

have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOUSTANY. Mr. Speaker, I yield myself such time as I may consume.

Tonight I rise in strong support of H.R. 5419. This bill which I introduced requires the IRS to grant the same fair and unbiased appeal process to groups applying for tax-exempt status as it grants to other taxpayers.

During the investigation, we found that groups were being denied their ability to appeal denials of tax-exempt applications due to an unfair administrative practice at the IRS. This puts too much decisionmaking power in the hands of Washington bureaucrats, the same people we now know were depriving certain conservative groups of their right to operate as tax-exempt groups. This bill fixes that and provides equal rights to appeal for all tax-exempt applicants.

Mr. Speaker, I urge a "yes" vote on this bill, and I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Under current law, tax-exempt organizations are not able to request an administrative appeal of their initial classification of tax-exempt status. The bill would amend the Internal Revenue Code of 1986 to provide a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

I might add, this would apply to all, whatever their political leanings, provided they meet the requirements of the statute. So this would apply to liberal as well as conservative organizations that were subject to the inappropriate standards used by the IRS.

In 2012, the IRS received 51,748 applications for 501(c)(3) status and 2,774 applications for (c)(4) status.

□ 2100

In each case, less than three-tenths of 1 percent were denied. In 2013, two-tenths of 1 percent of all 501(c)(3) applications and 501(c)(4) applications were denied.

I support this legislation, and urge all of my colleagues to do so.

I yield back the balance of my time.

Mr. BOUSTANY. Mr. Speaker, I think this is, again, commonsense legislation that is needed. It is a necessary reform which came out in the investigation that we have done so far.

I urge its passage, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BOUSTANY) that the House suspend the rules and pass the bill, H.R. 5419.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMITTING RELEASE OF INFORMATION REGARDING CERTAIN INVESTIGATIONS

Mr. BOUSTANY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5420) to amend the Internal Revenue Code of 1986 to permit the release of information regarding the status of certain investigations.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF INFORMATION REGARDING THE STATUS OF CERTAIN INVESTIGATIONS.

(a) IN GENERAL.—Section 6103(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(11) DISCLOSURE OF INFORMATION REGARDING STATUS OF INVESTIGATION OF VIOLATION OF THIS SECTION.—In the case of a person who provides to the Secretary information indicating a violation of section 7213, 7213A, or 7214 with respect to any return or return information of such person, the Secretary may disclose to such person (or such person’s designee)—

“(A) whether an investigation based on the person’s provision of such information has been initiated and whether it is open or closed,

“(B) whether any such investigation substantiated such a violation by any individual, and

“(C) whether any action has been taken with respect to such individual (including whether a referral has been made for prosecution of such individual).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BOUSTANY) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana.

GENERAL LEAVE

Mr. BOUSTANY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOUSTANY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight I rise in support of H.R. 5420. This bill, which I introduced, reforms the Tax Code’s rules on information disclosures to victims of unauthorized disclosures.

In recent years, the IRS has leaked the confidential tax information of numerous groups: The National Organization for Marriage, Crossroads GPS, Americans for Responsible Leadership, Freedom Path, and others. Disclosing taxpayer information like this is a

crime, but current law does not allow the victimized taxpayer to know anything of the status of the investigation into the leak.

H.R. 5420 fixes this by allowing victims of unauthorized disclosures to learn about the status of any investigations into their particular cases.

Additionally, some victims of IRS targeting were subject to the flagrant disclosure of their confidential tax information to the media. Yet these victims are not permitted access to any information about the progress on the investigation of these violations.

This bill provides certainty to taxpayers who have been victimized in this manner to inquire about the status of their investigations. It is a commonsense bill. It is a good reform.

I urge a “yes” vote on this bill, and I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

I support this legislation.

When a taxpayer makes a complaint regarding unlawful disclosure of information, current law does not permit the Treasury Department to provide the affected taxpayer with information concerning the status or resolution of the complaint.

Under the provision here, the enumerated circumstances in which taxpayer information may be lawfully disclosed by the Treasury Department would be expanded to include disclosure to certain complainants of information regarding the status and results of any investigation initiated by their complaint.

I support this bill, and I yield back the balance of my time.

Mr. BOUSTANY. Mr. Speaker, I thank my friend across the aisle. I think if only we could conduct business this way, it might all be good and we could solve a lot of problems, so I thank the gentleman.

This is, again, a commonsense reform, it came out of the investigation, I urge its passage.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BOUSTANY) that the House suspend the rules and pass the bill, H.R. 5420.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2013

Mr. NUNES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3043) to amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tribal General Welfare Exclusion Act of 2013”.

SEC. 2. INDIAN GENERAL WELFARE BENEFITS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 140 the following new section:

“SEC. 139E. INDIAN GENERAL WELFARE BENEFITS.

“(a) IN GENERAL.—Gross income does not include the value of any Indian general welfare benefit.

“(b) INDIAN GENERAL WELFARE BENEFIT.—For purposes of this section, the term ‘Indian general welfare benefit’ includes any payment made or services provided to or on behalf of a member of an Indian tribe (or any spouse or dependent of such a member) pursuant to an Indian tribal government program, but only if—

“(1) the program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the tribe, and

“(2) the benefits provided under such program—

“(A) are available to any tribal member who meets such guidelines,

“(B) are for the promotion of general welfare,

“(C) are not lavish or extravagant, and

“(D) are not compensation for services.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) INDIAN TRIBAL GOVERNMENT.—For purposes of this section, the term ‘Indian tribal government’ includes any agencies or instrumentalities of an Indian tribal government and any Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

“(2) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

“(3) LAVISH OR EXTRAVAGANT.—The Secretary shall, in consultation with the Tribal Advisory Committee (as established under section 3(a) of the Tribal General Welfare Exclusion Act of 2013), establish guidelines for what constitutes lavish or extravagant benefits with respect to Indian tribal government programs.

“(4) ESTABLISHMENT OF TRIBAL GOVERNMENT PROGRAM.—A program shall not fail to be treated as an Indian tribal government program solely by reason of the program being established by tribal custom or government practice.

“(5) CEREMONIAL ACTIVITIES.—Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of tribal culture shall not be treated as compensation for services.”.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting before the item relating to section 140 the following new item:

“Sec. 139E. Indian general welfare benefits.”.

(c) STATUTORY CONSTRUCTION.—Ambiguities in section 139E of such Code, as added by this Act, shall be resolved in favor of Indian tribal governments and deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

(2) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by subsection (a) expires before the end of the 1-year period beginning on the date of the enactment of this Act, refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 3. TRIBAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a Tribal Advisory Committee (hereinafter in this subsection referred to as the “Committee”).

(b) DUTIES.—

(1) IMPLEMENTATION.—The Committee shall advise the Secretary on matters relating to the taxation of Indians.

(2) EDUCATION AND TRAINING.—The Secretary shall, in consultation with the Committee, establish and require—

(A) training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes on Federal Indian law and the Federal Government’s unique legal treaty and trust relationship with Indian tribal governments, and

(B) training of such internal revenue field agents, and provision of training and technical assistance to tribal financial officers, about implementation of this Act and the amendments made thereby.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of 7 members appointed as follows:

(A) Three members appointed by the Secretary of the Treasury.

(B) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Ways and Means of the House of Representatives.

(C) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Finance of the Senate.

(2) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member’s term shall be 4 years.

(B) INITIAL STAGGERING.—The first appointments made by the Secretary under paragraph (1)(A) shall be for a term of 2 years.

SEC. 4. OTHER RELIEF FOR INDIAN TRIBES.

(a) TEMPORARY SUSPENSION OF EXAMINATIONS.—The Secretary of the Treasury shall suspend all audits and examinations of Indian tribal governments and members of Indian tribes (or any spouse or dependent of such a member), to the extent such an audit or examination relates to the exclusion of a payment or benefit from an Indian tribal government under the general welfare exclusion, until the education and training prescribed by section 3(b)(2) of this Act is completed. The running of any period of limitations under section 6501 of the Internal Revenue Code of 1986 with respect to Indian tribal governments and members of Indian tribes shall be suspended during the period during which audits and examinations are suspended under the preceding sentence.

(b) WAIVER OF PENALTIES AND INTEREST.—The Secretary of the Treasury may waive any interest and penalties imposed under such Code on any Indian tribal government or member of an Indian tribe (or any spouse or dependent of such a member) to the extent such interest and penalties relate to excluding a payment or benefit from gross income under the general welfare exclusion.

(c) DEFINITIONS.—For purposes of this subsection—

(1) INDIAN TRIBAL GOVERNMENT.—The term “Indian tribal government” shall have the meaning given such term by section 139E of such Code, as added by this Act.

(2) INDIAN TRIBE.—The term “Indian tribe” shall have the meaning given such term by section 45A(c)(6) of such Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. NUNES) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. NUNES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. NUNES. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of the Tribal General Welfare Exclusion Act.

This bill would clarify the Tax Code so that spending by Native American tribes on health care, housing, education, care for the elderly and disabled, and other programs for the good of the tribe will be excluded from taxes.

These programs were traditionally tax-exempt, but in recent years the IRS has informally reinterpreted the rules in order to tax more and more of these programs. Simultaneously, the agency has subjected tribes to expensive and intrusive audits.

With their unique history of tribal sovereignty, Native Americans should not be subjected to arbitrary tax enforcement. This bill would put tribes on par with State and local governments and would end unwarranted intrusions into tribal self-government. It is broadly supported across the country and was actually given a zero score by the Joint Tax Committee.

Thus, I urge my colleagues to support the Tribal General Welfare Exclusion Act, and I will be submitting a more detailed statement for the RECORD that will provide clarity, context, and congressional intent for this legislation.

Mr. Speaker, considering a committee report will not accompany H.R. 3043, which is being considered by the House today, I take this opportunity as the author of the legislation to provide some context and congressional intent.

Under current law, taxpayers must generally include all items of income in computing gross income. Internal Revenue Service (IRS) guidance has established a general welfare exclusion under which payments made to individuals by governmental entities pursuant to legislatively provided social benefit programs for the promotion of the general welfare are not included in the recipient’s gross income. To qualify under the general welfare exclusion, payment (1) must be made under a government program; (2) must be made for the promotion of general welfare; and (3) must not be made as compensation for services.

In evaluating Indian tribal government programs under the general welfare exclusion, including the second prong of this test (“for the

promotion of general welfare”), the IRS has frequently insisted that tribal benefits be based on individualized determinations of financial need. This stipulation prevents the general welfare exclusion from covering programs designed to provide substantially equal benefits to all qualifying members of a tribe or to provide benefits based on determinations of needs that are not financial in nature. These needs would include health coverage programs, education and cultural programs, elder programs, and housing programs.

Under IRS guidance released in June 2014, however, the IRS will conclusively presume that payments from Indian tribes to tribal members and their spouses and dependents will qualify under the general welfare exclusion without a determination of need if certain requirements are met. Under Revenue Procedure 2014–35, the payments (1) must be made pursuant to a specific Indian tribal government program with written guidelines; (2) must not discriminate in favor of the tribe’s governing body and be made available to all qualifying members of the tribe; (3) must not be compensation for services; and (4) must not be lavish or extravagant. In addition, only certain types of programs that meet the procedural requirements will qualify for the conclusive presumption. The Revenue Procedure lists 23 such non-exclusive qualifying programs covering housing, education, elder care, health care, culture, and other welfare projects. Taxpayers may apply the rules retroactively to file for refunds for any open tax years.

The provisions in H.R. 3043 would codify this IRS guidance, specifically applying the general welfare exclusion to Indian tribes and payments received by tribal members, their spouses and children. The bill mandates that tribal government benefits would qualify for exclusion under the general welfare doctrine so long as the benefits (1) are provided pursuant to a specific Indian tribal government program; (2) are available to all tribal members (including spouses and dependents) who meet the government program’s guidelines; (3) are not lavish or extravagant; and (4) are not compensation for services.

The provisions in H.R. 3043 also require that the tribal program be “for the promotion of general welfare,” but would not limit its application through conclusive presumption to specific types or examples of tribal programs. I expect that the IRS will apply this requirement in a manner that is no less favorable than the safe harbor approach in Revenue Procedure 2014–35, and that the IRS will not interpret the statute as requiring individualized determinations of financial need where a tribal government has established a program consistent with the statute. In construing the individual statutory requirements, including a determination of whether a program is “for the promotion of general welfare,” it is expected that the IRS will develop regulations that are no less favorable to tribes than Revenue Procedure 2014–35, including no limitation of a tribe’s ability to address community needs and to make benefits available to all eligible tribal members. This is based on the legislative purpose of the bill as well as the specific statutory construction provision in Section 2 (c) of the bill, which states that “deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.”

