

Committee on Natural Resources  
Rob Bishop, Chairman  
Markup Memorandum

December 11, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff, Subcommittee on Indian, Insular and Alaska Native Affairs, (x-6-9725)

Hearing: **S. 825 (Sen. Lisa Murkowski)**, To provide for the conveyance of certain property to the Southeast Alaska Regional Health Consortium located in Sitka, Alaska, and for other purposes.  
**December 12-13, 2017, 1324 Longworth HOB**

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**S. 825 (Sen. Lisa Murkowski)**, *“Southeast Alaska Regional Health Consortium Land Transfer Act of 2017”*

**Summary**

S. 825 was introduced by Sen. Lisa Murkowski (R-AK) on April 4, 2017, and passed the U.S. Senate on November 30, 2017. The bill would direct the Secretary of Health and Human Services to convey by warranty deed, within 2 years of enactment, 19.07 acres of federal land in Sitka, Alaska, to the Southeast Alaska Regional Health Consortium (SEARHC) for use in connection with health and social services related programs. The bill does not allow for any reversionary interest of the U.S. in the property. The SEARHC is a tribal health organization that provides health services under a compact with the Indian Health Service (IHS), pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA).<sup>1</sup> The conveyance would allow SEARHC to update the degrading conditions of the Mt. Edgcumbe Hospital campus to improve the level of care being offered. A map of the lands to be conveyed is attached to this memo.

**Cosponsors**

Sen. Dan Sullivan (R-AK)

**Background**

The Southeast Alaska Regional Health Consortium (SEARHC) is a non-profit consortium comprised of 18 Southeast Alaska Native communities, authorized by the resolutions of 15 federally-recognized Alaska Native villages (also called “tribes”), and is among the oldest and most expansive Tribally-maintained healthcare organizations in the country. The service area is

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<sup>1</sup> 25 U.S.C. §5304 et. seq.

more than 35,000 square miles across the State of Alaska, with twenty-eight community health clinic sites and one hospital to serve Alaska Natives across the State.

Founded in 1975, SEARHC began by assuming management of the Community Health Aide Program for tribes in Alaska, through a compact with the Indian Health Service (IHS) in 1976 under Title V of ISDEAA. Similarly, in 1982, SEARHC took control of the IHS Juneau clinic (renamed as the Ethel Lund Medical Center), and in 1986 it assumed responsibility over the clinic in Sitka, the Mt. Edgecumbe Hospital.<sup>2</sup>

The 19.07 acre parcel of land of the Mt. Edgecumbe campus is located on and owned by the Department of Health and Human Services, but SEARHC runs and operates the hospital and the grounds. Without full and clear title, no necessary upgrades or maintenance can be completed.

### **Need for Legislation**

The Mt. Edgecumbe Hospital is a 25-bed critical access hospital that was constructed during the latter half of World War II. As a hospital that served almost 47,000 outpatients in 2016, the 67-year-old facility is in poor condition and in need of upgrading to more adequately provide healthcare services.

Although the IHS is not opposed to the transfer and can transfer the land via quitclaim deed, Congressional action is necessary to facilitate the transfer via warranty deed. Because a warranty deed provides the guarantee to clear and full title, SEARHC can more easily secure private equity funding to make necessary improvements to the hospital campus than it can with property conveyed by quitclaim deed.

### **Analysis of S. 825**

***Section 1. Short Title.*** Section 1 establishes the short title of the bill.

***Section 2. Conveyance of Property.***

***Subsection (a)*** establishes a 2-year time frame upon enactment of this bill to convey the right, title, and interest of the property to the Southeast Alaska Regional Health Consortium.

***Subsection (b) Effect on Any Quitclaim Deed.*** Subsection (b) provides that, on the day of the conveyance of the property by SEARHC, any quitclaim deeds will be superseded and be rendered ineffective by the transfer.

***Subsection (c) Conditions.*** Subsection (c) clarifies the conditions of the transfer. The conveyance of the property must be made by warranty deed, and will not require any consideration from SEARHC for the property, and shall not impose any sort of term or condition or any revisionary interest.

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<sup>2</sup> [www.searhc.org/about-us/our-story/](http://www.searhc.org/about-us/our-story/).

**Section 3. Property Described.** Section 3 outlines the property that will be conveyed to SEARHC. It is defined as all land and appurtenances “included in U.S. Survey 1496, Lots 3, 5, 6, 9, 10, 11A, 11A Parcel A, and 11B, partially surveyed Township 55 South, Range 63 East of the Copper River Meridian, containing 19.07 acres, in Sitka, Alaska.”

**Section 4. Environmental Liability.**

*Subsection (a)* outlines that SEARHC will not be liable for any sort of contamination of the parcel of land on or before the date of conveyance, except that the Secretary is not liable for any contamination that occurred after the date on which the Consortium controlled, occupied, and used such property.

*Subsection (b). Easement.* Grants the Secretary access to the property if an easement is considered reasonable and necessary.

*Subsection (c). Notice of Hazardous Substance Activity and Warranty.* Subsection (c) outlines the steps the Secretary must take to report to SEARHC if Hazardous Substances are found on the property while the title was owned by the United States, as outlined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.<sup>3</sup>

**Administration Position**

On May 10, 2017, in a statement submitted for the record at a hearing, the Administration testified in support for the bill contingent on amendments absolving the federal government from environmental liability.

On June 7, 2017, at a hearing on a substantially similar bill sponsored by Rep. Don Young, H.R. 1901, the Administration testified with the same position to that of S. 825.<sup>4</sup> The concerns raised by the Administration in both the House and Senate were addressed in the reported version of S. 825 prior to passage in the Senate.

**Cost**

The CBO estimated that S. 825 would have no effect on the federal budget.<sup>5</sup>

**Anticipated Amendments**

None.

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<sup>3</sup> 42 U.S.C. §9620(h)(3).

<sup>4</sup> Legislative hearing on H.R. 1901 before the H. SCmte on Indian, Insular and Alaska Native Affairs. June 6, 2017. 115<sup>th</sup> Congress.

<sup>5</sup> <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/s825.pdf>.