Securities Act of 1933 and the Securities Exchange Act of 1934

During the 20 year period when Native stock cannot be sold or transferred it is not necessary to subject these corporations to the expense and administrative burdens of compliance with the 1933 Securities Act and the 1934 Securities Exchange Act. Until December 1991, there will be no "market" in the stock of Native corporations since the stock is inalienable. Therefore it does not seem necessary to subject these corporations to the requirements of registering stock under the 1933 Act. The SEC has itself recognized that the 1933 Act need not be applied to those corporations in certain cases when it issued a "no-action" letter regarding the issuance of the initial shares of stock to Natives enrolled in Regional and Village Corporations.

The exemption from the 1933 Act is also needed to effectuate the merger authority in section 6. The 1933 Act requires that the stock be registered with the SEC, and a prospectus prepared and mailed

to all stockholders t
which they make the
the 1933 Act is an ex
resulting prospectus.
disclose every last de
should acquire the st
Corporations attemp
spectus, which had n
from the SEC's initi
mitted, consisted of a
financial statements.
tions involved. In vi
stockholders, particu
a document clearly i
stockholders. Yet, su
costly to prepare, and
well over $100,000. (
preclude the possibili
tions which might be
Conversely, the tig
munications which m
virtually preclude an
or community meetin
Thus the 1933 Act re
expensive document v
as to Native corporati
communication.
Similarly, applicat
necessary during the
Act applies to corpor
in assets. An exemptio
1940 Investment Com
porations and appro
subject to the 1934 A
with the SEC, the fili
the detailed proxy rul
reasons discussed abo
have little proper app
their intended purpos
Congressman Lloyd
ing the corporations fr
Act as "a statute whic
and the investing publ
Since the stock of N
"public" may not inve
application to these co
Although the SEC
form the "investing pu
do provide useful infor
ing public. Accordingl
vides that any Native
that section, would be s

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF
THE COMMISSIONER

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Re: S. 1469, 94th Congress; amendments to the Alaska Native Claims Settlement Act

Dear Mr. Lynn:

In the absence of the Chairman, I am responding to the December 22, 1975, request of Mr. Countee of your staff for the Commission's views on S. 1469, a bill to amend the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1609-24. The Congress passed this legislation on December 16, 1975, and, accordingly, we understand that your office will shortly advise the President whether he should sign or veto it. As we have indicated in previous correspondence with your office (copies of which are attached), the Commission strongly opposes Section 3 of S. 1469, which would totally exempt, through 1991, corporations organized pursuant to the Settlement Act (ANCSA corporations) from the federal securities laws. We realize that your determination of whether to advise that the President veto the bill must depend on a weighing of the merits of the legislation as a whole, and that the Commission's expertise does not extend to the broader issues concerning the relationship between the federal government and the Alaska natives. This Commission, however, adheres to its opposition to the exemption in Section 3, and, accordingly recommends in favor of a veto on that basis. Perhaps, after a veto, Congress could reconsider the enactment of similar legislation which omits the exemptive provisions of Section 3.

The Commission has dealt with the securities problems arising from the Settlement Act during the past two years. In that period, we have become well acquainted with the origin and unique characteristics of the ANCSA corporations and with the purposes which those entities are expected to fulfill. Based on that experience, the Commission believes that the interests of the Alaska native shareholders would be seriously disadvantaged,

and the objectives of the Settlement Act thwarted, since the Act makes unavailable to the Alaska native shareholders the protections afforded by the federal securities laws, particularly those provided by the Investment Company Act of 1940. While the specific grounds for our objections to legislation such as S. 1469 have been developed in detail in the prior correspondence, we have summarized below certain salient points.

Our immediate concerns and emphasis upon Investment Company Act protections for these shareholders stem from two basic conditions which resulted from the passage of the Settlement Act and which have not changed materially during the past two years. First, the assets of the ANCSA corporations consist predominantly of substantial pools of liquid capital, presently representing an aggregate of approximately $270,000,000 in Settlement Act appropriations. Second, it appears that the majority of shareholders of these companies are unsophisticated in corporate and investment matters.

Under these circumstances, there is reason to believe that the managers of the ANCSA corporations, as trustees of large amounts of capital readily convertible into cash, might be subject to the same human temptations and potential for conflict of interest which gave rise to the passage of the Investment Company Act. That law was enacted upon the basis of findings made by the Commission in its exhaustive study of abuses suffered by investment company shareholders during the 1920's and 1930's. One of the primary abuses was the operation of investment companies for the benefit of insiders such as officers, directors and investment advisers, and other affiliated persons, or for the benefit of brokers and dealers, or special classes of security holders of such companies.

Pursuant to Section 17 of the Investment Company Act, the Commission is authorized to review transactions between investment companies and their affiliates prior to their consummation to determine whether such transactions are fair and involve no disadvantage to investment company shareholders. This provision thus provides protection for investment company shareholders

which the antifraud provisions of the other securities laws do not provide. Moreover, unlike the prohibitions of the antifraud provisions of the other securities laws, which apply only to the purchase or sale of a security, Section 17 of the Investment Company Act provides for Commission review of affiliated transactions regardless of the nature of the property involved, be it securities, cash, other forms of personal property, or real property.

We believe that this aspect of the greater scope of Section 17 will be highly significant in the case of the ANCSA corporations, because they are expected to be dealing with each other in affiliated land transactions and other types of ventures not involving the purchase or sale of a security. We have already reviewed two such transactions involving ANCSA corporations and difficult questions of land valuation. In this connection it is important to bear in mind the size of the ANCSA corporations, in terms of the aggregate value of their assets. The Settlement Act calls for the distribution of nearly one billion dollars in cash to the ANCSA corporations over a period of approximately ten years. They are also entitled to approximately 40 million acres of land in the State of Alaska, having an as yet undetermined, but obviously enormous value.

The Commission is sensitive to the fact that the full regulatory burdens to which traditional investment companies are subject should not be imposed on the ANCSA corporations. In February of 1974, the Commission adopted Rule 6c-2 (T) [17 C.F.R. 270.6c-2] under the Investment Company Act, which exempts those ANCSA corporations which register as investment companies under the Act from all but five provisions of the Act. This rule is a temporary measure, and we expect it to be superseded by the proposed permanent rule, Rule 6c-2, which the Commission issued for comment on August 22, 1975. Although Rule 6c-2 would increase somewhat the regulatory burden upon the larger ANCSA corporations which register beyond that imposed under the temporary rule, such additional requirements constitute what we consider the minimum protections that are necessary and appropriate to the protection of the interests of the Alaska native shareholders.

As to the effect of the Securities Exchange Act of 1934 on the ANCSA corporations, it is probable that a number of the larger corporations will become subject to the reporting provisions of that Act if and when they cease to be investment companies by engaging in some operating business, such as land development. The Exchange Act was designed primarily to prevent fraud in the purchase and sale of securities and to provide investors with material information upon which to base investment decisions. This Commission feels strongly that the requirement for public disclosure of material activities conducted by a publicly-held corporation, as well as the public disclosure of material benefits personally derived by those individuals entrusted to manage the affairs of such companies, affords important protection to the individual shareholders. We believe that such disclosures frequently form the only basis on which the owners can judge the stewardship and competency of those chosen to manage their company. Further, such disclosures are often the only source of adequate information available to stockholders or their legal representatives in determining their rights and remedies under applicable laws.

I trust that the foregoing will assist you in advising the President as to the Commission's position on Section 3 of S. 1469. Should you determine that you need additional information on this matter, please do not hesitate to contact us.

Sincerely,

Philip A. Loomis, Jr.
Commissioner

Enclosures

Section 4 - Food Stamp Eligibility

Section 4 of S. 1469 amends the Alaska Native Claims Settlement Act to state that any compensation, remuneration, revenue, or other benefits received by any member of such household under the Settlement Act shall be disregarded in determining the eligibility of any household to participate in the Food Stamp Program. We are opposed to this language, because it is too broad and could cause the Food Stamp Program to have to disregard as income and resources payments from timber and mineral rights and corporate salaries and as a result wealthy households could become eligible.

We believe that all money available to any household should be considered as income and that all households should be treated in the same manner regardless of their source of income or resources. In addition, we believe that this is the only way to maintain national eligibility standards which is a requirement of the Food Stamp Act.

Section 10 - Sealaska Amendment

Section 10 of S. 1469 would amend section 16(b) of the Settlement Act to permit Sealaska Regional Corporation to select the lands to which it is entitled under section 14(h)(8) from lands withdrawn for but not conveyed to Village Corporations within the Region. However, Sealaska could not select lands on Admiralty Island and, without the consent of the Governor of Alaska, could not select lands in the Saxman and Yakutat withdrawal areas.

The Department of Agriculture is strongly opposed to this provision.

An important aspect of the balance achieved by the Alaska Native Claims Settlement Act (ANCSA) was the special treatment of land selection by the natives of southeast Alaska. In 1968 the Court of Claims entered judgment in behalf of the Tlingit and Haida Indians of southeast Alaska in the amount of some $7.5 million. Most of this amount represented compensation for the Federal taking of land which became the Tongass National Forest. In formulating ANCSA, the Congress recognized this cash settlement. It also recognized that the value of lands in southeast Alaska with its water access and commercial timber is greater than that of other regions in Alaska and that there was a need to prevent conflict between the purposes of the Act and the purposes for which the National Forests were established. Accordingly, under ANCSA, the southeast native village corporations were limited to selections of 23,040 acres each, and the Southeast Regional Corporation (Sealaska) was excluded from land selection under section 12. The only land which Congress entitled Sealaska to select was a share of the balance of the two million acres withdrawn under section 14(h). By specifically authorizing conveyances from the National Forests for section 14(h)(1), (2), (3), and (5), it is clear that Congress did not intend for 14(h)(8) conveyances to be made from National Forest lands.

Section 10 of S. 1469 would alter the balance of the Settlement Act by awarding Sealaska a greater settlement than Congress intended and by giving Sealaska selection rights on lands for which compensation has already been granted. It would also have a detrimental effect on land selections by the other Regional Corporations and represent an inequity to them. First, by amending section 16, the Sealaska amendment would affect the formula under section 12 which governs the amount of lands that all other Regional Corporations may select and would reduce the amount of lands to which these corporations are entitled. The effect would be to prevent the conveyance of the full 40 million acres provided for in the Act. Secondly, Sealaska Region would receive 14(h)(8) lands of far greater surface value than would the other Regional Corporations. Moreover, if section 10 is enacted, it is probable that the Chugach and Koniag Regions would desire similar treatment for their entitlements under 14(h)(8). These Regions are claiming difficulty in selecting the full amount of lands to which they are entitled under section 12(c) because of the limitation on selections from the National Forests and the National Wildlife Refuge System.

In our view, section 10 represents the kind of conflict between National Forest purposes and the interests of the Alaska Natives that ANCSA sought to eliminate. Section 10 would likely result in an additional 200-250,000 acres being withdrawn from the Tongass National Forest. These lands contain the full range of resource values for which the National Forest was established. The public values include significant wildlife habitat, recreation use areas, access to major fishing areas, and lands suited to timber harvest. We believe the benefits of multiple resource management can best be achieved by retaining these lands as part of the National Forest System.

There are sufficient D-1 lands within southeastern Alaska to provide for Sealaska Corporation's selection as originally contemplated in the Alaska Natives Claims Settlement Act. We believe that selections from these lands, which are known to be mineralized, would be comparable to lands available to other regional corporations under section 14(h)(8) of the Act.

Section 12 - Cook Inlet Settlement

Section 12 of S. 1469 would legislate an agreement between the State of Alaska, the Cook Inlet Regional Corporation, and the U.S. Department of the Interior to resolve land entitlement difficulties experienced by Cook Inlet.

There are no National Forest lands involved in this agreement. However, we are informed that, although some of the Department of the Interior agencies support the terms of this agreement, the Secretary of the Interior has not had the opportunity to review the agreement and has expressed a desire to do so.

Legislation

THE WHITE HOUSE

WASHINGTON

February 15, 1975

MEMORANDUM FOR: JAMES CAVANAUGH

FROM: KEN LAZARUS

THRU: PHILIP BUCHEN P.W.B.

SUBJECT: Health Legislation Memo (Log. No. 63)

Health Services -- any bill which is submitted should incorporate the 1975 and 1976 budget decisions but HEW should be given authority to negotiate on 1976 policy to the extent that we may be forced to: (1) abandon a reduction in funding authorizations and/or (2) maintain or soften the proposed matching requirements. Emphasis should be continued on need for revenue sharing or block grant approach to funding.

Nurse training -- bill should incorporate features of budget decisions. Some authority to negotiate on funding authorization levels should be given to HEW.

Health manpower -- support option B, but allow HEW to negotiate (1) standards on foreign medical graduates and (2) pace of phaseout on capitation subsidies.

THE WHITE HOUSE
WASHINGTON

Date 2/15/75

TO: Phil Buchen

FROM: DUDLEY CHAPMAN

Judy Johnston says Jim Cavanaugh is preparing for this.

I have nothing to add to Leon's comments.

THE WHITE HOUSE

WASHINGTON

February 15, 1975

J. M Cavanaugh

MEMORANDUM FOR: Phil Areeda

FROM: Ken Lazarus

thru P.W.B.

SUBJECT: Health Legislation Memo (Log No. 63)

I have made a cursory review (15 min.) of the subject memo and offer the following:

Health Services--any bill which is submitted should incorporate the 1975 and 1976 budget decisions but HEW should be given authority to negotiate on 1976 policy to the extent that we may be forced to: (1) abandon a reduction in funding authorizations and/or (2) maintain or soften the proposed matching requirements. Emphasis should be continued on need for revenue sharing or block grant approach to funding.

Nurse training--bill should incorporate features of budget decisions. Some authority to negotiate on funding authorization levels should be given to HEW.

Health manpower--support option B, but allow HEW to negotiate (1) standards on foreign medical graduates and (2) pace of phaseout on capitation subsidies.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 63

Date: February 14, 1975 Time: 7:15 p.m.

FOR ACTION: Pam Needham
Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Saturday, February 15 Time: 11:00 a.m.

SUBJECT:

Health Legislation memorandum (Lynn)

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
__x__ For Your Comments
x____ For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE
WASHINGTON

Ken:

Will you please follow progress on this matter.

M. Leigh of State has called me on this matter & I expressed his concerns to our Congressional Relations people.

If you have any tactical suggestions, put them in.

P.

Biester (5 other co-signers)

THE WHITE HOUSE

WASHINGTON

March 7, 1975

MEMORANDUM FOR: PHIL BUCHEN

THROUGH: MAX FRIEDERSDORF M.F.

FROM: VERN LOEN VL

SUBJECT: H.R. 4438 - Executive Agreements Limitation bill

This measure was introduced Thursday with bipartisan support, based on the attached memo prepared by a junior staff man on the majority side of the House Foreign Affairs Committee (George Burdus).

The six Republicans who cosponsored went along with the idea that it was an extension of the assertion of Congressional powers, similar to the War Powers bill, and would give the House committee some of the action the Senate holds on treaty ratification.

The Republican cosponsors were: Biester (Pa), Burke (Fla), duPont (Del) Findley (Ohio), Guyer (Ohio) and Whalen (Ohio). They were stirred up by recent statements dealing with the recognition of Cuba and the possibility of giving the Panama Canal to Panama.

State Department representatives and I met with Rep. Bill Broomfield (R-Mich), ranking Republican member of Foreign Affairs, yesterday and warned him of the dangers and indeed, the possible unconstitutionality of the bill. Senator Ervin got a similar measure through the Senate last year. The fact that it is starting in the House with bipartisan sponsorship makes it more dangerous this year, particularly since some Members feel the executive agreements power has been abused.

I called Reps. Guyer, Findley and Burke, but the bill already had been introduced. They had not really focused on it and had been taken in by the staff man. Guyer went so far as to have his name removed from the bill and Burke indicated he would try. Findley is receptive

to amendments making it acceptable to the Administration (perhaps a sense-of-Congress resolution?). State's strategy is to try to delay hearings in Zablocki's subcommittee until the Secretary returns and can explain ramifications to Zablocki, Findley, et al.

Committee on Foreign Affairs

February 13, 1975

MEMORANDUM

TO: Representatives Zablocki, Hays, Fountain, Fascell, Nix, Fraser, Bingham, Wilson, Broomfield, Findley, du Pont and Biester

FROM: The Honorable Thomas E. Morgan, Chairman

SUBJECT: Co-sponsorship of an Executive Agreements Bill

One of the major pieces of legislation of the 94th Congress in the foreign affairs area is likely to be a bill requiring the executive branch to submit so-called executive agreements to Congress for its approval. (See attached Christian Science Monitor article). Several bills on the subject have already been introduced in the House and Senate this year. These bills are either identical to, or slightly altered versions of, the Ervin bill, S 3830, which the Senate passed in December but which subsequently was referred to the Rules Committee in the House where it died.

Together with our colleague the Honorable Clement J. Zablocki, I intend to introduce, as soon as possible, an executive agreements bill which would be a distinctive Foreign Affairs Committee offering on the subject. We would like to have as co-sponsors, those Committee members who co-sponsored the War Powers Resolution. The bill is attached for your consideration.

This bill differs from the Ervin bill and others on the subject by employing a selective rather than all-inclusive approach and seeking to reach only those executive agreements which concern significant national commitments. As defined in Section 5 of the bill this would include agreements regarding U.S. military bases abroad, intervention or use of U.S. troops abroad, and military, security, economic, or financial assistance.

Please note that unlike War Powers this bill does not reach to the actual use of U.S. troops or other actual assistance but only to executive agreements concerning the same. Also there is a disclaimer in paragraph 4 to provide explicitly that the provisions of the War Powers Resolution prevail in any situation where both laws might be interpreted to pertain.

If you would like to co-sponsor this bill, please have your secretary call Jim Schollaert of the Committee staff at your earliest convenience. He will also be glad to discuss or answer any questions regarding the provisions of the bill.

Enclosures

94th CONGRESS
SESSION

H.R.

IN THE HOUSE OF REPRESENTATIVES

Mr. introduced the following bill; which was referred to the Committee on

A BILL

To provide for congressional review of international executive agreements which create a national commitment

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Executive Agreements Review Act of 1975".

Section 2. The Congress finds that its foreign affairs power to share in the making of important international agreements, as provided by the Constitution, has been abridged through the Executive Branch practice of using, in place of treaties or other Congressionally approved agreements, so-called executive agreements which are not submitted to Congress for approval. It is the purpose of this Act to reassert this foreign affairs power of the Congress by requiring the Executive Branch to submit each executive agreement concerning the establishment, renewal, continuance or revision of a national commitment, as hereinafter defined, to the Congress for review.

Section 3 (a). Each executive agreement entered into after the date of enactment of this Act, concerning the establishment, renewal, continuance or revision of a national commitment shall be transmitted

Cong
voting rights file (?)
legislation

THE WHITE HOUSE
WASHINGTON

Ken: This meeting was cancelled and has not been rescheduled (talked to Rich Parsons. Our involvement in the future will be covered in meeting we will have with Hill & Rod in the future.

THE WHITE HOUSE

WASHINGTON

April 16, 1975

MEMORANDUM FOR: PHIL BUCHEN

FROM: KEN LAZARUS

SUBJECT: H.R. 1686: Federal Voter Registration bill.

As you may know, the President is scheduled to meet at 5 p.m. today with a group of Congressmen, the Attorney General and Dick Parsons on the referenced bill.

H.R. 1686 would establish a Voter Registration Administration to operate a voter registration program for all federal elections. The effect of the measure would be to provide federal oversight of state registration processes in an effort to prevent fraudulent registrations. Although the bill goes to great lengths to avoid the establishment of federal voter qualifications, it nonetheless does present an issue of constitutional dimension.

Article 1, Sec. 2, cl. 1 of the Constitution vests in the states the responsibility, now limited, to establish voter qualifications for congressional elections. However, judicial doctrine has held that the right to vote for members of Congress is derived from the federal Constitution and that Congress therefore may legislate under Art. 1, Sec. 4, cl. 1 to protect the integrity of this right but it cannot provide different voter qualifications than those provided by the states.

In view of the fact that this meeting will involve the discussion of a distinctly legal issue, you may want to give some consideration to having a member of our office in attendance.

94TH CONGRESS
1ST SESSION

H. R. 1686

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1975

Mr. HAYS of Ohio introduced the following bill; which was referred to the Committee on House Administration

A BILL

To establish a Voter Registration Administration within the General Accounting Office for the purpose of administering a voter registration program through the Postal Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voter Registration Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "Administration" means the Voter Registration Administration;

(2) the term "State" means each State of the United States, the political subdivisions of each State,

the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia;

(3) the term "Federal office" means the office of the President, the Vice President, an elector for President and Vice President, a Senator, a Representative, or a Delegate to the Congress;

(4) the term "Federal election" means any biennial or quadrennial primary or general election and any special election held for the purpose of nominating or electing candidates for any Federal office, including any election held for the purpose of expressing voter preference for the nomination of individuals for election to the office of President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates to such a convention;

(5) the term "State election" means any election other than a Federal election; and

(6) the term "State official" means any individual who acts as an official or agent of a government of a State or political subdivision thereof to register qualified electors, or to conduct or supervise any Federal election in a State.

ESTABLISHMENT OF ADMINISTRATION

SEC. 3. (a) There is established within the General Accounting Office the Voter Registration Administration.

(b) The President shall appoint, by and with the advice and consent of the Senate, an Administrator and two Associate Administrators for terms of four years each, who may continue in office until a successor is qualified. An individual appointed to fill a vacancy shall serve the remainder of the term to which his predecessor was appointed. The Associate Administrators shall not be members of the same political party. The Administrator shall be the chief executive officer of the Administration.

DUTIES AND POWERS

SEC. 4. The Administration shall—

(1) establish and administer a voter registration program in accordance with this Act for all Federal elections;

(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning elections in the United States (but this publication shall not disclose any information which permits the identification of individual voters);

(3) provide assistance to State officials concerning voter registration-by-mail and election problems generally;

(4) obtain facilities and supplies and appoint and fix the pay of officers and employees, as may be necessary to permit the Administration to carry out its duties

and powers under this Act, and such officers and employees shall be in the competitive service under title 5, United States Code;

(5) appoint and fix the pay of experts and consultants for temporary services as authorized under section 3109 of title 5, United States Code;

(6) provide the Congress with such information as the Congress may from time to time request, and prepare and submit to the President and the Congress a report on its activities, and on voter registration and elections generally in the United States, immediately following each biennial general Federal election; and

(7) take such other action as it deems necessary and proper to carry out its duties and powers under this Act.

QUALIFICATIONS AND PROCEDURE

SEC. 5. (a) An individual who fulfills the requirements to be a qualified voter under State law and who is registered to vote under the provisions of this Act shall be entitled to vote in Federal elections in that State, except that each State shall provide for the registration or other means of qualification of all residents of such States who apply, not later than thirty days immediately prior to any Federal election, for registration or qualification to vote in such election.

