

— Opinion —

Chairman's Report:

Here comes the tax man...again!

By Mark Mercier

Once again, various politicians in Congress are sniffing around for additional revenue to counteract spending cuts and help balance the budget. But the devil, as they say, is in the details.

A move is afoot in Washington D.C. in the House Ways and Means Committee, chaired by Texas Republican Representative Bill Archer, to place a 34% income tax on *all* Indian gaming casinos. And if this weren't bad enough, the action comes on the heels of proposed Congressional spending cuts of almost 20 percent in the Bureau of Indian Affairs annual budget for Tribal Priority Allocations.

The BIA budget cuts bill will make a separate story in itself, and we will address that in a future *Smoke Signals*. But the casino tax proposal is being considered at this writing, and action is expected in a very short time frame. During the last week in September, I was in Washington D.C. to meet with many members of Congress and staffers to let them know of our opposition to the gaming tax.

There are many reasons why every single Native American in the nation should be concerned about this tax grab, whether their tribe operates a casino or not, not the least of which is that this tax is blatantly unconstitutional. As Alaska Republican Representative Don Young so eloquently stated in a letter to Chairman Archer:

"...it is an accepted fact that Indian tribal governments have the same tax exempt status as do State governments. Indian tribal governments are specifically recognized in the Constitution and at no point in the history of this nation has the United

States ever attempted to tax the tribes themselves precisely because they are governments."

Congressman Young goes on to say: "The United States government does not tax the gaming revenue realized by the state of Texas from the Texas lottery. The sovereign status of the State of Texas has always shielded it from Federal taxation. For that same reason the United States government should not be taxing gaming revenue realized by Indian tribal government."

The identical constitutional argument can be presented in the case of the Oregon state lottery, of course, or for that matter any state that conducts or sponsors its own lottery or other gaming activity.

Tribal lobbyists are aggressively fighting this constitutional action, and, although the bill has already passed the House, we believe we can slow it down or even kill it entirely when it reaches the Senate.

We'll have a full report for you in the next *Smoke Signals*. In the meantime, I urge you to write a short note to the new chairman of the Senate Finance Committee (Packwood's successor) expressing your opposition and outrage at this completely unfair and unacceptable infringement on the rights of independent sovereign tribal governments.

Chairman Roth's address:
The Honorable William V. Roth, Jr.
Chairman, Senate Finance Committee
219 Dirksen Senate Office Building
Washington, D.C. 20510

Members thank Tribal Council for burial help

To the Editor:

Dear Tribal membership,

We're taking the time to thank the membership for supporting our tribal burial land. On September 1, 1995, tribal member Leroy Allen, age 46 was killed in an auto accident in Warm Springs, Oregon. Without the burial funds, the additional burden of burial costs would have only added to the sorrow that our family was already experiencing.

Leroy's family appreciates the work that Tribal Council did by developing a policy and setting up an endowment fund for burial costs. We also appreciate the coordination and explanation of death benefits that Margo Mercier did with the funeral director. It eased the burial decision-making process.

It is a great support to know that our Tribe is invested in its membership. We are grateful for the forethought and energy that has been contributed to this effort. May the Tribe continue to keep at its center the well-being of its membership, even when death occurs.

Thanks to those who traveled to Warm Springs to attend the funeral and be with us through the days following Leroy's death. It was a great comfort. We appreciate all the kind words and prayers that were spoken.

Warm regards from the family of Leroy Allen,
Pauline Johnson—grandmother, Elmer Tom—grandfather, Cordelia Kneeland—mother, John Allen—brother, Stan Kneeland—brother, Tim Kneeland—brother, Pauline Allen—sister, Pat Allen—sister, Cheryl Kennedy—sister, Cecile Kneeland—sister

ATNI interim director calls Gorton's article "a distortion"

By Tom Hampson

Washington Sen. Slade Gorton's recent op-ed article (see page 3) justifying the budget cuts in the Interior Department programs for Indian tribes is a distortion of the cruelest kind. He chastises Tribes for their overreaction to the cuts. He claims that tribes want more than their fair share of the Interior pie—while Indians are "getting rich on gaming".

His spin on the numbers—"Indian programs took the smallest reduction..." is achieved by offsetting cuts in the Bureau of Indian Affairs budget (26 percent cut) with the Indian Health Service budget (3 percent increase). The Health Service is in the Interior budget, but it is not an Interior program. This artfully obscures the significant cut in funds designated to fulfill U.S. trust responsibilities under the treaties between the U.S. and Indian tribes.

The money is important, but such a focus cheapens the debate. The threat of budget cuts is not the part of Gorton's perspective that angers and threatens Indian tribes the most.

The question being asked by tribes today is, "Does Sen. Gorton's view represent a reemergence of the dark side of this nation's treatment of the first Americans?"

A scan of the proposals made in just the last 30 days from the 104th Congress would give the most objective observer cause to wonder if the days of the forked-tongue diplomacy were upon us once more. Consider this:

*Appropriations for the program in the Interior budget that most directly supports the development of tribal governments (B.I.A. Priority Allocations) were cut in the Senate version by 32.5 percent compared to the president's

budget. Ironically, this program is "revenue sharing" type of funding designed to encourage self-governance (concepts favored by the Republicans and most tribes).

*Section 115 of the Interior Appropriations Bill (A Gorton amendment) states that 50 percent of Tribes' Self-Governance funding will be withheld unless they negotiate on water and land rights with nontribal local interests. The proposal is considered blackmail by the tribes and is reminiscent of the big-stick diplomacy used during the 19th century treaty negotiations.

*The House Ways and Means Committee has approved a section of that tax bill that singles out tribes for a 34 percent tax on gaming revenue, ignoring the opinions of the Departments of Treasury, Interior and Justice that such a tax is illegal and inequitable. Most tribes don't have gaming. Of those that do, only one percent of them are realizing substantial income. And of course, states are not taxed for their gaming revenues.

This is just a partial list. As part of the budget-balancing effort, funds dedicated to tribes for social, economic, and educational development are being cut across the board. This is bothersome to tribes, but they have stated they are willing to do their share for budget-balancing.

Tribes are not willing to take disproportionate cuts. More important, they point out that many of the funds are not discretionary funding. Most Americans do not understand that these resources are made available to tribes as part of the government's ongoing obligations under the treaties.

The treaties say in essence, "In exchange for your land

and your life-styles we shall provide you with resources to go forth and prosper as part of the new America." The tribes utilize these funds as seed capital for their development plans. Tribes want to become self-sufficient. Tribes are feeling that they are now being penalized for finally doing what they were asked to do.

When you sum it up, it is easy to see why tribes might come to the conclusion that Congress is saying "Hey, we're tired of paying for these old treaty contracts. You Indians have been getting uppity with your rights assertion and now some of you are getting rich, so it's time to take you down a peg."

The founding fathers recognized Indian tribes as sovereign nations in the Constitution. These tribes were the first nations that we conquered. Compared to other adversaries, we provided little in war reparations. Instead, in the treaties we agreed to provide certain rights to resources and commitments to assist them to develop in perpetuity.

Tribes responded with honor. They served as warriors in our armies. They now offer some of the best hope for many of our distressed rural areas.

Even though they have a unique status in our country as sovereign nations, they have become major contributors to our economic and cultural well-being. Let's not turn back the clocks and forsake our honor as a nation over the equivalent of the price tag of a B-1 bomber.

—reprinted from *The Oregonian*, September 27 edition. Tom Hampson is the interim executive director of the Affiliated Tribes of Northwest Indians.