TITLE: Support for Alternative Energy Tax Credit Program for Indian Tribes and Indian Organizations

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, recent U.S. Census data shows that the average American household income rose by 1.1 percent in a single year, while over 25.3 percent of Native Americans are presently living in poverty nationally, and that this poverty rate is a 1 percent increase for Native Americans over the 24.3 percent that the Census reported in its last report on income and poverty; and

WHEREAS, the largest concentration of those living in poverty is in the Great Plains and Rocky Mountain BIA Regions, with other areas of poverty among American Indians being present also in the southwest and northwest of the United States and Alaska; and

WHEREAS, the Indian tribes across the country, and particularly in the Northern Great Plains, have a vast renewable energy potential, including the wind and solar resources, and tribes are interested in building sustainable homeland economies based upon renewable energy, but a comparative and appropriately tailored federal renewable energy incentive is needed to encourage equitable tribal development compatible with tribal aspirations, federal responsibilities and the financial realities of the existing energy system; and

WHEREAS, the current federal Production Tax Incentive (PTI), which is the single most powerful tool that is used in development renewable energy, provides that the tax credit be apportioned among the owners of a project in proportion to their ownership interest and that the effect of this requirement either prohibits tribal ownership interest in a reservation project or penalizes private capital investment in tribal projects to the extent of tribal ownership interest, thereby making the PTI an unusable tool for alternative energy development on Indian reservations; and
WHEREAS, recently, a recommendation of the Clean and Diversified Energy Advisory Committee for a Tribal Renewable Energy Incentive Proposal was adopted by the Western Governors Association that allows for a “partnership sharing” of the federal PTI to encourage Tribal equity interest in renewable energy development and to attract needed capital investment to reservations in an equitable and respectful manner, to reduce the cost of clean power, and to keep more of the benefits in the local community; and

WHEREAS, this recommendation, with some modifications, has already received wide support from tribes, such as those in the Great Plains, that have a great potential for development of renewable energy sources; and

WHEREAS, the Energy Policy Act of 2005 also authorized $1 million dollars to fund and conduct a wind-hydropower study as the basis for the development of an intertribal wind project to integrate wind as a supplement to the Missouri River hydropower resources.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby urge the United States Congress to adopt legislation that will create a Production Tax Incentive that will allow federally recognized Indian tribes to develop alternative energy sources in an economically feasible manner, by amending the Section 45 of the Internal Revenue Code as follows:

Add a new paragraph at the end of Section 45(d)(3) of 26 USC 45 (relating to additional definitions and special rules) to read as follows:

PTC Sharing Allowed within a Tribal Joint Venture:
In the case of a qualified facility as defined in 26 USC 45 (c)(3) in which one or more of the persons with an ownership interest is an Indian tribe or tribes, the tribal owner or owners may allocate their share of the renewable electricity production credit among the other, non-tribal, taxpaying owner or owners of the production in the gross sales from such facility; and

BE IT FURTHER RESOLVED, that the NCAI urges the U.S. Congress to appropriate the authorized funding to complete the necessary studies for the federal Intertribal Wind Demonstration Project for wind-hydropower integration; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until the legislation proposed herein, or something substantially similar, is passed by Congress.
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2006 63rd Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center in Sacramento, California on October 1-6, 2006, with a quorum present.

ATTEST:

[Signature]
President

[Signature]
Recording Secretary