

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT

OF

ROBERT McSWAIN

DEPUTY DIRECTOR

FOR MANAGEMENT OPERATIONS

INDIAN HEALTH SERVICE

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON INDIAN AFFAIRS

HEARING ON

S. 1898 - TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PROPERTY

FROM THE UNITED STATES TO THE MANILAQ ASSOCIATION

LOCATED IN KOTZEBUE, ALASKA

MARCH 22, 2012

Mr. Chairman and Members of the Committee:

Good afternoon. I am Robert McSwain, Deputy Director for Management Operations of the Indian Health Service (IHS). I am pleased to have the opportunity to testify on the S. 1898 for the Maniilaq Association, providing for the conveyance of Indian Health Service (IHS) real property located in Kotzebue, Alaska.

The Indian Health Service plays a unique role in the Department of Health and Human Services (HHS) because it is a health care system that was established to meet the federal trust responsibility to provide health care to American Indians and Alaska Natives (AI/ANs). The mission of the IHS, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, social, and spiritual health of AI/ANs to the highest level. The IHS provides comprehensive health service delivery to approximately 2.1 million AI/ANs through 31 Hospitals, 50 health centers, 31 health stations and 2 school health centers. Tribes also provide healthcare access through an additional 15 hospitals, 254 health centers, 166 Alaska Village Clinics, 112 health stations and 18 school health centers. In support of the IHS mission, the IHS and Tribes provide access to functional, well maintained and accredited health care facilities and staff housing.

S. 1898 deals with the conveyance of lands located in Kotzebue, Alaska which were used by the federal government for the delivery of IHS services. In 1995 the Maniilaq Association in Kotzebue, Alaska assumed responsibility for the provision of the IHS-

funded health care services under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA). Some of the federal property, which had been used in connection with health and related programs in Kotzebue, Alaska by the IHS, was transferred through quit claim deeds to the Maniilaq Association.

S. 1898 provides for the conveyance of the Kotzebue property from the United States to the Maniilaq Association and proposes to modify the existing quit claim deed transfer by requiring the use of a warranty deed. On March 31, 2009, IHS transferred ownership of the Maniilaq Health Center/Hospital. After completing an environmental review and certification on November 18, 2009, the two additional parcels of property, named in this bill, including staff quarters, were transferred.

The IHS supports this bill because it views the proposed transfer as furthering the special partnership that exists with American Indian and Alaska Native tribal governments, and, moreover, is in keeping with the Presidential Memorandum on Administrative Flexibility as it pertains to tribal governments. It is important to emphasize that, as a normal practice, we do not transfer properties via the warranty deed mechanism. However, we will support an exception in this case, because of the Tribe's initiative to expand access to its health care system for community members. This proposal will give the Maniilaq Association flexibility to leverage additional resources because ownership of the property under a warranty deed will give them unencumbered ownership of the property described in S. 1898.

We do believe the language, relating to environmental liability, needs to be clarified so the Maniilaq Association is responsible for any environmental contamination which may occur or arise “as of or after the date of the 2009 conveyance”; and, the “reversionary clause” language should be clarified to apply, should the Association cease to use the property for health purposes.

We do not believe there will be reasons to use this mechanism in future cases. There are no existing problems with the current quit claim deed signed in 2009 with the Maniilaq Association. Traditionally, the Alaska Native Corporations have preferred to leave the title of their facilities previously operated by the IHS with the federal government. It is highly unlikely there will be similar requests from Tribes in the other 35 states to have warranty deeds since they are currently on tribally owned lands and the government leases property from them for the health care facilities. This warranty deed transfer would be the first of its kind in Alaska, since only one other property was transferred to the Southeast Alaska Regional Health Corporation through a quit claim deed.

Concerning retrocession, we think it unlikely. We can count only four retrocessions since the enactment of ISDEAA in 1975 and these were only small program components and three have been re-assumed by the Tribes. None of these were in the Alaska Area.

We look forward to working with you, Mr. Chairman, on measures like these to improve the health of the Alaska Native population. Mr. Chairman, this concludes my testimony. I appreciate the opportunity to appear before you to discuss S. 1898. I will be happy to answer any questions the committee may have. Thank you.