



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SAC-12-023

### TITLE: Supporting Trust Asset Reform Legislation

**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, 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**, the United States' fiduciary responsibilities to Indians are founded on the settled law of nations, an inherent presupposition of our constitutional structure, and commitments in treaties and written agreements securing peace in exchange for vast tracts of land; and

**WHEREAS**, the foregoing historic federal-tribal relations and understandings have benefitted all people of the United States for centuries and established enduring obligations to which the national honor has been committed; and

**WHEREAS**, the United States has assumed enforceable trust responsibilities over lands and resources held by the United States in trust for Tribal Nations and Tribal citizens even if nothing is said expressly in the governing statutes or regulations, and the most exacting common-law fiduciary standards should govern such federal management of Indian trust assets; and

**WHEREAS**, the United States' fiduciary responsibilities to Indian tribes include and are not limited by a duty to promote tribal self-determination, and the fact that the United States may simultaneously perform another task for another interest that Congress has obligated it by statute to do does not compromise or limit the United States' enforceable fiduciary obligations to Indians; and

**WHEREAS**, notwithstanding the established law and policy during the Self-Determination Era, employees of the Executive Branch during this period have repeatedly sought to avoid, limit, and repudiate federal trust duties; and

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Jefferson Keel**  
*Chickasaw Nation*

FIRST VICE-PRESIDENT  
**Juana Majel Dixon**  
*Pauma Band of Mission Indians*

RECORDING SECRETARY  
**Edward Thomas**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE-PRESIDENTS

ALASKA  
**Bill Martin**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

EASTERN OKLAHOMA  
**S. Joe Crittenden**  
*Cherokee Nation*

GREAT PLAINS  
**Robert Shepherd**  
*Sisseton Wahpeton*

MIDWEST  
**Matthew Wesaw**  
*Pokagon Band of Potawatomi*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Fawn Sharp**  
*Quinault Indian Nation*

PACIFIC  
**Don Arnold**  
*Scotts Valley Band of Pomo Indians*

ROCKY MOUNTAIN  
**Scott Russell**  
*Crow Tribe*

SOUTHEAST  
**Larry Townsend**  
*Lumbee Tribe*

SOUTHERN PLAINS  
**Robert Tippeconnie**  
*Comanche Nation*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh*

WESTERN  
**Ned Norris, Jr**  
*Tohono O'odham Nation*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

#### NCAI HEADQUARTERS

1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

**WHEREAS**, the American Indian Trust Funds Reform Act of 1994 temporarily created the Office of the Special Trustee, which has failed to improve trust funds management, has degenerated into an insufficiently regulated and inefficient drain on the federal treasury, and likely cannot satisfy the Act's reform requirements; and

**WHEREAS**, the creation of a bureaucracy within the Office of the Special Trustee to handle Indian trust assets has resulted in confusion and delays in processing trust transactions, with insufficient oversight by the beneficiary Tribal Nations and Tribal citizens; and

**WHEREAS**, NCAI and many Tribal Nations and citizens have continued to advocate for meaningful administrative and congressional trust reform to help ensure that the Executive Branch fully meets all trust obligations of the United States as trustee to Indians; and

**WHEREAS**, the U.S. Department of the Interior has established a temporary trust commission to evaluate the Department's management and administration of Indian trust assets, and to make recommendations to improve the federal Indian trust administration system, including regarding termination of the Office of the Special Trustee and whether any legislative or regulatory changes are necessary to permanently implement improvements and to prevent future trust mismanagement.

**NOW THEREFORE BE IT RESOLVED**, that as a primary priority NCAI urges Congress to enact trust reform legislation that will reaffirm the above foundational history and legal principles, require Executive Branch management of Indian trust assets to meet all federal trust obligations with full accountability to Indian beneficiaries, and prohibit such federal employees from proposing or advocating reductions of the federal trust responsibilities; and

**BE IT FURTHER RESOLVED**, that NCAI urges Congress to transfer the functions of the Office of the Special Trustee to the Bureau of Indian Affairs, with supporting appropriated funds returned to local offices as appropriate, under the high-level guidance of a Deputy or Under Secretary for Indian Affairs, who would also oversee other Indian trust functions within the Department of the Interior, and subject to oversight by a permanent Indian Trust Oversight Commission composed of representatives of Tribal Nations and allottees; and

**BE IT FURTHER RESOLVED**, that NCAI urges Congress to enact a self-determination mechanism to increase tribal control and planning for tribal trust assets and streamline processes to expedite transactions and promote economic development, while maintaining federal trust oversight and responsibilities; 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 2012 Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center from October 21-26, 2012 in Sacramento, California, with a quorum present.

  
\_\_\_\_\_  
President

**ATTEST:**

  
\_\_\_\_\_  
Recording Secretary