Testimony of The Ketchikan Indian Corporation
(An I.R.A. Tribal Government)
Stephanie Rainwater-Sande, President

Submitted to the

United States Senate Committee on Indian Affairs
The Honorable Senator Ben Nighthorse Campbell, Chairman
Washington, DC 20510-6450

Good Morning Mr. Chairman and Committee members. My English name is Stephanie Rainwater-Sande. My Haida name is Dat Kan San which means Aasking for something@. My elders knew what they were doing when they gave me that name, because on behalf of Ketchikan people, I am here to ask for something - your support of Senate Bill 979, the Tribal Self Governance Amendments of 1999.

I am President of the Ketchikan Indian Corporation (KIC), a federally-recognized tribal government formed under the Indian Reorganization Act. The current KIC certified enrollment is 4,217 members, and has been growing every month. Many native people in the local community are eligible to enroll in a number of different tribes and have chosen to enroll in KIC because of the services we are able to provide through self-governance compacting.

I am honored to be here as an elected official and would like to thank you for this opportunity to present testimony before you today. We applaud the efforts and determination of this Committee to pass legislation that will further the policy of allowing tribes to govern their own programs. This

legislation will create ATitle V@ to P.L. 93-638 and will establish permanent federal authority for health-related tribal self-governance. Title III, the present authority and demonstration project, has allowed KIC to exercise tribal self governance and we believe we have been very successful in our endeavors.

This new chapter of self-governance will better define Federal and tribal responsibilities. It will also enable increased program innovations and, hopefully, eliminate hindrances to our ability to access IHS resources.

We support the proposed legislation because the 638 contract process and the subsequent Self-Governance Compacting process has worked for our Tribe and many Tribal Organizations across the country. I would like to describe our Self-Governance successes for KIC and why we believe that S. 979 will further benefit our tribal members.

KIC was one of the original participants in the 638 contracting process and the Self-Governance Demonstration Project and assumed tribal management of programs previously run by the Bureau of Indian Affairs. Over the past twenty years, KIC has entered into several 638 contracts and in 1994 entered into a single Self-Governance Compact. Under this Compact KIC manages all BIA programs. In 1997, KIC entered into an IHS Self-Governance Compact pursuant to the Title III Demonstration Project, and continues to operate under that authority today. As described below it has been an immensely successful project for KIC.

BIA 638 Programs

In 1975 we received our first 93-638 contract to run the cultural instructors program provided for in the Johnson O=Malley Program. When we first took over this program we had two or three

cultural instructors in the public schools. Now the program has grown to five instructors and three apprentices. KIC is currently looking at providing an Early Childhood Program, where instructors would go into the homes of preschool children, preparing them to enter the public school system.

We have also assumed management of the BIA General Assistance program under a 638 contract. Prior to our management, the program consisted of the Federal government giving us general assistance payments and the tribe in turn simply handing out checks to eligible members. Through the self-governance process, the program today has been revised significantly. We now require and provide vocational training to eligible members, with the ultimate goal of full time permanent employment. The Tribal Council determined that direct training, job placement, tribal employment, and apprenticeship programs would be important keys to success. In effect, KIC has created its own welfare to work program and has operated it successfully for a number of years. Our Tribal members appreciate and participate in this program. In fact, our General Assistance Training Opportunities (GATO) Program experienced a dramatic increase of tribal member requests for training assistance in 1998, 2,748 requests, tripling from 964 requests in 1997.

We have also managed our Social Services program under a 638 contract for a number of years. Under our management of this program we have been able to provide additional services to our members. For example we have established a Domestic Violence program and provide one-on-one and group counseling services to women who are victims of domestic violence. Future expansion of this program would include another specialist who would provide counseling services to men involved in domestic violence cases. We have also added a Indian Child Welfare Act specialist to our Social Services Department to assist the tribe in adoption and placement proceedings.

In 1994, KIC assumed the ownership and operation of the Deer Mountain Fish Hatchery from the State and City governments who indicated their intent to close the facility due to the high cost of operations. KIC has successfully operated the facility using approximately half the funding that the State required when it managed the facility. In 1998, KIC added a Bald Eagle Habitat and in 1999, an Interpretive Center to the hatchery and employed thirty tribal members in the process. Today the Tribal Hatchery and Eagle Center is a major tourist destination for Alaska visitors. As a result of our successful management of this facility, the State of Alaska has committed over one million dollars in Economic Development Administration grants for this facility. This project now employs three permanent positions and about eighteen seasonal personnel from May through October.

BIA Self-Governance Compact

In 1994 KIC entered into one of the first Self-Governance Compacts in the country. Under a single compact we manage all BIA programs, including those mentioned above.

This compacting process has enabled KIC to run all of our BIA programs in the most efficient and cost effective manner. We have been able to utilize innovative ways to combine funding sources that were previously restricted to specific programs. For example we have used the General Assistance Training Opportunities (GATO) program in combination with the Summer Youth Employment Program to provide seasonal jobs at the Tribal Hatchery and Eagle Center. This opportunity has provided invaluable experience to those who have participated, and has taught job skills that can be carried elsewhere. It has also benefited the operation of the facility. In 1997, KIC established a Housing Authority, to receive a HUD Indian Housing Block Grant, under the Native American Housing Assistance and Self-Determination Act (NAHASDA). Through the

compacting process, we have been able to combine NAHASDA funding with BIA Home Improvement Program (HIP) funding to repair and renovate tribal member homes. We have also combined NAHASDA funding with the Higher Education and vocational programs to provide much-needed student housing grants. Finally, KIC has also been able to integrate this program with the Emergency General Assistance program and provide emergency rental assistance to tribal members.

We have gained invaluable experience, knowledge and skill in managing our programs through the compacting process. We are now able to enter into cooperative agreements with state and local governments, and other tribes and tribal organizations to manage or co-manage state, local and tribal services or programs. For example, KIC co-manages the Indian Education Act program with the local school district. This program provides tutors in the elementary and middle schools for all students, native and non-native.

IHS, 638 Contract and Self Governance Compact

In 1997, KIC entered into a Title I, IHS 638 contract. Shortly thereafter, we converted the contract to a Title III demonstration project and became a party to the Alaska Tribal Health Compact (ATHC). This compact consists of approximately twenty two tribes and tribal organizations, in Alaska, that negotiate our compact agreement and individual annual funding agreements together for the fifty plus tribes represented. KIC=s Tribal Alcohol Program, a 638 contract entered into in 1992, was compacted with the health services funding.

With the acquisition of KIC=s health services funding, a Medical Social Services Department was acquired. On April 1, 1999 the General Social Services Department (which is funded by BIA, IHS and the Department of Justice) was combined with the Medical Social Services Department

under the direction of the KIC Tribal Health Clinic Administrator. The combined Social Services Department can better serve our tribal members. The Social Services Director is currently working to certify the program to be able to bill and collect fees for services from third parties when eligible health coverage is available.

KIC has implemented many of the goals in its strategic plan, including the building of our five-story 35,000 square foot health facility. What makes this achievement more satisfying, is that it was done through private financing. KIC did not have to encumber any federal dollars for the project. The new KIC Tribal Health Clinic is approximately forty percent complete, and is scheduled to begin serving eligible patients in February of 2000.

This year, KIC was able to obtain membership on the Alaska Native Health Board (ANHB). The achievement of this goal will enable KIC to network with other members on the many pressing health care issues of today. Since taking over health care for the Ketchikan Gateway Borough (KGB) service area, the KIC Tribal Health Clinic has seen a dramatic increase in patient visits. The number of patient visits is 78% higher in 1999 than it was in 1998. KIC has been able to maintain high-quality health care through these trying times, with no significant IHS funding increases. This has been accomplished through staff dedication, obtaining grants and working with other programs, such as GATO, BIA Social Services, and the Job Training Partnership Act (JTPA). In less than two years the KIC Tribal Health facility has been able to increase the services offered. This was accomplished through the efficiency of an experienced staff, and the integration of compact programs. Some of the new services are a dental hygienist, a physical therapist, a midwife, colonoscopy evaluations, cardiac treadmill testing, state of the art Tele-radiology, a Tobacco Cessation Program, and the Diabetes

Program.

It is easy to see the benefits derived from the ability to compact as an Indian Tribe. These inherent rights are confirmed and established through the law created by our legislative process. The future remains intensely bright for tribes, tribal organizations, and the Federal Government, as more compacting tribal governments are formed. KIC=s compact and enterprises continue to grow and provide employment opportunities for tribal members. The revenue generated from these ventures will provide a much needed cash supplement for these tribal government programs. It is with great expectation and enthusiasm that the tribes and the Senate can travel down this evolutionary road of tribal self-determination. It is with this in mind that KIC asks this Committee to support Title V legislation, thus making Self-Governance for IHS programs permanent under P.L. 93-638. This Act has enabled tribes to exercise their rights to assume local control over Federal Indian Programs. In exercising this authority, greater cost efficiencies have been established to maximize the benefits of every dollar. KIC=s growth has expanded through the ability to compact from $2.5 million annually, two years ago, to a projected $12 million annually, in FY 2000. Our employment levels have gone from a staff of 25, a couple of years ago, to 125 during our peak tourism months.

KIC urges prompt passage of S. 979 and would like to ensure that the language include these suggestions from the Joint Contract Support/Title V Coalition. These may or may not be included in the latest draft of the legislation.

1. The definition of AInter-Tribal Consortium@ (Sec. 501(a)(4)). is not clear. Do entities other than Tribal Organizations, such as the members of the Alaska Tribal Health Compact, also satisfy the definition of inter-tribal consortium? We recommend that the definition be amended to read in

pertinent part Aincludes, but is not limited to, tribal organizations.@

2. The criteria for Self-Governance Eligibility (Section 503(c)(1)(C)) should be consistent with Title III language Athe previous three fiscal years@ should be sufficient.

3. Section 506 authorizes tribes to redesign and consolidate programs, services, functions and activities (PSFA=s). The phrase Aunder Federal Law@ needs to be added at the end of Section 506(e). This omission could result in keeping tribes from redesign and consolidation of PFSA's. This phrase was agreed to by the HHS/IHS to assure that any federal authorized purpose accompany the authority to redesign.

1.KIC asks that the funding provisions of the bill in Section 508(d)(1)(C) be revised to clearly prohibit the Secretary from unilaterally reducing a tribe=s funding entitlement. Sections 106(a) and (b) must be incorporated to ensure that Self Governance tribes will be treated no better or no worse than Title I tribes in the determination of funding levels.

2.S. 979 requires the Secretary to acquire and transfer personnel, supplies or resources to tribes that elect to carry out their funding agreements with those revenues. Section 508(e) should require and state Aauthorize and mandate transfer of federal resources to tribes@ not Ato the extent allowable.@

3.KIC recommends that Section 517(e) be clarified so that it is clear that tribes are not required to follow HIS program regulations, circulars, policies, manuals, instructions and rules. The whole point of self-governance is for the tribe to determine how a program will be administered within the limits of any applicable statutory regulations.

7. A new section should be added to clarify the conflicting payment provisions of existing law.

In 1994, when Congress enacted the detailed funding provisions that appear in Section 106 of the Act (which controls self governance funding), and when Congress assured tribes the right to receive all contract funds up front in a single lump sum, Congress overlooked repealing the old and inconsistent funding language found in the original section 105(b) (25 U.S.C. ' 450j(b)). The first two sentences of Section 105(b) should therefore now be removed.

8. KIC recommends that the Committee make clear that federal courts should give a Afresh look@, de novo review, when faced with challenges to IHS activities. Courts have been reluctant to permit more than the standard Administrative Practices Act review of agency decisions. As one federal judge correctly observed last year, it is not appropriate for the court to defer to IHS judgement about its own funding because when IHS has a clear conflict of interest when it is called upon to turn its funding and programs over to tribal governments.

9. The Federal Reports Elimination Act of 1998, Public Law 105-362 eliminated the reporting requirements of Section 105(c) of the ISDEAA. It had required the Secretaries of the Interior and HHS to report to Congress on an annual basis on direct and indirect program cost deficiencies for Indian Tribes and Tribal Organizations. These reports are critical to assuring Congress is kept informed about critical funding issues. A new section should be added to S. 979 addressing this issue.

Thank you once again for the privilege of providing written and oral testimony. A special thanks to the congressional delegation from Alaska, and especially to Senator Murkowski, for their efforts in passing the ACoast Guard Authorization Act of 1996.@ This Act enabled KIC to receive ownership of the property where the new KIC Tribal Health Clinic is being built. Please do not hesitate to let me or my staff know if we can provide any further information to this Committee in

its deliberations. Thank you once again.