



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ANC-14-002-B

TITLE: Continuing Support for Tribal General Welfare Exclusion Act, H.R.3043 and S.1507

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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, Indian Tribes are sovereigns that pre-date the United States, with prior and treaty protected rights to self-government and to our Indian lands; and

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

WHEREAS, the United States entered into more than 370 Indian treaties, wherein Indian nations and tribes reserved our right to self-government, the United States pledged to respect our lands as “permanent homes” for our people, and as tribal governments, we have the right and duty to provide tribal government programs and services to make our lands livable as permanent homes for our tribal citizens; and

WHEREAS, in the Indian Citizenship Act of 1924, our Chiefs sought to reserve our rights as dual U.S.-tribal citizens, and Congress provided that nothing in the grant of U.S. citizenship would impair in any manner or otherwise affect the right of an Indian to tribal property; and

WHEREAS, since 2002, the IRS has been harassing Indian nations and tribes by seeking to impose Federal income tax on essential tribal government programs and services; and

WHEREAS, the IRS field agents have imposed negative and conflicting value judgments on tribal government programs and services provided to our tribal citizens because they do not accord tribal governments the same understanding and deference provided to Federal, state and local governments; and

WHEREAS, the IRS has issued a Revenue Procedure to its field agents providing that certain tribal government programs and services are not taxable; and

WHEREAS, the IRS Revenue Procedure does not provide the permanency necessary for the successful operation of tribal governments, the respect due to tribal government, an acknowledgement of our right to maintain our tribal communities on our Indian reservations and lands, nor an acknowledgment of our treaty rights to maintain our Indian reservations and lands as permanent homelands for our people; and

WHEREAS, H.R. 3043 and S. 1507 would amend the Internal Revenue Code by codifying and broadening the "General Welfare Exclusion" as that doctrine applies to tribal governments. In doing so, it excludes most tribal government programs and services from federal income taxation; and

WHEREAS, the bill would also reform the IRS and its work in Indian Country by requiring the *Treasury Secretary to establish a Tribal Advisory Committee* that will be charged with developing a mandatory education and training program for IRS field agents to learn about federal Indian law and the unique federal treaty and trust obligations; and

WHEREAS, under the H.R. 3043 and S. 1507, IRS examinations will be suspended until the IRS is adequately trained, and the bills also include a number of provisions that provide deference to local tribal government decision-making authority and generally fosters the policy supporting Indian Self-Determination and respect for tribal culture.

NOW THEREFORE BE IT RESOLVED, that the NCAI calls upon Congress to enact H.R. 3043 and S. 1507, the Tribal General Welfare Exclusion Act as introduced, including a moratorium on audits pending education of IRS field agents on Indian treaties and Indian sovereignty, a tribal advisory committee to guide the IRS on questions of tribal self-government, an allowance for programs based on oral traditions, and authority to waive penalties otherwise to be assessed against Indian tribes; and

BE IT FURTHER RESOLVED, that the NCAI calls upon Congress to support H.R. 3043 and S. 1507 to ensure the enactment of the Tribal General Welfare Exclusion Act before the end of this session, whether as an amendment to the Tax Extenders bill, as a stand-alone bill, or as an amendment to another bill; and

BE IT FURTHER RESOLVED, that the NCAI calls on all Indian tribes, national and regional Native organizations to support the enactment of the Tribal General Welfare Exclusion Act, H.R. 3043 and S. 1507, as introduced; 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 2014 Mid-Year Session of the National Congress of American Indians, held at the Dena'ina Civic & Convention Center, June 8-11, 2014 in Anchorage, Alaska, with a quorum present.



President

ATTEST:



Recording Secretary