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SENATE

{ REPORT
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TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PROPERTY TO THE TANANA TRIBAL COUNCIL LOCATED IN TANANA, ALASKA, AND TO THE BRISTOL BAY AREA HEALTH CORPORATION LOCATED IN DILLINGHAM, ALASKA, AND FOR OTHER PURPOSES

MARCH 25, 2019.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 224]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 224) to provide for the conveyance of certain property to the Tanana Tribal Council located in Tanana, Alaska, and to the Bristol Bay Area Health Corporation located in Dillingham, Alaska, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The bill, S. 224, would direct the Secretary of the U.S. Department of Health and Human Services (HHS) to convey certain properties to the Tanana Tribal Council (TTC), located in Tanana, Alaska, and to the Bristol Bay Area Health Corporation (BBAHC), located in Dillingham, Alaska. Under this bill, the TTC and the BBAHC would have the ability to expand and construct new health care facilities on the properties to provide improved health services to their respective rural service populations.

SUMMARY OF THE BILL AND NEED FOR LEGISLATION

This bill, S. 224, would direct the Secretary of the HHS to convey certain property to the TTC located in Tanana, Alaska for use in connection with health and social services programs. The property to be conveyed includes all land, improvements, and appurtenances on 11.25 acres of land owned by the HHS.

The land to be conveyed to the TTC and described in S. 224 is the site of a former Indian Health Service (IHS) hospital that has since been removed. The original plot of land encompassed 20.56 acres. Under the *Alaska Native Land Claims Settlement Act* (ANCSA), 9.31 acres were transferred to Tozitna, Limited, which is the Village of Tanana's Corporation. The remaining 11.25 acres is the land to be conveyed under this bill.

The TTC would use the land in Tanana, Alaska, as a location for a future health clinic, a family wellness center, and an after care treatment facility. The TTC is also considering expanding their elder care and developing nursing home services on the land that would be transferred under S. 224. The Village of Tanana is only accessible by small plane or boat, and by snow machine during the winter. Residents must often travel to larger hub communities, such as Fairbanks or Anchorage, for medical services. This travel is very costly and prohibits residents from receiving vital care during severe illness or injury requiring medivac to a larger hub community.

This bill would also require the Secretary to convey certain property to the BBAHC located in Dillingham, Alaska for use in connection with health and social services programs. The property to be conveyed comprises the Dental Annex of the Kanakanak Hospital, including all land, improvements, and appurtenances on 1.474 acres of land owned by the HHS.

The land proposed to be conveyed would be used to build a free-standing dental facility. The new dental facility will be much larger than the current dental clinic that is located within the Kanakanak Hospital Compound in Dillingham. The proposed dental facility will be able to provide more dental services to the BBAHC's service population of 8,000. The BBAHC also provides health services to many surrounding communities in the south-west region of Alaska.

The BBAHC accepted a quitclaim deed from the HHS in order to begin construction of the dental facility during Alaska's short construction season. Under S. 224, the land would be conveyed through a warranty deed that would supersede any existing quitclaim deed. This conveyance would allow the BBAHC to have more control over the land and more opportunities for financing, as well as remove any revisionary interests from the HHS.

Both conveyances of land would shield the TTC and the BBAHC from liability for any environmental contaminations on the conveyed properties on or before the date on which the property is conveyed to TTC and BBAHC. The Secretary would also be accorded any easement to the conveyed properties as may be reasonably necessary to satisfy an obligation or liability of the Secretary. The bill would require the Secretary to comply with a section of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*.¹

LEGISLATIVE HISTORY

On January 24, 2019, Senator Murkowski with Senator Sullivan introduced S. 224, the *a bill to provide for the conveyance of certain property to the Tanana Tribal Council located in Tanana, Alaska*,

¹*Comprehensive Environmental Response, Compensation, and Liability Act*, 42 U.S.C. § 9620(h)(3) (1980).

and to the Bristol Bay Area Health Corporation located in Dillingham, Alaska, and for other purposes. On January 29, 2019, the Committee on Indian Affairs of the Senate met at a duly called business meeting to consider twelve bills, including S. 224. No amendments were filed to S. 224. The Committee passed all twelve bills, including S. 224, en bloc by voice vote and ordered the bills to be reported favorably.

This bill is similar to three other bills that were passed by the Committee and signed into law in 2013 and 2015.²

115th Congress. On February 1, 2017, Senators Murkowski and Sullivan introduced the predecessor bill, S. 269. The Committee met at a duly called business meeting to consider S. 269 on February 8, 2017. At this business meeting, the Committee ordered the bill to be reported favorably without amendment.

On March 22, 2018, the Senate passed S. 269 without amendment by unanimous consent. The bill was received by the House of Representatives on March 26, 2018 and later referred to the Committee on Natural Resources of the House of Representatives, Subcommittee on Indian, Insular, and Alaska Native Affairs and the Committee on Energy and Commerce of the House of Representatives, Subcommittee on Environment. No further action was taken on S. 269.

On January 3, 2017, Representative Don Young introduced a companion bill, H.R. 236. The bill was referred to the Committee on Natural Resources of the House of Representatives, Subcommittee on Indian, Insular, and Alaska Native Affairs and the Committee on Energy and Commerce of the House of Representatives, Subcommittee on Health. No further action was taken on H.R. 236.

114th Congress. On December 17, 2015, Senators Murkowski and Sullivan introduced S. 2421. The Committee on Indian Affairs held a legislative hearing on this bill on April 13, 2016.

The companion bill, H.R. 4289, was introduced in the House of Representatives by Representative Don Young on December 17, 2015 and referred to the Subcommittee on Indian, Insular, and Alaska Native Affairs of the Committee on Natural Resources, with a sequential referral to the Committee on Energy and Commerce. No further action was taken on H.R. 4289.

SECTION-BY-SECTION ANALYSIS

Section 1. Conveyance of property to the Tanana Tribal Council

Section 1 directs the Secretary of Health and Human Services to transfer all right, title, and interest of 11.25 acres in the village of Tanana, Alaska to the TTC for use in connection with health and social services programs within 180 days of enactment of the Act.

This section also states that the conveyance of this warranty deed shall supersede and render of no future effect any quitclaim deed to the property. The bill further provides that the Secretary convey the land via warranty deed and shall not require any consideration from the TTC, impose any additional obligation, term, or

²See, A bill to provide for the conveyance of certain property to the Yukon Kuskokwim Health Corporation located in Bethel, Alaska, Pub. L. No. 114-56 (2015); Alaska Native Tribal Health Consortium Land Transfer Act, Pub. L. No. 113-68 (2013); To provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska, Pub. L. No. 112-263 (2013).

condition to the TTC in order for it to provide improved health services to their respective rural service populations, or allow for any reversionary interest of the United States in the property.

The bill provides that the TTC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release, or presence of any environmental contamination on any portion of the property on or before the date on which the property is conveyed to the TTC. An environmental contamination includes any oil or petroleum products, hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard as defined in any Federal or State of Alaska law.

Under the bill, the Secretary shall be accorded any easement or access to the property conveyed under this section as may be reasonably necessary to satisfy any retained obligation or liability of the Secretary. This section also provides that the Secretary shall comply with subparagraphs (A) and (B) of section 120(h)(3) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (CERCLA) on the property described.

Section 2. Conveyance of property to the Bristol Bay Area Health Corporation

Section 2 directs the Secretary of Health and Human Services to transfer all right, title, and interest of 1.474 acres in the Bristol Bay Recording District in Dillingham, Alaska to the BBAHC for use in connection with health and social services programs within 180 days of enactment of the Act. The section states that the conveyance of this warranty deed shall supersede and render of no future effect any quitclaim deed to the property.

The bill further provides that the Secretary convey the land via warranty deed and shall not require any consideration from the BBAHC, impose any additional obligation, term, or conditions to the BBAHC in order for it to provide improved health services to their respective rural service populations, or allow for any reversionary interest of the United States in the property.

The bill provides that the BBAHC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release, or presence of any environmental contamination on any portion of the property on or before the date on which the property is conveyed to the BBAHC. An environmental contamination includes any oil or petroleum products, hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard as defined in any Federal or State of Alaska law.

Under the bill, the Secretary shall be accorded any easement or access to the property conveyed under this section as may be reasonably necessary to satisfy any retained obligation or liability of the Secretary. This section also provides that the Secretary shall comply with subparagraphs (A) and (B) of section 120(h)(3) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (CERCLA) on the property described.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated March 4, 2019, was prepared for S. 224:

MARCH 4, 2019.

Hon. JOHN HOEVEN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 224, a bill to provide for the conveyance of certain property to the Tanana Tribal Council located in Tanana, Alaska, and to the Bristol Bay Area Health Corporation located in Dillingham, Alaska, and for other purposes.

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

Sincerely,

KEITH HALL.
Director.

Enclosure.

S. 224—To provide for the conveyance of certain property to the Tanana Tribal Council located in Tanana, Alaska, and to the Bristol Bay Area Health Corporation located in Dillingham, Alaska, and for other purposes

S. 224 would authorize the Secretary of Health and Human Services (HHS) to convey a parcel of land in Tanana, Alaska, to the Tanana Tribal Council (TTC) and another parcel of land in Dillingham, Alaska, to the Bristol Bay Area Health Corporation (BBAHC). The conveyances would be made by a warranty deed, which is a type of deed that guarantees a clear title to the new owner of the property.

The Indian Self-Determination and Education Act (ISDEAA) allows tribal entities to assume responsibility for providing health care services funded by the Indian Health Service (IHS). The TTC is a non-profit health care and social services corporation that operates facilities under the ISDEAA in 39 communities throughout Alaska. The BBAHC is a non-profit health care corporation that operates facilities under the ISDEAA in 28 communities throughout Southwest Alaska. According to IHS, neither the TTC nor the BBAHC currently pays rent or any other remuneration to IHS for the use of the land to be transferred. Consequently, CBO estimates that enacting S. 224 would have a negligible effect on the federal budget. Furthermore, any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Robert Stewart. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes S. 224 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 224.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite business of the Senate.

