



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ECWS-15-001

### **TITLE: Support for Federal Legislation that Restores Respect for Sovereignty of Tribal Governments in the National Labor Relations Act**

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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**, tribal sovereignty is an inherent authority exercised by all tribal governments and has existed continuously since before European contact; and

**WHEREAS**, the United States Constitution, U.S. Supreme Court decisions, and hundreds of treaties, federal statutes, and regulations all recognize that Indian tribes are distinct governments with inherent rights, power, privileges, and authorities; and

**WHEREAS**, Indian tribes have a unique government-to-government and trust relationship with the United States; and

**WHEREAS**, each tribal government provides essential services to its citizens including education, housing, health care, and public safety, and raises governmental revenue, much as do state governments, through the operation of enterprises and the provision of goods and services in the marketplace; and

**WHEREAS**, the National Labor Relations Act (NLRA) generally exempts state, local, and territorial governments from its application; and

**WHEREAS**, the National Labor Relations Board (NLRB) in 2004 reversed over 60 years of its own precedent and established “a new standard for determining the circumstances under which the Board will assert jurisdiction over Indian owned and operated enterprises.” *San Manuel Indian Bingo*, 341 NLRB No. 138 (May 28, 2004); and

**WHEREAS**, the NLRB ruled that tribal governments are subject to the NLRA when acting more “commercially” than “governmentally,” a distinction and classification that the NLRB has never applied to state and local governments operating enterprises, liquor stores, lotteries, and providing other goods and services in the marketplace; and

**WHEREAS**, a number of tribal governments are engaged in ongoing litigation with the NLRB to protect their sovereignty rights against unconstitutional intrusion; and

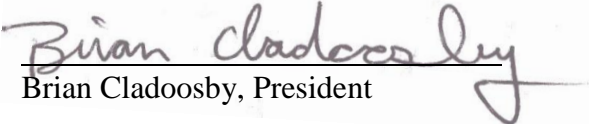
**WHEREAS**, the NLRB decisions against tribal labor sovereignty are an arbitrary and discriminatory legal interpretation of the NLRA that treats tribal governments inequitably in comparison to all other governments which develop their own labor policies; and

**WHEREAS**, in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support the purposes of this resolution

**NOW THEREFORE BE IT RESOLVED**, NCAI hereby supports federal legislation that would amend the National Labor Relations Act to clarify tribal governments have parity with state, local, and territorial governments with respect to the National Labor Relations Act and that its provisions do not apply to an Indian tribal government.

#### CERTIFICATION

The foregoing resolution was adopted by the Executive Committee at the 2015 Executive Council Winter Session of the National Congress of American Indians, held at the Capital Hilton, February 23–26, 2015 in Washington, D.C. with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary