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**Testimony of United South and Eastern Tribes Sovereignty Protection Fund
Submitted to the House Natural Resources Subcommittee on
Indian, Insular, and Alaska Native Affairs for the Record of its Legislative Hearing
on H.R. 4506, *The Jobs for Tribes Act***

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to provide the House Natural Resources Subcommittee on Indian, Insular, and Alaska Natives Affairs (IIANA) with testimony for the record of its legislative hearing on H.R. 4506, *The Jobs for Tribes Act*. For years, USET SPF and Tribal Nations and organizations across the country have called for legislation to address numerous barriers to comprehensive economic development in Indian Country. That is why we were pleased to learn of IIANA Ranking Member Norma Torres' introduction of H.R. 4506. USET SPF extends our appreciation to the Ranking Member for her willingness to take on the substantial issues of economic development and trade between indigenous Nations. Below, we outline our support for each of H.R. 4506's titles and provide recommendations for improvement in the legislation's language and scope.

Title I— Indian Community Economic Enhancement Act of 2017

We support many of the provisions within the Indian Community Economic Enhancement Act (ICE). The permanent waiver of matching funds for Native Community Development Financial Institutions (CDFIs) is long overdue and a welcome provision in the bill. USET itself is in the process of establishing the first Native CDFI to service its entire region, and the permanent waiver will be of enormous assistance to this effort. In addition, we welcome the opportunity for Native CDFI's to access grants through the Native American Programs Act that would provide CDFI's with the opportunity for development and maintenance, and allow them to provide assistance to Tribal Nations in the development of Tribal law and court systems for the purposes of regulating commerce, as well as Tribal master plans for economic development and infrastructure.

We also offer our support for the elevation of the Director of the Office of Native American Business Development. Providing direct access from this position to the Secretary of Commerce will assist in the removal of some of the barriers described in the "Findings" section of the bill.

Further, USET SPF is supportive of amendments to the Buy Indian Act that would require the Bureau of Indian Affairs and the Indian Health Service to certify that procurement from Indian businesses is not practicable before purchasing outside Indian Country. We also look forward to the issuance of a biannual report from the Departments of Health and Human Services and Interior regarding the implementation of the Buy Indian Act.

USET SPF believes that this title provides a variety of much needed change in policy and law. Additionally, we note that there are a number of opportunities for improvement within the bill as introduced. With this in mind, we support the testimony provided by the National Center for American Indian Enterprise Development (NCAIED) and others. In addition, we provide the following section-specific comments designed to strengthen ICE's impact for Tribal Nations:

- **Section 102. Findings.**

While the Findings section as drafted does describe many existing barriers to economic development in Indian Country, USET SPF would like to see references to the deep inequities Tribal Nations face

under the U.S. Tax Code strengthened. Through inequities in the tax code as well as state dual taxation, revenue generated within Indian Country continues to be taken outside our borders or otherwise falls victim to a lack of parity. Moreover, Tribal governments continue to lack many of the same benefits and flexibility offered to other units of government under the tax code. We strongly encourage the addition of stronger language within the Findings section that acknowledges and seeks to lift these deep inequities.

This is particularly important, given the failure of Congress to include **any** Tribal priorities in the Tax Cuts and Jobs Act, despite consistent advocacy from Tribal Nations across the country. It is unacceptable that this once-in-a-generation legislation did not include these critical, non-controversial Tribal priorities. Tribal Nations across the country, including USET SPF member Tribal Nations, are simply seeking parity as governments and economic opportunity for their citizens under the U.S. tax code. USET SPF joins NCAIED and others in demanding that the 115th Congress include these tax priorities aimed at governmental parity in any legislative vehicle moving this year.

- **Section 103. Native American Business Development, Trade Promotion, and Tourism Act.**

While USET SPF supports much of the language in this section, including the Indian Economic Development Feasibility Study, we note the absence of placeholder language found in a previous version of the bill. Repeal of the “essential government function” test in the Tribal issuance of tax-exempt bonds would be critical step forward in the pursuit of parity within the tax code for Tribal Nations. Currently, Tribal Nations are the only governments that are limited to using tax-exempt bond financing for “essential government functions.” The IRS has interpreted this standard to exclude Tribal economic development activities even though state and local governments routinely use tax-exempt financing for development projects. This limitation on Tribal Nations greatly inhibits infrastructure deployment and economic growth. USET SPF asks that language repealing the “essential government function” test be added to the bill.

In addition, although we recognize that the addition of a high number of taxation provisions could have resulted in jurisdictional issues, we reiterate the urgent need for comprehensive tax reform in Indian Country. A provision repealing the “essential government function” test for tax-exempt bond financing appears in a much larger Indian Country tax reform bill, H.R. 3138, the Tribal Tax and Investment Reform Act. USET SPF requests that consideration be given to the inclusion of language from this bill, which is co-sponsored by the Chair, Ranking Member, and other IANA Subcommittee members.

- **Section 104. Buy Indian Act.**

As a part of the reporting described under this section in ICE, USET SPF recommends regional, in addition to national, reports. Regional reporting would provide the type of information needed for Tribal Nations and organizations, like USET SPF, to work with regional offices to increase implementation of the Buy Indian Act amendments.

Title II—The Native American Business Incubators Program Act

The Native American Business Incubators Program Act would establish a grant program to provide financial assistance for the establishment and operation of business incubators serving Tribal communities within the Department of the Interior. The growth and diversification of Native businesses within Indian Country is critical to economic sovereignty, self-determination, and Nation rebuilding. We agree that Native business owners face unique and greater barriers to economic success than many of their peers. USET SPF strongly supports this provision as an opportunity to create jobs and strengthen Tribal economies, particularly in the USET SPF region. We further support the necessary authorization of funding for this program and appreciate attempts to

ensure that the Act is not implemented at the expense of other equally necessary programs at Interior. We note, however, that opportunities under this provision come in the form of grants. As H.R. 4506 is being further refined, we ask that consideration be given to further supporting Tribal sovereignty and self-determination by providing the opportunity to receive these dollars through P.L. 93-638 contacts or compacts.

Title III—Indigenous Peoples Exchange and Economic Cooperation Act

Legislation stimulating and encouraging Inter-Tribal trade continues to be a major priority of USET SPF member Tribal Nations, as well as the USET Economic Development Committee. Tribal Nations located in the United States, as well as Indigenous Nations throughout the world, have numerous opportunities to work together to create jobs and investment opportunities. Some Tribal Nations have lands and natural resources to develop, but lack capital and expertise. Other Tribal Nations have capital and expertise but limited lands and resources. Once again, USET SPF applauds Rep. Torres for her innovative thinking in promoting international trade between Indigenous Nations.

USET SPF would like to work with Rep. Torres to further expand upon this provision. Our member Tribal Nations also seek the promotion of trade between the Tribal Nations of the United States. This includes immunizing trade between Tribal Nations from taxation. Historically, Tribal Nations engaged in inter-Tribal trade relations that were not subject to taxation. Now that Tribal homelands are surrounded by state jurisdictions, states have recently begun to levy their taxes and impose their regulations on commerce taking place exclusively between two locations in Indian Country. Congress can stimulate job creation and development in Indian Country by prohibiting state taxation and regulation of Tribal Nation-to-Tribal Nation commerce and investment where the economic activity takes place on Indian lands.

Conclusion

Economic sovereignty is essential to Indian Country's ability to be self-determining and self-sufficient. Rebuilding of our Tribal Nations includes rebuilding of our Tribal economies as a core foundation of healthy and productive communities. The provisions of H.R. 4506, *The Jobs for Tribes Act*, would assist in the restoration of healthy Tribal economies by stimulating job creation, trade, and business opportunities for Tribal Nations. USET SPF looks forward to the opportunity for further discussion around H.R. 4506 and to its final passage.