

PRIBILOF ISLANDS TRANSITION ACT

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APRIL 11, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3417]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3417) to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be referred to as the “Pribilof Islands Transition Act”.

**SEC. 2. PURPOSE.**

The purpose of this Act is to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska.

**SEC. 3. FINANCIAL ASSISTANCE FOR PRIBILOF ISLANDS UNDER FUR SEAL ACT OF 1966.**

Public Law 89-702, popularly known and referred to in this Act as the Fur Seal Act of 1966, is amended by amending section 206 (16 U.S.C. 1166) to read as follows:

**“SEC. 206. FINANCIAL ASSISTANCE.**

“(a) GRANT AUTHORITY.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any city government, village corporation, or tribal council of St. George, Alaska, or St. Paul, Alaska.

“(2) USE FOR MATCHING.—Notwithstanding any other provision of law relating to matching funds, funds provided by the Secretary as assistance under this subsection may be used by the entity as non-Federal matching funds under any Federal program that requires such matching funds.

“(3) RESTRICTION ON USE.—The Secretary may not use or withhold financial assistance authorized by this Act—

“(A) to settle any debt owed to the United States;

“(B) for administrative or overhead expenses; or

“(C) for contributions authorized under section 5(b)(3)(C) of the Pribilof Islands Transition Act.

“(4) FUNDING INSTRUMENTS AND PROCEDURES.—In providing assistance under this subsection the Secretary shall use funding instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), so as to foster maximum flexibility in the local administration of such assistance.

“(5) PRO RATA DISTRIBUTION OF ASSISTANCE.—In any fiscal year for which less than all of the funds authorized under subsection (c)(1) are appropriated, such funds shall be distributed under this subsection on a pro rata basis among the entities referred to in subsection (c)(1) in the same proportions in which amounts are authorized by that subsection for grants to those entities.

“(b) SOLID WASTE ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide assistance to the State of Alaska for designing, locating, constructing, redeveloping, permitting, or certifying solid waste management facilities on the Pribilof Islands necessitated by the National Oceanic and Atmospheric Administration’s administration of the islands under the Fur Seal Act of 1966 to be operated under a permit issued by the State of Alaska under section 46.03.100 of the Alaska Statutes.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

“(1) for assistance under subsection (a)—

“(A) \$9,000,000, for grants to the city of St. Paul;

“(B) \$6,300,000, for grants to the Tanadgusix Corporation;

“(C) \$1,500,000, for grants to the St. Paul Tribal Council;

“(D) \$6,000,000, for grants to the city of St. George;

“(E) \$4,200,000, for grants to the St. George Tanaq Corporation; and

“(F) \$1,000,000, for grants to the St. George Tribal Council; and

“(2) for assistance under subsection (b), such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.

“(d) LIMITATION ON USE OF ASSISTANCE FOR LOBBYING ACTIVITIES.—None of the funds authorized by this section may be available for any activity a purpose of which is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments, agencies, or commissions from communicating to Members of Congress, through proper channels, requests for legislation or appropriations that they consider it necessary for the efficient conduct of public business.

“(e) IMMUNITY FROM LIABILITY.—The Department of Commerce and the National Oceanic and Atmospheric Administration shall not have any liability under this Act associated with or resulting from the designing, locating, contracting for, redeveloping, permitting, certifying, operating, or maintaining any solid waste management facility on the Pribilof Islands as a consequence of having provided assistance to the State of Alaska under subsection (b).”.

#### SEC. 4. DISPOSAL OF PROPERTY.

Section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165) is amended—

(1) by amending subsection (c) to read as follows:

“(c) Not later than 3 months after the date of enactment of the Pribilof Islands Transition Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that includes—

“(1) a description of all property specified in the document referred to in subsection (a) that has been conveyed under that subsection;

“(2) a description of all Federal property specified in the document referred to in subsection (a) that is going to be conveyed under that subsection; and

“(3) an identification of all Federal property on the Pribilof Islands that will be retained by the Federal Government to meet its responsibilities under this Act, the Convention, and any other applicable law.”; and

(2) by striking subsection (g).

**SEC. 5. TERMINATION OF RESPONSIBILITIES.**

(a) **FUTURE OBLIGATION.**—

(1) **IN GENERAL.**—The Secretary of Commerce shall not be considered to have any obligation to promote or otherwise provide for the development of any form of an economy not dependent on sealing on the Pribilof Islands, Alaska, including any obligation under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note).

(2) **SAVINGS.**—This subsection shall not affect any cause of action under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note)—

(A) that arose before the date of the enactment of this Act; and

(B) for which a judicial action is filed before the expiration of the 5-year period beginning on the date of the enactment of this Act.

(3) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to imply that—

(A) any obligation to promote or otherwise provide for the development in the Pribilof Islands of any form of an economy not dependent on sealing was or was not established by section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166), section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note), or any other provision of law; or

(B) any cause of action could or could not arise with respect to such an obligation.

(4) **CONFORMING AMENDMENT.**—Section 3(c)(1) of Public Law 104–91 (16 U.S.C. 1165 note) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) in order as subparagraphs (A) through (C).

(b) **PROPERTY CONVEYANCE AND CLEANUP.**—

(1) **IN GENERAL.**—Subject to paragraph (2), there are terminated all obligations of the Secretary of Commerce and the United States to—

(A) convey property under section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165); and

(B) carry out cleanup activities, including assessment, response, remediation, and monitoring, related to National Oceanic and Atmospheric Administration administration of the Pribilof Islands, Alaska, under section 3 of Public Law 104–91 (16 U.S.C. 1165 note) and the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996.

(2) **APPLICATION.**—Paragraph (1) shall apply on and after the date on which—

(A) the State of Alaska determines that all responsibilities of the Secretary, the Department of Commerce, and the United States under the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996, have been fulfilled;

(B) the Secretary of Commerce has completed the cleanup required under section 3(a) of Public Law 104–91 (16 U.S.C. 1165 note);

(C) the Secretary of Commerce determines that the properties specified in the document referred to in subsection (a) of section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165(a)), as amended by this Act, can be unconditionally offered for conveyance under that section; and

(D) the Secretary of Commerce determines that all amounts authorized under section 206(c)(1) of the Fur Seal Act of 1966, as amended by this Act, have been appropriated and obligated.

(3) **LIMITATION ON SEEKING CONTRIBUTIONS.**—(A) After subsection (c) becomes effective and except as provided in subparagraph (C), no Federal agency or department shall seek financial contributions from any Natives of the Pribilof Islands for costs or fees incurred by the Secretary of Commerce for actions taken pursuant to—

(i) the Pribilof Islands Environmental Restoration Agreement between the Secretary and the State of Alaska Department of Environmental Conservation; or

(ii) section 3(a) of Public Law 104–91 (16 U.S.C. 1165 note).

(B) Subparagraph (A) applies only to the following actions:

(i) The cleanup of any wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum

products and their derivatives, left by the National Oceanic and Atmospheric Administration or any other Federal agency or department prior to the date of enactment of this Act on lands that it or its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.) or other applicable law.

(ii) The closure of solid waste management facilities or the designing, locating, contracting for, redeveloping, permitting, or certifying of any solid waste management facility on the Pribilof Islands.

(C) After subsection (c) becomes effective, the Secretary of Commerce may seek contribution from the responsible Natives of the Pribilof Islands for costs or fees incurred to cleanup any wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by such Natives of the Pribilof Islands after the date of enactment of this Act on lands, except for landfills or solid waste management facilities, that the National Oceanic and Atmospheric Administration or its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.) or other applicable law.

(4) CERTAIN RESERVED RIGHTS NOT CONDITIONS.—For purposes of paragraph (2)(C), the following requirements shall not be considered to be conditions on conveyance of property:

(A) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration continued access to the property to conduct environmental monitoring following remediation activities.

(B) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration access to the property to continue the operation, and eventual closure, of treatment facilities.

(C) Any requirement that a potential transferee must comply with institutional controls to ensure that an environmental cleanup remains protective of human health or the environment that do not unreasonably affect the use of the property.

(D) Valid existing rights in the property, including rights granted by contract, permit, right-of-way, or easement.

(E) The terms of the documents described in subsection (d)(2).

(c) REPEALS.—Effective on the date described in subsection (b)(2), the following provisions are repealed:

(1) Section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165).

(2) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note).

(d) SAVINGS.—

(1) IN GENERAL.—Nothing in this Act shall affect any obligation of the Secretary of Commerce, or of any Federal department or agency, under or with respect to any document described in paragraph (2) or with respect to any lands subject to such a document.

(2) DOCUMENTS DESCRIBED.—The documents referred to in paragraph (1) are the following:

(A) The Transfer of Property on the Pribilof Islands: Description, Terms, and Conditions, dated February 10, 1984, between the Secretary of Commerce and various Pribilof Island entities.

(B) The Settlement Agreement between Tanadgusix Corporation and the city of St. Paul, dated January 11, 1988, and approved by the Secretary of Commerce on February 23, 1988.

(C) The Memorandum of Understanding between Tanadgusix Corporation, Tanaq Corporation, and the Secretary of Commerce, dated December 22, 1976.

(e) DEFINITIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section.

(2) NATIVES OF THE PRIBILOF ISLANDS.—For purposes of this section, the term “Natives of the Pribilof Islands” includes the Tanadgusix Corporation, the St. George Tanaq Corporation, and the city governments and tribal councils of St. Paul and St. George, Alaska.

#### SEC. 6. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) Public Law 104–91 and the Fur Seal Act of 1966 are amended by—

- (1) striking the heading for subsection (d) of section 3 of Public Law 104–91; and
  - (2) moving and redesignating such subsection so to appear as section 212 of the Fur Seal Act of 1966.
- (b) Section 201 of the Fur Seal Act of 1966 (16 U.S.C. 1161) is amended by striking “on such Islands” and insert “on such property”.
- (c) The Fur Seal Act of 1966 is amended by inserting before title I the following:

**“SECTION 1. SHORT TITLE.**

This Act may be cited as the ‘Fur Seal Act of 1966’.”.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

Section 3 of Public Law 104–91 (16 U.S.C. 1165 note) is amended—

- (1) in subsection (f) by striking “1996, 1997, and 1998” and inserting “2001, 2002, and 2003”; and
- (2) by adding at the end the following:

**“(g) LOW INTEREST LOAN PROGRAM.—**

**“(1) CAPITALIZATION OF REVOLVING FUND.—**Of amounts authorized under subsection (f) for each of fiscal years 2001, 2002, and 2003, the Secretary may provide to the State of Alaska up to \$2,000,000 per fiscal year to establish and capitalize a revolving fund to be used by the State for loans under this subsection.

**“(2) LOW INTEREST LOANS.—**The Secretary shall require that any revolving fund established with amounts provided under this subsection shall be used only to provide low interest loans to Natives of the Pribilof Islands to assess, respond, remediate, and monitor contamination from lead paint, asbestos, and petroleum from underground storage tanks that resulted from National Oceanic and Atmospheric Administration of the Pribilof Islands under the Fur Seal Act of 1966.

**“(3) NATIVES OF THE PRIBILOF ISLANDS DEFINED.—**The definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section, except that the term ‘Natives of the Pribilof Islands’ shall include the Tanadgusix and Tanaq Corporations.”.

**PURPOSE OF THE BILL**

The purpose of H.R. 3417 is to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska.

**BACKGROUND AND NEED FOR LEGISLATION**

**HISTORY OF THE PRIBILOF ISLANDS**

The Pribilof Islands, St. Paul and St. George, are located in the Bering Sea 800 miles west-southwest of Anchorage, Alaska. The islands are the breeding grounds of the North Pacific fur seal. Each island contains about 44 square miles of land. Roughly 780 people live on St. Paul, and 120 reside on St. George.

The islands were discovered in 1786 by Russian explorers who were searching for the fur seal breeding grounds. To exploit the fur seals for their pelts, the Russians relocated and enslaved Aleuts from the Aleutian Islands to the Pribilof Islands. These Native Alaskans were experienced seal hunters, and the pelts they harvested were tremendously valuable in China, Russia, and Europe.

When the federal government acquired Alaska in 1867, that purchase included the Pribilof Islands. In 1868, the Islands were declared to be a special Federal Reserve for the purpose of managing fur seals and other fur-bearing species. The federal government contracted with private firms for the harvest of fur seals and the Aleuts continued to conduct the harvests as employees of these firms. It is estimated that the federal government’s portion of the profit from the fur seal trade paid for the purchase price of Alaska in roughly 20 years.

By 1890, the fur seal population was in decline and when the last private contract ended in 1909, it was estimated that only 300,000 fur seals remained worldwide. In 1910, Congress passed "An Act to protect the seal fisheries of Alaska, and for other purposes." The 1910 Act vested the authority to manage and protect fur seals in the Secretary of Commerce and Labor, and prohibited anyone other than an officer, agent or employee of the federal government from killing seals. The Act further required that Pribilovians were to be employed in the seal harvest and to receive fair compensation for their labor. To administer the fur seal management program, the Secretary was given "the authority to furnish food, shelter, fuel, clothing and other necessities of life to the native inhabitants of the Pribilof Islands and to provide for their comfort, maintenance, education and protection."

Minor amendments were made to the Act in 1912 to give effect to the Fur Seal Treaty of July 7, 1911, between the United States, Great Britain, Japan and Russia. In 1944, the Act was repealed and replaced with the Fur Seal Act of February 26, 1944. This measure gave control of the fur seals and other fisheries resources in Alaska to the Secretary of the Interior acting through the Bureau of Commercial Fisheries (BCF). The Fur Seal Act of 1944 was a result of Japan's abrogation of the Fur Seal Treaty at the outbreak of World War II, and a new fur seal conservation measure that was reached with Canada in 1942. After the Japanese attack on Dutch Harbor, Alaska, in 1942, the residents of the Pribilofs and other Aleuts were interned by the United States Government for the remainder of the war.

In 1949, the Secretary of the Interior conducted a study of the living conditions on the Pribilofs and in other Native communities around the Bering Sea. As a result, a job classification and wage-based compensation system was established for Pribilovian federal employees. Nonetheless, food, housing, health, and education costs were still paid by the government. The study also recommended that the St. Paul community receive a charter, constitution and by-laws under the 1934 Indian Reorganization Act (IRA). The St. Paul charter was established in 1950. In 1951, the St. Paul IRA council filed a claim for native land rights and compensation for past injustices. The land rights were ultimately resolved by the Alaska Native Claims Settlement Act (ANCSA) in 1971. The claim for past injustices was ultimately brought under the Fair and Honorable Dealings Act and was settled in 1976. In 1988, the Pribilovians and other Aleuts who were interned in World War II received additional compensation as part of the legislation that compensated Japanese American internees.

In 1957, the United States, Japan, the Soviet Union and Canada entered into a new international agreement to protect fur seals, the Interim North Pacific Fur Seal Convention. It established a Fur Seal Commission to coordinate research and management of the fur seal resource. In 1959, the BCF announced that sealing would become a seasonal activity and recommended that the Pribilovians be relocated and given job training.

Local opposition scuttled efforts to relocate the Island residents, and Interior then encouraged voluntary relocation of St. George residents to St. Paul. No new homes were built on St. George and

vacant homes were destroyed. After Congressional hearings in 1965, the relocation policy was abandoned.

In 1963, the BCF issued a report entitled, Program for Administration of the Pribilof Island Federal Reservation Embracing Management of the Fur Seal Resources and Development of the Resident Aleut Inhabitants. As a result of work that went into preparing the report, the BCF began applying the Federal Civil Service wage scale on the Islands in 1962. As a result, rent and food subsidies were reduced, but the federal government continued to provide municipal and social services.

#### FUR SEAL ACT OF 1966

In 1965, the Senate Commerce Committee held hearings on the role of the federal government on the Pribilof Islands. As a result of those hearings, Congress adopted the Fur Seal Act of 1966 (Public Law 89-702, codified at 16 U.S.C. 1151 et seq.). Title I of that Act conformed fur seal management policies to the 1957 Convention, as amended. Title II dealt with the management of the Islands' municipal affairs. The Act directed the Secretary to convey a town site, subject to payment, on St. Paul once it was determined that a self-governing community existed there. No municipal government was chartered until 1971 when St. Paul became a fourth-class Alaskan city. St. George became a second-class Alaskan city in 1983.

St. Paul and St. George both established village corporations under ANCSA. St. Paul residents established the Tanadgusix Corporation (TDX) and St. George established the Tanaq Corporation. In 1976, NOAA entered into a Memorandum of Understanding with TDX and Tanaq which identified the tracts of property the government intended to retain. Under Section 3(e) of ANCSA, the government was directed to retain the "smallest practicable tracts enclosing land actually used in connection with the administration of a Federal installation." However, ANCSA conveyed to the Native corporations rights to the core township lands on which each village was located. This established a conflict between the 1966 Fur Seal Act and ANCSA. However, given the choice of buying their land or having it conveyed at no cost under ANCSA, the St. Paul residents voted to receive land under ANCSA, and the Department of the Interior ruled that ANCSA preempted the earlier law. By 1983, each Island was home to an IRA tribal council, a municipal government, and a village corporation. TDX received the right to select 138,240 acres of land in the Aleutians, on the Alaska Peninsula and on St. Paul. Ultimately, 113,000 acres have been conveyed to TDX. Tanaq received an entitlement of 115,200 acres, of which 106,000 acres were ultimately conveyed.

In 1970, the BCF became part of the newly formed National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce. Within NOAA, responsibility for marine mammal management was delegated to the National Marine Fisheries Service.

Upon the recommendation of the Fur Seal Commission in 1973, St. George was set aside as a reserve and no further sealing was conducted on the island. The Commission wanted to compare a fur

seal population which faced hunting pressure with one that did not.

#### FEDERAL TRANSFER PLAN

By 1983, the fur seal harvest had diminished, but federal expenditures on the Islands had risen to \$6.3 million annually. NOAA estimates that 95 percent of those expenditures were for municipal and social services. NOAA proposed a scheme to transfer municipal operations on the Islands to local control, and end the federal subsidy. NOAA Administrator Anthony J. Calio best laid out this plan in a November 1, 1982, letter to all Island residents. This letter states:

To ensure a smooth transition and to foster development of a new and expanded economic base, [NOAA] propose[s] to provide a one-time payment of \$20 million, to be placed in trust, which will provide you with the resources necessary for general community expenses during the interim period, as well as working capital so badly needed for economic development \* \* \*. As you know, harbor facilities will be vital to the success of your efforts to establish a viable economic base. In order for our proposal to be successful, we must have assurance of State of Alaska support for these harbor facilities. The proposed \$20 million fund is contingent on a firm State commitment \* \* \*. The National Marine Fisheries Service has substantial property holdings on the Islands. [NOAA] propose[s] to transfer this property, with a few exceptions, \* \* \* to the Islands. In the future, community and municipal services will be provided by Island organizations, and this property, which includes land, buildings, equipment and supplies, is vital to the provision of such services. Under [the NOAA] proposal, the Islands would be responsible for conducting the annual seal harvest and for the associated marketing of the seal skins. To assure the long-term success of this effort, we will provide all resources needed to conduct the 1983 harvest. Commencing in 1983 all [U.S. shares of] skins, seals and byproducts \* \* \* will belong to the Islanders and when sold should provide you with the resources needed to successfully conduct future harvests \* \* \*. The phaseout of the Pribilof Islands Program will significantly reduce associated Federal jobs. We would expect some of these jobs would naturally transfer to the Island-operated seal harvest and marketing and for the provision of Island services. During the harbor facility construction period, we can foresee many employment opportunities and once the fishing or other industries come on line, job possibilities should expand significantly.

A Memorandum of Intent signed by Calio and Island leaders was also included with this letter. This memorandum states: "The parties hereto recognize the State of Alaska's appropriation of the monies necessary to construct boat harbors on St. Paul and St. George Islands \* \* \* is an indispensable contribution to achieving the goal of self-sufficiency on the Pribilof Islands."



Administrator Calio also described this plan in May 19, 1983, testimony before the Merchant Marine and Fisheries Committee on H.R. 2840, an Administration-drafted bill to provide for the orderly termination of federal management of the Pribilof Islands. He stated the NOAA proposal which was reflected in the bill would, "create a \$20 million fund to replace annual Federal appropriations which, when combined with a state initiative to construct harbors on both islands, would give the Pribilovians the resources needed to make the transition to a self-sustaining economy; to transfer most real and personal property owned by the Federal Government to the islanders; to transfer responsibility for the fur seal harvest to the islanders; and to help the islanders get job training." Later in that testimony he again reiterated the importance of harbor construction to the success of this scheme, when he said, "The transfer of Federal property on the islands and the appropriation of the \$20 million, in concert with State contributions for the construction of harbors on each island, will give the Pribilovians the unique opportunity to develop a diversified and enduring economy."

