



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MSP-15-045

### TITLE: Calling on Congress to Create Tribal Empowerment Zones

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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, 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**, before the formation of the United States, Indian Nations were independent sovereign nations and it is the policy of the United States to support self-determination, self-governance, and self-sufficiency as set forth in the Indian Self-Determination Act of 1975 as amended, the Self-Governance Act, and other federal laws; and

**WHEREAS**, the Constitution of the United States, through the Treaty, Commerce, Supremacy, and Apportionment Clauses and the 14th Amendment, recognizes the sovereign status of Indian Tribes and Nations established prior to the United States; and

**WHEREAS**, through treaties, statutes, executive orders, and other legal agreements and laws, the United States undertook many obligations to Native people in exchange for hundreds of millions of acres of homelands, yet the federal government has not sufficiently met these obligations to provide essential services, programs and benefits to Native people; and

**WHEREAS**, Tribal Nations invest in and develop economies within their communities in order to create infrastructure and opportunities that self-sustain the general welfare of their citizens and to meet the gap that the federal government leaves behind; and

**WHEREAS**, despite efforts by Tribal Nation governments, American Indian and Alaska Native households are among the most economically disadvantaged in the United States with higher levels of poverty than any other group; and

**WHEREAS**, historically, Indian reservations were developed for the purpose of moving Native Americans out of the way of more desirable and valuable lands and resources for Non-Natives; and

**WHEREAS**, Tribal Nations face unique challenges in attracting and leveraging private-sector investment, creating jobs, and increasing economic activity due to unique jurisdictional and property law complexities of tribal lands. Due to these complex environmental characteristics and circumstances, many businesses are deterred from investing in Tribal Nations and their communities; and

**WHEREAS**, at the same time, Native small business owners and entrepreneurs lack support and incentives to invest in businesses on tribal lands, and struggle to find opportunities to gain expertise, business acumen, and advantageous partnerships to help develop economies within their communities; and

**WHEREAS**, the Internal Revenue Code has had a limited impact on successfully incentivizing economic development and investment opportunities on Indian reservations; and

**WHEREAS**, the current complex tax credits, extenders, and federal programs are often difficult to use and only benefit a limited number of Tribal Nations. Instead of making small changes to the Internal Revenue Code, it is important to help Tribal Nations further their economies by making more drastic systemic and innovative changes to the Code and other federal laws; and

**WHEREAS**, Congress should enact laws that create Tribal Empowerment Zones that focus on changing the fundamental tax rules for individuals and businesses willing to invest in Tribal Nation communities; and

**WHEREAS**, Tribal Empowerment Zones would help support and advance tribal economies within tribal trust and restricted fee lands by providing Tribal Nations with the exclusive authority to govern all of the economic activity that takes place on tribal trust and restricted fee lands; and

**WHEREAS**, Tribal Empowerment Zones would broadly exempt from taxation, income that Native Americans and non-Natives earn within trust and restricted fee lands that the individuals and entities reinvest into and maintain within the Tribal community; and

**WHEREAS**, Tribal Empowerment Zones would have four essential and helpful characteristics: 1) exempts from federal taxation, all income individual Native entrepreneurs derive from activities conducted on trust or restricted fee tribal lands, as long as they reinvest or maintain that income within the bounds of the trust and restricted fee lands; 2) exempts from state taxation, all income that non-Native individuals and entities earn on tribal lands, as long as they reinvest or maintain that income within the bounds of the trust and restricted fee lands; 3) clarifies that Tribal Nations have the exclusive authority to tax all persons, property and activities located on Tribal lands; and 4) maintains that all employers and employees located within these Zones would continue to be subject to federal payroll taxes; and

**WHEREAS**, Tribal Empowerment Zones would incentivize non-Natives to invest in businesses on Tribal Nation lands, particularly those located near their communities; and

**WHEREAS,** Tribal Empowerment Zones would help all Tribal Nations develop their economies by providing trust and restricted fee lands with a simple and clear tax standing that all Tribal Nations can leverage; and

**WHEREAS,** there is precedent for such a proposal; for example, income derived from treaty recognized fishing rights and related activities by a member of a Tribal Nation or a qualified Native entity is already excluded from income and employment taxes. However, many Tribal Nations do not have sufficient natural resources that they can leverage for economic purposes to fully develop an economy on their lands; and

**WHEREAS,** Tribal Empowerment Zones go beyond Tribal Nation governments and focus on extending tax exempt benefits to Native small business owners and other entrepreneurs willing to partner with Native entrepreneurs and locate their businesses on Tribal Nation lands; and

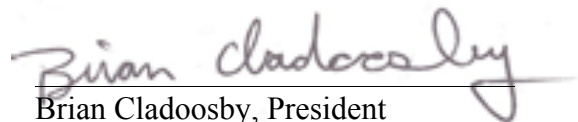
**WHEREAS,** Tribal Empowerment Zone legislation would not be costly because the Zones would generate new revenue via federal payroll taxes through the creation of additional jobs, which would make up for any lost revenue in taxes to the federal government.

**NOW THEREFORE BE IT RESOLVED,** that the NCAI calls upon Congress to enact Tribal Empowerment Zone legislation that: 1) requires the United States to make exempt from federal taxation, all income individual Native American entrepreneurs derive from activities conducted on trust or restricted fee tribal lands, as long as they reinvest or maintain that income within the bounds of the trust and restricted fee lands; 2) exempts from state taxation, all income that non-Native individuals and entities earn on tribal lands, as long as they reinvest or maintain that income within the bounds of the trust and restricted fee lands; 3) clarifies that Tribal Nation governments have the exclusive authority to tax all persons, property and activities located on Tribal lands; 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 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary