**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES
"AMERICAN INDIAN/ALASKA NATIVE ISSUES"**

TESTIMONY OF:

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BETHEL, ALASKA**

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"FULLY FUNDING CONTRACT SUPPORT COSTS WILL REDUCE HEALTH DISPARITIES"

Good morning Mr. Chairman and members of the Committee:

I. INTRODUCTION

The Yukon-Kuskokwim Health Corporation (YKHC) has been contracting with the Indian Health Service (IHS) to provide health care services for over twenty years. Today in remote Western Alaska, YKHC's budget is over $150 million and provides comprehensive health care to approximately 30,000 people, largely Yupik Eskimo. Our region is a road less area nearly as large as the State of Idaho, where our per capita income is $11,269. Our unemployment rate in our villages is over 20%, and over 30% live in poverty. In our main hub city of Bethel gas is $6.15 per gallon, and in our villages it is $7-8 per gallon, the same price we pay for a gallon of milk. Many homes in our region are without piped water and sewer and over 6,000 homes in rural Alaska do not have safe drinking water.

Over the last 10 years, as the cost of fuel has increased, airfare has increased dramatically for patients to and from our villages for referrals to the Bethel Hospital. An everyday example would be a patient from the Bering Sea coast. A Kotlik man leaves early morning with a small single-engine plane. After a half-hour trip to Emmonak located near the mouth of the Yukon River, transfer would commence to another small airplane for another hour and a half to Bethel. The round-trip ticket is $690. For a patient who routinely requires access to health care, this $690 becomes more and more difficult to do.

We are faced with an extraordinary challenge. In comparing YKHC's high energy, food, personnel and other reasonable costs against an IHS appropriation that is approximately 56% of

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the level of funding needed and does not provide for mandatory medical inflation costs, nor population increases, nor full contract support costs . . . providing health care for our 58 tribes is a daily struggle.

II. DISCUSSION

As we all know, Public Law 93-638 requires Tribes to be paid in full for the contract support costs which they incur to administer contracts and compacts like YKHC's. The contracts and compacts themselves also contain similar language and promises.

A. IHS made a Contractual Promise with Tribes, so why doesn't IHS Request Congress to Fully Fund Contract Support Costs to Tribes when it is Mandated by Law?

In Cherokee Nation v. Leavitt,[1] a unanimous U.S. Supreme Court reaffirmed the government's legal obligation to pay full contract support costs based upon its statutory and contractual duties. Yet 24 years after Congress mandated full contract support costs to Tribes and 7 years after the Cherokee decision, Tribes have yet to receive full contract support costs to administer health care to their members. So why are Tribes the only group of federal contractors not paid full contract support costs when payment is mandated by both law and contract?

Indeed, even the U.S. Supreme Court wondered why when in its Cherokee decision it listed numerous ways the federal government could avoid breaking its contractual promise to pay full contract support costs to Tribes.[2] The Court said:

> We recognize that agencies may sometimes find that they must spend unrestricted appropriated funds to satisfy needs they believe more important than fulfilling a contractual obligation. But the law normally expects the Government to avoid such situations, for example, . . . by seeking added funding from Congress . . . .[3]

Yet the Indian Health Service in its proposed fiscal year 2013 Budget did not even come close to fully funding contract support costs when it only requested $5 million to cover a projected $100 million shortfall. Why?

B. The Contract Support Cost Shortfall Penalizes Tribes for Exercising their Self-Governance Rights to Contract or Compact Programs, and it Negatively Impacts a Tribes' Ability to Reduce Health Disparities.

The contract support cost shortfall puts Tribes at a financial disadvantage when they exercise one of their most important rights of Self-Governance, the delivery of quality health

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[1] Cherokee Nation of Oklahoma, et al. v. Michael O. Leavitt, et al., 543 U.S. 631 (Mar. 1, 2005) (hereinafter "Cherokee").

[2] Cherokee, 543 U.S. at 642-43 (the Court suggested four ways the Government could avoid breaking its contractual obligation to pay full contract support costs to Tribes, one of which was "by seeking added funding from Congress").

[3] Id. (emphasis added).

care. The shortfall becomes antithetical to the Indian Self-Determination Act's[4] general purposes by hindering the federal government's ability to be fully "committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities."[5]

1. The contract support cost shortfall penalizes Self-Governance Tribes for carrying out health care programs on behalf of the federal government.

In a September 28, 2011 bipartisan letter from 9 U.S. Senators to President Obama, the Senators described how Tribes are impacted by cutting their already insufficiently funded health programs when Congress does not fully appropriate contract support costs[6]:

> When these fixed costs are not paid, Tribes are compelled to divert resources by leaving positions vacant in the contracted programs serving their members in order to make up the difference.[7]

The contract support cost shortfall for YKHC at the end of fiscal year 2011 was $3.6 million. This lack of vital funding leaves positions and programs vacant. It directly affects the ability of tribal organizations like YKHC to provide health care and thus, reduce health disparities within our region.

2. Alaska Natives and American Indians suffer from worsening health disparities due, in part, to the lack of funding for full contract support costs and the historic chronic underfunding of IHS generally.

The cancer mortality rate is approximately 26% higher in Alaska Natives than Whites. While cancer mortality for the rest of Americans is decreasing, it is increasing dramatically for Alaska Natives and is the leading cause of death for Alaska Native women.

Just as disturbing is our suicide rate. We are nearly 4 times higher than the national average. Our region's age-adjusted suicide rate for 15-19 year olds is a staggering 17 times the national average.

Even though our region is nearly as large as the State of Idaho, our size does not compare to our genuine person-to-person interactions. Others speak with numbers and statistics. To us, they are not just statistics, but real people with names. Like my mother Louise, my aunties Katherine and Nora, my uncle's Adolf, Gilbert and Benny . . . Personally I stopped counting at 10 family members who have passed on from cancer. I stopped counting at 5 family members who committed suicide. This story is all too common for Alaska Natives, so common, that it

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[4] Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 450 et seq. (1975) (hereinafter "ISDA").
[5] ISDA, 25 U.S.C. § 450a(b) (Declaration of Policy).
[6] Sen.'s Begich, Murkowski, et al., Letter to Pres. Obama Requesting Full CSC Funding in FY2013 Budget p.1 (Sept. 28, 2011) (hereinafter "Bipartisan Letter").
[7] Bipartisan Letter at p.1.

numbs us and in a terrible way it becomes "normal" or "expected" within our Native communities.

Realization came very late for me. In college I learned that these health disparities were enormous, and in fact, not normal. The good news is that with the stroke of your pen, Congress, working together with Tribes, has the power to start decreasing these rates by paying Tribes their full contract support costs.

Ultimately, receiving full contract support costs is more than just additional money, for tribal organizations like YKHC, it means being able to direct resources to create or expand a health program that will systematically reduce rates for cancer, suicide and other health disparities.

It is the ability to buy a portable mammography machine and hire the necessary provider to perform those mammographies in our villages to detect breast cancers early in stage 1 when the 5 year survival rate is over 90% versus later stages with much poorer outcomes. It is the ability to hire and train a counselor to deploy a community wide behavioral health initiative in order to save a teenager from taking their own life.

III. CONCLUSION

YKHC sincerely appreciates the fiscal year 2010 and 2011 IHS Budgets that included historic increases in contract support costs, albeit not full funding. Nevertheless, Congress has the opportunity to build on those and the fiscal year 2012 Budget by fully funding contract support costs and more importantly, reduce health disparities of Alaska Natives and American Indians.

Unfortunately, it is too late for Louise, Katherine, Nora, Adolf, Gilbert and Benny, but not too late for our region's 30,000 residents and the rest of Indian Country.

Sincerely,

YUKON-KUSKOKWIM HEALTH CORP.

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