(b) Whenever a Federal election is held in any State, the Administration may, upon the request of any State official, furnish officers and employees and such other assistance as the Administration and the State official may agree upon to assist State officials in the registration of individuals applying to register in that State under the provisions of this Act.

REGISTRATION FORMS

SEC. 6. (a) The Administration shall prepare voter registration forms in accordance with the provisions of this section.

(b) Printed registration forms shall be designed to provide a simple method of registering to vote by mail. Registration forms shall include matter as State law requires and as the Administration determines appropriate to ascertain the positive identification and voter qualifications of an individual applying to register under the provisions of this Act, to provide for the return delivery of the completed registration form to the appropriate State official, and to prevent fraudulent registration. Registration forms shall also include a statement of the penalties provided by law for attempting fraudulently to register to vote under the provisions of this Act.

(c) A registration notification form advising the applicant of the acceptance or rejection of his resignation shall be completed and promptly mailed by the State official to

the applicant. If any registration notification form is undeliverable as addressed, it shall not be forwarded to another address but shall be returned to the State official mailing the form. The possession of a registration notification form indicating that the individual is entitled to vote in an election shall be prima facie evidence that the individual is a qualified and registered elector entitled to vote in any such election but presentation of the form shall not be required to cast his ballot.

DISTRIBUTION OF REGISTRATION FORMS

SEC. 7. (a) The Administration is authorized to enter into agreements with the Postal Service, with departments and agencies of the Federal Government, and with State officials for the distribution of registration forms in accordance with the provisions of this section.

(b) Any agreement made between the Administration and the Postal Service shall provide for the preparation by the Administration of sufficient quantities of registration forms so that the Postal Service can deliver a sufficient quantity of registration forms to postal addresses and residences in the United States and for the preparation of an ample quantity of such forms for public distribution at any post office, postal substation, postal contract station, or on any rural or star route.

(c) The Postal Service shall distribute the registration forms to postal addresses and residences at least once every two years not earlier than one hundred and twenty days or later than sixty days prior to the close of registration for the next Federal election in each State.

(d) The Administration is authorized to enter into agreements with the Secretary of each Military Department of the Armed Forces of the United States for the distribution of registration forms at military installations.

(e) This section shall not be construed to place any time limit upon the general availability of registration forms in post offices and appropriate Federal, State, and local government offices pursuant to agreements made under this section.

PREVENTION OF FRAUDULENT REGISTRATION

SEC. 8. (a) In addition to taking any appropriate action under State law, whenever a State official has reason to believe that individuals who are not qualified electors are attempting to register to vote under the provisions of this Act, he shall notify the Administration and request its assistance to prevent fraudulent registration. The Administration shall give reasonable and expeditious assistance in such cases, and shall issue a report on its findings.

(b) (1) Whenever the Administration or a State official determines that there is a pattern of fraudulent registration,

attempted fraudulent registration, or any activity on the part of any individuals or groups of individuals to register individuals to vote who are not qualified electors, the Administration or a State official may request the Attorney General to bring action under this section. The Attorney General is authorized to bring a civil action in any appropriate district court of the United States or the United States District Court for the District of Columbia to secure an order to enjoin fraudulent registration, and any other appropriate order.

(2) The district court of the United States or the United States District Court of the District of Columbia shall have jurisdiction without regard to any amount in controversy of proceedings instituted pursuant to this section.

PENALTIES

SEC. 9. (a) Whoever knowingly or willfully gives false information as to his name, address, residence, age, or other information for the purposes of establishing his eligibility to register or vote under this Act, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts or offers to accept payment either for registration to vote or for voting, or registers to vote with the intention of voting more than once or votes more than once in the same Federal election shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(b) Any person who deprives, or attempts to deprive, any other person of any right under this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The provisions of section 1001 of title 18, United States Code, are applicable to the registration form prepared under section 6 of this Act.

FINANCIAL ASSISTANCE

SEC. 10. (a) The Administration shall determine the fair and reasonable cost of processing registration forms prescribed under this Act, and shall pay to each appropriate State an amount equal to such cost per card multiplied by the number of registration cards processed under this Act in that State.

