



2010 Winter Conference Great Wolf Lodge, Grand Mound, WA

RESOLUTION #10 - 10

“SUPPORTING LEGISLATION TO STOP TAXATION OF TRIBAL EDUCATION BENEFITS”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest 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 rights secured under Indian Treaties and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, Indian Tribes are governments that pre-date the United States and, through the Indian Commerce Clause and the Treaty Clause, the Constitution of the United States recognizes the status of Indian Tribes as sovereigns; and

WHEREAS, federal agencies have a responsibility to respect the letter and spirit of the United States Constitution, Treaties, current Federal laws, and Executive Orders, regarding the Federal Government's relationship with Tribal Governments; and

WHEREAS, after many Tribes in Indian Country have instituted programs to provide supplemental education and culture to their Tribal citizens; and

WHEREAS, Indian Tribal Governments have been encouraged to use their gaming revenues to provide for the educational needs of their members, including post-secondary scholarships; and

WHEREAS, the Internal Revenue Service (IRS) is auditing the educational benefits provided to individual Tribal citizens by their Tribe; and

WHEREAS, Internal Revenue Code Section 61 states that, except as otherwise provided, gross income includes all income from whatever source derived, and the Internal Revenue Service and federal courts have consistently held that payments made under similar social benefit programs for the promotion of general welfare are not includable in gross income; and

WHEREAS, the general welfare doctrine provides common law exclusion for government social welfare programs, the test is based on facts and circumstances and is difficult to apply; and

WHEREAS, statutory language is needed to clarify that educational benefits provided by Indian tribal governments for their members is not subject to income taxation; and

WHEREAS, federal legislation to amend the Internal Revenue Code is needed that would clarify that neither education provided by BIA nor education and educational benefits provided by an Indian tribe to its members is subject to income taxation; and

WHEREAS, the amendment would do so by codifying a statutory exclusion from gross income for the following categories:

- the value of educational services provided to Indian students or purchased by the BIA;
- educational services provided by an Indian tribe or tribal organization to a member of an Indian tribe, including the member's spouse or dependents;
- the value of educational benefits provided by an Indian tribe or tribal organization for education services to a member of an Indian tribe; and

- any other educational services provided by an Indian tribe that supplements, replaces, or substitutes for federal Indian education programs; and

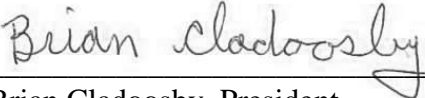
WHEREAS, this legislation would apply to educational benefits provided after the date of enactment and also includes language to prohibit the IRS or the courts from assuming or inferring that benefits provided by Indian tribes that are not within the scope of the bill were taxable prior to the legislation's effective date; and

WHEREAS, legislation is needed to protect the non-taxable status of educational benefits provided to tribal members by their Tribe; now


THEREFORE BE IT RESOLVED, that ATNI supports legislation to treat Tribal Government educational and other benefits as an aspect of tribal self-governance and tribal civic life, not personal income to individual tribal members.

CERTIFICATION

The foregoing resolution was adopted at the 2010 Winter Conference of the Affiliated Tribes of Northwest Indians, held at the Great Wolf Lodge, Grand Mound, Washington, February 8 - 11, 2010 with a quorum present.



Brian Cladoosby, President



Norma Jean Louie, Secretary