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The National Congress of American Indians
Resolution #REN-13-018

TITLE: Support for Tribal Self-Governance Demonstration Project in the Treasury Department

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, in 1988 Indian tribal leaders proposed to Congress the establishment of a Tribal Self-Governance Program to allow for greater tribal flexibility and effectiveness in the use of federal funds administered by the Department of Interior (DOI); and

WHEREAS, the Tribal Self-Governance Program authorized tribal governments to assume responsibility for certain DOI government functions and to assert tribal priorities over the use of federal funds pursuant to federal-tribal funding agreements (*See* 25 U.S.C. §§ 458aa *et seq.*); and

WHEREAS, because of the DOI Tribal Self-Governance Program, tribal governments became more independent, federal monies were more efficiently expended, and federal officials exercised oversight rather than direct administration; and

WHEREAS, the success of the DOI Self-Governance Program led to the expansion of the program to the Department of Health & Human Services Indian Health Service (*See* 25 U.S.C. §§ 458aaa *et seq.*); and

WHEREAS, Indian Country is now facing a new governing challenge, this time to defend tribal government tax immunities and revenue generating opportunities on tribal lands as the U.S. Internal Revenue Service is conducting random audits of tribal governments and imposing taxation on tribal government services, in the process siphoning away scarce wealth from tribal lands and Indian people; and

WHEREAS, state governments, often with the backing of federal court decisions, are also draining away tribal wealth by taxing non-Indian activities on tribal lands through taxation of business activities and property interests; and

WHEREAS, to support tribal sovereignty and self-determination from unauthorized federal and state taxation, and to establish a more efficient mechanism for revenue collection on tribal lands, Indian nations and tribes must be recognized by the United States as having sovereign taxing and regulatory authority over their own territories and the people doing business within those territories; and

WHEREAS, because of the unique nature of every Indian tribal nation, individual Indian tribes should be allowed to enter into self-governance compacts with the Treasury Department to address tax-related priority issues so that tribal governments can be treated like state governments – as partners needing revenue to provide services to their people – rather than as sources of revenue gathering and objects of audit and investigation; and

WHEREAS, because the U.S. Congress is currently engaged in an effort to overhaul the U.S. Tax Code, time is of the essence for NCAI to express its perspectives on tax reform issues affecting Indian Country.

NOW THEREFORE BE IT RESOLVED, that NCAI supports the establishment of a Tribal Self-Governance Demonstration Project within the U.S. Department of the Treasury to assess the viability of expanding the current DOI and HHS Tribal Self-Governance Programs; and

FURTHER RESOLVED, that the Tribal Self-Governance Demonstration Project should at least address the following issues:

- Recognition of tribal governments as primary auditor of tribal programs, federal grants and employee tax matters (e.g. 638 contracting and IGRA model),

- Recognition of tribal government capture of federal income taxes generated on tribal lands (e.g. Puerto Rico and territories model),

- Recognition of tribal revenue collection laws, including pre-emption of state taxation on tribal lands involving non-Indians, and

- Recognition that tribal governments may declare certain areas as "tribal empowerment zones" with reduced or eliminated income taxation.

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 by the General Assembly at the 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.

_____
President

ATTEST:

_____
Recording Secretary