

NCAI Update - August 13, 2001
(Broadcast #375)

REMINDER—We encourage ALL TRIBAL LEADERS AND ADVOCATES to attend the September 11 Tribal Leaders Policy Forum, co-hosted by the National Congress of American Indians, the Native American Rights Fund, and the National American Indian Court Judges Association, to form a unified response from Indian Country to address the aftermath of Nevada v. Hicks and the Supreme Court's continued erosion of tribal jurisdiction. This pivotal forum will take place at the Grand Hyatt Hotel, 1000 H Street, NW, Washington, DC. **Reservations must be made AS SOON AS POSSIBLE** by calling 202-637-4000 or 800-233-1234. For additional information, please contact NCAI.

BIA Announces Further Delay of Land to Trust Regulations, Requests Comment on Proposed Changes - In the Federal Register for August 13, 2001, the Bureau of Indian Affairs posted notice of an additional 90-day delay of the effective date for the Acquisition of Title to Land in Trust regulations that were originally published in the Federal Register on January 16, 2001. In addition, notice was posted seeking comment on the Department's proposed withdrawal of the final rule and enumerating some of the changes the Department proposes to include in their revised rule. **Comments on the proposal are due by September 12, 2001.**

The relevant Federal Register notices are attached for your review. Of particular note is language describing the changes under consideration by the Department with regard to off-reservation acquisitions, which describe a proposed requirement that tribes show that the acquisition would cause "no demonstrable harm to the local community".

The NCAI Land Recovery Task Force will meet on August 21, 2001, at the NCAI offices at 1301 Connecticut Ave., NW, Suite 200, to discuss the proposal and organize a cohesive tribal response. The meeting will begin at 4:00 pm (following the BIA-Tribal budget meeting that same day.) The Co-Chairs of the Task Force are Chairman Tex Hall, Three Affiliated Tribes, and Chairman Bob Chicks, Stockbridge Munsee Band. We encourage Tribal leaders and their advocates to participate in this meeting.

Representative Young Introduces Legislation to Assist Collection of State Taxes on Reservation Sales - As a result of advocacy from an ad hoc group entitled the Coalition Against Sales and Excise Tax Evasion (CASETE), comprised of the National Association of Convenience Stores, The Petroleum Marketers Association of America, and other trade groups, Representative Don Young (R-AK) introduced legislation, H.R. 2726, just prior to the August congressional recess that would enable states to petition the federal government to collect state excise taxes from tribal retailers on their behalf. The legislation provides that taxes will be collected on the sales of items such as cigarettes and motor fuel by a tribal retail enterprise to persons that are not members of the tribe.

While slightly different than previous versions of this legislation, H.R. 2726 pursues a similar goal

of creating a federal mechanism by which states can force collection of “covered state taxes” by tribal retail enterprises. Where a tribal-state agreement is in place, the legislation would seek to disallow the enforcement of a tax that exceeds the amount provided for by the tribal-state agreement, even if it is no longer in effect. It also provides for mediation between a tribal retail enterprise or tribe and the Governor of a state for purposes of determining the amount to be remitted, or in the case of parties to an existing tribal-state agreement, provides for mediation of disputes regarding compliance with the agreement. But enforcement mechanisms outlined in the bill focus only on tribes and tribal retail enterprises found to be out of compliance with tribal-state agreements, and make no provision for states that are not complying.

The trade associations of motor fuel and cigarette retailers that comprise CASETE have continued to target tribal governments with charges of widespread “tax evasion”, and have launched significant advocacy campaigns to promote legislation that would force tribal collection of state sales and excise taxes. In testimony and correspondence, proponents have made unfounded claims about the amount of revenues that states are “losing” because tribes are allegedly refusing to collect taxes. NCAI is working with Tribes and states to update data compiled during the 106th Congress regarding existing state-tribal agreements to counteract this misinformation and put to rest this ill-conceived campaign.

ACTION: Contact your members of Congress, the office of Representative Young, and members of the House Resources Committee to express your opposition to HR 2726 or any related legislation which seeks to create a Federal answer to a “problem” which has never been documented while failing to recognize or address the terrible impacts of dual taxation on economic development in Reservation communities.

For more information, please contact NCAI at (202)466-7767.

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