



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2006:004

PENSION REFORM LEGISLATION AND INDIAN TRIBES

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal 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,** the federal tax law allows governments to establish and maintain "governmental retirement plans," as that term is defined in section 414(d) of the Internal Revenue Code (the Code) and related provisions of the Employee Retirement and Security Act (ERISA); and
- WHEREAS,** the United States Labor Department and the Internal Revenue Service (Revenue Procedure 2004-4) have declined to treat Indian Tribes as "governments" for purposes of the "governmental plan" provisions of the Code and ERISA; and
- WHEREAS,** the governmental obligations and competitive pressures that prompted Congress to allow the establishment of governmental plans are as applicable to Indian Tribes as they are to the Federal and state and local governments; and
- WHEREAS,** the Senate Finance Committee and the Senate Health, Education, Labor and Pensions Committee have approved pension reform legislation, S. 219, which, among other things, would make it clear that Indian Tribes are authorized to sponsor "governmental plans" in the same manner as state governments; and
- WHEREAS,** the House Ways and Means Committee is considering similar pension reform legislation but the House version, unlike its Senate counterpart, does not contain a provision ensuring the ability of Indian Tribes to sponsor governmental plans; and
- WHEREAS,** Congressman J.D. Hayworth and Congressman Dale Kildee have introduced separate legislation (H.R. 331), which would amend section 414(d) of the Code and section 3(32) of ERISA, and related provisions, by modifying the definition of "governmental plans" to clarify that these sections include plans sponsored by Indian Tribes; and
- WHEREAS,** S. 219 and H.R. 331 would correct an unintended inequity in federal tax law by treating Indian Tribes the same as the Federal, state and local governments for retirement plan purposes; and
- WHEREAS,** Congress should take steps to ensure that S. 219 and H.R. 331 are drafted in such a way that Indian Tribes located in Maine are expressly allowed to benefit from this proposed change in the law and that their ability to sponsor governmental plans is not impaired by the Maine Settlement Act; therefore, be it
- RESOLVED** that the USET Board of Directors strongly endorses the pension reform legislation currently before the United States Senate and urges the Senate to move swiftly to enact that measure; and be it further
- RESOLVED** that the USET Board of Directors urges the House Ways and Means Committee to include the important provisions of H.R. 331 in the broad retirement security legislation that is currently before the Committee; and, be it further

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RESOLVED that the USET Board of Directors urges both the Senate and House to draft their legislative proposals to ensure that all Indian Tribes situated in Maine that are subject to the Maine Settlement Act are covered by any changes made to the definition of "governmental plans" in ERISA and the Internal Revenue Code.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting and EXPO at which a quorum was present in Orlando, Florida, on Thursday, October 13, 2005.



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



Eddie L. Tullis, Secretary
United South and Eastern Tribes, Inc.