



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ABQ-19-084

TITLE: Calling on Congress to Provide Tax Fairness for Tribal Youth

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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, in 1986 Congress enacted a penalty provision, sometimes referred to as a “kiddie tax”, which sought to prevent wealthy parents from dodging high-bracket tax rates by transferring taxable family income to their children to be taxed in lower tax brackets; and

WHEREAS, in targeting wealthy parents, Congress used overly-broad “unearned income” language that required IRS to additionally apply the penalty provision to tribal distributions of tribal funds to tribal citizens, resulting in tribal youth recipients of tribal funds being taxed at their parent’s higher-bracket tax rates rather than their own lower tax rates; and

WHEREAS, unlike wealthy parents, when tax-immune Indian tribes make distributions of tribal funds to tribal members under the age of 24 years, they do so solely to serve federal-tribal public policy goals and not to avoid income tax; and

WHEREAS, the penalty provision applies not only to tribal children but also to tribal adults age 19 through 23 who are full-time students; and

WHEREAS, the penalty provision perversely tempts tribal students to delay or drop out of higher education so they can avoid paying higher taxes on the financial support they receive from their Indian tribe; and

WHEREAS, it is a distortion of tax policy to apply a higher tax penalty to financial support a college student receives from an Indian tribe; and

WHEREAS, when Congress enacted the Tax Cuts and Jobs Act of 2017 it changed this penalty provision to apply even higher “estate” tax rates to lower distribution amounts, substantially increasing the tax burden borne by many more tribal youth; and

WHEREAS, in the interest of tax fairness and equity, Congress should enact a technical amendment to expressly exclude the transfer of tribal funds by any Indian tribe to its tribal youth from the penalty provision, and thereby allow such tribal transfers to be taxed at a tribal youth’s own income tax rates rather than at higher estate or parental rates; and

WHEREAS, Congress is actively considering legislation to address this unfair and punitive tax treatment of tribal youth that has been sponsored by allies of Indian tribes in the U.S. House and Senate, which legislation is generally known as the Tax Fairness for Tribal Youth Act to remove all tribal distributions to tribal youth from the penalty provision.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls on Congress and the Administration to support immediate enactment of the Tax Fairness for Tribal Youth Act or similar technical amendment to expressly exclude the transfer of tribal funds by an Indian tribe to its tribal youth from the so-called “kiddie tax” penalty provisions of the Internal Revenue Code; and

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

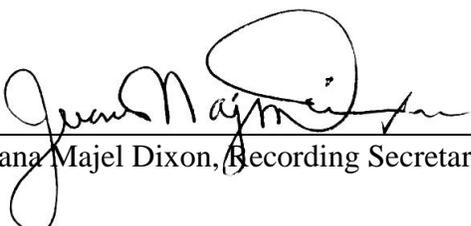
CERTIFICATION

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