TITLE: Relationship Between Tribal Governments and the Streamlined Sales and Use Tax Agreement

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 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

WHEREAS, the inability to collect sales and use taxes on remote sales through traditional carriers and electronic commerce threatens the future viability of the sales tax as a stable revenue source for state and local governments; and

WHEREAS, the Streamlined Sales and Use Tax Agreement creates a simplified sales and use tax collection system that when implemented, allows justification for Congress to overturn the *Bellas Hess* and *Quill* decisions by granting to those states that comply with the Agreement the authority to require sellers, regardless of nexus, to collect those states’ sales and use taxes; and

WHEREAS, tribal governments are sovereign entities that have the authority to levy and collect sales taxes on transactions that occur on tribal lands, including transactions that occur remotely; and

WHEREAS, the sales tax regimes of tribal governments can be as different and complex as current state sales and use tax systems and thus tribal governments can encounter similar difficulties in collecting sales taxes on transactions that occur remotely; and

WHEREAS, one of the goals of the Streamlined Sales and Use Tax Agreement is simplify taxation through uniform sourcing rules and the elimination of dual taxation among all participating jurisdictions; and
WHEREAS, the NCAI and the National Conference of State Legislatures began discussions with regard to the relationship of the Agreement to tribal governments in July of 2004; and

WHEREAS, these discussions have served to:
- provide an understanding to tribal government representatives the intent of the state governments to honor existing agreements between states and tribal governments,
- identify issues that need to be clarified between the Streamlined Sales and Use Tax Agreement and its impact on members of tribal areas, and
- identify the interest of some tribal governments to participate as members of the Agreement.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support the voluntary participation of tribal governments as individual cooperating sovereign members of the Streamlined Sales and Use Tax Agreement; and

BE IT FURTHER RESOLVED, that the NCAI agrees to proceed with further discussions with the National Conference of State Legislatures among tribal government representatives, members of the Streamlined Sales and Use Tax Implementing States and representatives of the business community to facilitate the participation of those tribal governments wishing to comply with the Streamlined Sales and Use Tax Agreement and become members of the Agreement’s Governing Board; and

BE IT FURTHER RESOLVED, that these discussions serve to establish safeguards for the collection of sales and use taxes under the Streamlined Sales and Use Tax Agreement that will not infringe upon the sovereignty of tribal governments, tribal taxing authority and the tax status of tribal members; 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 at the 2005 Mid-Year Session of the National Congress of American Indians, held at the Radisson Hotel & Conference Center Green Bay, Green Bay, Wisconsin on June 12–15, 2005 with a quorum present.

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President

ATTEST:

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Recording Secretary

Adopted by the General Assembly during the 2005 Mid-Year Session of the National Congress of American Indians, held at the Radisson Hotel & Conference Center Green Bay, in Green Bay, Wisconsin.