

**July 28, 2022**  
**House Subcommittee for Indigenous Peoples of the United States**  
**Hearing on Advance Appropriations for the Indian Health Service**  
**Testimony of Maureen Rosette (Chippewa Cree Nation), Chief Operating**  
**Officer, NATIVE Project**

Chairman Leger Fernández, Acting Ranking Member Obernolte, and Members of the House Subcommittee for Indigenous Peoples of the United States, thank you for the opportunity to testify today in support of advance appropriations for the Indian Health Service (IHS). My name is Maureen Rosette, I am a citizen of the Chippewa Cree Nation and serve as the Chief Operating Officer at NATIVE Project, an Urban Indian Organization (UIO) in Washington state. In addition, I am a board member of the National Council of Urban Indian Health (NCUIH), which represents the 41 UIOs across the nation who provide high-quality, culturally-competent care to urban Indians, who constitute over 70% of all American Indians and Alaska Natives (AI/ANs).

On behalf of NCUIH, I testify in support of the *Indian Health Service Advance Appropriations Act* (H.R. 5549) which authorizes advance appropriations authority for IHS. Advance Appropriations would stabilize IHS funding and allow for long-term planning by insulating Indian health care providers from government shutdowns and continuing resolutions (CRs). While legislation is not required for advance appropriations that can be accomplished through Appropriations bills, this hearing shows continued support from Congressional leaders in making advance appropriations a reality.

For the reasons stated herein, we urge the Members of this Subcommittee to uphold the trust obligation to Indian Country and make Advance Appropriations a reality this year, especially in light of the anticipated upcoming continuing resolution.

## Background

The Indian healthcare system, including IHS, Tribal facilities, and UIOs, is the only major federal healthcare provider funded through annual appropriations. For example, the Veterans Health Administration at the Department of Veterans Affairs (VA) receives most of its funding through advance appropriations. When Congress passed a similar bill that provided for advanced appropriations for the VA, S.R. Rep No. 111-41, (2009) they found that:

“For 19 of the past 22 fiscal years, funds have not been appropriated to VA on time, causing serious difficulties for VA in planning and providing health care to veterans. Further, that these difficulties endanger VA's ability to provide timely and quality care, and that they disrupt VA's ability to plan which programs and services can be funded from year to year. The Congress also finds that providing sufficient, timely and predictable funding would help VA plan and manage their health care system more effectively, thus improving their ability to meet the health care needs of veterans.”<sup>1</sup>

IHS and other Indian programs have had the very same issues identified in the Senate report cited in 2009. If IHS were to receive advance appropriations, it would not be subject to government shutdowns, automatic

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<sup>1</sup> United States Senate. 2009. Veterans' Health Care and Budget Transparency Act of 2009. 111th Congress, First Session, Report 111-41. [online] pp.1-13. Available at: <https://www.congress.gov/111/crpt/srpt41/CRPT-111srpt41.pdf>.

sequestration cuts, and CRs as its funding for the next year would already be in place. According to the Congressional Research Service, since Fiscal Year (FY) 1997, IHS has only once (in FY 2006) received full-year appropriations by the start of the fiscal year.<sup>2</sup>

We are grateful to the leaders of this Subcommittee, Representative Betty McCollum, and the late Representative Don Young for introducing a pair of bipartisan bills, including H.R. 5549, that would amend the Indian Health Care Improvement Act (IHCA) to authorize advance appropriations to IHS.

## Advance Appropriations Saves Native Lives

The lack of consistent and clear funding creates significant barriers for the already underfunded Indian health system. Congress enacted three CRs to maintain the FY 2021 budget, which costs time and resources from IHS that could have been directed towards pandemic response. When funding occurs during a CR, IHS can only expend funds for the duration of a CR, which prohibits longer-term, potentially cost-saving purchases. In addition, since most of the Indian health services provided by Indian tribes and UIOs are under compact agreements with the federal government, there must be a new agreement re-issued by IHS to each awardee every CR. IHS was forced to allocate resources to contract and compact logistics twice at the height of the pandemic when the resources could have been better spent equipping the Indian health system for pandemic response. AI/ANs lost their lives at the highest rates of any population from COVID-19, and UIOs like mine need stable funding to ensure orderly operations in all our facilities to meet the needs of our patients, especially during the public health emergency. In fact, my UIO alone has experienced slow funding disbursements and still has millions of dollars of critical outstanding COVID-19 funding. A policy to provide advance funding for IHS would have provided the stability our facilities needed during the height of the pandemic.

