



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2018 SPF:001

SUPPORT OF LEGISLATION TO RETROACTIVELY ADDRESS THE IMPROPER TAXATION OF RESERVATION-DOMICILED SERVICE MEMBERS

- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-seven (27) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** American Indians and Alaska Natives (AI/AN) have fought in every war for the United States since the American Revolution and currently serve in the United States Armed Forces at a higher rate than any other ethnic group, many having paid the ultimate sacrifice for their commitment to service; and
- WHEREAS,** the Soldiers and Sailors Civil Relief Act (SSCRA) prohibits states from taxing the pay of military service members who are not a domiciliary of that state; and
- WHEREAS,** in 1973, the U.S. Supreme Court, in *McClanahan v. Arizona State Tax Commission*, held that an AI/AN domiciled on a reservation is not subject to state income tax; and
- WHEREAS,** from 1977 until 2001, the U.S. Department of Treasury improperly withheld state taxes from the military pay of AI/AN service members domiciled on reservations in twenty-six states, including the states of Alabama, Connecticut, Louisiana, Maine, Massachusetts, Mississippi, New York, North Carolina, Rhode Island, and South Carolina; and
- WHEREAS,** in 2001 the Department of Defense (DOD) suspended the practice of taxing AI/ANs domiciled on reservations after the Department of Justice provided a legal memorandum to DOD in 2000 stating that the state taxation of AI/AN service members domiciled on reservations was illegal, recommending the practice be suspended; and
- WHEREAS,** in 2003, Congress passed Public Law (P.L.) 108-189, 117 Stat. 2835, amending the SSCRA. § 511 (now § 571) which reads: "An Indian servicemember whose legal residence or domicile is a Federal Indian reservation will only pay taxes under the laws of the Federal Indian reservation and not to the State where the reservation is located"; and
- WHEREAS,** however, P.L. 108-189 does not apply retroactively, leaving thousands of AI/AN service members and veterans without recourse in restoring these improperly assessed taxes; and
- WHEREAS,** honoring the dedication of AI/AN service members and veterans and upholding the federal trust responsibility are both moral and legal grounds for the United States Congress to restore pay to eligible AI/AN veterans and service members who had state income tax illegally withheld from their military pay by the Department of Treasury; 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

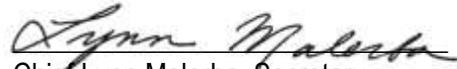
RESOLVED the USET SPF Board of Directors urges the United States Congress to restore pay to eligible American Indian and Alaska Native service members and veterans who were illegally taxed by the state in which they were domiciled on their reservation during their time of military service.

CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 12, 2017.



Chief Kirk E. Francis, Sr., President
United South and Eastern Tribes
Sovereignty Protection Fund



Chief Lynn Malerba, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund