

**Written Testimony to  
House Subcommittee on Indian, Insular, and Alaska Native Affairs  
United States House of Representatives  
on H.R. 212, “Expediting Funding For Efficient Contracting Tribes Act”**

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November 15, 2017**

Good morning. Thank you for the opportunity to be here today to testify on this important legislation. My name is Charleen Fisher. I am the Executive Director of the Council of Athabascan Tribal Governments, or CATG, an Alaska Native nonprofit organization created in 1985 that provides a variety of services to ten tribal governments in the Yukon Flats region of northeast Alaska.

I am here today to testify in support of H.R. 212, the “Expediting Funding For Efficient Contracting Tribes Act,” or EFFECT Act. This bill would make a simple but very helpful amendment to Title IV of the Indian Self-Determination and Education Assistance Act. The amendment would provide for expedited review of self-governance agreements by the congressional committees with jurisdiction over Indian affairs, and thereby avoid delays in implementation that have undermined the congressional policy of tribal self-governance.

After a short description of CATG and its experience with self-governance, I will describe the problems with the Title IV review process and how the EFFECT Act addresses them.

**Background: CATG and Tribal Self-Governance**

The purpose of CATG is to provide its member villages essential services, such as natural resource protection and enhancement, health care services, and economic development opportunities. The CATG region encompasses a large amount of federal public lands, including tracts of general domain federal lands. Since time immemorial, the tribal governments of CATG have managed the lands and resources in the area encompassing the Yukon River and its tributaries, which includes portions of the Upper Yukon fire management area in Alaska.

For many years, CATG has been a Co-Signer of the Alaska Tribal Health Compact, the groundbreaking statewide agreement with the Indian Health Service under Title V of the Indian Self-Determination Act. CATG also has a self-governance compact with the Bureau of Indian Affairs under Title IV of the Act for natural resource and subsistence programs on behalf of the Birch Creek Tribal Council.

CATG was one of the first, and remains one of the few, tribal organizations to enter self-governance compacts with federal agencies other than IHS and BIA. Since 2004, CATG has had a successful self-governance agreement, under Title IV of the Self-Determination Act, with the United States Fish and Wildlife Service for activities within the Yukon Flats National Wildlife Refuge. The Annual Funding Agreement calls for CATG to inventory subsistence wildlife harvests within local villages, assist Refuge staff with environmental education and outreach, help the Alaska Department of Fish and Game with aerial moose surveys, and conduct other activities. CATG and the Fish & Wildlife Service have a good working relationship that has improved communication with local residents and fostered stewardship within the Yukon Flats ecosystem.

Finally, CATG has a compact and funding agreement with the Bureau of Land Management, Alaska Fire Service (BLM) under the Title IV self-governance provisions of the Indian Self-Determination Act. CATG performs pre-season fire-fighting training and testing for emergency firefighters located in villages in the Yukon Flats region of Alaska, as well as certain maintenance activities at the BLM facility in Fort Yukon. The CATG-BLM partnership has increased opportunities for Alaska Natives in the Upper Yukon to participate in firefighting activities, while providing BLM with increased availability of safe and well-trained fire crews. Over the years, this agreement with BLM has been held up by tribal and federal leaders alike as a model of how self-governance can work in collaboration with non-BIA agencies in the Department of the Interior.

### **The Need for H.R. 212, the EFFECT Act**

Despite the proven success of self-governance, a serious problem has repeatedly arisen with self-governance agreements under Title IV. This has to do with a 90-day delay in implementation built into the statute—a delay that can extend far longer and undermine self-governance.

Section 403 of the Indian Self-Determination Act covers the negotiation and approval of self-governance agreements under Title IV, including those with BIA and with non-BIA agencies in the Department of the Interior. Once a tribe and the agency agree on the terms of a funding agreement, an additional step remains before it can take effect. Section 403(f) currently provides that at least 90 days before the proposed effective date of a funding agreement, the Secretary of the Interior must submit the agreement to (1) each tribe served by the agency, (2) the Senate Committee on Indian Affairs, and (3) the House Subcommittee on Native American Affairs (this Subcommittee's predecessor).<sup>1</sup>

While there is certainly value in the committees' receiving copies of these agreements, a 90-day (or more) cool-off period for "review" is unnecessary and excessive. First, the statute includes no requirement that the committees actually do anything; no mechanism for the committees (or other tribes) to suggest changes, let alone

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<sup>1</sup> 25 U.S.C. § 5363(f). H.R. 212 designates section 403(f) as 25 U.S.C. § 458cc(f), but the ISDEAA has since been recodified, and the bill should be amended to update the citation.

compel them; and no authority to disapprove agreements that the tribe and the Secretary have already signed off on. I am not aware of any instance in which Congress has disapproved a funding agreement. Nor do the agreements require Congress's approval—they simply require the passage of 90 days before becoming effective.<sup>2</sup>

Compounding this unnecessary delay is the fact that the 90-day clock starts to run only once the Secretary submits the agreement to all the tribes and the committees. CATG has experienced cases in which the agency, for one reason or another, fails to submit the agreements to Congress for weeks or even months. In one instance, the resulting setback of the effective date essentially nullified the entire first year of a multi-year agreement.

The EFFECT Act would address these problems by adding to Section 403 a new option for expedited review. The tribe—not the agency—could submit a request to the congressional committees for expedited review of a funding agreement. If the two committees sign off, the Secretary must deem the 90-day review period waived, and amend the effective date of the agreement accordingly.<sup>3</sup>

This simple, no-cost amendment to the Act would go a long way toward streamlining the approval process and ensuring that self-governance works the way Congress intended. Although enacted with good intentions, the 90-day review period serves little purpose and makes the effective date too dependent on agency action—or inaction. This runs directly counter to the spirit of self-governance.

Title IV, the Interior self-governance statute, has many other provisions that need to be clarified, amended, or simply removed in order to better advance the policy of tribal self-governance. Let me take this opportunity to state, for the record, that CATG strongly supports the Title IV amendments legislation that has been introduced in each of the last several sessions of Congress. Most recently, in 2016 the Senate passed S. 286, the Department of the Interior Tribal Self-Governance Act of 2016, but the House was unable to pass its version of the bill despite broad bipartisan and agency support. We stand ready to work with congressional, agency, and tribal staff to introduce and champion a successor bill that will advance the policy of self-governance in the Department.

In the meantime, the EFFECT Act represents an efficient and effective way to address one recurring problem with the current law. It would prevent what should be a routine approval from getting lost in a nationwide paper shuffle. It would encourage

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<sup>2</sup> Similarly, there is no requirement that all of the tribes served by the agency approve the funding agreement. Any tribal comments on, or objections to, a funding agreement of another tribe would generally involve the division of programs and resources within an area. The Indian Self-Determination Act contains a better, enforceable process for resolving such disputes: the declination procedures in section 102, 25 U.S.C. § 5321.

<sup>3</sup> The bill would also update the reference to this Subcommittee by replacing, in subsection (f), “Native American Affairs” with “Indian, Insular and Alaska Native Affairs.”

other tribes to seek funding agreements with Interior agencies, including non-BIA agencies. The EFFECT Act accords with the Administration's call for reducing bureaucratic delays and red tape. It would cost nothing and would promote administrative efficiency. It is simply good government.

Thank you again for the opportunity to share our views on this important legislative initiative.