



USET

SOVEREIGNTY PROTECTION FUND

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The Honorable John Hoeven
Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

The Honorable Tom Udall
Vice Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven and Vice Chairman Udall,

We write on behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF)¹ to express our strong support for S. 63, the *Tribal Labor Sovereignty Act of 2017* (TLSA), legislation that respects and upholds Tribal sovereignty and self-determination by ensuring that Tribal governments, like state and local governments, are able to determine their own labor practices.

Sponsored by Senator Moran, TLSA enjoys bipartisan support. During the 114th Congress, this bill passed the House with that strong support.

The National Labor Relations Act (NLRA) generally exempts state, local, and territorial governments from its application. For nearly 70 years, the National Labor Relations Board included Tribal governments in this exemption.

In 2004, however, the National Labor Relations Board (NLRB) reversed decades 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). Absent Tribal consultation or new regulations, the NLRB ruled that Tribal governments are subject to the NLRA when acting more “commercially” than “governmentally,” a distinction and classification that the NLRB has never applied to state and local governments operating enterprises, liquor stores, lotteries, and providing other goods and services in the marketplace.

Like other governments, Tribal governments are responsible for the provision of essential governmental services to their citizens, including health care, education, law enforcement, housing, and social services. And as with other governments, these services are delivered through the generation of governmental revenue, the operation of enterprises, and the provision of goods and services in the marketplace.

TLSA simply restores parity to NLRB’s approach to its application of the NLRA to sovereign governments across the United States by amending the law to expressly exempt Tribal Nations. It promotes and

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), 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), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), 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).

acknowledges Tribal sovereignty, recognized by the Constitution, the courts, and numerous laws, by respecting a Tribal Nation's ability to self-govern within its own jurisdiction.

In the spirit of governmental parity, USET SPF urges the Senate Committee on Indian Affairs to expedite its consideration of S. 63 and to work towards its swift passage. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at: lmalerba@usetinc.org or (202)-624-3550.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director

CC: Members of the Senate Committee on Indian Affairs
USET SPF member Tribal Nations
Wanda Janes, USET Deputy Director