



# CENTRAL COUNCIL Tlingit and Haida Indian Tribes of Alaska

**TESTIMONY OF THE HONORABLE WILL MICKLIN**  
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**Central Council of Tlingit and Haida Indians Tribes of Alaska**  
**Juneau, Alaska**

**Before the U.S. Senate Committee on Indian Affairs**

**Hearing on H.R. 4347**  
**Interior Tribal Self-Governance Act Amendments of 2010**

**November 18, 2010**

Introduction. GREETINGS FROM ALASKA! *L'ingit X'neix Yaan Yaan Eesh yoo xat duwa'saak.* My name is Will Micklin. My Tlingit name is Yaan Yaan Eesh. I am of the Wolf Tribe, Teikweidee or Brown Bear Clan of the Kaat Hit House of the Tongass Tribe of Ketchikan, Sealaska Corporation shareholder and member of the Alaska Native Brotherhood Camp 14. I am the elected First Vice-President of the Central Council of Tlingit and Haida Indian Tribes of Alaska, a federally recognized Indian tribe from Southeast Alaska with 28,000 members. Our 18 communities in southeast Alaska span Hydaburg in the south of Prince of Wales Island to Yakutat near Mt. Saint Elias in the north, and our headquarters are in Juneau, Alaska.

I am today acting President and testifying for my Tribe in the place of our President, the Honorable Edward K. Thomas, who is on travel outside the country. I am very familiar with Tribal Self-Governance, having served for the past 16 years as an elected Assemblyman to Tlingit & Haida with the last two terms on the Executive Council, and 15 years as the Chief Executive Officer for another self-governance Tribe, the Ewiaapaay Band of Kumeyaay Indians.

Summary. The House-passed H.R. 4347 would apply sorely-needed improvements to the existing Tribal Self-Governance statute, codified as Title IV of the Indian Self-Determination and Education

Assistance Act of 1975. Tlingit and Haida Central Council is pleased to testify today in strong support of quick Senate passage of the House-passed bill before the end of the year.

Because it is within reach, Senate passage of the House-passed bill should be your highest priority for the coming days. More on that in a few minutes, but first, some background.

Background. Tribal self-governance is a goal for which Congress and Indian tribes long have expressed strong support. Amending federal law to increase tribal self-governance authority creates many benefits for all parties involved, ranging from reduced reporting costs to increased program flexibility and innovation in implementation. The key to meaningful tribal self-governance is a respect for the capacity of tribal governments to carry out federal functions and implement federal policies.

If it is authentic, a federal policy that honors government-to-government relations with Indian tribes is one that trusts the corrections inherent in an elected tribal leadership. Tribal accountability and effectiveness is enhanced -- if federal officials properly restrain their role in tribal self-governance. All of this improves the services delivered to our people.

Tlingit Haida as Self-Governance Leader. Central Council is deeply invested in making Tribal Self-Governance a success. In 1987, Central Council was among the initial group of ten, so-called "demonstration" Tribes who worked with the Congress to draft what became the self-governance statute. Central Council's President Thomas, along with Chairman Ron Allen here today, shaped the original law at each stage of its development, from the study and planning language in the FY 1988 appropriations bill to the Title III demonstration language that originated with this Committee in the early 1990s to Title IV which likewise originated here in 1994. Tlingit and Haida was the first Tribe to enter into a multi-agency agreement under Public Law 103-477, more or less the son of self-governance, which allowed us to consolidate employment and training funding from various federal sources into a single, coordinated tribal program. We are proud of the active role our Tribe has been able to play in the movement towards expanded tribal self-governance, and our people are eager to make every contribution we can towards furthering that movement.

In 1992, our initial Compact and Funding Agreement, one of the first in the country and the first in Alaska, completely closed an entire Agency Office of the Bureau of Indian Affairs and transferred its funding and responsibility to Central Council and other Tribes in our region. Where before our services were delivered by BIA employees, we assumed the responsibility to serve ourselves. Central Council truly did "step into the shoes" of the federal government. Ours was the very first multi-tribal compact that provided, by mutual agreement with some of the IRA Tribes in southeast Alaska, Central Council administration of programs for the benefit these Tribes and their Tribal members.

For the past twenty-five years, Central Council has pushed hard to see Tribal Self-Governance fulfill its promise of devolving paternal federal power and conveying resources to the tribal government level where they can be exercised most efficiently and cost effectively, with the greatest accountability to the Tribal citizen and public taxpayer. In our experience, Tribal self-governance is the cure for debilitating federal dependence, giving rise to healthy tribal governments that fulfill the promise of self-sufficiency.

