

**REN-19-017: Support for Federal Legislation to Enable All Federally Recognized Tribal Nations to Place Land into Trust and Protect Existing Tribal Trust Lands**  
*Sponsor: Robert R. McGhee of the Poarch Band of Creek Indians*

**Summary:**

- In 2009, the Supreme Court in *Carcieri v. Salazar* effectively created two classes of tribes for homeland restoration in the land-into-trust process.
- REN-19-017 supports congressional legislation that provides a clean fix to this problem by (1) permitting all federally recognized tribal nations to place land into trust; and (2) re-affirming existing trust lands.

**Issue:**

The Indian Reorganization Act of 1934 (IRA), provides for the recovery of tribal homelands and imposes a duty on the Secretary of the Interior, as trustee for tribal nations, to take land into trust for the benefit of tribal nations.

In *Carcieri v. Salazar*, 555 US 379 (2009) the Supreme Court departed from 75 years of precedence and determined that the IRA land into trust process requires tribal nations to demonstrate that they were “under federal jurisdiction” in 1934. Tribes that cannot meet this ambiguous definition are prevented from placing homelands into trust which effectively creates two classes of federally recognized tribes.

For a decade, the *Carcieri* decision has mired tribal nations, the federal government, and states in litigious conflict. This tumult has worsened as some tribal nations face threats that existing trust acquisitions could be disestablished, i.e., terminated.

**Action:**

REN-19-017 calls upon Congress to pass a “clean fix” to the *Carcieri* decision. Specifically, it supports legislation which provides a simple amendment to the IRA that would return to the pre-2009 status quo by (1) restoring the Interior Secretary’s authority under the IRA to take land into trust for all federally recognized tribal nations; and (2) re-affirm existing trust lands.

REN-19-017 furthers NCAI Resolution RAP-10-024, which supported a specific *Carcieri* legislative fix and MSP-15-044, which supported a legislative re-affirmation of existing tribal trust lands.

*For additional information, please contact Jacob Schellinger at [jschellinger@ncai.org](mailto:jschellinger@ncai.org) or Fatima Abbas at [fabbas@ncai.org](mailto:fabbas@ncai.org).*

## **Resolution Action Plan: REN-19-017**

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### **Action Plan:**

- 30 Days:
  - Draft work plan.
  - Internally strategize on work group convening.
  - Contact resolution sponsor to assess requested action.
- 60 Days:
  - Draft materials for Impact Days.
  - Attend Senate visits for NCAI Impact Days for Carcieri discussions.
- 90 Days:
  - Prepare update on NCAI advocacy for 2020 Executive Council Winter Session.
  - Continue Hill visits.
- 120 Days:
  - Continue implementation of plan.