

**TESTIMONY OF
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BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON
S. 919, DEPARTMENT OF THE INTERIOR TRIBAL SELF GOVERNANCE ACT OF 2013

JANUARY 29, 2014**

Good afternoon, Chairwoman Cantwell, Vice Chair Barrasso, and members of the Committee. My name is Kevin Washburn. I am the Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to provide testimony on behalf of the Department on S. 919, the Department of the Interior Tribal Self Governance Act of 2013.

S. 919 seeks to amend both Title I and Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) (25 U.S.C. §§ 450 *et seq.*). In more than 200 years of federal Indian policy, the policies of self-determination and self-governance that have developed during the past four decades have produced, by far, the most successful relationship between the United States and its tribes. These policies have also increased tribal governmental capacities and improved services to Indian people.

The Administration strongly supports the principles of self-determination and self-governance, and consistent with this support we believe the ISDEAA should be strengthened to make it work better for the Federal government and for Indian tribal governments. Accordingly, the Administration supports S. 919.

President Obama recognizes that federally recognized Indian tribes are sovereign, self-governing political entities that have a government-to-government relationship with the United States, as expressly recognized in the United States Constitution. Secretary Jewell, too, is a strong supporter of the principle of tribal self-determination, the principles of the ISDEAA, and is committed to working to further tribal self-governance.

In 1975, the Congress enacted the ISDEAA, Pub. L. No. 93-638. Title I allows a tribe to contract individual programs away from the Department and operate the programs as, in essence, tribal programs. Title I also gives a tribe the latitude to redesign and rebudget Federal programs that it assumes.

In 1988, Congress enacted Title III of the ISDEAA as a demonstration project, which allowed an Indian tribe to contract several programs from the Department, and allowed Indian tribes to reallocate funds and redesign those programs to best benefit their communities. In 1994, Congress made the demonstration project permanent in Title IV of the ISDEAA, Pub. L. No. 103-413.

Title IV provides resources to Indian tribes, enabling them to plan, conduct, consolidate, and administer programs, services, functions, and activities for tribal citizens according to priorities established by their tribal governments. Under Title I and Title IV, Indian tribes have greater control and flexibility in the use of these funds, reduced reporting requirements, and the authority to redesign or consolidate programs, services, functions, and activities. Title I and Title IV generally allow Indian tribes to reallocate funds during the year and carry over unexpended funds into the next fiscal year without Secretarial approval. As a result, these funds can be used with more flexibility to address each Indian tribe's unique condition.

Funding agreements under the ISDEAA have helped to strengthen government-to-government relationships with Indian tribes. Self-determination and self-governance tribes have been good managers of the programs they have undertaken. Many times, tribal governments add their own resources to the programs and are able to fashion programs to meet their needs and the particular needs of their members. Tribal governments are often better suited than the Federal government to address the changing needs of their members. Indian tribal governments have often observed that, when they are working under self-determination contracts and self-governance funding agreements, they are not viewed by the Federal government as just another Federal contractor, but rather that their work reflects a true government-to-government relationship characterized by mutually agreed-to responsibilities and tribal empowerment.

For nearly a decade, Indian tribes have asked Congress to update Title I and Title IV to address various issues, to include more non-BIA programs, and to streamline the process of negotiating annual funding agreements. S. 919 goes a long way toward accomplishing these goals. Non-BIA programs, however, often have different characteristics that suggest a more tailored approach to the specific programs. For example, the Bureau of Reclamation uses a methodology in its budget formulation that is different from BIA's methodology because of the nature of Reclamation's appropriations for large projects. Section 202 of S. 919 is intended to address those differences, and the Department looks forward to working with the Committee to ensure section 202 meets that objective.

The Department recognizes the need for the self-determination and self-governance programs to evolve to improve and increase the frequency of funding agreements. The Administration is proud to report that, after a series of negotiations with tribal stakeholders that began over three years ago, we reached agreement on a number of issues and the language is embodied in S. 919. Our agreement on this critical legislative priority for Indian Country reflects the Administration's commitment to restore the integrity of the government-to-government relationship with Tribal Nations. The Native American communities in this country confront many challenges, and this Administration is committed to working with Tribal Nations to create opportunities for all of our communities to thrive and flourish.

This concludes my prepared statement. I will be happy to answer any questions the Committee may have.