Provisions in H.R. 3043 also would require the Treasury Department to (1) establish a Tribal Advisory Committee to advise the IRS and Treasury on matters relating to taxation of Indians; (2) establish and provide training and education for IRS agents and tribal financial officers about the new provisions; and (3) suspend audits and examinations of Indian tribal governments and tribal members related to the general welfare exclusion until this education has been provided.

Concerns linger that the IRS may not fully understand the role that general welfare programs play in maintaining tribal culture and tradition, and that these issues should be addressed through government-to-government consultation rather than through tribal or member audits that may deter tribes from preserving culture and tradition or pursuing self-determination. It is intended that the Tribal Advisory Committee address these concerns and work with tribes on a government-to-government basis. This would be accomplished by appointing qualified tribal leaders and in the alternative, qualified tribal financial officers to the Tribal Advisory Committee. Such qualified individuals would have intimate knowledge of federal Indian law and policy, as well as the financial and community needs of Indian tribes. These qualifications would enhance the Department’s administration of federal tax policies affecting tribal governments while ensuring that treaty rights and principles of tribal self-governance are properly balanced with federal tax policy.

The provisions in H.R. 3043 codifying the IRS guidance concerning the general welfare exclusion would be effective for tax years for which the period of limitations is open as of the date of enactment. Taxpayers would have one additional year from the date of enactment to file for a refund with respect to any such open tax year. And, the bill would provide the IRS with discretion to waive any interest and penalties under the Code for any tribe or tribal member in connection with the general welfare exclusion.

Mr. Speaker, I appreciate the opportunity to provide clarity, context, and congressional intent for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I ask unanimous consent that my time be controlled by the gentleman from Wisconsin (Mr. KIND).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3043.

I was an original cosponsor of this legislation.

I commend my friend and colleague from California, a member of the Ways and Means Committee, for his leadership on this issue.

We are trying to correct a wrong interpretation with the IRS that will treat Native Americans like we do other sovereign entities in this country. That is why this legislation would codify existing IRS practice and bring crucial permanence and clarity to tribes across the country. It levels the

playing field for tribal governments, treating them more like State governments, and it also respects tribal culture, traditions, and practices.

The bill excludes from taxation income received on tribal general welfare programs, many of which are identical to the tax-exempt Federal and State programs in the areas of health care, education, housing, eldercare, emergency assistance, cultural programs, burial assistance, and legal aid, and provides necessary deference and flexibility to these tribal governments so that they can develop programs and determine priorities that promote the general welfare in their own communities.

According to the Joint Committee on Taxation, this legislation doesn’t cost taxpayers a cent—it has no budgetary impact—so we are not adding to the deficit.

This bill is supported by numerous national organizations, including business and tribal organizations, regional tribal and intertribal organizations, and a multitude of State-based tribal governments.

I want to just take a moment to thank the Ho-Chunk Nation of Wisconsin, the Oneida Tribe of Wisconsin, and the National Congress of American Indians for working tirelessly on this issue. My staff and I greatly appreciate their assistance in getting this in order for tonight.

I encourage my colleagues to support this legislation.

I, again, thank my friend for his leadership, and I reserve the balance of my time.

Mr. NUNES. Mr. Speaker, I too would like to thank the gentleman for making this truly one of the few bipartisan bills that has no opposition, where we come together for the right reasons to get something done for the benefit of all of our communities, especially our tribal communities.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. REED).

Mr. REED. Mr. Speaker, I would like to thank the gentleman for yielding.

Mr. Speaker, I rise tonight in support of H.R. 3043, the Tribal General Welfare Exclusion Act of 2013.

First, I would like to thank Congressman NUNES for his hard work on this legislation. Without his leadership, this bill would not have made it as far as it has today.

I would also like to thank the Ways and Means chairman, DAVE CAMP, for his support throughout this process, and all my colleagues on the other side of the aisle that have joined in the effort to get this legislation passed and considered this evening.

This legislation codifies, Mr. Speaker, the proper tax treatment of certain services provided by the tribe for education, public safety, to promote its culture, and to provide for the general welfare of the tribe. This is an issue of fair treatment of taxpayers—in this case, Native American taxpayers, such as those who live in the sovereign Seneca Nation in western New York, in my

home district, the 23rd Congressional District of New York.

This legislation will ensure that the unique legal relationship and tax issues with regard to members of the Indian Nations and tribal governments are recognized and respected by the IRS going forward.

I urge my colleagues to join us and pass this legislation tonight. It is only fair that we do the right thing by these Native American taxpayers.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I don't have any further requests for time on this, but I would like, at this time, to have the following documents inserted into the RECORD: a letter of support for H.R. 3043 from the Ho-Chunk Nation, which is in my congressional district in western Wisconsin; a letter of support from the Oneida Tribe of Indians of Wisconsin; and a letter of support from the Midwest Alliance of Sovereign Tribes, which is headquartered in Gresham, Wisconsin.

HO-CHUNK NATION LEGISLATURE,
September 9, 2014.

Re Tribal Welfare General Exclusion Act (H.R. 3043).

Hon. RON KIND,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KIND: I am writing on behalf of the Ho Chunk Nation (Nation) to thank you for your co-sponsorship of the Tribal Welfare General Exclusion Act (H.R. 3043), a bi-partisan bill introduced by Representative Nunes and 54 other Members of the House. The Nation is reliably informed that House leadership is interested in bringing this bill to the floor during the very short September 2014 session.

As you know, tribal members across the country have been harassed by the IRS seeking to force them to include in calculations of gross income the value of tribally-provided programs and services. This legislation is necessary to clarify that various programs and services provided by Indian tribal governments to their tribal members are not characterized as income for purposes of computing taxable income by the federal Internal Revenue Service (IRS).

To be excluded under H.R. 3043, tribally-provided welfare benefits must be available to any tribal member under established guidelines, are for the promotion of general welfare, are not lavish or extravagant, and are not compensation for services. The bill would also establish a Tribal Advisory Committee to provide education and training to IRS officials and staff and to help enforce internal revenue laws in Indian country.

H.R. 3043 is strongly supported by the National Congress of American Indians, the Native American Finance Officers Association, Indian tribes across the country, and the U.S. Chamber of Commerce. The Joint Committee on Taxation has determined that, if enacted, H.R. 3043 "would have a negligible effect on Federal fiscal revenues."

For all of these reasons, we respectfully urge you to communicate your support for H.R. 3043 to Chairman Camp and Ranking Member Levin as well as with Republican and Democrat leadership. Thank you for your longstanding support for the Nation and, indeed, for tribal communities across the country, and your kind consideration of this request.

Sincerely,

JON GREENDEER,
President.

HEATHER CLOUD,
Vice President.

ONEIDA TRIBE OF INDIANS OF
WISCONSIN, BUSINESS COMMITTEE,
September 4, 2014.

Hon. RON KIND,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN KIND: I hope this letter finds you doing well. First, I commend you for your support and thank you for your co-sponsorship of H.R. 3043 (the Tribal General Welfare Exclusion Act), a bill to address certain inequities in the tax code relative to the delivery of basic general welfare programs to our members. Second, we have been made aware of an effort by the bill's primary sponsor, Congressman Devin Nunes, that he is working with the Majority's leadership and Chairman Camp to consider H.R. 3043 on the Suspension Calendar sometime this month. Your support of such an effort would be critical to securing the votes necessary for the passage of this bill. I am asking that you do what you can to help in this effort.

While the Obama Administration has done an outstanding job in addressing many of the concerns of Indian Country by releasing Revenue Procedure 2014-35 earlier this year, that determination is not a permanent solution to our GWE concerns. Additionally, the Procedure provides no reforms to the way the IRS does business on Indian lands, does not require IRS agents to receive training or education in federal Indian law or the U.S. trust obligations to Tribes and individual Indians, and does not give Tribal leaders a voice in the Administrative process at the Department of Treasury. Only with the adoption of statutory changes will Indian Country find a full level of assurance that the benefits we extend to our Tribal members will not be met with invasive audits and potential financial ruin. The bill you have co-sponsored brings us that level of assurance.

Again, thank you for all of your efforts to help Indian Country achieve basic fairness under our nation's tax code. Your continued support on this issue is greatly appreciated.

Sincerely,

MELINDA J. DANFORTH,
Vice Chairwoman.

MIDWEST ALLIANCE OF
SOVEREIGN TRIBES,
September 16, 2014.

Re Reform the IRS in Indian Country—Vote YES on H.R. 3043.

Hon. RON KIND,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KIND: We write on behalf of the Midwest Alliance of Sovereign Tribes to thank you and ask that you please educate others on why the should vote "YES" on H.R. 3043, the Tribal General Welfare Exclusion Act, when the bill comes to the House floor for a vote. And we thank you in advance for co-sponsoring this bill!

Federal Indian affairs policy is grounded in the history and course of dealings between the U.S. and Indian tribes. Tribes ceded or had taken hundreds of millions of acres of our homelands to help build this Nation. In return, the U.S. made solemn promises to provide for the health, education, and general welfare of Indian people. Sadly, federal programs and services designed to meet these promises have been unfunded or underfunded for decades. As a result, tribal governments are stepping in to meet these shortfalls by directly providing programs and services to our tribal citizens. Instead of fostering these acts of Indian self-determina-

tion, the IRS has targeted Indian tribes for audits, seeking to impose federal income taxes on tribal government programs and services.

Tribal leaders nationwide raised concerns with these targeted IRS intrusions of Indian self-determination. H.R. 3043 will implement long-needed reforms of the work of the Internal Revenue Service (IRS) in Indian Country and clarify that federally recognized tribal government programs and services provided to our citizens are not subject to federal income taxation. Passage of this bill will help align federal tax laws with federal Indian law and policy, strengthen Indian self-determination, and respect the local decisions of tribal governments to improve our communities. On September 17, 2013, the Joint Committee on Taxation (JCT) ruled that H.R. 3043 "would have a negligible effect on federal fiscal revenues."

For these reasons, we again urge you to ask others to vote "YES" on H.R. 3043 as introduced when the bill comes to the House floor for a vote. We appreciate your consideration of this important request.

Sincerely,

SCOTT R. VELE,
Executive Director.

Mr. KIND. Mr. Speaker, since I have no further speakers, I ask my colleagues to support this bipartisan piece of legislation tonight, and I yield back the balance of my time.

Mr. NUNES. Mr. Speaker, I would like to thank the gentleman from Wisconsin.

At this time, Mr. Speaker, we have one final speaker left. I yield 2 minutes to the gentleman from Arizona (Mr. SCHWEIKERT).

Mr. SCHWEIKERT. Mr. Speaker, I thank Mr. NUNES for doing this. Thank you for the bipartisan support from everyone, and particularly in the Ways and Means Committee.

This is one of those sort of semijoyous moments where we actually get to do something that is good legislation and good policy, and sometimes you desperately wish around here we had more of this.

Being from Arizona, I have 22 tribes in my State. As a much younger man in the legislature, I actually chaired the Indian Affairs Committee in my State legislature, and we spent years working with our communities to become self-sufficient, to maximum their sovereignty and respect it. So many of my tribes in Arizona now are actually engaging in activities to bolster their population, to provide them the basic benefits that you and I would receive from our city council, from our county, from our State. The clarification this provides just puts them on equal footings with what happens in our other communities and for those who live off reservation. That is why this is such good legislation. It is rational, it makes sense, and continues to incentivize the right direction, the right sovereignty, the right approach for our Native American people in this country.

With that, Mr. NUNES, thank you for doing this.

Mr. NUNES. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Arizona for his kind words.

Mr. Speaker, in closing, I want to say a special thanks to Chairman DAVE CAMP, Ranking Member LEVIN, all the Ways and Means staff that worked on this legislation. This is legislation that has been around for several years. And especially I would like to thank Damon Nelson from my staff, who has been on this doggedly since he found out the injustice that was being done to tribes across America. So I would like to thank him for his special support for doing the important work that our staff does to get something like this across the finish line.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. COLE. Mr. Speaker, I rise to support H.R. 3043, the Tribal General Welfare Exclusion Act. H.R. 3043 would align federal Indian affairs policy with federal tax policy. H.R. 3043 would require field agents to receive training and education on federal Indian law and the government's treaty and trust obligations to Native Americans to ensure that their actions in the field follow the law and IRS policy. It would do so by clarifying that tribal government programs and services that aid the general welfare of the tribe are not subject to federal income taxation. It also establishes a Tribal Advisory Committee within the Treasury Department. Additionally, the Joint Committee on Taxation has determined the bill would do this at little to no cost to the federal government.

