

Calendar No. 393

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-177

ALASKA NATIVE VILLAGE MUNICIPAL LANDS RESTORATION ACT

MAY 16, 2024.—Ordered to be printed

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2615]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2615) to amend the Alaska Native Claims Settlement Act to provide that Village Corporations shall not be required to convey land in trust to the State of Alaska for the establishment of Municipal Corporations, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2615 is to amend the Alaska Native Claims Settlement Act to provide that Village Corporations shall not be required to convey land in trust to the State of Alaska for the establishment of Municipal Corporations.

BACKGROUND AND NEED

In 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA; Public Law 92-203) to settle the aboriginal claims of Alaska Natives. Under ANCSA, Alaska Natives received title to a total of 44 million acres to be divided among the 220 Native village corporations, four urban corporations, and 12 regional corporations established by the Act.

Section 14(c)(3) of ANCSA (43 U.S.C. 1613(c)(3)) provides that an Alaska Native Village Corporation receiving land under ANCSA shall “convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface es-

tate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs”

Since the passage of ANCSA in 1971, 101 village corporations have had lands held in trust by the State. Since then, only eight of those villages have incorporated into a municipality, and none since 1995. Additionally, there have been ten villages that have reached agreements with the State to have the lands conveyed out of trust without forming municipalities. This leaves 83 communities, representing approximately 11,500 acres that are held in trust by the State. S. 2615 would sunset the requirement for the establishment of a Municipal Corporation prior to the conveyance of land from the State trust to the Village Corporations.

LEGISLATIVE HISTORY

S. 2615 was introduced by Senators Murkowski and Sullivan on July 27, 2023. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 2615 on October 25, 2023.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on December 14, 2023, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2615.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides the short title of the bill, the “Alaska Native Village Municipal Lands Restoration Act of 2023.”

Section 2. Reversion of certain land conveyed in trust to the State of Alaska

Section 2 amends section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1631(c)) to authorize any Alaska Native Village Corporation that has not established a Municipal Corporation, and also has lands currently held in trust by the State of Alaska, to request those lands be reconveyed to the Village Corporation. The amendment also revokes any future requirement for Village Corporations to convey additional State trust lands for the establishment of a Municipal Corporation.

COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office’s estimate of the cost of S. 2615 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2615. The bill is not a regulatory measure in the sense of impos-

ing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 2615, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2615, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management from the Subcommittee on Public Lands, Forests, and Mining October 25, 2023, hearing on S. 2615 follows:

STATEMENT OF NADA WOLFF CULVER, PRINCIPAL DEPUTY
DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DE-
PARTMENT OF THE INTERIOR

* * * * *

S. 2615, ALASKA NATIVE VILLAGE MUNICIPAL LANDS RESTORATION ACT

S. 2615 would amend the Alaska Native Claims Settlement Act (ANCSA, P.L. 92-203) to retire the requirement for village corporations of unincorporated communities to reconvey lands to the State in trust for a future city, for municipal purposes. In addition, S. 2615 would allow village corporations to regain title to the lands held in trust with the State by dissolving the trust through formal resolution by the village corporation and the residents of the Native village.

ANALYSIS

ANCSA provided the framework to settle aboriginal land claims in Alaska and entitled Alaska Native Corporations through payment of approximately \$970 million and conveyance of about 46 million acres of land. The lands are conveyed to state-chartered Native corporations and are not held in trust. ANCSA further established the village corporations' right to lands in and around their villages through Sections 14(a) and (b). Section 14(c) requires village corporations to reconvey lands to individuals and certain entities as specifically outlined in subsections (1) through (4). Section 14(c)(3) addresses the lands needed by cities for present and future public land uses and requires all Native village corporations receiving land under Sections 14(a) and (b) to convey lands to the existing municipality. If no municipality exists, then the lands are conveyed to the State in trust for a future municipality. The

lands conveyed to the State in trust are called municipal trust lands.

There are currently 96 village corporations that have not yet completed their ANCSA 14(c) reconveyance obligations. The BLM understands that many of the remaining communities under the State Municipal Land Trust program do not intend to incorporate. Many of these communities have not completed their reconveyance obligations under 14(c) due to concerns related to their 14(c)(3) lands being held in trust by the State. Failure to complete the entire 14(c) process, not just 14(c)(3), clouds the title of those village corporation lands and leaves community members, both shareholder and non-shareholder, Native and non-Native, without a process that addresses the potential rights to lands recognized by Congress in Section 14(c). The BLM is also left with the lingering obligation to survey lands eventually selected for reconveyance under 14(c).

S. 2615 sunsets the requirement for Village Corporations to convey lands to the State in trust for a future municipality. The BLM supports retiring this conveyance requirement as it could provide an additional pathway for Village Corporations to clear the title of their lands. Further, the BLM interprets S. 2615 to allow village corporations to convey land to the State in trust if they so choose but would no longer require them to do so. The BLM appreciates leaving this tool in place for the use of village corporations who may elect to convey lands for future municipal development.

S. 2615 also provides village corporations with the ability to regain title to lands conveyed to the State in trust for a future municipality that has not been established as of the date of enactment. The BLM recognizes that the State currently holds approximately 11,500 acres in trust for 83 communities, which could be returned to the village corporations under this bill. The BLM supports returning the title of these lands to village corporations upon “formal resolution by the Village corporation and the residents of the Native village” as required by the bill, provided there are protections put in place for village residents who are not shareholders of the Village Corporation, so that they may also enjoy the benefits of community infrastructure.

The BLM emphasizes that Section 14(c)(3) of ANCSA is only one step towards completing Section 14(c) obligations. Section 14(c)(1) and Section 14(c)(2) establish additional reconveyance requirements that must be completed prior to 14(c)(3) considerations. Further, there is no legally established timeline for the corporations to either initiate or complete these obligations, and the claims become more difficult to adjudicate over time as the population ages. The BLM would welcome the opportunity to work with the Committee and the Sponsor to address additional barriers to completing Section 14(c) obligations, such as an established timeframe for a village corporation to complete its entire 14(c) obligation, lack of training in the ANCSA 14(c)

process, and lack of mapping expertise within many village corporations.

The BLM supports the goals of S. 2615 and looks forward to working with the Sponsor on various modifications. With these changes, the bill would provide Alaska Native village corporations another avenue to complete one aspect of their 14(c) obligation and further the process to clear the title to lands conveyed to village corporations.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2615, as ordered 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):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Public Law 92-203

AN ACT To provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

* * * * *

CONVEYANCE OF LANDS

SEC. 14. (a) Immediately after selection by a Village Corporation for a Native village listed in section 11 which the Secretary finds is qualified for land benefits under this Act, the Secretary shall issue to the Village Corporation a patent to the surface estate in the number of acres shown in the following table:

If the village had on the 1970 census enumeration date a Native population between—	It shall be entitled to a patent to an area of public lands equal to—
25 and 99	69,120 acres.
100 and 199	92,160 acres.
200 and 399	115,200 acres.
400 and 599	138,240 acres.
600 or more	161,280 acres.

The lands patented shall be those selected by the Village Corporation pursuant to subsection 12(a). In addition, the Secretary shall issue to the Village Corporation a patent to the surface estate in the lands selected pursuant to subsection 12(b).

(b) Immediately after selection by any Village Corporation for a Native village listed in section 16 which the Secretary finds is qualified for land benefits under this Act, the Secretary shall issue to the Village Corporation a patent to the surface estate to 23,040 acres. The lands patented shall be the lands within the township or townships that enclose the Native village, and any additional lands selected by the Village Corporation from the surrounding townships withdrawn for the Native village by subsection 16(a).

[(c) Each patent] (c) *CONVEYANCE OF CERTAIN LAND BY VILLAGE CORPORATION.*—

(1) *IN GENERAL.*—*Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:*

[(1)] (A) [the] *The Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation) as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry[;].*

[(2)] (B) [the] *The Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied as of December 18, 1971 by a nonprofit organization[;].*

[(3)] (C) [(C) the Village Corporation] (C) *Conveyance to municipal corporation or the state in trust.*—

(i) *IN GENERAL.*—*The Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable [community needs: Provided, That the] community needs.*

(ii) *MINIMUM ACREAGE.*—*The amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than [one thousand two hundred and eighty acres: Provided further, That any net] 1,280 acres.*

(iii) *NET REVENUES.*—

(I) *IN GENERAL.*—*Any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State [in trust: Provided, however, That the word “sale”, as used in the preceding sentence,] in trust.*

(II) *DEFINITION OF SALE.*—*For purposes of subclause (I), the term “sale” shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes[;].*

(iv) *CASES IN WHICH CONVEYANCE SHALL NOT BE REQUIRED.*—

(I) *IN GENERAL.*—Notwithstanding any other provision of this subparagraph, if a Village Corporation, prior to the date of enactment of the Alaska Native Village Municipal Lands Restoration Act of 2023, conveyed to the State in trust all or a portion of the acreage of land required to be conveyed under this subparagraph for the establishment of a Municipal Corporation in the future, and a Municipal Corporation has not been established as of that date of enactment, on formal resolution by the Village Corporation and the residents of the Native village requesting dissolution of the trust, the trust shall be dissolved and title to the land shall revert to the Village Corporation, subject to subclause (III).

(II) *ADDITIONAL LAND.*—Notwithstanding any other provision of this subparagraph, as of the date of enactment of the Alaska Native Village Municipal Lands Restoration Act of 2023, a Village Corporation shall not be required to convey any additional land in trust under this subparagraph for the establishment of a Municipal Corporation in the future.

(III) *REQUIREMENTS.*—In accordance with subsection (g)—

(aa) the reversion of land to a Village Corporation pursuant to subclause (I) shall be subject to—

(AA) valid existing rights created by the applicable trust; and

(BB) any existing easements, rights-of-way necessary for public roadway access, or rights-of-way for access of holders of valid existing rights; and

(bb) the Village Corporation shall assume the obligations of the applicable trust with respect to any lease or other use agreement applicable to the land on reversion of the land to the Village Corporation pursuant to subclause (I).

[(4)] (D) [the] The Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities [existed as of December 18, 1971.] existed as of December 18, 1971.

[(5)] (E) [for] For a period of ten years after the date of enactment of this Act, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Cor-

porations on all land sales, leases or other transactions prior to any final commitment.

【There is authorized】 (2) *TECHNICAL ASSISTANCE.*—

(A) *IN GENERAL.*—*There are authorized* to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this Act in order that they may fulfill the reconveyance requirements of **【section 14(c) of this Act】** *this subsection.* **【The Secretary】**

(B) *FORM OF FUNDING.*—*The Secretary* may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

* * * * *

