



## United South and Eastern Tribes, Inc.

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**Testimony of Principal Chief Michell Hicks  
Eastern Band of Cherokee Indians  
On behalf of the  
United South and Eastern Tribes, Inc.  
Before the  
Senate Committee on Indian Affairs  
On the President's FY 2013 Budget for Native Programs**

**Thursday, March 8, 2012**

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**Introduction.** Chairman Akaka, Vice Chairman Barrasso and members of the Committee, my name is Michell Hicks. I serve as Principal Chief of the Eastern Band of Cherokee Indians, one of the four founding tribes of the United South and Eastern Tribes, Inc. (USET). Thank you for this opportunity to testify on the President's FY 2013 Budget and the budget priorities of USET.

USET is an inter-tribal organization representing 26 federally recognized Tribes from Texas across to Florida and up to Maine. The USET Tribes are within the Eastern Region of the Bureau of Indian Affairs (BIA), covering a large expanse of land and area compared to the Tribes in other BIA Regions. Due to this large geographic area, the tribes in the Eastern Region have great diversity. From an economic standpoint, some of our member tribes have highly developed economies, while others remain mired in poverty. All of our tribes, however, look to the United States to live up to its trust responsibility, to support Tribal sovereignty, and to work with us on a government-to-government basis, especially on a matter as central to the trust responsibility as Federal budget policy.

This written testimony is divided into three sections. The first section briefly addresses the Constitutional context for the Federal government's relationship with Tribes. The second section reviews the President's proposed budget for Indian programs, focusing principally on the BIA and the Indian Health Service (IHS). The third section takes up the challenge put forth by the President and the Congress to propose other measures, most of which would be no-cost, that will create jobs and grow tribal economies to the benefit of the United States, as a whole. In this third section, we set forth recommendations USET made to the Joint Committee on Deficit Reduction regarding legal changes that should be made to unleash tribal economies. We also address the urgent need to pass the *Carcieri*

Fix, which this Committee has strongly supported, which the President has included in his budget, and which would immediately allow a number of projects across Indian country to spring forward.

**I. The Constitution, Indian Tribes, Treaties and the Laws of the United States.** From the earliest days of the United States, the Founders recognized the importance of America's relationship with Native nations and Native peoples. They wove important references to those relationships into the Constitution (*e.g.*, Art. I, Section 8, Cl. 3 (Indian Commerce Clause); Article II, Section 2, Cl. 2 (Treaty Clause)).

Natives influenced the Founders in the development of the Constitution as recognized by the 100<sup>th</sup> Congress, when the Senate and the House passed a concurrent resolution acknowledging the "historical debt" the United States owes to Indian tribes.

[O]n the occasion of the 200<sup>th</sup> Anniversary of the signing of the United States Constitution, acknowledges the historical debt which this Republic of the United States of America owes to the Iroquois Confederacy and other Indian Nations for their demonstration of enlightened, democratic principles of government and their example of a free association of independent Indian nations;...

S. Con. Res. 76, 100<sup>th</sup> Congress. One has only to walk the halls of the Capitol to see many works of art and sculpture that depict the central role that Native nations have played in the development of America's national identity. Not depicted on the walls of the Capitol are the many injustices that Native peoples have suffered as a result of Federal policy, including Federal actions that sought to erode Native territories, learning, and cultures. Out of those injustices, and from other legal sources, there has arisen a Federal trust obligation to support Native governments and Native peoples.

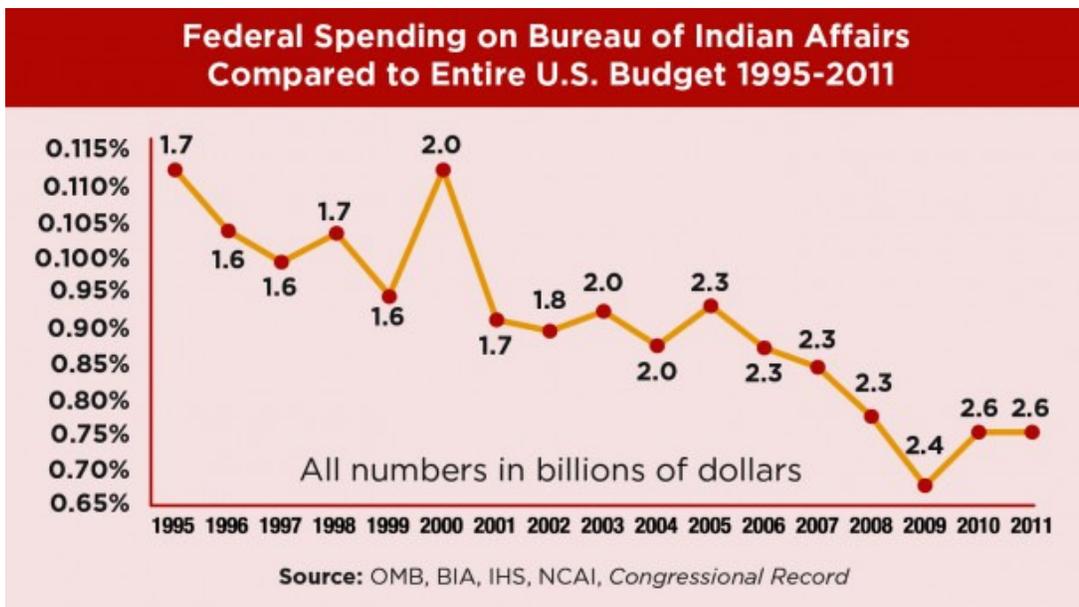
The Indian provisions in the Constitution were given immediate life in treaties that the United States entered into with Indian nations beginning with the Treaty with the Delaware in 1778 and continuing through another 373 treaties. Additionally, in the first decades of the United States, numerous laws were enacted addressing the details of the Federal-Tribal relationship (*e.g.*, Trade and Intercourse Acts of 1790, 1793, 1796, 1799, 1802, and 1834), even as the Federal courts defined the Federal government's trust obligation to Indian nations (*e.g.*, *Cherokee Nation v. Georgia* (1831)). Notwithstanding this Constitutional foundation, the Federal government engaged in many actions that betrayed the treaties and trust obligation to Indian nations, such as the seizure of Indian lands and the forced assimilation efforts of the Indian boarding school system. Fortunately, American greatness has led to more enlightened policies since the boarding school era, reflected in a host of laws that support tribal sovereignty and are critical to the vitality and well-being of tribal communities. Regrettably, these laws are rarely funded to the level necessary to achieve their intended purposes.

Because of this history, the Trust obligation of the Federal government to Native peoples, as reflected in the Federal budget, is fundamentally different from ordinary discretionary spending. As a 1977 U.S. Congress/American Indian Policy Review Commission Report stated:

The purpose behind the trust is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government, and also includes those economic and social programs that are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society.

**II. President's FY 2013 Budget for Indian Programs.** In evaluating whether the Federal budget fulfills the Trust responsibility, USET believes that it is critical to take into account the affects of inflation. From FY 2002 through FY 2008, despite annual increases, after taking into account the affect of inflation, most Federal domestic programs, including the Indian programs, saw a purchase power decrease of approximately 14%. The large budget increase in FY 2009, including ARRA funding, was approximately enough to make up for this effective cut and bring the purchase power of Indian programs back to FY 2002 levels, but in the intervening 10 years, Indian country needs have grown substantially.

In a very real way, the budget of the United States government reflects the values of the American people. Courtesy of the National Congress of American Indians (NCAI), set forth below is a chart that depicts the percentage of the Federal budget dedicated to funding the BIA. As you can see, as a percentage of the overall budget, the BIA budget has declined from .115% in FY 1995 to .075% (correcting chart typo) in FY 2011, approximately a one-third decline as a percentage of the overall budget (despite a small bump up in FY 2010).



The President's FY 2013 budget proposes an increase of 2.6% in the Indian Health Service budget, which is \$116 million over the FY 2012 enacted level. Although USET recognizes that in these difficult budgetary times any increase should be celebrated – and we are appreciative that health care is getting this increase – we must note that the general rate of inflation in 2011 is over 3%. Moreover, it is common for the medical rate of inflation to exceed the general rate of inflation by as much as double. Meanwhile, the President has proposed a modest \$4 million cut in the budget of the BIA, but in light of inflation this must be understood to be potentially a 3% cut in purchase power. Overall, both agencies lose purchase power from FY 2012, even if some individual programs receive funding in excess of the inflation rate.

Of course, the Budget Control Act of 2011 provides for an 7-10% across-the-board cut for nearly all domestic and defense programs starting January 2, 2013. When you add the effects of sequestration to inflation, Indian country programs, which have always been sparely funded, could be effectively cut by as much as 11-14%! This would be devastating to Native communities across the land.

Federal budget problems should not be addressed on the back of Native peoples. We respectfully ask the Committee to support the concept that funding increases should consistently exceed the relevant rate of inflation in order to achieve real progress in closing the services gap for Natives. At a minimum, Federal Indian programs should be held harmless from any reductions coming from sequestration or similar future draconian cuts, just as other low income programs are held harmless in the Budget Control Act of 2011 (*e.g.*, Child Care Entitlement to States; Child Health Insurance Fund; Family Support Programs and Temporary Assistance for Needy Families).

USET does strongly support the President's proposal for \$345 million for public safety initiatives in Indian Country, with a total of \$156.8 million set aside for tribal grant programs within the Department of Justice. This latter amount is less than what was proposed for FY 2012, but still represents a significant step up from current funding levels and will have a tremendously positive impact on public safety in Indian Country.

USET is discouraged by the proposed \$52.8 million cut in the Bureau of Indian Education construction account. Although less of an impact on the USET area than other areas, USET strongly believes that the investment in Native education is the one investment that is sure to make a positive difference in Indian Country for the long-term.

**General Budget Considerations.** While USET believes that *all* Indian programs are vital to creating strong Tribal Governments and healthy Tribal communities, and that Congress should protect and improve current base funding levels for all programs and provide for increases in excess of the inflation rate, the USET priority programs are: Tribal Priority Allocations, Contract Support, Tribal Court, Scholarships and Cultural Resources.

- **Tribal Priority Allocations (TPA).** Funding for the Eastern Region Tribes TPA needs to increase by at least \$10 million, even without considering our unmet historical needs.

- **Tribal Courts.** Currently, in the Eastern Region only 46% of the tribes receive BIA funding for the operation of their tribal courts. There should be sufficient funding for any tribe that needs to establish a court.
- **Scholarships.** Over the last several years, funding for BIA's post-secondary education programs has remained largely stagnant. This area should see increased funding.
- **Contract Support Costs.** There should be sufficient funding to assure that the BIA is able to meet 100% of its contract support obligation. Other Bureaus within the Department of Interior, as with other federal agencies, have achieved their obligation of paying a 100% contract support costs to their non-native contractors; this obligation cannot be ignored when it involves tribal 638 contractors.
- **Cultural Resources.** Adequate funding for Tribal cultural resource programs is essential to the spiritual, health, social, and economic wellbeing of Tribal communities.

**Indian Health Service.** USET would like to reemphasize the need to maintain the recent gains IHS and tribes have made. USET firmly believes that the IHS budget should be held harmless in terms of budget reductions, including across-the-board rescissions and sequestration. Health care is not something that can be reduced, delayed, or withheld without real damage to people. Congress and the public have rightly supported maintaining health care funding for members of the military and veterans, and USET believes the same should be true of the Indian health care system. IHS and tribal budgets are suffering the consequences of the past two years' lack of funding for inflation and population growth.

With regard to the President's FY 2013 budget, of particular interest to USET are Contract Health Services, built-in costs, and contract support costs.

Contract Health Services. USET appreciates the recognition by Congress and the Administration of the importance of the Contract Health Services program, as evidenced by the FY 2012 increase in appropriations and the Administration's request for a \$54 million increase in FY 2013. While even this amount would not fully meet the need for Contract Health Services, we recognize the difficult fiscal environment, and urge Congress to appropriate at least the amount requested. The CHS program is of particular importance to the USET tribes, as much of our health care is done on a referral basis.

Built-In Costs. USET is very concerned about the cumulative effects of deficiencies in the past several years for built-in costs – namely, population growth, inflation, and required pay increases. The Administration and Congress do consistently request and provide funding for staffing and operation of new facilities, although not always in the amount the tribal health care providers feel is needed. In FY 2010 Congress provided \$169 million for built-in costs for pay raises, inflation, population growth, and staffing for new facilities. But in *FY 2011*, the only increases enacted were for a pay increase to Commissioned Officers and staffing of new facilities. The Administration had also requested \$60

million for inflation and \$52 million for population growth and funding for civilian pay increases for that year. And in *FY 2012* the Administration requested \$255 million for pay costs, inflation and population growth, none of which was appropriated. All of these costs must be absorbed by health programs. In *FY 2013* there is no request for funding for population growth, inflation (except for Contract Health Services) or pay increases. Funding is requested for staffing and operation of new facilities.

*Contract Support Costs.* USET and its tribes appreciate the steps Congress has taken in the last few years to reduce the crippling contract support cost shortfalls suffered by tribal health care providers. Contract support costs are the administrative and overhead expenses tribes and tribal organizations incur in providing health care under Indian Self-Determination Act agreements. When contract support costs are not fully funded, as has been the case for almost twenty years, tribes are forced to slash administrative capacity, divert program resources to cover administrative expenses, subsidize federal programs with their own scant tribal resources, and/or curtail or forgo self-determination and self-governance altogether. In effect, tribes are shortchanged and treated as second-class government contractors.

Substantial increases in CSC appropriations in fiscal years 2010 and 2012 have reduced the shortfalls significantly, saving and creating jobs in tribal health care. More progress needs to be made, however. Underfunding of contract support costs continues to impose major hardships on tribal health care providers and patients around the nation, including USET's member tribes. Last year, in H.R. 2584, the House proposed funding IHS for contract support costs at \$574,761,000, which would have reduced the CSC shortfall dramatically. Ultimately, however, Congress appropriated just over \$471 million, requiring tribes to divert close to \$100 million from health care services to fixed administrative expenses.

USET urges this Committee to continue to press for full funding of contract support costs. The requested increase of \$5 million is not sufficient. Given the increase in program funding requested, we estimate that a CSC appropriation of at least \$580 million would come close to eliminating the shortfall, allowing USET's tribes and other tribal providers to use all health care program funds for the purposes Congress intended.

A word of appreciation is due to IHS for its advocacy and approach to contract support cost issues. During this Administration, IHS has engaged in good faith negotiations resulting in the settlement of many claims for past CSC shortfalls. Recently IHS initiated tribal consultation on the agency's CSC policy, convening a workgroup of tribal leaders and technical experts. The process had gotten off to a rocky start due to IHS's refusal to share CSC data for the last three years. Once IHS releases this data, however, we anticipate that the tribal consultation will help the agency strengthen its contract support cost policy.

*Timely Funding.* We feel the time is ripe for a serious discussion about whether IHS funding should be put on an advance appropriations or biennial basis. As you know, in FY 2010, three of the Veterans Administration's medical accounts were put on an advance appropriations basis – those are very large accounts totaling approximately \$50 billion. Going back to 1998, the only year in which an Interior

and Related Agencies appropriations bill has been enacted prior to the beginning of the fiscal year was FY 2006. Even if an appropriations bill is enacted just prior to October 1, it still takes time for OMB and IHS to apportion and allocate the funds. Receiving funds under a series of Continuing Resolutions, without knowing how much funding will be available in the fiscal year, makes planning and delivery of services very difficult.

USET and its member tribes appreciate this Committee's leadership in securing recent appropriations increases for IHS, and urge that this progress be continued. We also appreciate IHS's recent efforts to work with tribes on contract support costs and other issues. We look forward to working with Congress and the Administration to improve health care services to Indian peoples.

**III. Changes to Federal Law that would Create Jobs and Promote Indian Country Economic Development.** USET would also like to present the Committee with a number of specific legislative proposals that the Committee could adopt which would have the effect of unleashing tribal economic potential and thereby addressing national deficit concerns.

***Carciari* Fix.** Foremost, USET would like to see passage of the *Carciari* Fix, which the President included in his budget (and the previous two, as well) and which this Committee has marked up and referred out as S. 676. The *Carciari* Fix would provide that the Secretary of the Interior could, in accordance with rigorous guidelines, take land into trust for all Federally recognized tribes. This bill is in response to the Supreme Court's decision in *Carciari v. Salazar*, handed down in February 2009, which overturned 75 years of agency practice when it held that the Indian Reorganization Act (IRA) only allows the Secretary of the Interior to take land into trust for tribes that were "under federal jurisdiction" as of 1934. No one knows what the Court meant by "under federal jurisdiction" as of 1934 as we had understood that all tribes, pursuant to the Constitutional provisions set forth above, ultimately are under federal jurisdiction. Indeed, since 1934, the Department of the Interior (DOI) has construed the IRA to authorize the Secretary to place land into trust for **all** federally recognized tribes. From 1934 to 2009, DOI has restored lands to enable tribal governments to build schools, health clinics, hospitals, housing, community centers, farms and other economic development enterprises to serve their people. The Secretary has approved trust acquisitions for approximately 5 million acres of former tribal homelands, far short of the more than 100 million acres of lands lost through the Federal policies of removal, allotment, and assimilation. The Court's decision threatens tribal sovereignty, economic self-sufficiency and self-determination. The IRA is a comprehensive federal law that provides not only the authority of the Secretary of the Interior to take lands into trust for tribes, but also for the establishment of tribal constitutions and tribal business structures. Disorder in these areas of the law threatens all types of economic development opportunities, loans and financing, contracts and loans, and tribal reservations and lands. The decision also has the potential to create chaos in public safety and criminal jurisdiction on Indian reservations. The *Carciari* decision has already resulted in costly, protracted litigation on a broad range of issues with the United States, at taxpayer expense, is a defendant in more than a half dozen of these lawsuits. In addition, a number of Indian Country projects have slowed or been put on hold while Tribes and investors alike try to puzzle out the

implications of the Supreme Court's holding. Notably, the Congress amended the IRA in 1994 to clarify that all federal agencies must provide equal treatment to all Indian tribes regardless of how or when they received federal recognition.<sup>1</sup>

Also, Congress needs to permanently resolve this issue to end needless challenges against the United States and tribes. Although DOI may continue to acquire land in trust for tribes, any decisions to do so remain under the threat of *Carciere*-based administrative and court challenges. Those who oppose tribal sovereignty will use *Carciere* to challenge all trust acquisitions, even for tribes with long-standing treaty relations with the United States and clear federal recognition in 1934. Even lands currently held in trust for such tribes are now subject to challenge in court under the *Patchak* decision. Each Tribe is obliged to comb through years and volumes of historical records to meet a standard – “under federal jurisdiction” – that remains a moving target. This uncertainty undermines the very purpose of the IRA. Congress must provide Indian country certainty by enacting the proposed legislative fix.

**Repeal the "essential governmental functions" test.** Repeal of this test is ripe for congressional action. If repealed, the new law would open the door to lower cost financing for tribal government development programs, to more cost-efficient pension plan management, and to greater parity between tribal governments and state and local governments.

An issue that has been brought to the Congress's attention in recent years has been the disparity in the Tax Code's treatment of tax exempt bonds issued by Indian tribal governments and those issued by state and local governments. Unlike state and local governments, tribal governments may only issue tax-exempt bonds to finance projects that are deemed "essential governmental functions" of the tribe. Based on its interpretation of the essential government functions language in the Tax Code, the IRS has challenged tribal tax-exempt bond financing for the development of hotels, RV parks, water systems and other tribal projects to generate on-reservation revenues on the ground that those bonds serve a commercial, rather than governmental function. The imposition of the essential governmental functions test suggests that tribal revenue generating activities that are necessary to meet budget needs to provide for the welfare of tribal citizens when carried out by tribes are commercial rather than governmental activities and limits the opportunities tribes might otherwise have for low-interest financing. Meanwhile, State and local governments *routinely* use this kind of tax-exempt financing for hotels, golf courses, and convention centers on the ground that those development projects will generate governmental revenues.

USET applauds Congressional action in the Recovery Act that introduced a new Tribal Economic Development Bond authority that did not limit bond activity to "essential governmental functions." We further welcome Congress's request in that Act to require the Treasury Department to make recommendations as to the whether Congress should reconsider the "essential government functions" test currently applicable to tax-exempt bonds. As you know, in December 2011, Treasury issued recommendations calling on Congress to repeal the essential governmental functions limitation for tax-exempt bonds. Treasury urged that Congress further explore the complex issues associated with tribal

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<sup>1</sup> See 25 U.S.C. §476(f)-(g).

access to credit markets. USET urges that Congress act upon the Treasury Department's recommendations to eliminate the essential governmental functions restriction on the issuance of tax-exempt bonds. USET calls on Congress to hold hearings on obstacles to credit finance markets and identify legislative mechanisms to help address credit challenges in Indian Country.

USET further urges that the essential governmental functions limitation also be repealed in section 414(d) of the Tax Code, with respect to governmental pension plans. The essential governmental functions limitation in that context impedes efficient tribal governmental administration and employee retention. In the Pensions context, tribal employees are eligible to participate in a tribe's "Governmental" Plan *only if* they perform "essential governmental functions." Employees of tribal casinos, tribal gas stations, marinas, and other enterprise must be segregated to exclude them from participation in the tribe's Governmental Plan. For states and local governments, "Governmental Plan" status is based on whether the entity is an agency or instrumentality of a government and includes *all* employees regardless of what functions they perform. For Tribes, however, because of the "essential functions limitation" in Section 414(d), the IRS looks at the functions and activities being carried out by the employees – if IRS deems their activities to serve "commercial" functions, those employees are not eligible to participate in a Governmental pension plan. As a result, a tribe must administer two separate plans – one for governmental employees and another as a "Commercial" plan with the burden of administering duplicative plans with different sets of rules that are considerably more costly than that of their state and local government counterparts. Congress should tackle the essential governmental functions language in both contexts in order to remove barriers to economic development and efficient tribal governmental employment benefit administration as well as to establish greater parity between tribal governments and state and local governments.

**Unlock Vast Tribal Energy Resources – Adopt S.1684, Indian Tribal Energy Development and Self-Determination Act Amendments of 2011.** It is estimated that 10% of the Nation's energy reserves are located on tribal lands, including large fossil fuel, wind, solar and biomass resources. However, it has become very difficult for tribes to develop these resources. S. 1684 provides a range of measures to assist tribes in getting these resources developed and power to the market place - creating jobs, reducing our dependence on foreign sources of energy, and generating revenue to Tribal, Federal and state coffers.

**Accelerate the Process for Indian Land Leasing to Allow More Efficient Development of Tribal Lands – Adopt S. 703, Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2011.** This legislation would allow tribes to administer their own land leasing process, rather than continuing the paternal practice of control by the Bureau of Indian Affairs. This legislation not only respects tribal sovereignty, but virtually guarantees a more efficient process, which will encourage development of tribal lands in accordance with tribal decisions. USET thanks the Committee for advancing this legislation.

**Transformational Proposals to Unleash Tribal Economic Development.** USET and its members have developed legislative proposals, not yet introduced into the Congress, but which we believe would (1) have a tremendously beneficial impact for tribal economies, (2) be consistent with the

Federal government's trust obligation to Tribes, (3) be respectful of tribal sovereignty, and (4) generate jobs and revenues for the Tribal, Federal and State governments. These proposals would address the many tangled and twisted Federal Indian policies and programs, would address barriers to Indian economic development by removing those barriers, and would establish pilot projects in certain areas that we believe have the potential to generate tremendous economic activity, but which are largely untried.

- **Restoring Tribal Land Leasing Authority.** The authority of Indian nations and tribes to lease land they occupy that is held in trust is limited by statute to varying lengths of time, from 25 years to 99 years. This approach perpetuates the paternalism inherent in federal trusteeship law that results in uneconomic delays and public citizen procedures. This bill would authorize up to fifty requesting Indian nations and tribes, as a demonstration project, to declare tribal leasing authority over specifically identified lands without federal involvement or approval and the accompanying public citizen procedures.
- **Restoring Tribal Restricted Fee Land Title.** Tribes who occupy tribal restricted fee lands (for which they hold fee title subject to a federal restriction against taxation and alienation) are able to mortgage, lease, and develop without the federal government involvement and interference that accompanies development of land held in trust for the tribe by the federal government. This bill would authorize up to fifty requesting Indian nations and tribes, as a demonstration project, to convert some portion of their tribal trust land into tribal restricted fee land. The bill would clarify that all tribal restricted fee lands, however authorized, are Indian Country over which an Indian nation or tribe may exercise leasing and other land use authority without federal involvement or approval and the accompanying public citizen procedures. The bill would not diminish the federal trust responsibility nor would it amend the Indian Reorganization Act (IRA) nor affect the I.R.A. regulations.
- **Establishing Tribal Tax-Free Zones.** In order to jump start economies in Indian Country and create real financial incentives for the creation of private sector jobs, this far-reaching proposal would, on a demonstration basis, declare all Indian reservations choosing to participate to be tax-free zones. All economic activity occurring upon these Indian zones would be declared to be exempt from federal and state tax of every kind. This should cause private sector commerce and trade to move into relatively impoverished Indian Country bringing with it jobs and investment that benefit reservations and their neighbors. The demonstration project would limit the number of participating Indian nations and tribes to fifty in order to contain the federal budget cost score. The bill also would authorize an Indian nation or tribe to raise tribal governmental revenue from non-Indians who conduct otherwise tax-free activity on Indian lands with the nation or tribe's permission.
- **Restoring a Tribal Lands General Tax Credit.** This bill would provide a 100% tax credit against all taxes otherwise imposed by the federal, state and local governments on certain qualified business activity occurring on certain portions of Indian Country with the permission of, and under fee and other terms established by, the governing Indian nation or tribe. The

taxes against which this general credit would be applied include all sales, payroll, income, excise, transfer and severance taxes imposed by the United States, the various states, or subdivisions thereof. The demonstration project would limit the number of participating Indian nations or tribes to fifty in order to contain the federal budget cost score. It would be available in those portions of Indian Country suffering unemployment rates higher than twice the national average. To qualify for the credit, a taxpayer must adhere to Indian preference in employment related to the qualified business activity.

- **Establishing a Tribal Lands Investment Credit.** This bill would provide a 100% investment tax credit against the income tax liability of any taxpayer equal to the amount that taxpayer invests in certain new equipment and facilities placed in service in certain portions of Indian Country with the permission of, and under fee and other terms established by, the governing Indian nation or tribe. The demonstration project would limit the number of participating Indian nations or tribes to fifty in order to contain the federal budget cost score. It would be available in those portions of Indian Country suffering unemployment rates higher than twice the national average. To qualify for the credit, a taxpayer must adhere to Indian preference in employment related to the investment property.
- **Restoring Tribal Jurisdiction and Sovereignty.** This far-reaching legislation would take the 1968 Act which stopped Pub.L. 83-280 cessions and turn it on its head, allowing an Indian nation or tribe to vote to reject continuing applicability of Pub.L. 83-280, returning at tribal option all criminal and civil jurisdiction within the Indian Country of that Indian nation or tribe to the exclusive control of the Indian nation or tribe and the United States. The bill also would authorize an Indian nation or tribe to enter into a federally-approved Compact of Criminal Jurisdiction with a state government to govern, based on the mutual agreement of the Indian nation or tribe and a state, transfers of jurisdiction, whether reciprocal or otherwise, between them.

**Conclusion.** USET recognizes that in challenging times, all Americans must be called upon to sacrifice for the common good of all. USET suggests, however, that when it comes to sacrificing for the good of all Americans, the historic record demonstrates that nobody has sacrificed more than Native Americans. Thank you for this opportunity to provide testimony on how the budget concerns of the United States, rather than being addressed on the back of Indian tribes, could be addressed by freeing Indian tribes to realize their maximum economic potential.

The work of this Committee is very important to Indian Country. Please do not hesitate to contact me if you should have any questions or if USET can be of any further assistance.

*“Because there is Strength in Unity”*