



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #ABQ-19-081

TITLE: Calling on Congress to Immediately Enact Legislation to Provide Tribal Nations Tax Parity and Spur Tribal Economic Development

EXECUTIVE COMMITTEE

PRESIDENT
Fawn R. Sharp
Quinalt Indian Nation

FIRST VICE-PRESIDENT
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians

RECORDING SECRETARY
Juana Majel-Dixon
Pauma Band of Luiseño Indians

TREASURER
Clinton Lageson
Kenaitze Indian Tribe

REGIONAL VICE-PRESIDENTS

ALASKA
Rob Sanderson, Jr.
Tlingit & Haida Indian Tribes of Alaska

EASTERN OKLAHOMA
Norman Hildebrand
Wyandotte Nation

GREAT PLAINS
Larry Wright, Jr.
Ponca Tribe of Nebraska

MIDWEST
Shannon Holsey
Stockbridge Munsee Band of Mohican Indians

NORTHEAST
Tina Abrams
Seneca Nation of Indians

NORTHWEST
Leonard Forsman
Suquamish Tribe

PACIFIC
Erica Mae Macias
Cahuilla Band of Indians

ROCKY MOUNTAIN
MARK POLLOCK
Blackfeet Nation

SOUTHEAST
Nancy Carnley
Ma-Chis Lower Creek Indian Tribe of Alabama

SOUTHERN PLAINS
Robert Tippeconnie
Comanche Nation

SOUTHWEST
Vacant

WESTERN
Alan Mandell
Pyramid Lake Paiute Tribe

CHIEF EXECUTIVE OFFICER
KEVIN ALLIS
Forest County Potawatomi Community

NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, tribal nations are sovereign governments that precede the formation of the United States; and

WHEREAS, tribal nations have a unique government-to-government relationship with the federal government which is recognized in the U.S. Constitution, treaties, and within U.S. Supreme Court precedent; and

WHEREAS, federal tax policy has direct effects on the government-to-government relationship between tribal nations and the United States because it impacts tribal sovereign decision-making and the daily lives of tribal citizens; and

WHEREAS, tribal nation priorities must be included in federal tax policy because under the Internal Revenue Code, tribal nations are left without many of the benefits, incentives, and protections provided to state and local governments, and this inequity significantly handicaps tribal authority to provide much needed government revenue for tribal programs and prevents economic growth on tribal lands; and

WHEREAS, Congress and the Administration had the opportunity to address these inequities when it considered and passed the first major overhaul of the Internal Revenue Code in three decades; and

WHEREAS, Congress and the Administration failed to include tribal priorities in the Tax Cuts and Jobs Act of 2017; and

WHEREAS, there remain important issues of federal tax policy, tribal tax jurisdiction, economic development opportunities, and protection of tribal and individual Indian tax immunities that must be protected and pursued; and

WHEREAS, Congress must uphold its treaty and trust obligations to tribal nations by ensuring the Internal Revenue Codes supports the fair and equitable inclusion of tribal nations in federal tax policy; and

WHEREAS, tribal nations have urged Congress to enact legislation that will provide tribal nations tax parity, promote economic development, and support the deployment of infrastructure in Indian Country that advances tribal nations' self-reliance goals.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls on Congress to uphold its treaty and trust obligations to tribal nations by passing legislation that honors the sovereign status of tribal nations and promotes the growth of tribal economies advancing tribal nations' self-determination and self-reliance goals; and

BE IT FURTHER RESOLVED, that Congress must immediately amend the Internal Revenue Code to provide tribal nations parity with states including by addressing the following; and:

- *Adoption Tax Credit*. Adoption is widespread throughout Indian country. Under current law, the IRS cannot recognize tribal court orders determining the 'special needs' of adoptive children. This provision is needed to permit adoptive parents of Indian children to receive tax credits on par with other adoptive parents whose children's special needs have been determined by state courts;
- *Tribal Foundations and Charities*. Tribally-controlled and funded foundations and charities do not enjoy the same public charity classification as foundations and charities controlled and funded by state or local governments; and
- *Tribal Government Tax-Exempt Bonds*. Under federal tax rules generally applicable to government debt, tribal governments may issue tax-exempt bonds only for "essential government functions" and are prohibited from issuing "private activity bonds." The IRS has declined to view economic development as a governmental function, even though state and local governments frequently use tax-exempt financing for development projects.

BE IT FURTHER RESOLVED, that NCAI urges Congress to ensure the Internal Revenue Code includes robust provisions that spur tribal economic development and the build out of tribal infrastructure, including by increasing the deployment of Low-Income Housing Tax Credits and New Markets Tax Credits in Indian Country through set-asides and other incentives, and by simplifying, expanding, and making permanent the Indian Employment Tax Credit; and

BE IT FURTHER RESOLVED, that NCAI urges Congress to honor its treaty and trust obligations by working with tribal nations to ensure federal tax policy accounts for these and other current and future tribal tax priorities; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary