

**REN-19-004: Affirming and Protecting Tribal Sovereign Immunity by Committing to Risk Management to Prevent Losses and Provide a System of Solutions for Claimants Alleging Torts or Other Economic Harms**

*Sponsor: Great Plains Tribal Chairmen's Association*

*Combined Sponsor: Robert R. McGhee of the Poarch Band of Creek Indians*

**Summary:**

- The resolution addresses the importance of tribal sovereign immunity for protecting tribal nations' abilities to provide essential governmental services and to engage in economic development activities to raise government revenue.
- The resolution calls on Congress to affirm tribal sovereign immunity, and to support the Administration in identifying best practices for tribal risk management approaches. This will help address tort claims levied against tribal nations and also minimize personal, property, and economic losses for tribal nations, tribal employees, and third parties.

**Issue:**

Recognizing that early Indian policy resulted in destabilized tribal governments and poverty across Indian Country, Congress passed the Indian Reorganization Act (1934), which was intended to revitalize tribal government structures and economies, including by authorizing the establishment of wholly-owned tribal government businesses. The revenues generated from these businesses directly fund critical government programs and services. Today, many tribal nation-owned businesses are thriving, engaging in commerce with Native and non-Native customers and partners that enter contracts that consent to tribal regulatory and judicial authority. However, tribal nations are encountering a growing trend where, instead of respecting the terms of these agreements, some parties are taking their disputes directly to federal court and challenging critical tribal sovereign immunity protections.

**Action:**

REN-19-004 urges Congress to reaffirm tribal sovereign immunity, work with tribal nations to identify fair and reasonable processes for resolving potential claims arising from tribal nation-owned and operated economic development enterprises, and appropriate funds and direct the Department of Justice and Department of the Interior to consult with tribal nations regarding risk management, loss prevention, tort claims and alternative dispute resolution, and preserving tribal sovereign immunity in the context of economic development and report back to Congress with best practices for tribal risk management. It further calls on Congress and the Department of the Interior to work with federal partners and tribal nations to provide training, technical assistance, and funding to support the establishment of risk-management programs, enterprise risk-management frameworks, training, best practices, risk pools, inter-tribal risk pools, and claims resolutions processes.

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## **Resolution Action Plan: REN-19-004**

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### **Action Plan:**

- 30 Days:
  - Strategize with sponsor and tribal advocates to discuss best approach.
- 60 Days:
  - Draft materials for Impact Days.
  - Schedule Hill meetings for Impact Days.
  - Share Impact Days materials and resolution with the House and Senate appropriations staff.
- 90 Days:
  - Follow up with Hill staff regarding the resolution.
  - Help educate Indian Country and its partners on this issue.
- 120 Days:
  - Continue implementation of the plan.
  - Include in NCAI's appropriations advocacy for FY 2021.