



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2001:064

STATE SALES AND EXCISE TAXES

WHEREAS, United South and Eastern Tribes, Incorporated (USET) is an inter-tribal organization comprised of twenty-four (24) 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, certain special interests from the convenience store and petroleum marketing industries are advocating that Congress enact legislation requiring tribal governments to serve as tax collectors for state and local governments; and

WHEREAS, the proposed legislation would allow state governments to enlist the assistance of the Department of the Interior (DOI) for purposes of compelling Indian nations to collect state taxes; and

WHEREAS, the proposed legislation threatens the sovereignty of tribal governments and their inherent rights, established through treaties and the trust obligations of the federal government; and

WHEREAS, the proposed legislation would also threaten: (1) to violate several treaties between various tribal nations and the Federal Government through the Indian Commerce Clause of the U.S. Constitution; (2) to jeopardize sensitive discussions currently underway between tribes and their respective state governments regarding the collection and payment of sales and excise taxes; and (3) to put at risk the existing and future tax and gaming compacts between tribes and state governments; therefore, be it

RESOLVED that the USET Board of Directors opposes the legislative proposals currently being advanced by the convenience store owners and petroleum marketers and, again urges the U.S. House of Representatives and the U.S. Senate to continue to reject this proposed legislation and cease these perpetual attacks on tribal governments; and be it further

RESOLVED that the USET Board of Directors recommends each of its member tribes promptly communicate their opposition the said proposed legislation to the members of the House Resources Committee and to the appropriate elected officials representing the areas where their tribal lands are located; and be it further

RESOLVED that the USET Board of Directors intends to collaborate with other organizations engaged in the effort to defeat this pernicious legislative proposal.

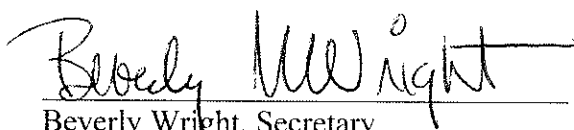
“Because there is strength in Unity”

CERTIFICATION

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present in Marksville, LA, on Thursday, May 24, 2001.



Keller George, President
United South and Eastern Tribes, Inc.



Beverly Wright, Secretary
United South and Eastern Tribes, Inc.

Representative _____

Washington, D.C.

Dear Congressman _____:

We recently learned that certain special interests within the convenience store and petroleum marketing industries are circulating proposed legislation on Capitol Hill, that would involve the Federal Government in local tax matters affecting Indian nations and state governments. As you may recall, the Committee soundly defeated a similar measure on July 19, 2000, by a vote of 23 to 15. Also, during the 105th session of Congress, H.R. 1814—another state tax proposal advanced by Congressman Istook—was defeated by the full House of Representatives, in spite of these defeats, the special interests who are seeking passage, of such legislation, believe that Congress and the Resources Committee should waste more of its time considering this unnecessary legislation. We disagree. Our Indian nation remains unalterably opposed to these pernicious and tiresome legislative proposals and urge you to reject them for the following reasons:

There Is No Need For Federal Intervention. This proposed legislation is a cure in search of a disease. The collection of state and local taxes in Indian Country is an issue that the vast majority of state governments have resolved satisfactorily, either through negotiated tax agreements or existing enforcement remedies. This is why the proponents of this legislation are *not* state taxing authorities. Rather, the proponents of this legislation are a handful of special interest groups who have *never* been able to demonstrate the need for congressional action and who are philosophically opposed to all state-tribal tax compacts. It is irrational for Congress to dictate local tax policies where the states have not requested such intervention and no one has proven that such action is warranted.

The Proponents Of This Legislation Have Distorted The Facts. The special interests that are trying to force passage of this bill have disseminated much misinformation about Indian businesses. For example, they frequently cite New York as a State where the Indian nations consistently violate the law by not collecting state and local taxes. The truth is that New York, as a policy matter, does not require Indian businesses to collect state taxes. As recently as last month, the Appellate Division of the New York Supreme Court ruled that the State is justified in pursuing this tax policy. *New York Association of Convenience Stores et al. v. Urbach*, (App. Div. 3rd Dept., Aug. 3, 2000). It is clear that the special interest groups do not like New York's tax policies. Their dissatisfaction with the State's decision to respect the sovereignty of Indian nations, however, does not warrant federal intervention. Let's allow New York to do what all other states are permitted to do: establish its own tax policies and, if it so desires, resolve disagreements over taxation with Indian nations through tax compacts, negotiated on a government-to-government basis.

The Proposed Bill Will Undermine All Existing Tax Compacts Between States and Tribes And Will Eliminate All Incentive for States to Negotiate New Agreements. Scores of Indian nations have concluded tax compacts with more than fifteen different state governments. Indeed, on May 9, 2001, the Governor for the State of Washington signed into law a bill, which authorizes him to conclude tax compacts with all resident Indian nations. This legislation was backed by fourteen Indian nations and the Governor's office and is further proof that government-to-government agreements are the best way to settle tax disputes between Indian nations and state governments. Such agreements recognize the sovereign status of each party and

respect the taxing jurisdiction and revenue needs of both governments. If, however, the convenience store owners and petroleum marketers have their way, no state would ever again choose to negotiate a tax compact with an Indian nation, and many states would find it advantageous to walk away from existing agreements. Instead, the states would simply say: "Why should we negotiate on a government-to-government basis with your tribe when we can simply ask the Federal Government to force you to collect all of our taxes"?

The Proposed Bill Will Deprive Many Tribes Of Their Only Revenue Source. The majority of Indian nations do not engage in gaming or operate commercial enterprises. Instead, they rely solely on revenues generated by on the imposition of tribal taxes. If state and local governments are allowed to displace those tribal levies with their own taxes, many Indian nations will lose the ability to provide even the most rudimentary services to their members. This is all the more unconscionable when it is remembered that state and local governments rarely use any of the taxes they collect to provide services on Indian reservations.

The Proposed Bill Sets A Dangerous Precedent. Representative Istook and the convenience store owners want to abrogate tribal sovereignty by permitting states to do indirectly what Federal policy has always said they cannot do directly: regulate and interfere with commercial activities in Indian Country. If the Federal Government compels tribal governments to serve as tax collectors for the states, it will open the door to greater state incursions upon tribal sovereignty.

The Doctrine Of Federalism Supports Independent Tribal Tax Policies. That Indian reservations have tax policies which differ from those of surrounding state governments is not something peculiar in our economy. The principle of Federalism permits one government to levy taxes that another may choose not to. New York imposes an excise tax on cigarettes at the rate of \$11.10 per carton; the tax rate in Virginia is only 2.5¢ per carton. No one is offended by the notion that people are at liberty to cross state lines or place catalog orders to obtain the benefit of lower tax rates, but they seem greatly bothered by an Indian nation that refuses to adopt a tax scheme that conforms to state law.

For all of the foregoing reasons, we urge you to, once again, reject the latest legislative proposal advanced by the convenience store owners and petroleum marketers and tell these special interest groups to stop wasting your time.