The State of Alaska also testified at that hearing. The State witness made clear that, though the Governor had requested \$10.4 million for harbor construction, those funds had not been approved and might not be sufficient to complete the harbor projects even if approved. The State also noted that:

given the checkered history of the Federal Government's relationship to the Pribilovians, there is a moral if not legal obligation that should not be overlooked \* \* \* [W]e perceive the conception that the State of Alaska will simply fill the void created by the Federal Government's abrupt departure. We can make no such commitment \* \* \* [T]he economic, social and infrastructure requirements of the Pribilofs are immense \* \* \* [T]he Federal Government must be willing to upgrade existing facilities to minimum State health and safety standards.

On October 14, 1983, the Fur Seal Act Amendments of 1983 (Public Law 98-129) were enacted based on NOAA's proposed plan.

The 1983 Fur Seal Act Amendments required NOAA to appoint a trustee; enter into a Transfer of Property Agreement (TOPA) with the local entities; continue to administer retirement benefits; and continue to manage the seal rookeries according to the Fur Seal Convention. The trust fund agreement was signed on November 21, 1983. As requested by the people of St. George, the fund was divided into two separate parts, with the fund for St. Paul being established on March 14, 1984, and that for St. George being established on March 27, 1984. According to a formula determined by the Secretary of Commerce, the monies were divided into \$12 million for St. Paul and \$8 million for St. George. Because a portion of the trust fund monies had to be diverted from its intended purpose to pay for harbor development, St. Paul received a supplemental trust fund appropriation of \$3 million, and St. George received an additional \$3.7 million. Under the 1983 amendments, the State assumed responsibility for public education on the Islands and the Secretary of Health and Human Services was given responsibility for providing medical and dental services.

### *A. Harbor construction*

By 1986, St. Paul had a 750-foot breakwater and a 200-foot dock. This development used a significant amount of the \$7 million appropriated by the State. Unfortunately, these structures were badly damaged during storms. Additional funds were needed to develop a usable harbor. Therefore, St. Paul applied to the Army Corps of Engineers to construct a larger harbor, breakwater and dock. The dimensions were established in a 1979 Corps study, which also called for a channel to be dredged down to 23 feet below mean low water. The City of St. Paul's request was approved in 1988 under the Water Resources Development Act. The federal government provided over \$19.6 million for the project in 1989. State and local funds were used to pay the cost of items of local cooperation. In 1996, Congress authorized an additional \$18.9 million in harbor improvements. Today the harbor is functioning, and several crab processing facilities are located there. Unfortunately, a collapse of the opilio Tanner crab fishery led to a 75 percent reduction in processing in 2000, and will likely lead to a total closure of the fishery in 2001.

As for St. George, in 1984, the Island gained State approval and initial funding to construct a harbor, but the State funding was ultimately reduced from \$3 million to \$1 million. The Army Corps of Engineers provided \$4 million in dredging assistance in 1988, and an additional \$3 million in 1993. Despite these expenditures, and significant expenditures by the City, the St. George harbor project remains incomplete. The City also owes the Army Corps of Engineers \$1.1 million to reimburse cost overruns.

### *B. Property transfers and clean up*

Pursuant to Section 205 of the 1983 Fur Seal Act Amendments, NOAA entered into a Transfer of Property Agreement with the municipal governments, village corporations and tribal councils on the Islands and the State of Alaska to receive a portion of the property that was originally scheduled to be retained by NOAA. This agreement has withstood a court challenge, and most of the property has been transferred.

Residents of the Pribilofs and the State of Alaska have been working with NOAA to resolve concerns over the cleanup of contaminated federal property that has been or is scheduled to be transferred. NOAA and the State of Alaska signed the Pribilof Islands Environmental Restoration Agreement (Two Party Agreement). However, the Pribilovians continue to have concerns about the scope and timeliness of cleanup efforts. The State also raised concerns about the pace of the cleanup. In the first half of 1999, the State found NOAA in violation of the Two Party Agreement. To remedy those deficiencies, NOAA transferred responsibility for the cleanup effort to its Office of Response and Restoration. By the end of 1999, the State determined that NOAA was again in compliance with the Agreement.

Between 1993 and 1995, extensive discussions were undertaken between Alaska's Congressional representatives, representatives of the Pribilof Island entities, and NOAA. The Pribilovians maintained that the 1983 transition process had failed and that NOAA was not making sufficient efforts to resolve environmental pollution

problems related to the federal government's reign on the Islands. NOAA maintained it had met all its applicable legal responsibilities.

To clarify NOAA's legal responsibilities and determine the full scope of the Pribilovians concerns, Congress enacted Section 3 of Public Law 104-91 in 1996. Section 3 requires NOAA to remedy environmental contamination on property that it has or will transfer, prohibits any effort to require a financial contribution toward that cleanup from the Islands' residents, and directs the use of local entities in the cleanup wherever practicable. It also directs NOAA to submit a report to Congress proposing necessary actions to resolve all claims and permit final implementation of Title II of the Fur Seal Act, land conveyances on the Pribilofs, and the cleanup provisions contained in Section 3. As part of the report, NOAA was required to include any statements of claims or recommendations submitted by the Pribilovians. These claims were submitted and the Department of Commerce submitted its report to Congress in March 1997.

Claims were filed on:

(1) the failure of NOAA to develop an adequate private economy on the Islands. The provisions of the 1983 Fur Seal Amendments state that the trust funds were established "to promote the development of a stable, self-sufficient enduring and diversified economy not dependent on sealing." NOAA denies any ongoing obligation to promote economic development on the Islands, to repair houses that were transferred under ANCSA or the 1983 Fur Seal Act Amendment, or to pay the cost of providing municipal infrastructure that was adequate to meet the Islands' needs and meet code standards;

(2) the failure of the transition to a private economy. The Pribilovians maintain that the federal government failed to build the harbors, eliminated fur seal harvests, and failed to administer the transition properly. NOAA maintains that it met its obligations under the 1983 Fur Seal Act Amendments;

(3) the distribution of real property. The courts are now reviewing the 1983 TOPA;

(4) the use, adequacy and purpose of the trust. NOAA maintains it has carried out its obligations under the 1983 Fur Seal Act Amendments;

(5) the distribution of access to fishery resources in Bering Sea. Fishery resources are managed under the Magnuson-Stevens Fishery Conservation and Management Act, and are beyond the scope of the report requested by Congress;

(6) the subsistence fur seal harvest and the continued management of fur seal rookeries. NOAA is concerned about the impact of economic development on fur seal populations, and maintains that the subsistence harvest is being implemented fairly in accordance with the 1983 Fur Seal Act Amendments;

(7) federal retirement benefits. NOAA is continuing to educate the Pribilovians on the federal retirement program as it applies to workers on the Pribilofs, and to resolve individual problems on a case-by-case basis; and

(8) environmental cleanup. Pribilof residents maintain that NOAA has extensive cleanup responsibilities under Section 3 of

Public Law 104–91 that are not being met. NOAA maintains that it is working to complete cleanup under the Two Party Agreement, and is taking necessary environmental compliance actions on the property it intends to retain.

H.R. 3417

As required under the 1983 Fur Seal Act Amendments, the federal government did create and fund the \$20 million Trust Fund, but the State of Alaska did not commit to fund construction of harbors on the Islands beyond monies already included in the State budget. Real and personal property has been transferred by the federal government, but the municipalities maintain that it failed to meet the Islands' public infrastructure needs. In 1984, the Senate failed to extend the Fur Seal Treaty, thus ending fur seal harvests. In other words, three of the four elements of the transfer plan failed—the harbors were not built in a timely fashion, the infrastructure needed to conduct municipal business was inadequate and no income was available from fur sealing. Without the other components in place, the \$20 million Trust Fund was used for harbor construction, infrastructure repair and replacement, and social needs. This delayed the development of a self-sufficient economy on the Islands.

It is clear that the failure to construct harbors on the Islands in a timely manner meant failure of the transition scheme laid out by NOAA and adopted by Congress in 1983. To make good on the 1983 commitments, H.R. 3417 provides additional resources to the Pribilovians. The bill also sets out the terms under which NOAA will terminate its non-fur seal management responsibilities on the islands.

In an effort to foster the independence of the Pribilof communities from federal agency oversight, the Committee has chosen not to specify how this assistance is to be used. However, the Committee urges the entities that receive assistance under this bill to review their current financial situations and develop realistic long range plans. If the funds are used to meet daily expenses rather than to make long-term investments, it would not be in the best interest of Island residents. The Committee urges the entities to work together to leverage the greatest possible benefit from the funds provided.

SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

The short title of this Act is the Pribilof Islands Transition Act.

*Section 2. Purpose*

The purpose of this Act is to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration (NOAA) from the civil administration of the Pribilof Islands, Alaska.

*Section 3. Financial assistance for Pribilof Islands under Fur Seal Act of 1966*

Section 3 amends the Fur Seal Act and authorizes several types of economic assistance for the Pribilof Islands. The Secretary of

Commerce is authorized to provide assistance to local entities on the Pribilof Islands, including city governments, village corporations, and tribal councils (the entities). This section restricts the use of the funds by the Secretary for debt settlement, administrative or overhead expenses, or for contributions to federal agencies. In addition, this section directs the Secretary to use funding instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act.

This section authorizes \$28 million for grants to the tribal council, village corporation, and city government on each Island. The grants will be distributed each fiscal year in the same proportions in which the amounts are authorized for the entities. Grants received under this section may be used as non-federal matching funds for other federal programs that require such funds; however, this section specifically prohibits lobbying activities with any of the funds provided under H.R. 3417.

This section also authorizes the Secretary to provide assistance to the State of Alaska to open or redevelop solid waste disposal facilities on the Islands. This section authorizes such sums as are necessary for each of Fiscal Years 2001, 2002 and 2003 to allow the Secretary to provide assistance to the State of Alaska to build, design, site or redevelop solid waste management facilities on the Islands. This section also provides NOAA with immunity from liability associated with or resulting from providing assistance to the State of Alaska for solid waste management facilities.

#### *Section 4. Disposal of property*

Section 4 amends Section 205 of the Fur Seal Act of 1966 to require the Secretary to submit a report to Congress within three months of enactment that describes the status of property that was to have been transferred from federal ownership to local control under a variety of agreements and laws, and identifies all properties that will be retained by the federal government. This section also strikes a subsection of the Fur Seal Act that previously required a report to be submitted to Congress.

#### *Section 5. Termination of responsibilities*

Section 5 terminates any future federal government responsibility to provide economic development assistance, above and beyond what is expected for other communities throughout the United States, to the Pribilof Islands entities, with the exception of previously identified causes of action. Section 5 also terminates the federal government's responsibilities to remediate contamination of properties that are transferred to the local entities on the Pribilof Islands. The termination of the federal government's responsibilities occurs on the date that the federal government meets its responsibility for environmental cleanup under the Two Party Agreement and Section 3(a) of Public Law 104-91, all properties can be unconditionally offered for transfer, and the Secretary has obligated all of the funds that are authorized for grants to local entities.

This section allows the federal government to seek financial contribution from the Pribilof Islands entities for costs incurred to remediate environmental contamination caused by those entities.

This section reserves certain rights for NOAA including the right for continued access to transferred property to conduct environmental monitoring and for operation and eventual closure of treatment facilities.

*Section 6. Technical and clarifying amendments*

Section 6 makes technical and clarifying changes to Public Law 104–91 and the Fur Seal Act.

*Section 7. Authorization of appropriations*

Section 7 provides additional authorization to carry out environmental cleanup activities on the Pribilof Islands. It allows a portion of the cleanup funds to be used by the State to establish a low interest loan program to clean up asbestos, lead paint, and petroleum contamination from underground storage tanks. This section also amends Public Law 104–91 by reauthorizing appropriations for Fiscal years 2001, 2002 and 2003.

COMMITTEE ACTION

H.R. 3417 was introduced on November 17, 1999, by Congressman Don Young (R–AK). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On July 29, 1999 the Subcommittee held a hearing on draft legislation that was a precursor to H.R. 3417. On March 15, 2000, the Full Resources Committee met to consider H.R. 3417. The Subcommittee on Fisheries Conservation, Wildlife and Oceans was discharged from further consideration of the bill by unanimous consent. Mr. Young offered an amendment in the nature of a substitute that authorized grants to the village corporations, municipal governments and tribal councils on the two Islands, and to the State of Alaska to construct new solid waste management facilities; specified the actions that NOAA has to take to terminate its civil administration responsibilities on the Islands; clarified that NOAA cannot reduce the grant amounts to pay for administrative or overhead expenses, that NOAA has no liability for facilities built by the State, that partial appropriations will be prorated to the Native groups based on the overall division specified in the bill, that NOAA may not charge local groups to clean up environmental pollution left by them, but may charge the groups to clean up pollution generated by a local group; and assured NOAA access to property that it will retain for the purpose of managing fur seal rookeries. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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, April 3, 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 H.R. 3417, the Pribilof Islands Transition Act.

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

Sincerely,

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

Enclosure.

*H.R. 3417—Pribilof Islands Transition Act*

Summary: Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3417 would cost the federal government about \$67 million over the next five years. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 3417 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit local govern-

ments and native corporations of the Pribilof Islands by authorizing funds for financial assistance, environmental cleanup, and construction of new facilities.

H.R. 3417 would authorize the appropriation of a total of \$58 million over the next three fiscal years. Under the bill, the National Oceanic and Atmospheric Administration (NOAA) would pay \$28 million in 2001 for financial assistance to local governments and native corporations of the Pribilof Islands in Alaska. NOAA would use \$10 million annually for fiscal years 2001, 2002, and 2003 to finish environmental cleanup of the islands. Up to \$2 million annually (of the \$10 million) could be provided to Alaska to capitalize a revolving fund, which would be used to finance loans to local governments for cleanup of other environmental problems. In addition to the \$58 million specifically authorized to be appropriated, the bill would authorize the appropriation of whatever sums are necessary for the development and construction of solid waste management facilities on the islands.

Other provisions of H.R. 3417 address the disposal of federal property on the islands (which is already authorized under existing law) and limit the federal government's liability and responsibility for previous and future actions. CBO estimates that these provisions would have no impact on the federal budget.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 3417 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level .....	40	17	10	0	0
Estimated Outlays .....	37	16	10	3	1

Basis of estimate: For purposes of this estimate, CBO assumes that H.R. 3417 will be enacted during fiscal year 2000 and that the entire amounts specifically authorized or estimated to be necessary will be appropriated for each fiscal year beginning in 2001. In each year the authorization levels include \$10 million for environmental cleanup as authorized by section 7. The 2001 authorization level includes the entire \$28 million specified for local assistance and an estimated \$2 million for planning and design of solid waste facilities. The 2003 authorization levels includes \$7 million for construction of these facilities. The \$9-million total cost of this project is estimated on the basis of information provided by NOAA. We assume that the agency would transfer this amount to the state, which would carry out the project, in two payments.

Outlays for environmental cleanup have been estimated on the basis of historical patterns for similar activities. Outlays for local financial assistance and funding for the solid waste facility are assumed to be paid directly to state and local authorities in the year appropriated.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3417 contains no intergovernmental or private-sector mandates as defined in



UMRA. The bill would benefit local governments and native corporations of the Pribilof Islands by authorizing funds for financial assistance, environmental cleanup, and construction of new facilities. The bill would impose no costs on any other state, local, or tribal governments.

Estimate prepared by: Federal Costs: Deborah Reis. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Keith Mattrick.

Estimate 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.

CHANGES 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, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**THE ACT OF NOVEMBER 2, 1966**

AN ACT To protect and conserve the North Pacific fur seals, to provide for the administration of the Pribilof Islands, to conserve the fur seals and other wildlife on the Pribilof Islands, and to protect sea otters on the high seas.

\* \* \* \* \*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Fur Seal Act of 1966".*

\* \* \* \* \*

**TITLE II—ADMINISTRATION OF THE PRIBILOF ISLANDS**

SEC. 201. The Secretary shall administer the fur seal rookeries and other Federal real and personal property on the Pribilof Islands, with the exception of lands purchased by the U.S. Fish and Wildlife Service under section 1417 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) or acquired or purchased by any other authority after enactment of the Fur Seal Act Amendments of 1983 and, in consultation with the Secretary of the Interior, shall ensure that activities [on such Islands] *on such property* are consistent with the purposes of conserving, managing, and protecting the North Pacific fur seals and other wildlife and for other purposes consistent with that primary purpose.

\* \* \* \* \*

SEC. 205. (a) \* \* \*

\* \* \* \* \*

[(c) Within 60 days of the transfer of real or personal property specified in the document described in subsection (a), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate shall be given a report prepared by the Secretary stating the fair market value at the time of the transfer of all real and personal property conveyed.]

*(c) Not later than 3 months after the date of enactment of the Pribilof Islands Transition Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that includes—*

*(1) a description of all property specified in the document referred to in subsection (a) that has been conveyed under that subsection;*

*(2) a description of all Federal property specified in the document referred to in subsection (a) that is going to be conveyed under that subsection; and*

*(3) an identification of all Federal property on the Pribilof Islands that will be retained by the Federal Government to meet its responsibilities under this Act, the Convention, and any other applicable law.*

\* \* \* \* \*

[(g) The Secretary shall submit to Congress a report, no later than October 1, 1983, providing information on the status of the negotiations for concluding the documents described in subsections (a) and (d) of this section.

[SEC. 206. (a)(1) In order to promote the development of a stable, self-sufficient enduring and diversified economy not dependent on sealing, the Secretary shall cause to be established a Trust for the benefit of the Natives of the Pribilof Islands, to be known as the “Pribilof Islands Trust” (hereinafter referred to as the “Trust”).

[(2) All amounts appropriated to the Secretary under subsection (e) of this section shall be transferred by the Secretary to the Trust within fifteen days after submission of the Trust instrument to Congress in accordance with the requirements of subsection (c).

[(3) Except as provided in subsection (e)(2), none of the amounts transferred to the Trust pursuant to paragraph (2) shall be distributed by the trustee or trustees for the benefit of the Natives of the Pribilof Islands until 30 days after submission to Congress of the documents described in section 205 (a) and (d). Such distributions shall be made by the trustee or trustees only after the Secretary has determined that such Trust has been established and will be operated in accordance with a trust instrument, or instruments, approved by the Secretary which further the purposes and policies of this Act.

[(4) Until the termination of the period described in paragraph (3), the trustee or trustees shall invest the amounts transferred pursuant to paragraph (2) in securities with maturities suitable for the needs of the Trust, bearing interest rates at rates determined by the trustee or trustees, taking into consideration average market yields on outstanding marketable obligations of the United States of comparable maturities. The income from such investments shall be credited to, and form a part of the Trust.

[(b) The Trust shall be administered in accordance with such terms and conditions as are prescribed by the Secretary, and as set forth in the Trust instrument. In establishing such terms and conditions, the Secretary shall consult with the Natives of the Pribilof Islands, and other interested parties concerning the conservation, management and protection of the fur seal population.

[(c) There may be one Trust instrument establishing the Trust described in section 206(a), or two such instruments, each relating to one of the two portions of the Trust as provided in subsection (d), which shall address, but need not be limited to, such matters as—

[(1) establishing standards and procedures for the disbursement by the trustee or trustees of Trust assets for purposes of fostering in the Pribilof Islands a stable, diversified, and enduring economy not dependent upon sealing after Federal management of the islands is terminated, which procedures may include formal participation of Pribilof Islands Native councils, corporations, or other such entities;

[(2) establishing the Secretary as trustor;

[(3) establishing the procedure for appointment of the trustee or trustees by the Secretary after consultation with the Natives of the Pribilof Islands;

[(4) setting forth the rights, duties, powers and obligations of a trustee who shall act as an independent fiduciary and who shall be a United States citizen having recognized competence in business;

[(5) providing for the management and investment of Trust assets, pending distribution, by an investment manager or advisor, who may be the trustee, having recognized competence in such fields;

[(6) establishing methods and procedures for providing Congress and the Secretary with the annual reports described in subsection (g) of this section;

[(7) establishing Trust purposes in accordance with the purposes described in section 201 of this Act and subsection (a) of this section;

[(8) the duties of the trustee or trustees and the standards of care and diligence that shall govern the exercise of trust powers thereunder;

[(9) compensation of the trustee or trustees;

[(10) the term, termination and final distribution of the Trust estate;

[(11) mandating the applicability of the laws of the State of Alaska to the creation and governance of the Trust;

[(12) defraying of community expenses; and

[(13) payment of necessary administrative and legal expenses. The Trust instrument or instruments described in this subsection shall be submitted to Congress on or before October 14, 1983.

[(d) The Trust shall be divided into two portions pursuant to a formula established by the Secretary after consultation with the natives of both Islands, to be accounted for separately for the independent benefit of the community of St. Paul and the community of St. George.

[(e)(1) There are authorized to be appropriated to the Secretary \$20,000,000 for the purpose of funding the Trust in accordance with the requirements of subsection (a)(2) of this section.

[(2) Prior to the termination of the period described in subsection (a)(3) of this section, the trustee or trustees may make interim distributions for the benefit of the Natives of the Pribilof Islands, upon approval of the Secretary, of up to five percent of the amounts transferred to the Trust pursuant to subsection (a)(2) of this section if, as determined by the Secretary, such interim distributions are required to carry out the purposes of this Act.

[(f) The interest on, and the proceeds from the sale or redemption of, any asset or obligation held in the Trust shall be credited to and form a part of the Trust.

[(g) The trustee or trustees shall submit to Congress and to the Secretary an annual report, the first of which is due on April 30, 1984, and subsequent reports on the same date each year thereafter during the life of the Trust, providing information on expenditures made from the Trust and progress towards achieving the purposes set out in subsection (a) of this section. On April 30, 1986, the Secretary shall also submit a report to the Congress detailing all progress toward achieving these purposes since enactment of this Act. For purposes of preparing such report, the Secretary by regulation may require that the trustee and the State of Alaska submit such relevant information to the Secretary as he deems appropriate.

[(h) The funds appropriated to the Trust and the earnings and distribution therefrom shall not be subject to any form of Federal, State or local taxation: *Provided*, That this exemption shall not apply to any income from the investment or other use of such distributions.]

**SEC. 206. FINANCIAL ASSISTANCE.**

(a) *GRANT AUTHORITY.*—

(1) *IN GENERAL.*—*Subject to the availability of appropriations, the Secretary shall provide financial assistance to any city government, village corporation, or tribal council of St. George, Alaska, or St. Paul, Alaska.*

(2) *USE FOR MATCHING.*—*Notwithstanding any other provision of law relating to matching funds, funds provided by the Secretary as assistance under this subsection may be used by the entity as non-Federal matching funds under any Federal program that requires such matching funds.*

(3) *RESTRICTION ON USE.*—*The Secretary may not use or withhold financial assistance authorized by this Act—*

*(A) to settle any debt owed to the United States;*

*(B) for administrative or overhead expenses; or*

*(C) for contributions authorized under section 5(b)(3)(C) of the Pribilof Islands Transition Act.*

(4) *FUNDING INSTRUMENTS AND PROCEDURES.*—*In providing assistance under this subsection the Secretary shall use funding instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), so*

as to foster maximum flexibility in the local administration of such assistance.

(5) *PRO RATA DISTRIBUTION OF ASSISTANCE.*—In any fiscal year for which less than all of the funds authorized under subsection (c)(1) are appropriated, such funds shall be distributed under this subsection on a pro rata basis among the entities referred to in subsection (c)(1) in the same proportions in which amounts are authorized by that subsection for grants to those entities.

(b) *SOLID WASTE ASSISTANCE.*—Subject to the availability of appropriations, the Secretary shall provide assistance to the State of Alaska for designing, locating, constructing, redeveloping, permitting, or certifying solid waste management facilities on the Pribilof Islands necessitated by the National Oceanic and Atmospheric Administration's administration of the islands under the Fur Seal Act of 1966 to be operated under a permit issued by the State of Alaska under section 46.03.100 of the Alaska Statutes.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary—

(1) for assistance under subsection (a)—

(A) \$9,000,000, for grants to the city of St. Paul;

(B) \$6,300,000, for grants to the Tanadgusix Corporation;

(C) \$1,500,000, for grants to the St. Paul Tribal Council;

(D) \$6,000,000, for grants to the city of St. George;

(E) \$4,200,000, for grants to the St. George Tanaq Corporation; and

(F) \$1,000,000, for grants to the St. George Tribal Council; and

(2) for assistance under subsection (b), such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.

(d) *LIMITATION ON USE OF ASSISTANCE FOR LOBBYING ACTIVITIES.*—None of the funds authorized by this section may be available for any activity a purpose of which is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments, agencies, or commissions from communicating to Members of Congress, through proper channels, requests for legislation or appropriations that they consider it necessary for the efficient conduct of public business.

(e) *IMMUNITY FROM LIABILITY.*—The Department of Commerce and the National Oceanic and Atmospheric Administration shall not have any liability under this Act associated with or resulting from the designing, locating, contracting for, redeveloping, permitting, certifying, operating, or maintaining any solid waste management facility on the Pribilof Islands as a consequence of having provided assistance to the State of Alaska under subsection (b).

\* \* \* \* \*

*SEC. 212. Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a) and fulfill other obligations under Federal and State law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are*

*not available through local entities and residents of the Pribilof Islands.*

### SECTION 3 OF THE ACT OF JANUARY 6, 1996

AN ACT To require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

#### SEC. 3. PRIBILOF ISLANDS.

(a) \* \* \*

\* \* \* \* \*

(c) RESOLUTION OF FEDERAL RESPONSIBILITIES.—(1) Within 9 months after the date of enactment of this section, and after consultation with the Secretary of the Interior, the State of Alaska, and local entities and residents of the Pribilof Islands, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Resources of the House of Representatives, a report proposing necessary actions by the Secretary of Commerce and Congress to resolve all claims with respect to, and permit the final implementation, fulfillment and completion of—

[(A) title II of the Fur Seal Act Amendments of 1983 (16 U.S.C. 1161 et seq.);]

[(B)] (A) the land conveyance entitlements of local entities and residents of the Pribilof Islands under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

[(C)] (B) the provisions of this section; and

[(D)] (C) any other matters which the Secretary deems appropriate.

\* \* \* \* \*

[(d) USE OF LOCAL ENTITIES.—Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a) and fulfill other obligations under Federal and State law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are not available through local entities and residents of the Pribilof Islands.]

\* \* \* \* \*

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed \$10,000,000 in each of fiscal years [1996, 1997, and 1998] 2001, 2002, and 2003 for the purposes of carrying out this section.

(g) LOW INTEREST LOAN PROGRAM.—

(1) CAPITALIZATION OF REVOLVING FUND.—*Of amounts authorized under subsection (f) for each of fiscal years 2001, 2002, and 2003, the Secretary may provide to the State of Alaska up to \$2,000,000 per fiscal year to establish and capitalize a revolving fund to be used by the State for loans under this subsection.*

(2) *LOW INTEREST LOANS.*—The Secretary shall require that any revolving fund established with amounts provided under this subsection shall be used only to provide low interest loans to Natives of the Pribilof Islands to assess, respond, remediate, and monitor contamination from lead paint, asbestos, and petroleum from underground storage tanks that resulted from National Oceanic and Atmospheric Administration of the Pribilof Islands under the Fur Seal Act of 1966.

(3) *NATIVES OF THE PRIBILOF ISLANDS DEFINED.*—The definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section, except that the term “Natives of the Pribilof Islands” shall include the Tanadgusix and Tanaq Corporations.

## DISSENTING VIEWS

It is our understanding that the purpose of this legislation would be to complete the orderly withdrawal, on behalf of the Federal Government, of the National Oceanic and Atmospheric Administration (NOAA) from the civil administration of the Pribilof Islands, principally the islands of St. Paul and St. George, located in the State of Alaska. We further understand that an unstated purpose of this bill would be to fulfill the goal of the Fur Seal Act Amendments of 1983 (Pub. L. 98-129) which intended "to promote [on the Pribilof Islands] a stable, self-sufficient, enduring, and diversified economy \* \* \* that is not dependent on sealing." To accomplish these purposes, this legislation would authorize \$28 million for local economic assistance grants. An additional \$30 million would be authorized to enable NOAA to complete its environmental clean-up and land-fill closure obligations prior to the final transfer of Federal property to the six local entities. Also, the legislation would authorize unspecified amounts to be transferred to the State of Alaska for the planning and construction of new solid waste management facilities; this has been estimated to cost approximately \$7 million to \$9 million. In exchange for this final Federal assistance, NOAA would complete the transfer of all unnecessary Federal properties and be indemnified from any future liability or obligation under the Fur Seal Act (Pub. L. 89-702).

The majority claims that the Federal Government has failed to attain the goal of establishing a local, enduring economy on the Pribilof Islands, and that this legislation is required to rectify that failure. Contrary to that assertion, we contend that the economic assistance provided in this bill is no longer necessary on St. Paul. Economic assistance has been a staple of Federal administration of the Pribilof Islands in order to compensate native residents for the cessation of commercial fur sealing. According to the March 17, 1997 report on the Pribilof Islands filed by the Secretary of Commerce in compliance with Public Law 104-91, the Federal government provided financial support to the Pribilof Islands from 1973 to 1983 ranging from \$3.1 to \$6.3 million annually. St. Paul Island has received an additional \$55 million from the Federal government since 1983. According to the Secretary's 1997 report, the City of St. Paul's 1994 annual operating budget was \$18 million, and the average per capita income was \$34,000. Moreover, according to 1990 Census Bureau data, the median income per family on St. Paul was \$49,000. These numbers compare favorably with national income averages; certainly all of them fall above the poverty line. Based upon these numbers and the fact that the residents of St. Paul Island are active participants in the lucrative Bering Sea crab fishery, we question the necessity for additional economic assistance to the roughly 700 residents of St. Paul.



A more plausible case for economic assistance can be made for the Island of St. George which continues to struggle economically. Yet this condition cannot be solely attributed to the lack of Federal economic assistance. According to the Secretary's 1997 report, in addition to the annual expenditures referenced in the preceding paragraph, St. George received assistance under the \$15 million Aleutian-Pribilof Indian settlement of 1990. St. George also received approximately \$2 million in other Federal appropriations in intervening years. We believe this indicates that the stagnant local economy cannot be attributed solely to a lack of Federal economic assistance to the approximately 250 residents of St. George.

Yet there is a more compelling reason to explain why economic conditions on St. George have languished. According to the Secretary's 1997 report, the St. George economy has remained stagnant not because of scant Federal financial assistance, but because of the inability to construct an adequate harbor to enable local residents to participate in the fishing economy. Since 1983, \$19 million in Federal funds and other leveraged local capital were spent in unsuccessful efforts to dredge and construct a breakwater and harbor on St. George. The 1983 amendments and subsequent agreements with the native Pribilovians clearly recognized that a transition to a stable and enduring local economy would be dependent on the construction of viable harbors for each island. Experience shows that the construction of a breakwater and dock facility on St. Paul was, in fact, central to its economic success. We realize that the geographic and environmental conditions on St. George pose extreme challenges to building a harbor. We cannot, however, ignore the fact that those same conditions were widely known in 1983. Supporters of this legislation misconstrue the failure to construct a harbor on St. George—a harbor, which in all likelihood, is technically and economically infeasible to build—to now mean that the Federal government bears an enduring obligation to provide economic assistance to the Pribilof Islands. This misconception strains all credibility.

In addition, we ask why should the Federal taxpayer alone continue to pay to construct a harbor (or provide economic assistance) when the State of Alaska clearly has the capability and a similar obligation? Insufficient State support for the construction of the harbor on St. George has long been recognized as a critical impediment. This point was made clear by Mr. Peter Hocson, a former trustee of the St. George Trust, when he stated in the 1988 Trust annual report:

The single obstacle standing in the way of a self-sustaining economy, as envisioned by the Fur Seal Amendment Act of 1983, is the lack of the State of Alaska's funding to complete the boat harbor.

There is no assurance that any of the \$28 million in economic assistance would be spent to address the single biggest limiting factor retarding economic development on one of the islands—the construction of a harbor on St. George. Even if we were to agree that additional economic assistance is warranted, it seems perfectly reasonable to expect that some of those dollars should be spent on completing the harbor on St. George. And if a harbor must be con-

structed, it seems only fair for the State of Alaska to shoulder an appropriate share of that financial burden, too.

For these reasons, we are concerned that the substantial cost for additional economic assistance in this bill appears to be unwarranted or potentially mis-directed. No documentation has been provided by the majority or other proponents of this legislation justifying the need for an additional \$28 million in economic assistance. Furthermore, no details have been provided to explain exactly how the various grant amounts were determined, and for what purposes these funds would be spent by the local entities to the benefit of the less than 900 native residents. Absent any justification, we conclude that these authorizations for appropriations are arbitrary approximations with no substantive basis. Consequently, we cannot support them.

We agree with the majority that the final transfer of authority to civilian administration is long overdue and desirable. Prior to the cessation of the Federal involvement, we also agree that it is necessary for NOAA to be held to its full obligations to ensure that all hazardous materials and other environmental contaminants are removed or treated prior to transferring properties. Too often, local native communities are made to suffer from the past indiscretions of the Federal Government. Even in the absence of this legislation, we expect from NOAA nothing less than full completion of all of its clean up obligations. In this regard, we are supportive for funding NOAA's cleanup efforts.

We are, however, concerned that the cost of this cleanup has grown considerably. This legislation would authorize an additional \$30 million for environmental cleanup and removal, plus an unspecified sum to complete the closure of existing landfills and to fund the planning and construction of new solid waste management facilities. When Public Law 104-91 was enacted, Congress was advised by NOAA that the total cost of these activities would be roughly \$30 million. NOAA subsequently has spent \$29.1 million to initiate clean-up activities. Now we are told an additional \$30 to \$40 million must be forthcoming to complete this cleanup. We are told this without a full accounting explaining how these costs could have virtually doubled in six years. Furthermore, we have given no assurances by anyone that these additional funds, if appropriated, would be the last installment needed to fulfill this vital obligation. As a result, even though we strongly support NOAA's expedited completion of this important work, we find it difficult to support the full authorization levels in this bill. And because of this uncertainty, we remain unconvinced that this legislation will ensure the final orderly transition to civilian administration.

GEORGE MILLER.  
FRANK PALLONE, Jr.  
TOM UDALL.