

Calendar No. 576

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 116-282

TO CONVEY LAND IN ANCHORAGE, ALASKA, TO THE ALASKA NATIVE TRIBAL HEALTH CONSORTIUM, AND FOR OTHER PURPOSES

OCTOBER 20 (legislative day, OCTOBER 19), 2020.—Ordered to be printed

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

R E P O R T

[To accompany S. 3100]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 3100) to convey land in Anchorage, Alaska, to the Alaska Native Tribal Health Consortium, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of this bill is to direct the Secretary of the U.S. Department of Health and Human Services (HHS) to convey certain property, located in Anchorage, Alaska, to the Alaska Native Tribal Health Consortium (ANTHC or Consortium).

BACKGROUND

Founded in 1997, the Alaska Native Tribal Health Consortium is a non-profit tribal health organization that provides health and social services to more than 180,000 Alaskan Natives and American Indians living in Alaska. The Consortium is the largest tribal health organization in the country and is Alaska's second largest health employer. The Consortium employs more than 3,000 people at the Alaska Native Medical Center which provides: wellness programs; disease research and prevention; rural provider training; and rural water and sanitation systems construction.

SUMMARY OF THE BILL

Within 180 days of enactment of this Act, HHS will convey two parcels of land described in the bill, including all rights, title, and interest, to the Consortium by warranty deed. The Consortium has maintained the land and uses the land for the storage and shipping of sanitation project equipment. The warranty deed will supersede and render no further effect any quitclaim deed to the land.

The bill also provides that the Consortium will not be liable for any environmental contamination on the land prior to the conveyance. The Secretary of HHS will have any easement or access to the property, as reasonably necessary to satisfy any retained obligations or liabilities. The Secretary of HHS shall also comply with subparagraphs (A) and (B) of section 120(h)(3) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*.

LEGISLATIVE HISTORY

On December 18, 2019, Senators Lisa Murkowski (R-AK) and Dan Sullivan (R-AK) introduced S. 3100, the *Alaska Native Tribal Health Consortium Land Transfer Act of 2019*. The Senate Committee on Indian Affairs (Committee) held a legislative hearing on June 24, 2020. Rear Admiral Michael Weahkee, Director of the Indian Health Service, submitted a statement for the record which supported the purpose of S. 3100 and provided technical changes to address potential implementation challenges. The Committee held a duly called business meeting on July 29, 2020, to consider eleven bills, including S. 3100.

Amendment. One amendment (KEN20131) was timely filed by Senator Murkowski. The amendment, in the nature of a substitute, makes technical corrections and clarifications at the suggestion of HHS with approval by the Consortium. The amendment alters the land conveyance time from two years to one year and clarifies the environmental contamination liabilities of the Consortium and HHS.

During the Committee's consideration of S. 3100, Senator Lisa Murkowski requested that amendment KEN20131 be removed from the business meeting agenda and that the Committee rules, with the consent from Chairman Hoeven and Vice Chairman Udall, be waived to permit the filing of an untimely amendment in the nature of a substitute (KEN20137). Committee rules require amendments to be filed 48 hours prior to a business meeting. Both Chairman Hoeven and Vice Chairman Udall agreed to the requests to remove amendment KEN20131 from Committee consideration and waive the Committee rules to consider amendment KEN20137 at the business meeting.

The substitute amendment, KEN20137, states the conveyance of property must occur no later than two years after the date of enactment and clarifies the environmental liabilities of both the Consortium and HHS. This amendment came at the suggestion of HHS, with the approval of the Consortium, to allow for a sufficient amount of time to convey the land and to clarify when the Consortium and the HHS would be liable for environmental contamination. The Committee passed S. 3100, as amended, by voice vote and ordered the bill to be favorably reported.

This bill, S. 3100, is the first to be introduced in the Senate in any Congress, but is similar to other bills that were passed by the Committee and signed into law in 2013, 2015, and 2018.¹ At this time, there is no House companion bill.

NEED FOR LEGISLATION

The bill, S. 3100, conveys two parcels of HHS land to the Consortium. The land to be conveyed by warranty deed will grant the Consortium the ability to improve the land and to ensure ownership of any future improvements. The transfer by warranty deed will also allow the Consortium to obtain financing for construction improvements.

SECTION-BY-SECTION ANALYSIS OF S. 3100, AS AMENDED

Section 1. Short title

Section 1 states that the Act may be cited as the “Alaska Native Tribal Health Consortium Land Transfer Act of 2019”.

Sec. 2. Conveyance of property to the Alaska Native Tribal Health Consortium

Section 2(a)(1) directs the Secretary of Health and Human Services to convey all right, title, and interest of the land described in subsection (b) by warranty deed to the Alaska Native Tribal Health Consortium not later than two years after the date of enactment of this Act. The land will continue to be used for health programs.

Section 2(a)(2) provides conditions for the conveyance of the property, including—

- (1) must be made by warranty deed; and
- (2) will not require any consideration by the Consortium; impose any obligations, term, or condition on the Consortium; or allow for any reversionary interest.

Section 2(a)(3) states that on the effective date of the conveyance, the warranty deed will supersede and render no future effect any quitclaim deed to the property.

Section 2(b) provides the physical property description of the two lots of land, including all improvements and appurtenances, in Anchorage, Alaska.

Section 2(c)(1)(A) states that ANTHC will 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 land described in subsection (b) occurring on or before the date the property is conveyed to the Consortium. Additionally, the Secretary will 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 land described in subsection (b) occurring after the date when the Consortium controlled, occupied, and began using the property.

¹See, Southeast Alaska Regional Health Consortium Land Transfer Act of 2017, Pub. L. No. 115-326 (2018); 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).

Section 2(c)(1)(B) describes environmental contamination to include any oil or petroleum products, hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard defined in any Federal or State of Alaska law.

Section 2(c)(2) authorizes the Secretary any easement or access to the conveyed property as may be reasonably necessary to satisfy any retained obligation or liability.

Section 2(c)(3) requires the Secretary to comply with subparagraphs (A) and (B) of section 120(h)(3) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 3, 2020.

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. 3100, the Alaska Native Tribal Health Consortium Land Transfer Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

| S. 3100, Alaska Native Tribal Health Consortium Land Transfer Act of 2019 | | | |
|--|------|-------------------------------------|-----------|
| As ordered reported by the Senate Committee on Indian Affairs on July 29, 2020 | | | |
| By Fiscal Year, Millions of Dollars | 2020 | 2020-2025 | 2020-2030 |
| Direct Spending (Outlays) | 0 | 0 | 0 |
| Revenues | 0 | 0 | 0 |
| Increase or Decrease (-) in the Deficit | 0 | 0 | 0 |
| Spending Subject to Appropriation (Outlays) | 0 | * | * |
| Statutory pay-as-you-go procedures apply? | No | Mandate Effects | |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031? | No | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | No |
| * = between zero and \$500,000. | | | |

S. 3100 would authorize the Secretary of Health and Human Services (HHS) to convey a parcel of land in Anchorage, Alaska, to the Alaska Native Tribal Health Consortium (ANTHC). The conveyance 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 ANTHC is a nonprofit health care and social services corporation that operates facilities under the ISDEAA in communities throughout Alaska. According to IHS, the ANTHC currently does not pay rent or any other remuneration to IHS for the use of the land to be transferred. Consequently, CBO estimates that enacting S. 3100 would not affect direct spending or revenues and would have a negligible effect on spending subject to appropriation for IHS staff to facilitate the land transfer. The CBO staff contact for this estimate is Robert Stewart. The estimate was reviewed by Leo Lex, Deputy 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. 3100 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 3100.

CHANGES IN EXISTING LAW

On February 6, 2019, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. 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 the business of the Senate.