



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MSP-15-032

### **TITLE: Tribal Exemption from the Patient Protection and Affordable Care Act Employer Shared Responsibility Mandate**

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#### NCAI HEADQUARTERS

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native Tribal governments; and

**WHEREAS**, the United States assumed a Trust responsibility to provide health care services to American Indians and Alaska Natives through a series of treaties, statutes, Federal case law, regulations, and executive orders; and

**WHEREAS**, the Patient Protection and Affordable Care Act (ACA) Employer Shared Responsibility Mandate is inconsistent with the federal trust responsibility to Tribes, denies many Tribal citizens the opportunity to take advantage of the benefits and protections designed for them in the Marketplace, and inhibits Marketplace enrollment for American Indians and Alaska Natives; and

**WHEREAS**, the ACA Employer Shared Responsibility Mandate is cost-prohibitive for many Tribes and compliance will result in a decrease in Tribal services for Indian people; and

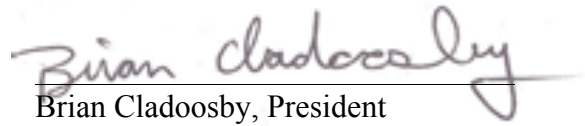
**WHEREAS**, the ACA Employer Shared Responsibility Mandate provided under Section 4980H of the Tax Code, as added by Section 1513 of the ACA, and Section 4980H of the Code does not specifically apply to Tribal governments, and Section 54.4980H-2(b)(4) of the ACA Employer Shared Responsibility Mandate regulations reserves application of special rules for government entities.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI requests that the Internal Revenue Service exercise its legal authority to provide categorical relief from the ACA Employer Shared Responsibility Mandate for Indian Tribes; and Tribal Organizations as defined by Section 4(L) of the Indian Self-Determination and Education Assistance Act (ISDEAA); and Tribally Owned Entities; and

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

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary