

Dear USET Board of Directors, DC Tribal Reps, and Health, Tribal Administration, and Economic Development Committees:

USET has been asked to seek your guidance and input on [draft legislation](#) [linked] that would provide relief to Tribal employers from the Affordable Care Act's (ACA) employer mandate, which requires that "large employers" (with 50 or more full-time equivalent employees) offer health insurance or pay a penalty. For Tribal employers employing Tribal members, the mandate is inconsistent with the federal trust responsibility and denies many Tribal members the opportunity to take advantage of the benefits and protections designed for them in the ACA's health insurance Marketplaces. If fully implemented in Indian Country, many Tribes will be forced to choose between the expense of providing coverage, likely resulting in a reduction to vital governmental services, or using scarce federal resources to pay the substantial IRS penalties if they do not comply.

Under the [draft legislation](#) [linked] proposed by Rep. Kristi Noem (R-SD), a Tribal member employed by a Tribal employer (Tribal government or Tribally-owned business) would not count toward that employer's threshold for determining whether it is subject to the employer mandate. For example, under current law, a Tribal employer with 60 full-time equivalent employees (40 Tribal members and 20 non-Tribal members) would be required to offer coverage or face a penalty. Under the proposed legislation, that same Tribal employer would not meet the threshold of 50 or more employees and would not be subject to the employer mandate. As she considers the introduction of this legislation, Rep. Noem is seeking Tribal comments and guidance on it to ensure that it achieves its intended objectives.

As you know, USET has been consistently committed to comprehensive advocacy, outreach, and education on ACA for Member Tribes over the last 3 years, providing over 50 in-person trainings, technical assistance, and outreach materials, as well as numerous comments on federal regulations. With regard to the employer mandate, USET recently partnered with National Indian Health Board to send a [letter](#) [linked] to the White House requesting relief from the mandate and a meeting to further discuss the issue.

For more information on the employer mandate under the ACA, please feel free to contact me. In addition, NIHB and National Congress of American Indians (NCAI) will be hosting an educational webinar TOMORROW, April 16<sup>th</sup>, at 2:00 pm EDT/1:00 pm CDT. To register for the webinar, please click [here](#).

Please take the time to review the attached draft legislation and provide me with any comments, suggested edits, or additions **by COB this Friday, April 17<sup>th</sup>**. We will then compile this feedback and offer a USET response to Rep. Noem's office.