(b) The Administration is authorized to pay any State which adopts the registration form and system prescribed by this Act as a form and system of registration to be a qualified and registered elector for State elections in that State. Payments made to a State under this subsection may not exceed 30 per centum of the amount paid that State under subsection (a) of this section for the most recent general Federal election in that State.

(c) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

REGULATIONS

SEC. 11. The Administration is authorized to issue rules and regulations for the administration of this chapter. Such regulations may exclude a State from the provisions of this chapter if that State does not require a qualified applicant to register prior to the date of a Federal election.

EFFECT ON OTHER LAWS

SEC. 12. (a) Notwithstanding any other provision of this Act, any State that adopts the Federal assistance post card form recommended by the Federal Voting Assistance Act of 1955 (50 U.S.C. 1451 et seq.) with respect to any category of its electors (1) shall, insofar as such electors are concerned, be deemed to be in full compliance with the provisions of section 6 of this Act and (2) shall be eligible to receive payments of financial assistance from the Administration, as provided in section 10 of this Act, on account of the simplified and greater voting opportunities thereby granted to such electors.

(b) Nothing in this Act shall be construed to prevent any State from granting less restrictive registration or voting practices or more expanded registration of voting opportunities than those prescribed by this Act.

(c) Nothing in this Act shall be construed to limit or repeal any provision of (1) section 202 of the Voting Rights Act Amendments of 1970 (42 U.S.C. 1973aa–1),

relating to expanded opportunities of registering to vote and voting for electors for President and Vice President; or (2) the Federal Voting Assistance Act of 1955 (50 U.S.C. 1451 et seq.).

AMENDMENTS TO TITLE 39, UNITED STATES CODE

SEC. 13. (a) Section 3202 (a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof:

"(6) mail relating to voter registration pursuant to sections 6 and 7 of the Voter Registration Act.".

(b) Section 3206 of title 39, United States Code, is amended by adding the following new subsection:

"(d) The Voter Registration Administration shall transfer to the Postal Service as postal revenues out of any appropriations made to the Administration for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (6) of section 3202 (a) of this title.".

(c) Section 404 of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(10) to enter into arrangements with the Voter Registration Administration of the General Accounting Office for the collection, delivery, and return delivery of voter registration forms.".

AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 14. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Administrator and Associate Administrators (2), Voter Registration Administration, General Accounting Office.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. There are authorized to be appropriated such sums, not to exceed $50,000,000, as may be necessary to carry out the provisions of this Act.

THE WHITE HOUSE

WASHINGTON

April 24, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: MAX L. FRIEDERSDORF

SUBJECT: Senate & House Bills on Viet Nam Aid (S 1484 and HR 6096)

	Senate		House
1.	$100 M for FY 1975 for humanitarian aid withdrawal purposes from South Viet Nam as President determines in national interest.	1.	$150 M for FY 1975 for humanitarian and evacuation assistance from South Viet Nam.
2.	$150 M for humanitarian assistance to refugees in South Viet Nam and Cambodia.	2.	No comparable provision.
3.	All relief funds controlled and administered by U.N. or other international agency.	3.	No comparable provision.
4.	Report to Congress every 90 days on assistance.	4.	No comparable provision.
5.	Provision to use U.S. forces to evacuate certain citizens and dependents.	5.	May use U.S. forces if necessary to evacuate U.S. citizens.
6.	Provision with limitation on numbers duration, and areas authorizing President to evacuate foreign nationals upon his determination and certification to Congress. Waives other limitation in the law.	6.	Vietnamese eligible for immigration or those whose lives are threatened may be evacuated.
7.	Requires Presidential report to Congress or use of forces as required by Sec. 4 (a) of War Powers Resolution.	7.	No comparable provision.

8.	Declares statutory authority given herein within meaning of War Power Sec. 8 (a).	8.	Declaration that act does not abrogate War Powers Resolution.