



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

October 7, 2020

Testimony of the United South and Eastern Tribes Sovereignty Protection Fund For the Record of the Senate Committee on Indian Affairs Legislative Hearing To Receive Testimony on S. 3126, S. 3264, S. 3937, S. 4079 & S. 4556

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to provide the Senate Committee on Indian Affairs (SCIA) with testimony for the record of the legislative hearing to receive testimony on S. 3126, S. 3264, S. 3937, S. 4079, and S. 4556. Our testimony will address four of the bills, as we defer to those who are more directly affected by S. 4556 for a discussion on its merits. USET SPF appreciates SCIA's efforts to continue Committee business, given the multiple competing priorities posed by the COVID-19 pandemic and other current events. Though many of these bills are related to COVID-19 in some way, the problems they seek to remedy existed long before the public health emergency, caused by decades of federal under-investment, neglect, and harmful policies. It is our expectation that SCIA will make every effort mark-up these bills, and other pending legislation, prior to the end of the 116th Congress.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of thirty (30) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico¹. USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations, and assisting our membership in dealing effectively with public policy issues.

S. 3126, *The Native Behavioral Health Access Improvement Act.*

USET SPF strongly supports the intent of S. 3126, the Native Behavioral Health Access Improvement Act, which would provide critical behavioral health resources to Tribal communities by creating a Special Behavioral Health Program for Indians (SBHPI). The SBHPI is modeled after the Special Diabetes Program for Indians (SDPI), a successful Tribal health program that has had a significant impact on diabetes within Tribal communities. Like SDPI, SBHPI responds to a public health crisis by providing dedicated funding to Tribal Nations to address behavioral health and substance use disorders, including opioid abuse and addiction. In addition, it would support cultural competency by promoting the incorporation of both modern and traditional practices into Tribal behavioral health programs. In order to ensure that SBHPI funding is distributed equitably, USET SPF recommends that the bill clarify the program will use a formula-based distribution methodology developed in consultation with Tribal Nations. This will provide the opportunity for Tribal Nations without grant-writing infrastructure to benefit from these funds. USET SPF notes that this hearing also addressed extending self-governance authority to SDPI. Given the structural design of the SBHPI, as well as our principle that all federal funding should be contractable and compactable, we urge

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is strength in Unity

that self-governance authority be a part of the conversation as S. 3126 continues to move through the legislative process.

S. 3264, *Bridging the Tribal Digital Divide Act of 2020.*

According to a 2018 Federal Communications Commission (FCC) report on broadband deployment in Indian Country, just 46.6% of housing units on rural Tribal lands have access to high speed broadband, a nearly 27-point gap when compared with non-Tribal rural households. As our nation becomes ever more dependent upon these tools, including to combat COVID-19 and to maintain our way of life amid lockdowns, the digital divide between Indian Country and other communities throughout America becomes even more stark. For example, lack of connectivity is impeding the COVID-19 response by acting as a barrier to public health announcements and other urgent communications from Tribal leadership and officials, as well as access to information from other reliable sources regarding COVID-19 prevention measures. It also creates extreme difficulty as Tribal Nations work to trace the contacts of those who have been infected.

Connectivity issues also impact Indian Country's ability to adapt to the 'new normal' of conducting our daily business in the virtual realm. In the absence of adequate broadband and 4G, many of the adaptive measures that other communities have taken are unavailable to some Tribal communities. This leaves our citizens without access to preventative care and check-ups, the ability to telework, and the opportunity to continue their studies during school closures—compounding the disparities we already face in these areas.

It is with this in mind that USET SPF extends its support to S. 3264. The Bridging the Tribal Digital Divide Act would spur the deployment of broadband on Tribal homelands by providing for improved federal coordination and focusing federal dollars in Indian Country. It also ensures that Tribal Nations have access to technical assistance, a streamlined application process, and control over broadband rights-of-way within our territories. Passage of this bill would be a significant step forward in bringing Tribal connectivity into the 21st century.

S. 3937, *The Special Diabetes Programs for Indians Reauthorization Act of 2020.*

As this body well knows, the Special Diabetes Program for Indians (SDPI) is a lifesaving initiative for the treatment and prevention of type-2 diabetes in Indian Country. In order to continue to make progress on the devastating effects of diabetes in Tribal communities and provide certainty to SDPI programs, Congress must provide a multi-year reauthorization of SDPI. With the short-term reauthorizations provided over the last several Congresses (including five short-term extensions just this year), Indian Country has been forced to focus on advocating for SDPI's continued funding rather than patient care and programmatic expansion. Tribal Nations and Congress have made significant investments in preventing and managing the disease. Now is the time to provide certainty to this critical program.

USET SPF continues to be frustrated by short-term reauthorizations, as well as the persistent flat funding of the program, in spite of a wealth of reliable data showing both its efficacy and continued necessity, as well as rising medical inflation. We have joined others in Indian Country in consistently advocating for an increase in funding that will account for newly recognized Tribal Nations, IHS/Tribal/Urban Indian Health Programs that haven't had the opportunity to access SDPI, and increases in medical costs.

Further, in accordance with our effort to modernize the nation-to-nation relationship between the United States and Tribal Nations, USET SPF has consistently urged that all federal funding be eligible for inclusion in self-governance contracts and compacts under the Indian Self-Determination and Education Assistance Act (ISDEAA), rather than grants, in recognition of the retained sovereign authority of Tribal Nations and reflective of 21st century self-determination. In addition, SDPI's grant application and reporting

requirements are burdensome, not reflective of our sovereign status, and undermine service delivery, as staff time is dedicated to these grant-related tasks.

USET SPF strongly supports the goals of S. 3937 and extends its appreciation to Sen. McSally for its introduction. The bill would provide a long-overdue increase in funding for SDPI, as well as a 5-year reauthorization, both of which are necessary for program continuity in Indian Country. Importantly, it also seeks to extend self-governance authority to the program for the very first time. In an effort to clarify the Tribal position on this provision, USET SPF asserts that our objective is to extend the full benefit of ISDEAA to SDPI, including reducing burdensome and unnecessary reporting requirements, while ensuring that any programs that do not operate under this authority remain unchanged. With our partners, including National Indian Health Board and Tribal Self-Governance Communication and Education, we are working to offer legislative language that reflects these aims. We refute previous technical assistance provided by the Indian Health Service to the U.S. House of Representatives as being inappropriate, incorrect, and fearmongering, and are encouraged that Rear Admiral Weahkee took a more constructive tone during the SCIA hearing. A critical part of IHS' trust obligation includes promoting and supporting Tribal sovereignty and self-determination. Extending ISDEAA authority to SDPI will serve only to strengthen Tribal programs and our Nation-to-Nation relationship with the United States. USET SPF looks forward to working with Sen. McSally, SCIA members, our partners, and IHS to achieve this next step forward in Tribal self-governance.

S. 4079, A bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes.

Despite the many advances made in federal Indian law over the last several decades, there remain numerous examples of anachronistic and paternalistic laws that have yet to be repealed or rescinded. These policies are remnants of an era and mindset that has no place in current Nation-to-Nation relations, as it is based on two deeply flawed and paternalistic assumptions: (1) that Tribal Nations are incompetent to handle our own affairs, and (2) that Tribal Nations would eventually disappear. Indian Country has proven both of these assumptions wrong over and over again. The time is now to revisit and remove existing barriers that interfere with our ability to implement our inherent sovereign authority to its fullest extent. S. 4079 would confirm that as a sovereign government, the Seminole Nation, a USET SPF member Tribal Nation, has the authority to lease or transfer certain fee lands without Congressional approval. USET SPF strongly supports this legislation, as it more fully recognizes the sovereignty of the Seminole Nation and promotes its economic development. We encourage SCIA and this Congress to explore opportunities to fully repeal any provisions of law that do not fully recognize the sovereignty of Tribal Nations.