

# COLT

## COALITION OF LARGE TRIBES

Mandan, Hidatsa and Arikara Nations / Oglala Sioux Tribe / Navajo Nation / Sisseton Wahpeton Sioux Tribe / Blackfeet Tribe of Montana / Rosebud Sioux Tribe / Spokane Tribe / Cheyenne River Sioux Tribe / Ute Indian Tribe / Shoshone-Bannock Eastern Shoshone / Fort Belknap

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**Title: AMENDING THE 2017 TAX LEGISLATION FOR A DIRECT ALLOCATION TO TRIBAL LANDS FOR OPPORTUNITY ZONES AND REQUESTS THAT CONGRESS ENACT SUCH AN AMENDMENT.**

Resolution #: **ABQ – 06 - 04/26/2018**

**WHEREAS**, the Coalition of Large Tribes (COLT) was formally established in early April 2011, and is comprised of Tribes with large land base, including the Mandan, Hidatsa and Arikara Nations, the Oglala Sioux Tribe, the Crow Tribe, the Navajo Nation, the Sisseton Wahpeton Sioux Tribe, the Blackfeet Tribe of Montana, the Rosebud Sioux Tribe, Northern Ute, Shoshone Bannock, Colville Confederated Tribes, Ft. Belknap and the Cheyenne River Sioux Tribe. COLT is chaired by Chairman Russell Begaye of the Navajo Nation; and

**WHEREAS**, COLT was organized to provide a unified advocacy base on all issues affecting Tribes that govern large trust land bases and that strive to ensure the most beneficial use of those lands for tribes and individual Indian landowners; and

**WHEREAS**, the Federal Government has a unique legal and political relationship with Tribes, which is recognized in the U.S. Constitution, statutes, and Supreme Court decisions; and

**WHEREAS**, Congress has a legitimate interest in promoting the economic and political self-sufficiency of Tribes as a means to fulfill the government's unique obligations towards Native Americans; and

**WHEREAS**, the Opportunity Zones ("OZ") program is a new national economic development, community investment program that was established by Congress in the Tax Cuts and Jobs Act of 2017 for the purpose of encouraging long-term private sector investments in low-income urban and rural communities across the United States; and

**WHEREAS**, the OZ program is designed to provide tax incentives for investors to reinvest unrealized capital gains into low-income communities through "Opportunity Funds". Opportunity Funds are partnerships or corporations dedicated to investing in OZs that hold at least 90% of their assets in qualified OZ property. Three specific incentives designed to appeal to investors include: (1) deference of capital gains taxes until 2026 by putting and keeping

unrealized gains in an Opportunity Fund; (2) reduction of the original amount of capital gains on which an investor has to pay deferred taxes by 10% if the Opportunity Fund investment is held for 5 years and another 5% if held for 7 years; and (3) tax exemption of the accrual of capital gains on investments made through the Opportunity Fund, so long as the investor holds them for at least 10 years; and

**WHEREAS**, Tribal Nations and their land bases are not automatically eligible to be an OZ. In order to qualify, the Governor of the relevant State must nominate a Tribal Nation's lands, so long as such land is considered a low-income census tract. Governors may nominate up to 25% of their state's low-income/high-poverty census tract as OZs and are given broad discretion. Low-income census tracts are defined as tracts in which the poverty rate is at least 20 percent, the median family income does not exceed 80 percent of the statewide median family income if located outside of a metropolitan area, or the median family income does not exceed 80 percent of the statewide median family income or the metropolitan area median family income, whichever is higher. Based on these requirements, only portions of Tribal Nation lands might qualify for an OZ designation, so long as the Governor nominates the specific lands; and

**WHEREAS**, the law requires Governors to nominate census-designated tracts and notify the Secretary of the Treasury of the Governors' OZ program selections 90 days from the enactment of the law (March 21, 2018) unless the Governor requests the Secretary of the Treasury extend the determination period or consideration period for an additional 30 days. Once the Treasury receives notice of the Governors' nominations, the Secretary of the Treasury must certify the nomination within 30 days; and

**WHEREAS**, while the OZ program could be leveraged by outside investors to spur economic development on Tribal Nation lands, the current legislation does not treat Tribal Nations on par with State governments, and instead leaves Tribal Nations to the whim of discretionary eligibility decisions by state Governors; and

**WHEREAS**, Tribal communities within this country continue to experience poverty, unemployment and the ills associated with those issues at much higher rates than non-Tribal communities. As such, Tribal governments should not have to go through State Governors to get their lands nominated for consideration in the OZ program; and

**WHEREAS**, the federal government has a trust relationship with Tribal governments and Tribal lands should automatically be designated as Opportunity Zones or at least have a process that allows Tribal Nations to directly apply for consideration rather than go through a State Governor.

**WHEREAS**, the Coalition of Large Tribes (COLT) Executive Director Legislative Affairs, will deliver said resolution to the COLT Congressional Delegations and proper Committees and work with them on said resolution; and

**NOW THEREFORE BE IT RESOLVED**, that COLT supports amending the 2017 Tax legislation to affect a direct allocation to Tribal Lands and requests that Congress enact such an amendment.

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of COLT until it is withdrawn or modified by subsequent resolution.

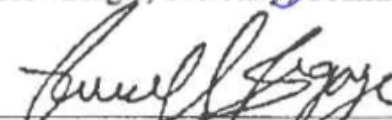
**CERTIFICATION**

This resolution was enacted at a duly called meeting of the Coalition of Large Tribes held in Albuquerque, New Mexico on April 26th, 2018, at which a quorum was present, with the resolution approved unanimously.

Dated this 26<sup>th</sup> day of April 2018.

Attest:

  
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David Browneagle, Secretary, Coalition of Large Tribes

  
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Russell Begaye, Chairman, Coalition of Large Tribes