Lapses in federal funding quite literally put lives at risk. UIOs are primarily funded by a single line item in the annual Indian health budget, which constitutes 1% of the total IHS annual budget. Because advance appropriations or other legal protections for IHS funding do not currently exist, the impacts of a government shutdown hit UIOs severely and rapidly. During the most recent 35-day government shutdown at the start of FY 2019 – the Indian health system was the only federal healthcare entity required to operate without new Congressional appropriations during the shutdown, causing severe and detrimental impacts on the Indian healthcare delivery system and AI/ANs. UIOs are so chronically underfunded that several UIOs had to reduce services, lose staff, or close their doors entirely, forcing them to leave their patients without adequate care. In a UIO shutdown survey, 5 out of 13 UIOs indicated that they could only maintain normal operations for 30 days without funding.<sup>3</sup> The effects of the shutdown ranged from patients being unable to get vital medication for chronic conditions to fatal overdoses. For instance, Native American Lifelines of Baltimore is a small clinic that received seven overdose patients during the last shutdown after they were forced to close their doors, five of which were fatal. While Tribally operated facilities were approved to operate under an exception to the Anti-Deficiency Act, which allowed the facilities to receive retroactive

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<sup>2</sup> Congressional Research Service. 2020. Advance Appropriations for the Indian Health Service: Issues and Options for Congress. [online] Congressional Research Service, pp.1-19. Available at:

[https://www.everycrsreport.com/files/20200311\\_R46265\\_da39a3ee5e6b4b0d3255bfe95601890afd80709.pdf](https://www.everycrsreport.com/files/20200311_R46265_da39a3ee5e6b4b0d3255bfe95601890afd80709.pdf).

<sup>3</sup> NCUIH. 2020. 2018-2019 Government Shutdown: Impacts on Urban Indian Organizations. [online] National Council of Urban Indian Health, pp.1-17. Available at: [https://mcusercontent.com/97bf83f5514a3035e7978c5b2/files/84bbe352-b0ab-4bae-89da9209d48d6cba/NCUIH\\_Shutdown\\_Report.pdf](https://mcusercontent.com/97bf83f5514a3035e7978c5b2/files/84bbe352-b0ab-4bae-89da9209d48d6cba/NCUIH_Shutdown_Report.pdf).

payment for funds expended, UIOs were not approved to operate under this exception, and thus did not receive payment for any funds expended during the shutdown period.<sup>4</sup>

Advance appropriations are imperative to provide certainty to the Indian healthcare system and ensure unrelated budget disagreements do not risk lives.

## Strong Indian Country, Congressional, and Administrative Support

Advance appropriations has been a priority for Indian Country for years and we have seen broad support on this issue from Native health advocates. Over the past 10 years, there have been five resolutions in support of advance appropriations from the United South and Eastern Tribes (USET)<sup>5</sup>, the Inter-Tribal Council of the Five Civilized Tribes (ITC)<sup>6</sup>, the National Indian Health Board (NIHB)<sup>7</sup>, the National Congress of American Indians (NCAI)<sup>8</sup>, and the American Bar Association.<sup>9</sup> On March 9, 2022, NCUIH joined NIHB and over 70 Tribal nations and national Indian organizations in sending a series of joint letters to Congress requesting advance appropriations for IHS in the FY 2022 omnibus,<sup>10</sup> and on June 16, 2022, NIHB and NCAI requested that the Committee support and include IHS advance appropriations in the current FY 2023 appropriations bill in an action alert.<sup>11</sup> Most recently, on June 24, 2022, NCUIH sent letters to Speaker Pelosi and Minority Leader McCarthy to support advance appropriations for IHS.<sup>12</sup>

There has also been strong long-standing support from Congress on this issue. Since 2013, legislation on this effort has been introduced in 11 bills, including the late Rep. Don Young's *Indian Health Service Advance Appropriations Act* (H.R. 5549). On January 12, 2022, the Native American Caucus sent a letter<sup>13</sup> to House

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<sup>4</sup> United States Department of Health and Human Services. 2017. FY 2018 HHS Contingency Staffing Plan for Operations in the Absence of Enacted Annual Appropriations. [online] Available at: <https://www.hhs.gov/about/budget/fy-2018-hhs-contingency-staffing-plan/index.html> ; See also: Indian Health Service. 2017. Tribal Notification on Status of Federal Funding. [online] Available at: <https://www.ihs.gov/newsroom/announcements/2018-announcements/tribal-notification-on-status-of-federal-funding/>.

<sup>5</sup> The United Southern and Eastern Tribes, Inc. 2013. USET Resolution No. 2013:046 Support for Alternative Funding Options for the Indian Health Service. [pdf] Available at: <https://www.usetinc.org/wp-content/uploads/bvenuti/WeeklyWampum/PDF/IHS%20Advance%20Funding%20Resolution%202013.pdf>.

<sup>6</sup> The Inter-Tribal Council of the Five Civilized Tribes. 2014. Resolution No. 14-05 A Resolution Requesting Advance Appropriations for the Indian Health Service. [pdf] Available at: <http://www.fivecivilizedtribes.org/Docs/Resolutions/2014/14-05.pdf>.

<sup>7</sup> NIHB. 2014. Resolution 14-03 Support for Advance Appropriations for the Indian Health Service. [pdf] National Indian Health Board. Available at: <https://files.constantcontact.com/a3c45cb9201/39c50014-ac62-4ad1-9fec-8b5aab77caf7.pdf?rdr=true>.

<sup>8</sup> The National Congress of American Indians. 2019. Resolution #ECWS-19-001 Support for Advance Appropriations for the Bureau of Indian Affairs and Indian Health Service. [pdf] National Congress of American Indians. Available at: <https://files.constantcontact.com/a3c45cb9201/19a9c242-f8fe-41c7-af33-8d06f5c3a98c.pdf?rdr=true>.

<sup>9</sup> The American Bar Association. 2019. Resolution to enact the Indian Programs Advanced Appropriations Act H.R. 1128 and S. 229) and the Indian Health Service Advance Appropriations Act of 2019 (H.R. 1135). [pdf] American Bar Association. Available at: <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2019/115a-annual-2019.pdf>.

<sup>10</sup> NCUIH. 2022. NCUIH Joins NIHB and 70 Organizations Calling on Congress to include \$8 Billion for IHS in FY 2022 and Advance Appropriations - NCUIH. [online] Available at: <https://ncuih.org/2022/03/25/ncuih-joins-nihb-and-70-organizations-calling-on-congress-to-include-8-billion-for-ihs-in-fy-2022-and-advance-appropriations/>.

<sup>11</sup> The National Indian Health Board & the National Congress of American Indians. N.D. CALL TO ACTION: Indian Health Service Advance Appropriations. [online] Available at: <https://myemail.constantcontact.com/Legislative-Alert--Call-to-Action-to-Secure-Advanced-Appropriations.html?soid=1110714960954&aid=Pf98wv1BtrA>.

<sup>12</sup> NCUIH. 2022. Letter to Nancy Pelosi: Request to include Advance Appropriations for IHS until mandatory appropriations are implemented. [pdf] NCUIH. Available at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:70197874-4099-31e8-ac68-0e1797ac2f78#pageNum=1>; NCUIH. 2022. Letter to Minority Leader Kevin McCarthy: Request to Include Advance Appropriations for IHS Until Mandatory Appropriations are Implemented. [pdf] NCUIH. Available at: <https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:f8ec7156-5885-3587-be16-0b87ca57d824>.

<sup>13</sup> Specified Members of Congress. 2022. Letter to Chairwoman DeLauro and Ranking Member Granger: Request for the House Committee on Appropriations to Include Advanced Appropriations for the Indian Health Service. [pdf] Available at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:658a8505-0715-31e3-bd40-27fc3e46eff9>.

Appropriations Committee Chair DeLauro and Ranking Member Granger requesting that advance appropriations for IHS for FY 2023 be included in the final FY 2022 appropriations bill, and again on June 3 requesting that, while the process of shifting IHS to mandatory appropriations is underway, advanced appropriations for IHS be included in the final FY 2023 Appropriations bill.<sup>14</sup> On April 25, 2022, a bipartisan group of 28 Representatives requested up to \$949.9 million for urban Indian health in FY 2023 and advance appropriations for IHS until such time that authorizers move IHS to mandatory spending,<sup>15</sup> and 12 Senators sent a letter with the same requests.<sup>16</sup> Last year, for the first time ever, the Senate Appropriations Committee included an additional \$6.58 billion in advance appropriations to IHS for FY 2023 in its FY 2022 Interior, Environment, and Related Agencies bill. In its FY 2022 bill, the Senate Committee recognized that "budget uncertainty due to temporary lapses of appropriations and continuing resolutions have an effect on the orderly operations of critical healthcare programs for Native American communities. Existing challenges related to recruitment and retention of healthcare providers, administrative burden and costs, and financial effects on Tribes were identified areas of concern in a Government Accountability Office [GAO] study (GAO-18-652)."<sup>17</sup>

The U.S. Commission on Civil Rights report from 2018, "Broken Promises: Continuing Federal Funding Shortfall for Native Americans" serves as another benchmark of support by including "Increased, non-discretionary, and advance appropriations for IHS to bring it to parity with other federal health programs, such as the Veterans Health Administration, including for facilities and urban Indian health" as a key recommendation to the federal government.<sup>18</sup> In a hearing held during the last Congress by this Subcommittee on advance appropriations bills H.R. 1128 and H.R. 1135, former IHS Principal Deputy Director, Rear Admiral Michael Weahkee, reaffirmed Indian Country's repeated request for advance appropriations stating that "[t]hrough the IHS's robust annual Tribal Budget Consultation process, Tribal and Urban Indian Organization leaders have repeatedly and strongly recommended 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 legislative language that would provide the authority of advance appropriations for the IHS. 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."<sup>19</sup> Additionally, the Administration has shown commitment to ensuring stable funding for IHS by proposing to fund IHS through mandatory appropriations and to exempt IHS from proposed law sequestration in the President's FY 2023 budget request, reasoning that "[p]roviding IHS stable and predictable funding would improve access to high quality healthcare, rectify historical underfunding of the Indian Health system, eliminate existing facilities backlogs, address health inequities,

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<sup>14</sup> Specified Members of Congress. 2022. Letter to Chairwoman DeLauro and Ranking Member Granger: Mandatory Funding for the Indian Health Service in President's Budget for Fiscal Year 2023. [pdf] Available at:

<https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3Aascds%3AUS%3Aba7002c0-99ef-3593-b901-2afa7e7151be>.

<sup>15</sup> Specified Members of Congress. 2022. Letter to Chair Pingree and Ranking Member Joyce: Supporting Advance Appropriations for the Indian Health Service in the FY 2023 Interior, Environment, and Related Agencies Appropriations Act. [pdf]. Available at:

<https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3Aascds%3AUS%3A4a4ec199-f0c4-333f-9527-ef1ff8b3e01c&pageNum=1#pageNum=1>.

<sup>16</sup> NCUIH. 2022. 12 Senators Request Increased Resources for Urban Indian Health and Support Mandatory Funding for Indian Health in FY23 - NCUIH. [online] Available at: <https://ncuih.org/2022/06/13/12-senators-request-increased-resources-for-urban-indian-health-and-support-mandatory-funding-for-indian-health-in-fy23/>.

<sup>17</sup> The United States Senate Appropriations Committee. 2022. Explanatory Statement for the Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2022. [pdf]. Available at: [https://www.appropriations.senate.gov/imo/media/doc/INTRept\\_FINAL.PDF](https://www.appropriations.senate.gov/imo/media/doc/INTRept_FINAL.PDF)

<sup>18</sup> U.S. Commission on Civil Rights. 2018. Broken Promises: Continuing Federal Funding Shortfall for Native American. [pdf] U.S. Commission on Civil Rights. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>.

<sup>19</sup> HHS. 2019. Statement by RADM Michael Weahkee, Principal Deputy Director, Indian Health Service, U. S. Department of Health and Human Services Before the House Natural Resources Subcommittee for Indigenous Peoples of the United States. [pdf] Available at: [https://naturalresources.house.gov/imo/media/doc/Witness%20Testimony%203%20-%20RADM%20Weahkee%20\(IHS\).pdf](https://naturalresources.house.gov/imo/media/doc/Witness%20Testimony%203%20-%20RADM%20Weahkee%20(IHS).pdf).

and modernize IHS' electronic health record system.”<sup>20</sup> We strongly support the Administration's proposal for mandatory funding, however, we recognize that this will be a long process. In the meantime, it's imperative that Congress make advance appropriations a reality for Indian Country to preserve access to critical care for Native people.

Despite a clear need and robust support and advocacy, Congress has continuously failed to authorize advance appropriations for IHS. Therefore, it is imperative that the Subcommittee works with the Appropriations Committee and leadership to enact Advance Appropriations as soon as possible.

## Conclusion

Advance appropriations are critical to provide certainty to the IHS system and to ensure that unrelated budget disagreements do not risk lives. Congress must act now to guarantee stable funding for IHS before another government shutdown causes unnecessary hardship to the Indian healthcare system and AI/ANs across the country. It is the federal government's trust responsibility to provide healthcare to all Native people, and we urge the Subcommittee to act on its obligation and pass this necessary legislation.

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<sup>20</sup> The White House. 2022. Budget of the U.S. Government Fiscal Year 2023. [pdf] The White House, pp.22-24. Available at: <https://www.govinfo.gov/content/pkg/BUDGET-2023-BUD/pdf/BUDGET-2023-BUD.pdf>.