



Statement for the Record

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Before the

**Committee on Indian Affairs
United States Senate**

Hearing on

**S.825, A Bill to Provide for the Conveyance of Certain Property to
the Southeast Alaska Regional Health Consortium Located in Sitka,
Alaska**

May 10, 2017

Chairman and Members of the Committee:

Good afternoon, Chairman Hoeven, Vice-Chairman Udall, and Members of the Committee. I am Chris Buchanan, an enrolled member of the Seminole Nation of Oklahoma and currently the Acting Director of the Indian Health Service (IHS). Prior to that, I was the IHS Deputy Director, leading and overseeing IHS operations to ensure delivery of quality comprehensive health services. I am pleased to have the opportunity to provide a statement for the record to the Senate Committee on Indian Affairs on S.825, a bill to provide for the conveyance of certain property to the Southeast Alaska Regional Health Consortium located in Sitka, Alaska.

The IHS 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 Federal trust responsibilities to American Indians and Alaska Natives (AI/AN). 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 2.2 million AI/ANs through 26 hospitals, 59 health centers, 32 health stations, and nine school health centers. Tribes also provide healthcare access through an additional 19 hospitals, 284 health centers, 163 Alaska Village Clinics, 79 health stations, and eight school health centers.

S. 825 would provide for the conveyance by warranty deed of certain property located in Sitka, Alaska to the Southeast Alaska Regional Health Consortium.

Southeast Alaska Regional Health Consortium

The Southeast Alaska Regional Health Consortium (SEARHC) assumed responsibility for the provision of IHS-funded health care services in 1975 under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA). The Federal property described in S.825 is used in connection with health programs in Sitka, Alaska by the SEARHC.

On November 17, 2016, SEARHC requested transfer of all Federal property located within the Mt. Edgecumbe Hospital campus, including land, buildings, and appurtenances in Sitka, Alaska.

The IHS informed SEARHC of its intent to fulfill SEARHC's request. In order to fulfill the request, the IHS further informed SEARHC of requirements that must be completed to execute the transfer including but not limited to: Phase I Environmental Site Assessment, environmental remediation of the property, HazMat survey of the buildings and historical consultation with the Alaska Department of Environmental Conservation (ADEC) and the Alaska State Historical Preservation Office (SHPO).

Due to on-going environmental remediation and consultation with ADEC and the Alaska SHPO, the parcels requested for transfer in S.825 are not currently ready to be transferred within 180 days as stipulated. However, it is anticipated that Lot 11B containing 10.68 acres identified by SEARHC for construction of a proposed health care facility may be ready for transfer by December 2017 at the earliest. If a warranty deed is executed under S.825 for these selected parcels, the IHS will continue to work with the SEARHC and the State of Alaska to complete environmental remediation on the remaining portion of land requiring remediation in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(42 U.S.C. 9620(h)(3)). In addition, IHS will continue to work with the SHPO to fulfill its requirements under the National Historic Preservation Act (36 C.F.R. Part 800) for the transfer with an expected completion date of two years.

IHS supports the transfer as furthering the Government-to-Government relationship that exists with American Indian and Alaska Native tribal governments. It is important to emphasize that, as a normal practice, IHS does not transfer properties via the warranty deed mechanism.

Warranty Deed

We believe that reasons to use a warranty deed mechanism in future cases are limited.

Traditionally, Alaska Tribes and Tribal Health Organizations (T/THO) have preferred to leave the title to facilities previously operated by the IHS with the Federal Government.

The majority of the health care facilities used by the Tribes in the other 35 States are located on tribally owned lands. This warranty deed transfer would be the sixth of its kind in Alaska. IHS recently issued five warranty deeds authorized by Congress to transfer parcels of land to the Maniilaq Association, Alaska Native Tribal Health Consortium, and Yukon Kuskokwim Health Corporation previously transferred through a quitclaim deed. On other numerous occasions, properties have been transferred to T/THOs through quitclaim deeds.

Although a warranty deed does not have a reversionary clause ensuring the property will continue to be used in support of federal health programs, we think retrocession of IHS programs

is unlikely. We can count only four retrocessions since the 1975 enactment of ISDEAA. Three were only small program components which have been re-assumed by the Tribes. None of these retrocessions were in the Alaska Area.

IHS believes there are technical issues with some of the bill's language pertaining to environmental liability and the reversionary clause and would like the opportunity to work with the Committee to provide technical assistance on these matters.

Environmental Liability

Since 1975, SEARHC has managed the Mt. Edgecumbe Hospital Campus and provided excellent quality health care to approximately 13,000 IHS beneficiaries. Between now and the time SEARHC assumed management of the campus, the IHS did not undertake any activities that may have resulted in environmental contamination. However, the current language in S.825 will absolve SEARHC of any liability for environmental contamination during the period SEARHC controlled, occupied, and used the property. It does not include any provisions to absolve the agency of environmental liability during this period. This leaves the HHS responsible for contamination that may have been caused by SEARHC. The agency believes this could be rectified by including language to absolve the IHS of environmental liability subsequent to the time SEARHC controlled, occupied and used the property.

Mr. Chairman, this concludes my testimony. Thank you.