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THE NATIONAL CONGRESS OF  
AMERICAN INDIANS

RESOLUTION #SD-02-064

**Title: H.R. 4887, the Tribal Government Tax Fairness Act of 2002**

**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 and their way of life, 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 Supreme Court and Congress recognize that Tribal governments retain the inherent authority to conduct gaming operations to generate governmental revenue and attain economic self-sufficiency; and

**WHEREAS**, the U.S. Congress enacted the Indian Gaming Regulatory Act to promote Indian economic development and build strong tribal governments by protecting Indian gaming as a means of generating tribal governmental revenues; and

**WHEREAS**, when Congress enacted IGRA it intended to treat Tribal governments the same as States for purposes of the federal wagering excise and occupational tax, and specifically referenced Internal Revenue Code Chapter (IRC) 35 – the federal wagering excise tax; and

**WHEREAS**, IRC Chapter 35 exempts State government lotteries and State-licensed pari-mutuel wagering enterprises, wagers placed in coin-operated devices from the federal wagering excise and occupational taxes; and

**WHEREAS**, the U.S. Supreme Court, in Chickasaw Nation v. United States, found that Tribal governments are not exempt from the federal wagering excise and occupational taxes (Chapter 35), ruling that IGRA reference to Chapter 35 was meaningless; and

**WHEREAS**, the Indian Commerce Clause of the U.S. Constitution vests Congress with the authority to regulate commerce with Indian Tribes, and Congress must exercise that authority where the Supreme Court erroneously departs from Congressional intent; and

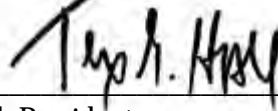
**WHEREAS**, Congress intends to exercise its Commerce Clause authority through the introduction of H.R. 4887, the Tribal Government Tax Fairness Act of 2002, which amends the Tribal Government Tax Status Act, 26 U.S.C. § 7871(a) by adding Chapter 35 to the list of federal taxes for which Tribal government shall be treated as State governments.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby calls upon the United States Congress to enact H.R. 4887, the Tribal Government Tax Fairness Act of 2002, to treat Tribal governments as State governments for purposes of IRC Chapter 35 – the federal wagering excise and occupational tax, and

**BE IT FURTHER RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

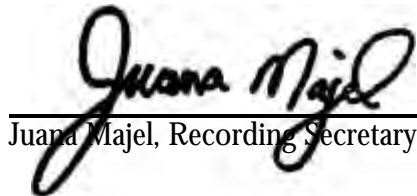
#### CERTIFICATION

The foregoing resolution was adopted at the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002 with a quorum present.



Tex Hall, President

**ATTEST:**

  
Juana Majel, Recording Secretary

Adopted by the General Assembly during the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002.