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**TESTIMONY BEFORE THE U. S. SENATE COMMITTEE ON
INDIAN AFFAIRS
HEARING ON S.1696, THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES TRIBAL SELF-GOVERNANCE AMENDMENTS ACT OF 2003**

May 19, 2004

I am pleased to testify in support of S.1696, a bill to strengthen Indian tribes' opportunities for self-governance by creating a demonstration project under Title VI of the Indian Self-Determination and Education Assistance Act (P.L., 93-638 as amended) (ISDEAA). I appreciate the opportunity to be here today. My name is W. Ron Allen and I am the Chairman of the Jamestown S'Klallam Tribe located in Washington State. I also served as one of the Tribal Co-Chairs of the Title VI Study team.

The proposed Title VI demonstration project would establish a 5-year program to extend the effectiveness of tribal administration through self-governance to programs within the Department of Health and Human Services (DHHS) other than the Indian Health Service (IHS). It authorizes participation of up to 50 existing self-governance tribes to negotiate and enter into compacts and funding agreements for several DHHS programs.

The true import of the demonstration project can be best appreciated by understanding the unprecedented positive impact self-governance has had on Indian tribes over the past 15 years.

Background of the ISDEAA and Title VI

Prior to 1975, the federal government administered almost all programs serving American Indian and Alaska Native tribes. In 1975, the ISDEAA was enacted with three primary goals: (1) to place the federal government's Indian programs firmly in the hands of the local Indian people being served; (2) to enhance and empower local tribal governments and their governmental institutions; and (3) to correspondingly reduce the federal bureaucracy.

The original Title I of the Act, still in operation today, allows tribes to enter into contracts with the DHHS and the Department of the Interior (DOI) to assume the management of programs serving Indian tribes within these two agencies. Frustrated at the stifling bureaucratic oversight imposed by BIA and IHS, and the lack of flexibility and cost-effectiveness inherent in Title I contracting, a small group of tribal leaders helped win passage of the Tribal Self-Governance Demonstration Project. In 1988, Congress launched a demonstration program authorizing 10 tribes to enter into compacts with DOI. The Jamestown S'Klallam Tribe was one of the original ten tribes to successfully negotiate a compact and annual funding agreement with DOI. Unlike Title I

contracts, which subjected tribes to federal micromanagement of assumed programs and forced tribes to expend funds as prioritized by BIA and IHS officials, self-governance agreements allowed tribes to make their own determinations of how program funds should be allocated.

The Demonstration Project proved to be a tremendous success and, in 1994, Congress enacted Title IV of the ISDEAA, thereby implementing a permanent Tribal Self-Governance program within DOI. Congress then enacted Title V of the ISDEAA through the Tribal Self-Governance Act Amendments of 2000, P.L. 106-260, which made permanent the Tribal Self-Governance program within the DHHS for programs, functions, services and activities of the IHS.

The Tribal Self-Governance Act Amendments of 2000 also created Title VI of the ISDEAA, which required an assessment of the feasibility of expanding the DHHS self-governance program beyond the IHS. The Title VI Study Team, which consisted of representatives from tribes and the DHHS, then consulted with stakeholders and completed a feasibility study that was presented to Congress in 2002. The Study concluded that a self-governance project, in which tribes can assume programs, functions, services and activities and associated funds from agencies within the DHHS other than the IHS, is feasible. The Study identified a number of programs that could be included in self-governance agreements and recommended legislative changes to implement a demonstration program.

The Success of Self-Governance

The existing self-governance programs under the ISDEAA have greatly contributed to tribes' abilities to determine internal priorities to effectively meet the needs of their communities. The increasing number of tribes that have opted to participate in the self-governance programs on an annual basis reflects their success. In Fiscal Year 1994, the first year self-governance agreements were negotiated with tribes, 14 tribes entered into 14 agreements. At that time, the total dollar amount compacted by Indian tribes was \$15 million. Today, in Fiscal Year 2004, 288 tribes and tribal consortia have entered into 83 annual funding agreements, operating over \$873.2 million in programs, functions, services and activities.

The growth in tribal participation in self-governance revealed by these numbers is remarkable. The number of tribes and tribal consortia participating in self-governance today is *20 times greater* than in 1994. While only a tiny fraction of tribes participated in the program's first years, *today approximately 51.6% of all federally-recognized tribes are self-governance tribes and the interest by other tribes is continuing to grow.*

Under the Title V self-governance program with the IHS, tribes have assumed the management of a large number of IHS programs, including hospitals and clinics, dental programs, alcohol and drug treatment, mental health services, health promotion and disease prevention, and environmental health services, among others. I have seen the success of self-governance first hand in my own Tribe over the past 13 years, and have

heard over and over again from tribal leaders across the country, that self-governance accomplishes the following:

Promotes Efficiency. The transfer of federal administration from Washington, D.C. to Indian tribes across the United States has strengthened the efficient management and delivery of federal programs impacting Indian tribes. As this Committee well knows, prior to the self-governance programs, up to 90% of federal funds earmarked for Indian tribes were used by federal agencies for administrative purposes. Under self-governance, program responsibility and accountability have shifted from distant federal personnel to elected tribal leaders. In turn, program efficiency has increased as politically accountable tribal leaders leverage their knowledge of local resources, conditions and trends to make cost-saving management decisions.

Strengthens Tribal Planning and Management Capacities. By placing tribes in decision-making positions, self-governance vests tribes with ownership of the critical ingredient necessary to plan our own futures – information. At the same time, self-governance has provided a generation of tribal members with management experience beneficial for the continued effective stewardship of our resources.

Allows for Flexibility. Self-governance allows tribes great flexibility when making decisions concerning allocation of funds. Whether managing programs in a manner consistent with traditional values or allocating funds to meet changing priorities, self-governance tribes are developing in ways consistent with their own needs and priorities.

Affirms Sovereignty. By utilizing signed compacts, self-governance affirms the fundamental government-to-government relationship between Indian tribes and the United States government. It also advances a political agenda of both the Congress and the Administration by shifting federal functions to local governmental control.

In short, self-governance works because it places management responsibility in the hands of those who care most about seeing Indian programs succeed: Indian tribes.

Overview of Title VI Demonstration Project

The self-governance initiative has been important and successful for my Tribe and for so many others. I support, without hesitation, the extension of this initiative to other agencies within the DHHS, which the amendments to Title VI of the ISDEAA would create. Title VI, if amended and enacted as proposed under S.1696, would provide tribes with the ability to operate non-IHS programs of the DHHS through an efficient process involving negotiated compacts and funding agreements, and extension of self-governance rights and administrative flexibility.

Let me quickly summarize what I see as a few key points about S. 1696:

Streamlining. In order to participate in non-IHS programs within the DHHS, tribes currently develop and submit multiple grant applications for related programs, which requires hundreds of pages of narratives, separate budgets and record-keeping, and the submission of numerous time-consuming reports. Title VI allows tribes to combine funds from various sources and provides flexibility for tribes to use the funds to design and provide services that are appropriate for the tribes' communities. The Title VI demonstration program thus promotes efficiency, which translates to better health care for native people.

Expanded Programs. I support the inclusion of all 13 programs identified for the demonstration. These programs will enhance tribes' abilities to meet identified needs and increase access to critical health programs, such as community mental health services, for tribal communities. Importantly, the bill also provides for the Secretary to identify up to six additional programs annually for inclusion in the demonstration. By including a larger number of available programs, the demonstration will allow tribes to develop additional and stronger services to compliment those already being provided.

Funding Contract Support Costs. Through the Title VI demonstration project, contract support costs are to be added to the amount of funding tribes receive for the included programs. Historically, as the Committee well knows, the IHS has not fully funded tribes' contract costs needs. Full indirect costs should be made available to the tribes that will participate in the demonstration. Placing the financial burden on tribes to cover indirect costs would deplete the resources needed to support the direct programs and could discourage tribes from participating in the demonstration project. Without sufficient funding for administration, the success of a demonstration project would be challenged.

Redesign and consolidation. If a tribe agrees to follow the programs' statutory purposes and self-governance cost principles, S. 1696 provides that tribes may choose whether to redesign and consolidate the programs. Redesign and consolidation are principle tenets of self-governance, giving tribes the flexibility required to meet their own needs and priorities, while also preserving the integrity of the programs.

Inability to Agree on Compact or Funding Agreement. The bill includes vitally important procedures to be followed when a tribe and the Secretary cannot agree on terms of a compact or funding agreement.

Successes and Permanency of the Program in the Future. The bill requires the Secretary to issue a report to Congress on the relative benefits and costs of the demonstration program. The Secretary is required to work jointly with tribes to establish a baseline for measuring the program's successes. Through development of the report, the Secretary and participating tribes will measure the services provided to beneficiaries, verify that the participating tribes met the statutory purposes of the compacted programs, and confirm that tribes carried out key self-governance principles. These measurements should capture important benefits gained by the tribal governments and their communities served under the demonstration program in ways that are not otherwise

easily represented by mere quantitative data. I expect that the benefits that will be realized under the demonstration program will make the Title VI self-governance program worthy of permanent status in the ISDEAA in the future.

Conclusion

The Title VI demonstration project is a tremendous opportunity to continue to advance the self-governance initiative, including enhancement of the government-to-government relationship between tribes and federal representatives. I urge Congress to pass S. 1696 so that we can build on the successes of the past 15 years and further the development and self-determination of Indian tribes to achieve our mission and goals. I appreciate Congress' commitment through this legislation to work toward raising the status of health care for Indian people. The Jamestown S'Klallam Tribe looks forward to becoming a participant in the demonstration program.

Thank you.