



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

USET SPF Resolution No. 2019 SPF:023

SUPPORT FOR THE PRESERVATION OF THE INDIAN HEALTH CARE IMPROVEMENT ACT AND OTHER AMERICAN INDIAN AND ALASKA NATIVE SPECIFIC PROVISIONS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

- WHEREAS,** the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-seven (27) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** on December 14, 2018, a federal district court ruled in *Texas v. United States* that the "individual mandate" enacted as part of the Patient Protection and Affordable Care Act (ACA) is both unconstitutional and inseverable from the remainder of the ACA, and as a result, that the ACA must be struck down in its entirety; and
- WHEREAS,** because the Indian Health Care Improvement Act (IHCIA), the cornerstone and legal authority for the federal government to uphold its federal treaty and trust responsibility to provide health care to Tribal Nations was amended and permanently re-enacted through Section 10221 of the ACA, the district court's ruling could result in invalidation of the IHCIA if it is allowed to stand without modification after being appealed; and
- WHEREAS,** the ACA further includes specific provisions relating to health care benefits and services for American Indians and Alaska Natives that are not related to or dependent on the individual mandate, including a provision codifying "payer of last resort" status for Indian Health Service and Tribal health programs, that are also in jeopardy as a result of the district court's ruling; and
- WHEREAS,** the district court's ruling has now been appealed to the United States Court of Appeals for the Fifth Circuit; and
- WHEREAS,** the outcome of the appeal could have major implications for the provision of health care services to American Indians and Alaska Natives throughout the country; and
- WHEREAS,** Tribal Nations and Tribal organizations across the country are working together to submit a brief of *amici curiae* to the Fifth Circuit explaining to the court that the IHCIA and other American Indian and Alaska Native specific provisions of the ACA are not related to the individual mandate and associated insurance market reforms under that law, and should be preserved regardless of whether or not the individual mandate is upheld as a constitutional exercise of congressional power; and

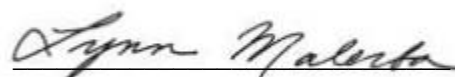
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET SPF Board of Directors strongly believes that invalidation of the Indian Health Care Improvement Act, which has a separate genesis and purpose from the remainder of the Patient Protection and Affordable Care Act, and from the individual mandate in particular, would result in irreparable harm to Tribal Nations and their citizens; and, be it further
- RESOLVED** actions taken toward invalidation is a breach of the federal treaty and trust responsibility and obligations, and would eliminate vital advancements made for the Indian healthcare delivery system; and, be it finally
- RESOLVED** the USET SPF Board of Directors supports efforts to preserve the Indian Health Care Improvement Act and other American Indian and Alaska Native specific provisions of the Patient Protection and Affordable Care Act and encourages USET SPF member Tribal Nations to do the same.

CERTIFICATION

This resolution was duly passed at the USET SPF Impact Week Meeting, at which a quorum was present, in Arlington, VA, March 7, 2019.



Chief Kirk E. Francis, Sr., President
United South and Eastern Tribes
Sovereignty Protection Fund



Chief Lynn Malerba, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund