



F F T A



Foster Family-based Treatment Association



The Honorable Tim Johnson
United States Senate
136 Hart Senate Office Building
Washington, DC 20510

Dear Senator Johnson:



As national organizations dedicated to the well-being of American Indian and Alaska Native children and families, we commend your efforts and recent introduction of S. 2570, the *Tribal Adoption Parity Act*. We look forward to working with you and Congress to correct the critical oversight that prevents tribal courts from determining a child has special needs, which precludes adoptive parents from receiving the adoption tax credit.



The adoption tax credit was enacted to mitigate the financial burden experienced by families adopting children with a specific focus on supporting those families who adopt a child designated as special needs. Special needs are those children not likely to be placed unless the government provides assistance to the adoptive family, or sometimes known as “hard to place” children. By easing these financial burdens the adoption tax credit seeks to reduce the number of children waiting for adoption, but more specifically, it seeks to incentivize the adoption of the most vulnerable children in the child welfare system. In doing so, the adoption tax credit permits adoptive parents to claim a credit of up to \$10,000 (which includes an adjustment for inflation). Congress has long recognized that families who adopt a child designated as special needs are likely to incur costs even after the adoption is finalized. Therefore, when the child they have adopted is designated “special needs” as determined by a court with jurisdiction over child welfare proceedings, families do not have to document qualified upfront adoption expenses to receive the tax credit.



Under current law, the adoptive parents of a child designated as special needs who is adopted through a tribal court cannot claim the flat special needs adoption credit and must document their qualified upfront expenses. Although tribes have the authority to arrange and sanction the adoptions of children who are members or eligible to be members of the tribe, current tax law does not recognize the authority of tribal courts to determine which of these adopted children are “special needs” for the purposes of the Adoption Tax Credit. In other words, a “special needs” determination provided by the



tribe is not an acceptable document for the purposes of filing for the adoption tax credit as special needs. This creates a disparity in the tax law; taxpayers who adopt a child designated as special needs through a state can claim the benefit for children designated as special needs without documenting qualified expenses, while taxpayers who adopt a child designated as special needs through a tribe cannot.

This disparity in the Internal Revenue Code results in Indian children losing out on the benefits Congress intended them to have through the adoption tax credit. The tax credit eases the financial burden of adopting hard to place children, and it encourages children's permanent placement in stable home environments. Because this provision of the tax code does not recognize determinations made in tribal court, potential adoptive parents face additional financial burdens and barriers to adopting Native children designated as special needs. This is an anomaly in Federal law that must be corrected immediately.

We applaud your leadership on this issue and look forward to working with you further to correct this critical oversight under current law.

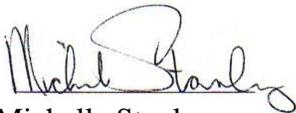
Sincerely,



Jacqueline Pata
Executive Director
National Congress of American Indians



Terry L. Cross
Executive Director
National Indian Child Welfare Association

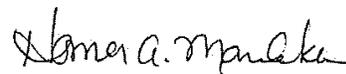


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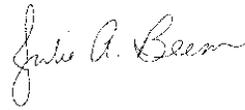
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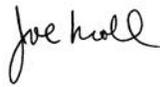
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