



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ANC-14-003

### **TITLE: Proposal to Enact Permanent Mandatory Appropriations for Contract Support Costs under ISDEAA**

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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**, Section 106(a) of the Indian Self-Determination and Education Assistance Act (ISDEAA) provides that tribes and tribal organizations entering into contracts to carry out programs and services pursuant to that Act are entitled to contract support costs (CSC) for the reasonable administrative and overhead costs of carrying out those programs and services; and

**WHEREAS**, in the last decade, the U.S. Supreme Court has twice held that the United States government's promise to pay full CSC under ISDEAA contracts is legally binding and enforceable, and that such liability is not affected by limits on the amounts of discretionary funding made available for payment of CSC; and

**WHEREAS**, as a binding legal obligation of the federal government that is governed by the criteria set forth in the ISDEAA, the right to full payment of CSC is an entitlement under substantive law and constitutes the type of obligation that is normally funded by the federal government on a mandatory basis; and

**WHEREAS**, CSC is currently funded on a discretionary basis, as part of the Bureau of Indian Affairs and Indian Health Service annual lump sum appropriations, which does not guarantee full funding and which for many years resulted in systemic underpayments of CSC, which in turn required tribes and tribal organizations across the country to reduce vital health and welfare programs and services to their members and beneficiaries, and has exposed the United States government to legal liability for breach of contract; and

**WHEREAS,** NCAI has previously recognized the damaging consequences of the government's failure to consistently appropriate the full amount of funding required for CSC, and that this failure has destroyed the parity of opportunity that has always been inherent in the goal and the vision of the ISDEAA, which holds that the decision whether or not to contract under the ISDEAA is an exercise of self-determination that should rest on the opportunity to operate contracted programs at the same level as the Secretaries, and should not be affected by threats or concerns of reduced program funding; and

**WHEREAS,** a permanent, indefinite appropriation in substantive law would restore parity of opportunity to the ISDEAA, which NCAI has resolved in Resolution ECWS-14-008 is an essential goal of Indian self-determination policy reforms, and is needed to fully meet the funding requirements created by the ISDEAA CSC entitlement and to resolve the conflicts currently faced by the agencies as a result of the need to fund both CSC and substantive Indian programs with discretionary funds.

**NOW THEREFORE BE IT RESOLVED,** that NCAI believes that the United States government has a legal and a moral duty to fully fund CSC, a duty which requires reliable and sufficient appropriations every year, without exception, which are not paid for through cuts to Indian program budgets funded by the federal agencies; and

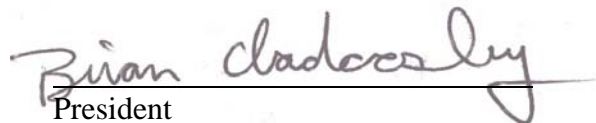
**BE IT FURTHER RESOLVED,** that NCAI supports the Proposal to Enact Permanent Mandatory Appropriations for Contract Support Costs under ISDEAA, which puts forward a proposal to enact a permanent, indefinite appropriation for CSC and to exempt CSC funding from sequestration; and

**BE IT FURTHER RESOLVED,** that NCAI urges the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), the Office of Management and Budget (OMB), and the United States Congress to work to enact a permanent, indefinite appropriation for CSC in substantive law as soon as possible to finally address the longstanding problems arising from the federal government's past treatment of CSC funding as discretionary; and

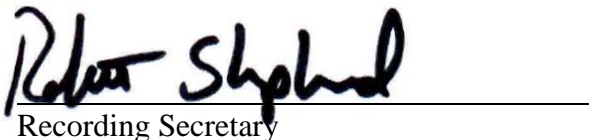
**BE IT FINALLY RESOLVED,** that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### **CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2014 Mid-Year Session of the National Congress of American Indians, held at the Dena'ina Civic & Convention Center, June 8-11, 2014 in Anchorage, Alaska, with a quorum present.

  
President

**ATTEST:**

  
Recording Secretary