Why Title IV Reforms Are Long Overdue. Tlingit and Haida's experience with Tribal Self-Governance has not been without its challenges. An unfounded fear of change on the part of the federal bureaucracy

has fueled bureaucrats' constant battles against Tribes advance guard in negotiations of our agreements and battles with our rear guard to compel bureaucrats to honor our agreements. Rules have been changed by federal officials arbitrarily and capriciously without notice or consultation. Negotiations have simply stalled without end or consequence for bad faith actions. Payments have been delayed for months and years. For example, between 1996 and 2000, Interior failed to deliver to us a total of \$953,781 in contract support cost funding that its own negotiators, in applying uniform federal rules, had determined were due us for our operation of BIA-funded programs. We had to meet this shortfall with the earnings from our Tribal Trust Fund. Using Tribal Trust Fund dollars to meet federal contractual obligations resulted in lost opportunities to address the many problems facing our people. Every year, Interior has failed to timely deliver the funding it has agreed to deliver, forcing us to borrow funds in order to meet even basic payroll obligations. Last year, we were awarded "emergency" funds for families in hardship but the self-governance pipeline was so twisted, clogged and mis-managed that these urgently-needed funds arrived a full year after they were promised.

We must fight each step of the way because the current law provides very little leverage to a Tribe and oceans of discretion to the federal bureaucrats that enable them to delay, obstruct, frustrate, and eventually diminish Tribal initiative. These fights are costly for us in terms of time, money and opportunity. The delays in time and loss of opportunity for our Tribal self-help efforts are so significant that we are compelled to seek a fix to each problem. But as problem follows after problem, our costs in advocates and experts are squeezing us dry and nullifying the benefit of our initiatives. This negotiation and implementation process has become a war without end that is unfair to Tribes.

The amendments made by the House-passed H.R. 4347 to Title IV will restore fairness to federal Tribal Self-Governance policy and practice. The "final offer" provision in the bill, on its own, will dramatically streamline negotiations. The new definitions, the common sense provisions for construction, investment flexibility, payment procedures, and other provisions, will make Tribal efforts to administer our agreements much more efficient and productive. These amendments will allow us to avoid most of the bureaucratic battles Tlingit and Haida has encountered over the past two decades.

Why Quick Passage of H.R. 4347 is Vitally Necessary. Tlingit and Haida joined with other Tribes over the past 10 years to shape and reshape this bill to blunt objections from wave after wave of federal bureaucrats. We began a decade ago with what we thought would be a simple task of asking Congress to replicate the law reforms regarding health self-governance which Congress imposed on the Indian Health Service in Title V in the year 2000. If it worked for IHS, why not for BIA? That remains our central message. And it is the basis of our request today. We have worked for years with each Administration to pare down this bill to the bare minimum. Today the House-passed bill reflects great compromise on the part of the Tribes. We have conceded point after point to the Interior Department. For example, H.R. 4347 leaves essentially unchanged the existing limited authority to negotiate non-BIA programs, because we were unable to dissuade non-BIA interests at Interior of their irrational fear that Tribes would destroy their mission if we administered their programs despite Tribes proven management expertise and historical, spiritual and economic ties to public lands and their resources, especially where such lands and resources were in just my grandparents memories, wholly tribal. Rather than allow the non-BIA controversy to again hold hostage the rest of the bill's BIA provisions, we sacrificed one of our goals for the sake of securing other goals.

The House-passed bill is about as refined and perfected as legislation can be after years of scrutiny and revision and hearing and negotiation. So now, as another Congress draws to a close, we are at the finish line with this Committee and this Senate, and you hold it within your power to send it on to the President. On behalf of Tlingit and Haida, and the many other Self-Governance Tribes who have invested a great deal of time and effort on it, we urge you to report the House-passed bill out of this Committee immediately and actively secure Senate adoption of it before the end of the lame-duck session. If there are any changes to the House-passed H.R. 4347 which the Senate or the Department believe are necessary, they can be made in the form of technical amendments next year after enactment this year, but not now. It is imperative that in the coming days the Senate pass and send on to the President the House-passed H.R. 4347.

Conclusion. Mr. Chairman and Members of the Committee, “*Anklein Gunalcheesh*” and “*Howah*”, thank you very much for the opportunity to present this testimony on behalf of Central Council of Tlingit and Haida Indian Tribes of Alaska and the Tribal citizens we serve. I commend you and this very distinguished committee for the valuable time you are dedicating to this very important issue in the final hours of this Congress.

On a personal note, and on behalf of President Ed Thomas, I thank you, Chairman Dorgan, for the years of service and commitment you have given to Indian Country among your other commitments as a United States Senator. Your dedication, and that of your most able staff, will long be remembered, and as you leave for us in Indian Country a legacy of significant accomplishments, including, I hope, Senate passage of H.R. 4347, I wish you well as you move on to ever greater success and satisfaction.

Tribal Self-Governance is the single-most important federal Indian law reform that I have seen in my lifetime, and I hope you and your colleagues see fit to lay H.R. 4347 on the President’s desk for signature into law before the end of this year.

*Anklein Gunalcheesh! Howah!*