



## United South and Eastern Tribes, Inc.

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### **USET Resolution No. 2015:019**


## **SUPPORT FOR FEDERAL LEGISLATION THAT RESTORES RESPECT FOR THE TRIBAL LABOR SOVEREIGNTY OF TRIBAL GOVERNMENTS IN THE NATIONAL LABOR RELATIONS ACT**

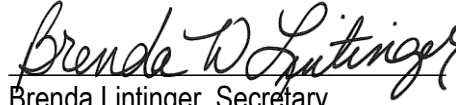
- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** Tribal sovereignty is an inherent authority exercised by all federally-recognized Indian Tribal governments and has existed continuously since before European contact; and,
- WHEREAS,** the United States Constitution, U.S. Supreme Court decisions, and hundreds of treaties, federal statutes, and regulations all recognize that Indian Tribes are distinct governments with inherent rights, powers, privileges, and authorities; and
- WHEREAS,** Indian Tribes have a unique government-to-government and trust relationship with the United States; and,
- WHEREAS,** the Indian Tribes who are members of USET are recognized by the United States Government as sovereign Tribal governments; and,
- WHEREAS,** each Indian Tribe who is a member of USET provides essential services to its citizens including education, housing, health care, and public safety, and raises governmental revenue, much as do state governments, through the operation of enterprises and the provision of goods and services in the marketplace; and,
- WHEREAS,** the National Labor Relations Act (NLRA) generally exempts state, local, and territorial governments from its application; and
- WHEREAS,** the National Labor Relations Board (NLRB) in 2004 reversed over 60 years of its own precedent and established "a new standard for determining the circumstances under which the Board will assert jurisdiction over Indian owned and operated enterprises." *San Manuel Indian Bingo*, 341 NLRB No. 138 (May 28, 2004); and
- WHEREAS,** the NLRB ruled that Tribal governments are subject to the NLRA when acting more "commercially" than "governmentally," a distinction and classification which the NLRB has never applied to state and local governments operating enterprises, liquor stores, lotteries, and providing other goods and services in the marketplace; and

- WHEREAS,** a number of Tribal governments are engaged in ongoing litigation with the NLRB to protect their Tribal labor sovereignty rights against unconstitutional intrusion by the NLRA; and
- WHEREAS,** the NLRB decisions against Tribal labor sovereignty are an arbitrary and discriminatory legal interpretation of the NLRA that treats Tribal governments inequitably in comparison to all other governments, which are allowed to develop their own labor policies regulating labor-related activities on their lands; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET Board of Directors hereby supports federal legislation that would amend the National Labor Relations Act to clarify that its provisions do not apply to any enterprise or institution owned and operated by an Indian Tribal government and further that Tribal governments have parity with state, local, and territorial governments with respect to the National Labor Relations Act.

**CERTIFICATION**

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, February 12, 2015.

  
Brian Patterson, President  
United South and Eastern Tribes, Inc.

  
Brenda Lintinger, Secretary  
United South and Eastern Tribes, Inc.

*“Because there is strength in Unity”*