STATEMENT OF DON KASHEVAROFF,
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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

Good morning Mr. Chairman and Committee members. I am pleased to testify today in strong support of S.1696, the Department of Health and Human Services Tribal Self-Governance Amendments Act. My name is Don Kashevaroff and I am the President of Seldovia Village Tribe and the Chairman of the Alaska Native Tribal Health Consortium.

The bill you sponsored will create a demonstration project for non-Indian Health Service programs in the Department of Health and Human Services. More importantly, the bill will further the central purpose of the Indian Self-Determination Act – to allow tribes to exercise their own governmental powers and sovereignty by managing federal programs for their own benefit. And, as you know, Self Governance has resulted in a reduction in the Federal bureaucracy and an improvement in the quality of services delivered to our members. Enactment of this bill into law will add yet another important chapter in tribal self-sufficiency.

I would like to describe for you how well Self-Governance is already working in Alaska and why it makes perfect sense to expand the scope of Self-Governance to other programs within the Department of Health and Human Services.

First, in Alaska, the permanent Self-Governance program under Title V of the Indian Self-determination has been an unqualified success. Tribes and tribal organizations, such as the ones that I represent here, have been able to run the system with more efficiency, effectiveness and creativity than the Indian Health Service ever could.

For many years Seldovia has been a co-signer of the Alaska Tribal Health Compact ("ATHC"). Starting in 1994, a number of tribes and tribal organizations in Alaska negotiated and signed the ATHC and Annual Funding Agreements authorizing them to operate health programs. Today the ATHC has 18 co-signers under which a total of 213 federally recognized tribes in Alaska receive the great majority of the health care services provided to Alaska Native and American Indian beneficiaries residing in Alaska. Over 95% of the IHS programs in Alaska, including the Alaska Native Medical Center in

Anchorage, are currently operated under tribal administration in accordance with the ATHC.

Under Seldovia's Funding Agreement negotiated under the ATHC, the Seldovia Tribe provides a full range of health care to our people, including clinical services, pharmaceutical services, family health care, health education, diabetes clinics, and domestic violence intervention services. Seldovia is very interested in broadening the scope of these programs to included non-IHS programs from within other agencies located in DHHS.

The bill would create a 5-year program to extend Tribal Self-Governance to programs within the Department of Health and Human Services (HHS) that are outside the Indian Health Service. The project would include up to 50 current self-governance tribes that would be eligible to negotiate new Self-Governance compacts and funding agreements for the additional HHS programs. There are 13 programs included in the bill. These include key programs such as Tribal TANF to Low Income Home Energy Assistance to Head Start and Family Violence Prevention Grants. In addition, the bill would allow the Secretary to choose an additional 6 programs to add to the existing 13. The bill makes it clear that the Secretary is under no obligation to do so, but can if he or she believes it would benefit the Department and the Tribes.

The new compacts and funding agreements set forth in the bill are substantially the same as those under the current Title V program. The bill, in other words, is not a radical or large departure from what the Department and Indian Country are used to. In fact, the bill would allow a tribe to simply expand its current compact to include any new programs, rather than draw up a new compact.

The bill continues the flexibility that is the hallmark of the Self-Governance program. The fact is that Indian tribes that are given the ability to tailor or modify federal programs so that they best meet tribal and cultural needs can run better programs. The ability to redesign, consolidate and reallocate programs and funds, as tribes can already do under Title I and Title V, is a critical element of this bill. Further flexibility is provided through the waiver provision in the bill in section 606. The waiver provision would allow a tribe to ask the Secretary to waive certain federal program requirements. The Secretary can do so, but only if he or she determines that the waiver would further the purposes of the Act. The bill recognizes that tribes will comply with final regulations for the each of the 13 programs. At the same time, flexibility is ensured by also recognizing that tribes will not be bound, unless agreed to, by other agency policies, circulars, manuals or guidances.

The bill also recognizes that funding formulas should be the result of negotiation between the federal government and the Indian tribes. We express strong support for the funding provision in this bill which would provide for a lump sum annual payment made within 10 days after the apportionment of funds to HHS from OMB.

Another key benefit to tribes in this bill is the inclusion of negotiated baseline measures. Prior to Self-Governance, the IHS unilaterally determined what standards and measures would be used to annually evaluate Seldovia's programs. Often those standards and measures were burdensome and inapplicable to what we were doing. Under the ATHC, the IHS and Seldovia have jointly developed relevant and less burdensome baseline measurements, which are used for the annual evaluation of our programs.

Finally, I want to point out that the bill brings another key element of the Self-Governance program: *Streamlining.* Many tribes and tribal organizations in Alaska already receive substantial funding for the programs contemplated under the bill. For instance, tribes in Alaska already operate their own Head Start, Child Care Development Block Grant, Family Violence Prevention, and Child Welfare Services Program. Thus, expanding the scope of Self-Governance to include these programs as the bill would do is simply a natural extension of what we are already doing. In fact, bringing the efficiencies and tribal flexibility of Self-Governance to these programs will only make them better for us in Alaska.

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.

On the other hand, all Indian tribes who are part of the Self-Governance program will tell you that the one missing element in the bill is the right to full contract support costs. The bill provides that contract support costs will be provided for each of the eligible programs. Nevertheless, our experience under Self-Governance has shown that tribes never receive the full amount of contract support costs from the IHS. This has to change if tribes are to ever fully realize the benefits of Self-Governance. We cannot afford to pay for the unmet costs out of our own pockets. For many of us, that means we have to take funding from other important programs. In a larger context, lack of full funding will serve to discourage other tribes from entering into the demonstration project. In simple terms, we want this program to succeed. We know that the Committee wants this program to succeed. Therefore, we urge you to make the Department pay its full share of contract support costs.

Section 607 of the bill requires the Secretary to annually report back to Congress on the status of the demonstration project. We fully expect that the reports will demonstrate ability of tribes to carefully, and expertly, manage the additional HHS programs. In fact, we expect the reports to show that Native tribes will manage the programs better than the Department has. We urge this committee to carefully examine those reports and then work with us on making the demonstration project within HHS permanent. At the same time, we will work the Department on identifying additional HHS programs that should be eligible for inclusion in the Self-Governance program.

Conclusion

Tribal governments, under Self-Governance have become increasingly stronger governments. Passage of this bill will further this Committee's and Mr. Chairman, your efforts to strengthen and promote tribal governance. Tribes have continuously demonstrated that when given the chance to manage federal programs, they have succeeded at every turn. Self-Governance has given tribes more management capacity, better information networks, and, by bringing in more and more programs, a better capacity to operate as a true sovereign nations. It is fitting that we are here 70 years after the passage of the Indian Reorganization Act. The IRA was a well-intentioned, but simplistic and rigid attempt to further tribal self-governance. What we now know, is that the only laws that work to truly promote tribal self-governance are those place real management responsibility in the tribes themselves, and with arm the tribes with flexibility to tailor federal programs to meet their own needs, and provide tribes with the funding to make those programs work.

The Seldovia Village Tribe and the Alaska Native Tribal Health Consortium strongly support S. 1696 because it accomplishes just that.