



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PDX-20-011

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TITLE: NCAI Demands Congress and the Executive Branch Reaffirm their Commitment to Respect the Inherent Rights of Tribal Nations Included in the Federally Recognized Indian Tribe List Act

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 sovereigns that pre-date the United States, with prior and treaty protected rights to self-government and to our Indian lands, and

WHEREAS, the Constitution of the United States, through the Treaty, Commerce, and Apportionment Clauses and the 14th Amendment, recognizes the sovereign status of Tribal Nations, which predates the United States; and

WHEREAS, before the United States, Tribal Nations were independent sovereigns with complete authority over our lands and our citizens; and

WHEREAS, Tribal Nations are vested with the power of self-government deriving from their inherent authorities; and

WHEREAS, from the first days of the American Republic, the United States entered into treaties with Tribal Nations on a government-to-government basis recognizing Native homelands and tribal rights of self-government; and

WHEREAS, the Constitution establishes treaties as the Supreme Law of the land and recognizes Tribal Nations as sovereigns with the power to make treaties on a nation-to-nation basis; and

WHEREAS, under the Declaration of Independence, the Constitution and Organic Acts, America entered over 370 treaties mutually pledging peace and friendship, respect for sovereignty, and providing bi-lateral regulation of trade and commerce, securing lands, natural resources and waters, and exchanging “permanent” territorial guarantees; and

WHEREAS, more recently, the United States has continued to work with Tribal Nations through agreements set forth in statutes and executive orders, mutually relied upon by America and Tribal Nations and recognized by the Supreme Court; and

WHEREAS, under the principles of Natural Law set forth in the Declaration of Independence, the Constitution and the Organic Acts of the United States and International Law as recognized by the United States, America is bound by human dignity, the Constitution, treaties, statutes, agreements, executive orders, the Federal trust responsibility and national honor to adhere to treaties and to continue to deal with Tribal Nations based upon respect for Indian Self-Determination, and self-government; and

WHEREAS, the Supreme Court’s plenary power doctrine must be rejected in the 21st Century; and

WHEREAS, human rights dictate that the United States must respect Tribal Nations, self-government and Self-determination, and defer to Tribal Nations based upon deference to self-government on domestic matters and to address matters of mutual Federal-tribal concern through mutual consent (see U.S. Constitution, Treaty, Supremacy, Contract Clauses, and 14th Amendment; e.g., 1787, 1789 Northwest Ordinance (utmost good faith); 1803 Louisiana Purchase Treaty (honor existing treaties, enter new treaties based upon mutual consent)); and

WHEREAS, Indian Self-Determination and tribal self-government includes the right to determine the form of tribal government, exercise self-government, and determine tribal citizenship; and

NOW THEREFORE BE IT RESOLVED, that NCAI calls upon the President and Congress to reaffirm the United States’ respect for Tribal Nations, Indian treaties, and Native homelands through joint Resolution of Congress; and

BE IT FURTHER RESOLVED, that NCAI calls upon the Office of the President to issue a Special Message to Congress and establish an Executive Order reaffirming a commitment to engage with Tribal Nations as sovereigns, seeking mutual consent for federal actions with tribal implications; committing to uphold and honor the United States’ treaties, the Indian Self-Determination Policy, Federal-tribal nation-to-nation relations; acknowledging the right of our Tribal Nations to Economic Self-Determination and autonomy; and

BE IT FURTHER RESOLVED, that NCAI calls upon Congress to include the Indian Canon of Construction in the next CARES Act legislation and to make it applicable to all CARES Act legislation because U.S.—Indian treaties, statutes, and executive orders have always been construed as Native Peoples would have understood them with ambiguities resolved in the Indians favor; and

BE IT FURTHER RESOLVED, that NCAI calls upon Congress and the President to treat with Tribal Nations based upon inherent sovereignty and to continue to recognize Indian tribes through Indian treaties, statutes, and Executive Orders as set forth in the Federally Recognized Indian Tribes List Act; and

BE IT FURTHER RESOLVED, that Indian self-determination and self-governance includes the right to determine the form of tribal government, exercise self-government, and determine tribal citizenship; and

BE IT FURTHER RESOLVED, that the United States must give full faith and credit to tribal enrollment data and, upon request by an Tribal Nation, include data on enrolled tribal members through data sharing Memoranda of Understandings between tribal governments and federal agencies, including the Census Bureau; and

BE IT FURTHER RESOLVED, that such Federal Agencies should keep tribal data confidential, and credit the tribal enrollment data to the Tribal Nation's population; and

BE IT FURTHER RESOLVED, that the Federally Recognized Indian Tribe List Act is the touchstone for eligibility for the Federal programs and services provided by the Secretary of the Interior and the CARES Act or any subsequent related COVID-19 relief legislation to federally-recognized tribes based upon the status of Indian tribes as original, inherent sovereigns; and

BE IT FURTHER RESOLVED, that upon the request of a tribal nation, the United States Census Bureau must receive and acknowledge tribal census rolls through Memorandums of Understanding in the Decennial Census process to recognize the inherent status of tribal citizens as dual citizens recognized by the Constitution, treaties and laws of the United States; and

BE IT FURTHER RESOLVED, that nothing in this resolution should be interpreted to limit the rights of state recognized tribes under existing law; 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 2020 Annual Session of the National Congress of American Indians, held Nov 8, 2020 - Nov 13, 2020, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary