

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

June 8, 2015

To: Natural Resource Committee Members

From: Chris Fluhr and Ken Degenfelder, Subcommittee on Indians, Insular and Alaska Native Affairs Subcommittee x6-9725

Subject: Full Committee Markup of H.R. 521 (Rep. Young-AK), To provide for the conveyance of certain property to the Yukon Kuskokwim Health Corporation located in Bethel, Alaska.

H.R. 521, To provide for the conveyance of certain property to the Yukon Kuskokwim Health Corporation located in Bethel, Alaska.

Summary of the Bill

H.R. 521 was introduced by Rep. Don Young on January 22, 2015 and has been referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. The bill would direct the Secretary of Health and Human Services to convey by warranty deed, within 180 days of enactment, a 22.98 acre parcel of federal land located in Bethel, Alaska (Seward Meridian, AK) to the Yukon-Kuskokwim Health Corporation (“YKHC”) 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 YKHC 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”)¹.

Background

The Yukon Kuskokwim Health Corporation is a non-profit Alaska Native organization authorized by resolution and governed by a 21 member Board of Directors, which provides health care services for its 11 service area regions in the Yukon-Kuskokwim Delta region. Through a self-governance compact with the IHS, YKHC administers a health care delivery system for Alaska Natives residing in approximately 50 rural communities in southwest Alaska. These Alaska Native Villages have authorized YKHC to act on their behalf in negotiating with IHS to provide care services under Title V of the ISDEAA. This system includes, but is not limited to, a regional hospital, community clinics, and sub-regional clinics. The YKHC is the only full service health provider in the region.

The regional hospital that YKHC operates is the Yukon-Kuskokwim Delta Regional Hospital (YKDRH). The hospital building is located on 23 acres of land which belong to the IHS. Since 1993, YKHC has operated and maintained the building on behalf of IHS. In recent

¹ 25 U.S.C. 450 et. Seq.

years, the hospital has seen an increase in patient visits, which has led to a strain on the 30 year old hospital. The YKHC plans to build a 130,000 square foot primary care clinic attached to the existing YKDRH hospital, and renovate existing space, to meet demand in the coming years. In 2012, the total project was estimated to cost at minimum, \$250 million. In order to finance such an expansion of the building and renovations, YKHC applied for the IHS competitive Joint Venture Construction Program² (JVCP).

Need for Legislation:

YKHC services have grown significantly and patient visits continue to trend upward. To meet current and projected needs for health, behavioral health and other social services for the residents of the Yukon Kuskokwim Delta, YKHC needs to significantly expand its clinic capacity and renovate the aging 30 plus year old hospital. As outlined in the JVCP criteria, YKHC must demonstrate evidence of sufficient site control to secure the project.

Although both the Yukon-Kuskokwim Health Corporation and the Department of Health and Human Services are supportive of the land transfer³, Congressional action is necessary. Pursuant to the United States Constitution, only Congress can dispose of federal property.⁴ Congress can act pursuant to general property disposal statutes, like the Federal Property and Administrative Services Act,⁵ which authorizes the disposal of surplus federal property, or through specific legislation for a specific parcel of land. Because this specific parcel of land does not meet the requirements for any current general federal land transfer acts, specific legislation is necessary to allow the land transfer between the Indian Health Service and YKHC.

Section-by-Section Analysis of H.R. 521

Section 1-Conveyance of Property. Section 1 directs the Secretary of Health and Human Services no later than 180 days after the date of enactment of this Act, to convey by warranty deed certain property described in Section 2 for use in connection with health and social services related programs. The Conveyance of the property shall also be subject to four conditions which are:

- Conveyance must be made by warranty deed
- No consideration made by YKHC for the property will be given
- No obligation, term, or conditions will imposed on YKHC
- No allowance for any revisionary interest by the U.S. in the property

Section 2-Property Described. Section 2 describes the property, containing 22.98 acres.

² Section 818 of the Indian Health Care Improvement Act, P.L. 94-437, authorized IHS to establish joint venture projects under which Tribes otherwise construct a health care facility using non-IHS funds. IHS in turn requests funding from Congress for facility staff, operations, and maintenance per the agreement.

³ In January 2015, then acting IHS Director Roubideaux notified YKHC that their application ranked in the top 3, which would allow YKHC to participate in the JVCP.

⁴ U.S. Constitution, Article IV Section 3.

⁵ 63 Stat. 385, 40 U.S.C. 484(k)(3).

Section 3-Environmental Liability. Section 3 provides that notwithstanding any other provision of Federal law, as of the date of conveyance, YKHC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release or presence of any environmental contamination, including any oil or petroleum product, any hazardous waste pollutant, toxic substance, solid waste, or any other environmental contamination or hazard as defined in any Federal or State law, on the property described in Section 2.

This section also grants the Secretary any reasonably necessary easement or access to the property to satisfy any retained obligation or liability of the United States. Finally, this section provides that the Secretary shall comply with Section 120(h)(3)(A) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Support for the Legislation:

The bill is supported by the Yukon-Kuskokwim Health Corporation, Rep. Young, and Senator Murkowski. The City of Bethel, Indian Health Service, and several Legislature members for the State of Alaska sent letters support for YKHC in the JVCP and plans for expansion.

Administration Position:

The Indian Health Service testified in support of the transfer.

Anticipated Amendments:

Rep. Young will be offering a technical en bloc amendment that is technical in nature, which will add clarity and address any potential future liability to the federal government.
