



Statement by

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Before the

**House Natural Resources Subcommittee
for Indigenous Peoples of the United States**

Legislative Hearing

***H.R. 5549 (Rep. Don Young),
Indian Health Service Advance Appropriations Act
July 28, 2022***

Good afternoon, Chairwoman Fernandez, Acting Ranking Member Obernolte, and Members of the Subcommittee. I am Elizabeth Fowler, the Acting Director for the Indian Health Service (IHS). Thank you for the opportunity to testify on H.R. 5549, the Indian Health Service Advance Appropriations Act. The IHS mission is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. As an agency within the Department of Health and Human Services (Department), the IHS provides federal health services to approximately 2.7 million American Indians and Alaska Natives from 574 federally recognized tribes in 37 states, through a network of over 605 hospitals, clinics and health stations.

As Members of this Committee know, the late Rep. Don Young of Alaska was a faithful advocate for the health and well-being of American Indians and Alaska Natives. He introduced H.R. 5549 to authorize advance appropriations for both the “Services” and “Facilities” accounts of the IHS. H.R. 5549 requires the President's budget request to include information on estimates for the advance appropriations. H.R. 5549 would amend the Indian Health Care Improvement Act to authorize advance appropriations for the IHS by providing authority for two fiscal years in succession, and for other purposes, and, relatedly, to amend 31 U.S.C. § 1105(a) to make a conforming change to budget submission requirements.

Through the IHS's robust annual Tribal Budget Consultation process, Tribal and Urban Indian Organization leaders have repeatedly and strongly recommended mandatory funding or advance appropriations for the IHS as an essential means for ensuring continued access to critical health care services. The Department continues to hear directly from tribes advocating support for mandatory funding or advance appropriations for the IHS at its annual HHS Tribal Budget and Policy Consultation Sessions as well. The issues that tribes have identified present real

challenges in Indian Country and we are eager to work with Congress on a variety of solutions.

For the first time ever, the FY 2022 President's Budget requested advance appropriations for all four of IHS's appropriations accounts: Indian Health Services; Indian Health Facilities; Contract Support Costs; and Payments for Tribal Leases. An advance appropriation provides funding in one fiscal year that does not become available until subsequent fiscal years, and does not score until subsequent fiscal years. This approach would protect IHS, tribal, and urban Indian health programs from the impacts of government shutdowns and the uncertainty of annual appropriations by providing funding that would become automatically available on the first day of the subsequent fiscal year, scoring in that subsequent fiscal year.

The FY 2023 President's Budget goes even further to reduce budget uncertainty, by proposing the first ever fully mandatory budget for the IHS and exempting that funding from sequestration. We believe that mandatory funding is the best approach to ensure a more stable basis for IHS' efforts to provide high-quality healthcare and protect American Indians and Alaska Natives from the destabilizing impacts of continuing resolutions, budgetary uncertainty, and government shutdowns. The Administration is committed to working with the Congress and tribes to develop legislation for mandatory funding, recognizing that this effort will take some time. If Congress is unable to enact fully mandatory appropriations for the IHS in FY 2023, we ask that Congress enact advance appropriations for the IHS through the annual discretionary appropriations process. The Administration believes that advance discretionary appropriations, as proposed in the FY 2022 Budget, would be an essential bridge to a new mandatory structure.

Advance appropriations for the IHS would ensure continuity of health care provided to American

Indian and Alaska Native people, especially in the event of a lapse in appropriations, such as the 35-day lapse that occurred from late December 2018 to late January 2019. During regular order, it would enable timely and predictable funding for IHS-funded programs. As this Subcommittee is aware, the Department of Veterans Affairs (VA) Veterans Health Administration similarly provides direct health care and receives advance appropriations. Beginning with the Consolidated Appropriations Act, 2010 (P.L. 111-117), Congress has provided advance appropriations for medical care one fiscal year in advance to the VA (pursuant to 31 U.S.C. 1105(a) and 38 U.S.C. 117). Extending advance appropriations to the IHS would provide parity between federal health service agencies and facilitate a continuum of care to some of the most remote parts of the country.

In September 2018, the Government Accountability Office (GAO) published their report GAO-18-652, *Indian Health Service: Considerations Related to Providing Advance Appropriation Authority*. Through this study, the GAO reviewed the use of advance appropriations authority, such as what is currently authorized for the VA, and its potential applications to the IHS. In particular, their report highlights the effects of budget uncertainty on IHS health care programs and operations, including provider recruitment and retention, administrative burden and costs, and financial effects on tribes.

Currently, over 60 percent of funding appropriated for the IHS is administered by tribes in carrying out health programs under the Indian Self-Determination and Education Assistance Act (ISDEAA). Tribally-operated health programs are affected by disruptions in federal appropriations since they rely on IHS funding transferred through ISDEAA contracts and compacts, but are not authorized the same emergency authorities granted to federal agencies

during a lapse. The last 35-day partial government shutdown that occurred in 2019 forced many tribal and urban Indian programs to make the difficult decision to reduce health services, temporarily lay off staff, and in some cases discontinue services. Continuing resolutions also pose operational challenges for IHS, tribally operated health programs, and urban Indian health programs. IHS has received full-year appropriations at the start of the fiscal year only once since 1997. Continuing resolutions can inhibit health programs' ability to make up-front purchases of medication and equipment, harm relationships with vendors due to funding unpredictability, and even result in higher costs on commercial loans.

While the IHS has received an exception apportionment to provide the full-year recurring base amounts to Tribal Health Programs operating their own programs through ISDEAA Title I contracts and Title V compacts since FY 2020, this option is not available during government shutdowns, and it is not available at all to IHS-operated health programs, or Urban Indian Organizations. As a result, Direct Service tribes, and American Indians and Alaska Natives served by Urban Indian Organizations are disproportionately affected by disruptions in federal appropriations. Advance appropriations can fully safeguard direct health care services provided through all IHS, tribal, and urban Indian health programs from government shutdowns and the negative impacts of budgetary uncertainty.

Advance appropriations would mitigate the effects of budget uncertainty on the health care programs operated across the Indian health system. The IHS would disburse funds more quickly, which would enable IHS, tribal, and urban Indian health program managers to effectively and efficiently manage budgets, coordinate care, and improve health quality outcomes for American Indians and Alaska Natives. This planning stability would reduce

unnecessary contract and administrative costs. Funding continuity would also alleviate concerns from potential recruits and existing staff, especially health care providers, about the stability of their employment. Events like the lapse in appropriations experienced in 2019 undermine our efforts to recruit and retain a quality workforce and provide a continuum of care that our patients deserve.

We remain firmly committed to improving quality, safety, and access to health care for American Indians and Alaska Natives. Mandatory funding and advance appropriations are necessary and critical steps toward that goal. We appreciate all your efforts in helping us provide the best possible health care services to the people we serve and upholding the federal government's commitments. We also want to thank the committee for its advocacy for advance appropriations and urge the House to act on advance appropriations through the appropriations process with or without the authorizing legislation that is the subject of this hearing. We look forward to continuing to work with the Congress on these issues.

Thank you, and I am happy to answer any questions you may have.