



United South and Eastern Tribes, Inc.

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USET Resolution No. 2016:008

REQUEST FOR TRANSITIONAL RELIEF AND PERMANENT FIX TO THE EMPLOYER MANDATE FOR TRIBAL NATIONS

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribal Nations, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** the United States (U.S.) has for many years recognized Tribal Nations as sovereign nations; and
- WHEREAS,** a unique government-to-government relationship exists between Tribal Nations and the federal government, a relationship that is grounded in the U.S. Constitution, numerous treaties, statutes, Federal case law, regulations and executive orders that establish and define a trust relationship between the U. S. and Tribal Nations; and
- WHEREAS,** the Patient Protection and Affordable Care Act (ACA) has provided Tribal Nations access to additional health care opportunities to better the health status of all; and
- WHEREAS,** the ACA included American Indian/Alaska Native (AI/AN) specific provisions in recognition of the special relationship Tribal Nations have with the federal government; provisions include:
- Exemption from the Individual Mandate to obtain insurance
 - Zero and/or limit cost-sharing health insurance plans, and
 - Monthly Enrollment; and
- WHEREAS,** USET has worked in collaboration with the Indian Health Service (IHS) to provide outreach and education to Tribal Nations on all aspects of the ACA since 2012; and
- WHEREAS,** through this outreach and education, USET encouraged AI/ANs to enroll in zero/limited cost sharing marketplace health insurance plans or to apply for the AI/AN exemption; and
- WHEREAS,** the ACA's Employer Mandate, as currently applied in Indian Country, is inconsistent with the federal trust responsibility and other AI/AN specific provisions of the ACA, on which USET spent the last three years educating Tribal Nations; and
- WHEREAS,** the ACA Employer Mandate is cost-prohibitive for many Tribal Nations, requiring employers to provide affordable health insurance to all full-time employees or face a penalty of \$2,000/per employee and further, the Mandate does not distinguish between IHS eligible employees (who are exempt from the Individual Mandate to obtain insurance) and non-Native employees; and

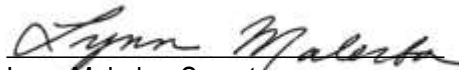
- WHEREAS,** full compliance will result in a decrease in Tribal services for Indian people as Tribal Nations will be forced to either offer insurance to their IHS eligible employees or pay a penalty for not doing so, further diminishing the already underfunded IHS Appropriation; and
- WHEREAS,** USET, along with many national and regional Tribal Organizations, is working to find a solution to the inconsistencies within the law; 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 Board of Directors respectfully requests that the Obama Administration work with Tribal Nations to develop a "fix" to provide long-term Tribal relief from the Patient Protection and Affordable Care Act's Employer Mandate; specifically, the inconsistency it poses with regard to the federal trust responsibility and other Indian-specific provisions of the Patient Protection and Affordable Care Act; and, be it further
- RESOLVED** the USET Board of Directors also requests that the Administration implement an additional year or more of "transition relief" from the penalties associated with the large Employer Mandate for Tribal Nations to allow for the Administration and Tribal Nations to come to a solution.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present, in Choctaw, MS, on October 28, 2015.



Brian Patterson, President
United South and Eastern Tribes, Inc.



Lynn Malerba, Secretary
United South and Eastern Tribes, Inc.

“Because there is strength in Unity”