



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #DEN-18-018

TITLE: Urging the Department of the Interior to Restart its Process of Updating the “Licensed Indian Trader” Regulations and to Seek Congressional Legislation Preventing State Dual Taxation of Indian Commerce and Energy Development

EXECUTIVE COMMITTEE

PRESIDENT
Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians of Michigan

RECORDING SECRETARY
Juana Majel-Dixon
Pauma Band Mission Indians

TREASURER
W. Ron Allen
Jamestown S’Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA
Rob Sanderson, Jr.
Tlingit & Haida Indian Tribes of Alaska

EASTERN OKLAHOMA
Joe Byrd
Cherokee Nation

GREAT PLAINS
Larry Wright, Jr.
Ponca Tribe of Nebraska

MIDWEST
Roger Rader
Pokagon Band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Leonard Forsman
Suquamish Tribe

PACIFIC
Willie Carrillo
Tule River Tribe of California

ROCKY MOUNTAIN
Darrin Old Coyote
Crow Nation

SOUTHEAST
Nancy Carnley
Ma-Chis Lower Creek Indians

SOUTHERN PLAINS
Zach Pahmahmie
Prairie Band of Potawatomi Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Franklin Pablo, Sr.
Gila River Indian Community

EXECUTIVE DIRECTOR
Jacqueline Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

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, on October 18-23, 2015 during its Annual Session, NCAI passed resolution #SD-15-045 entitled “Urging the Department of Interior to Address the Harms of State Taxation in Indian Country and Prevent Dual Taxation of Indian Communities; and

WHEREAS, in 2016 and 2017 Interior began a rulemaking process to update its regulations implementing the “Indian Trader Statutes,” codified at 25 U.S.C. § 261, which provides the Commissioner of Indian Affairs with “the sole power and authority ... to make such rules and regulations” for trade with Indians to ensure fair and equitable regulation of Indian trade and commerce and non-interference from state and local governments; and

WHEREAS, in response to two separate requests for comments, Interior received almost 100 comments from Indian tribes, tribal organizations and individuals on the need to revise and update the “Licensed Indian Traders” regulations at 25 C.F.R. Part 140 which implement the “Indian Trader Statutes” and that were promulgated in 1957 and were last updated in 1965; and

WHEREAS, in 2017 Interior held at least 18 government-to-government consultation sessions attended by numerous Indian tribes to discuss the issues and obtain information regarding updating the “Licensed Indian Trader” regulations; and

WHEREAS, as Interior learned, state dual taxation of economic activities already being taxed by Indian Nations reduces the amount of taxes that can be collected by Indian Nations and used to support economic activities and develop infrastructure, creates an uncertain business environment on Indian lands, and has an overall effect of suppressing economic activities that benefit Indian Nations as well as surrounding communities and states; and

WHEREAS, as Interior learned, numerous studies demonstrate that economic activity by Indian Nations, when not suppressed by state dual taxation or interference, supports and benefits economic activities in off-reservation communities, states and regions; and

WHEREAS, under 25 U.S.C. §§ 2 and 9, the Secretary of the Interior and the Commissioner of Indian Affairs are directed and authorized to “have the management of all Indian affairs and of all matters arising out of Indian relations,” including “such regulations as he may think fit.”


NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls upon the Secretary of the Interior to restart its process of modernizing and updating the “Licensed Indian Trader” regulations to protect tribal governments and their communities from the harmful effects of dual taxation and promote Indian Self-Determination, support economic development, and enhance tribal self-sufficiency; and

BE IT FURTHER RESOLVED, that NCAI calls upon the Secretary to revise Interior’s regulations implementing Congressional Acts pertaining to natural resource and energy development to prevent States from taxing Indian mineral and energy development, and otherwise interfering with the rights of Indian Tribes to develop and promote the development of mineral and energy resources in Indian Country; 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 2018 Annual Session of the National Congress of American Indians, held at the Hyatt Regency in Denver, Colorado October 21-26, 2018, with a quorum present.


Jefferson Keel, President

ATTEST:


Juana Majel Dixon, Recording Secretary