

**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

- WHEREAS,** the United States Congress in 1934 enacted the Indian Reorganization Act which promised to reverse the forced Assimilation Policies of the United States Government of the previous sixty years by encouraging economic development, self-determination, cultural plurality, revival of Tribalism, and development of Indian constitutionally modeled governmental powers; and
- WHEREAS,** previous assimilation policies had resulted in passage of the General Allotment Act which caused the extinguishment of Indian title to millions and millions of acres of aboriginal lands with subsequent destructive impact on Tribal culture, language, and traditional Tribal government organization; and
- WHEREAS,** certain Indian Nations of the lands now known as the United States were the first governments in the world to formally recognize the newly established United States of America in 1789 and treaties with Tribes were thereafter made between the Tribes and the United States Government as was customary between political governments; and
- WHEREAS,** the Presidents of the United States subsequent to the Indian Reorganization Act have reaffirmed the government to government relationship between the United States and the various Indian Nations and Tribes; and
- WHEREAS,** the authors of the United States Constitution recognized the national and international legal status of Indian Tribes as political governments and wrote into the United States Constitution, power of Congress to regulate commerce with foreign nations and with Indian Tribes; and
- WHEREAS,** Congress has prohibited several western states, including the State of Arizona, in their respective federal enabling Acts from exercising control or jurisdiction over Indian Tribes and lands; and
- WHEREAS,** federal statutes and treaties beginning with the Indian Non-Intercourse Act of 1790 have prohibited states from purchasing Indian lands or otherwise transferring title to Indian lands without the consent of Congress; and
- WHEREAS,** federal and state court decisional law has consistently for over two hundred years recognized the political and governmental status of Indian nations and their sovereign right to govern their own affairs and to be the primary managers of their aboriginal lands; and

**WHEREAS,** Tribes have survived despite centuries of genocide, removal, cultural expiration and forced assimilation policies due to the strength of the Indian people and the good will, morality and ethics of the United States Congress which has at critical times risen to protect the rights of aboriginal Indian peoples in the United States; and

**WHEREAS,** long-standing and well founded congressional policies, federal decisional law, principles of international law, and the application of human rights, conscience and ethics that have recognized and protected the political status and rights of Indian governments are being threatened with the introduction by Senator Slade Gorton of S. 1691 which would:

- 1) waive Tribal government immunity for tort claims to the same extent as a private organization except for punitive damages;
- 2) waive Tribal government immunity for contract claims;
- 3) waive Tribal government immunity regarding the collection of state taxes;
- 4) subject Tribal governments to lawsuits in federal district courts;
- 5) subject Tribal governments to lawsuits in state courts under state law for torts and contracts;
- 6) waive tribal government immunity for purposes of the Indian Civil Rights Act and create a cause of action under that act in federal district courts; and

**WHEREAS,** said bill would extinguish two hundred years of federal Indian policy that has acknowledged and protected the sovereign and political status of Tribal governments; and

**WHEREAS,** federal and state governments have only waived their sovereign immunity to a limited extent and most, if not all Tribes, have likewise waived their sovereign immunity in their Tribal courts to the extent that they have insurance or are self-insured and have provided Tribal forums for the adjudication of civil disputes for Indians and non-Indians, if within the subject matter and personal jurisdiction of said courts; and

**WHEREAS,** it is common knowledge that Tribes like any other government or private party, are free to negotiate contracts, including the negotiation of limited waivers of sovereign immunity, venue, and the means by which disputes under their contracts are resolved; and S.1691 would interfere with the constitutional right of Tribal governments to freely enter into and negotiate contracts; and

**WHEREAS,** federal Indian decisional law regarding taxation has established distinct guidelines for the application of legitimate state taxes to certain activities of Indian Tribes; and

**WHEREAS,** members of American Indian Tribes have defended the United States of America in every war since its founding and are over-represented in the armed services in proportion to their percentage of the total population and have exemplified valor and courage in the defense of America; and

**WHEREAS,** S. 1691 is an insult to American Indian men and women who have served in the armed forces and defended America against its enemies and, if enacted, would constitute a breach of long standing congressional and treaty promises and presidential government to government covenants recognizing Indian Nations as dependent sovereign nations and political governments under the protection of the federal government; and

**WHEREAS,** S. 1691 would dismember federal protection, would constitute a direct frontal attack on the existence of Tribal governments, would exhaust Tribal treasuries, and would destroy the trust relationship between Tribes and the United States government and would eventually threaten title to Indian lands and the very existence of Indian culture, language and society; and

**WHEREAS,** the Tribal Council is suspicious of proposed regional field hearings on S.1691 which do not include the American southwest, the aboriginal home of many well established Tribal governments and concludes that the field hearings have been designed to ignore positive evidence of Tribal self government while focusing on one or two sensationalized events to prejudice and galvanize members of congress and special interest groups against Indian Tribes; and

**WHEREAS,** for the foregoing reasons the White Mountain Apache Tribe opposes S. 1691 and the spirit in which it was introduced.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby unequivocally opposes S.1691 as an un-American expression of anti-Indian sentiment and as a repugnant reminder of the forced assimilation and other destructive Indian policies of the 19th century.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby opposes the proposed field hearings on S.1691 as they exclude southwest Indian governments.

**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby directs the Tribal Chairman and in his absence, the Vice-Chairman, to deliver a copy of this resolution to the President of the United States, the Arizona Congressional delegation and members of Congress, the Secretary of Interior, Bureau of Indian Affairs, and the National Congress of American Indians with a request that they oppose S.1691 and the destruction of American Indian Tribal government promised by its enactment.

**Resolution No. 03-98-39**

The foregoing resolution was on March 4, 1998 duly adopted by a vote of seven for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (c), (f), (g), (h), (i), (q), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council