The Constitution clearly states that the federal government shall provide for the general welfare of the people. The IRS excludes a broad array of government services including, but not limited to, education, public safety, court system, social services, public works, health services, housing authority, parks and recreation, cultural resources, and museums. Through treaties and executive order, Indian tribes ceded hundreds of millions of acres of their homelands to the United States. In return, the U.S. made promises to provide for the health, education and general welfare of Native communities. Sadly, we have fallen short in meeting these solemn obligations. In recent years, Indian tribal governments have stepped in to cover these shortfalls in federal obligations by offering tribal government programs and services to meet the needs of their communities. To be clear, these are governments providing government services for their citizens.

Instead of fostering these acts of tribal government self-determination, over the past decade, some IRS field agents have targeted tribes for audits and investigations seeking to tax tribal citizens for benefits derived from these programs and services. Field agent decision-making has been at best inconsistent and arbitrary. Activities allowed in one audit have been challenged in another. Field agents have conversely given wide deference to federal and state government programs that provide for the general welfare of their citizens. In doing so, they have exempted general welfare programs from taxation, an exception known as a "general welfare exclusion."

H.R. 3043 will codify and better align federal tax policy with Indian affairs policy and ensure that IRS policies that recognize appropriate tribal government actions are actually being implemented in the field.

Mr. Speaker, with that, I urge passage of H.R. 3043, the Tribal General Welfare Exclusion Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. NUNES) that the House suspend the rules and pass the bill, H.R. 3043.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRESERVING WELFARE FOR NEEDS NOT WEED ACT

Mr. REICHERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4137) to prohibit assistance provided under the program of block grants to States for temporary assistance for needy families from being accessed through the use of an electronic benefit transfer card at any store that offers marijuana for sale.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preserving Welfare for Needs Not Weed Act".

SEC. 2. PROHIBITION ON USE OF ELECTRONIC BENEFIT TRANSFER CARD TO ACCESS TANF ASSISTANCE AT ANY STORE THAT OFFERS MARIJUANA FOR SALE.

(a) PROHIBITION.—Section 408(a)(12)(A) of the Social Security Act (42 U.S.C. 608(a)(12)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by adding at the end the following:

"(iv) any establishment that offers marijuana (as defined in section 102(16) of the Controlled Substances Act) for sale."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 2 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. REICHERT) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. REICHERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. REICHERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge support of H.R. 4137, the Preserving Welfare for Needs Not Weed Act.

Federal welfare benefits are an important means for many individuals and families to get critical assistance for basic necessities until they get back on their feet.

Shockingly, as a result of recent State laws legalizing recreational marijuana in Colorado and also in my home State of Washington, we are seeing new abuses of these benefits. In these States, a person can walk into one of the newly opened pot shops and use their welfare benefit card to pay for pot.

These are Federal tax dollars meant for basic necessities and, instead, they are being used to purchase something that is illegal under Federal law. It is exactly this misuse of tax dollars that this bill is designed to stop.

This bill, which I introduced earlier this year as chairman of the Ways and Means Subcommittee on Human Resources—the subcommittee with jurisdiction over the program that we are talking about tonight and that is being abused—will block access to welfare cash in stores selling marijuana.

Mr. Speaker, I know firsthand the struggles that families can go through during my hard times from my own childhood growing up, and from what I witnessed as a law enforcement professional for 33 years. From the time I was a cop on the street in King County Washington through my days as the sheriff there, I witnessed how too often a lack of a job, living in a crime-ridden neighborhood, and using drugs tore families apart.

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In some ways, things have even gotten worse today. For instance, we had millions of long-term unemployed struggling to get back to work during the so-called Obama recovery.

To make ends meet, many turned to benefits like TANF, which is the Temporary Assistance for Needy Families. The TANF program provides millions of low-income Americans temporary assistance to help adults transition to work and support their children while they are doing that. TANF is a flexible grant to States, but it also includes rules to ensure that our tax dollars are being spent appropriately.

Sadly, a disturbing number of people were spending welfare benefits in liquor stores, casinos, and even strip clubs. In 2012, Congress passed a law that required States to block welfare benefits from being accessed in those places, and President Obama, rightly, signed it into law.

Since then, both Washington State and Colorado have legalized marijuana, opening up a new loophole—the "pot shop loophole," as I call it—which the bill before us would close, along with the other shops that I mentioned before that are already closed to the use of your welfare benefit card, like liquor stores, casinos, and strip clubs. This bill just adds "pot shops" to that list.

This isn't an idle concern. A report examining welfare transactions in Colorado revealed over \$5,000 in welfare benefits were accessed in stores selling marijuana in the first month such stores were open. With other States considering legislation to legalize