Written Testimony of
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Alaska Native Health Board
Before the House Committee on Natural Resources
Subcommittee for Indigenous Peoples of the United States
Legislative Hearing on H.R. 5549 (Rep. Don Young, R-AK), Indian Health Service Advance Appropriations Act"

July 28, 2022

Good afternoon Chairwoman Leger Fernandez, Ranking Member Obernolte, and Distinguished Members of the Subcommittee. My name is Alberta Unok, President and CEO of the Alaska Native Health Board (ANHB or the Board). Established in 1968, ANHB serves as the statewide voice of the Alaska Tribal Health System (ATHS) on Alaska Native health issues. ANHB represents 229 federally recognized Alaska Tribes that provide health services to over 180,000 Alaska Native people. The ATHS is a true system of care that is comprised of 180 Small Community Primary Care Centers; 25 Sub-Regional, Mid-Level Care Centers; six Regional Hospitals; four Multi-Physician Health Centers; and the Alaska Native Medical Center.

Support for Indian Health Service Advance Appropriations

I would like express appreciation to the late Congressman Young for introducing H.R. 5549 which would extend advance appropriations to the Indian Health Service (IHS). Congressman Young served Alaskans for nearly five decades in the U.S. House, and he understood full well how critical this bill is for the Indian health system. He introduced it in five consecutive Congresses going back as far as 2013. The bill has a strong bipartisan list of co-sponsors, including several members of the Appropriations Committee. I would also like to acknowledge and thank Congresswoman Betty McCollum (D-MN) for introducing H.R. 5567 which would also extend advance appropriations to IHS, among other programs serving Indian Country. I would also like to acknowledge and commend the Biden Administration for including IHS advance appropriations in its FY 2022 Budget Request to Congress for the first time.

Last year, Senate Budget Resolution, S.Con.Res.14, also provided authority for Advance Appropriations paving the way for this important change and the Senate Appropriations Committee included it in their FY 2022 Draft Interior, Environment and Related Agencies Appropriations bill. The Government Accountability Office (GAO) also issued a 2018 Report indicating that Advance Appropriations can help alleviate negative effects upon the Indian health system arising from budget uncertainty, such as Continuing Resolutions and government shutdowns.[1]

This bipartisan legislation would ensure that critical health services to Alaska Natives and American Indians (AN/AIs) are not hampered by unrelated partisan budget disagreements in Washington by appropriating the IHS budget a year in advance. Funding would not be able to be used until the start of the fiscal year for which it was intended, and therefore would have little impact on the overall federal budget. Nonetheless, it would have a major impact for IHS, Tribal and Urban Indian Health providers and the people they serve by providing stable funding source for those who depend on these resources' life-saving health programs.

[1] See U.S. Gov't Accountability Off., GAO-18-652, Indian Health Service: Considerations Relating to Providing Advance Appropriation Authority (2018).

Tribal Nations from throughout the United States support this common-sense effort, as do national Tribal organizations such as the National Congress of American Indians and the National Indian Heath Board. In short, IHS advance appropriations has universal support from Indian Country, is supported by the Administration, and a bipartisan list of Members of Congress. It is a common-sense solution to help ensure stability for IHS and Tribal health programs as they work to provide health care to AN/AIs in fulfillment of the federal trust responsibility to Tribal Nations.

Funding Challenges for the Indian Health System

ANHB supports advance appropriations, which would increase access to health care services, improve health outcomes, help to maintain facilities infrastructure in a timelier manner, enhance financial planning, hiring, and to increase the quality of health care through stability and flexibility in our programs. IHS remains the only federal health program that is not advance funded or funded through much more stable mandatory funding mechanisms.

All of this is made more urgent by flawed congressional actions which has left us decade after decade with funding which arrives late and in small portions. Sadly, it has become the norm for Congress to enact spending for the upcoming fiscal year well into the start of that year and keep the federal government limping along with continuing resolutions (CRs). In all but four of the last 40 fiscal years, Congress has enacted CRs. Over the last twenty years, Congress has only authorized funding for the IHS once prior to the start of the fiscal year. In FY 2022, for example, the fiscal year was halfway over before IHS received its full appropriation. The GAO found that IHS and Tribes are given significant administrative burden due to the fact that the IHS has to modify contracts each time there is a CR. This means that tribes completed between two and 21 reconciliations in every year CRs were used to keep programs open. Those are resources that could otherwise be directed to health services and patient care. CRs also bring uncertainty in their duration which can range from one to 187 days. This uncertainty of funding duration has led to lower credit ratings and thusly to higher interest rates on loans needed to support construction and/or operations.

While CRs create significant challenges, federal government shutdowns create an even more dire situation for the Indian Health system. Recent shutdowns in FYs 2013 and 2019 (the later of which was the longest in history - 35 excruciating days) cause serious financial pain for Tribal health organizations as well as federally operated IHS facilities who must keep doors open for critical services without any guaranteed funding. Tribal health organizations (THOs) who often operate on very thin margins are forced to cobble together resources to just keep staff in our clinics. As you know, the health care sector is currently one of the most difficult places to recruit and retain employees in the best of circumstances. Employing medical providers without a guaranteed funding source is virtually impossible, especially in our remote, rural locations. In many cases, the Alaska Tribal Health system provider is the only health provider in rural villages.

Challenges Operating Programs under CRs

Even if Congress did not enact CR after CR, the need for advance appropriations is urgent – planning for something as complex as a health care system is time-consuming. Specifically, the areas of (1) budgeting; (2) recruitment and retention; (3) provision of services; and (4) facility maintenance and construction efforts, among other sectors pose significant problems under CRs. Short term funding creates the need for tribes and THOs to shift program funding to support the most critical, life-saving services and prevents tribes from planning or moving forward entirely with critically needed facilities improvements and expansions. Ultimately, tribal health programs,

whose purpose is to protect life and health, are left to make long-term decisions, with only short-term money guarantees.

Also, of note is that Continuing Resolutions explicitly prohibit the IHS from initiating during the CR timeline new initiatives supported and funded by Congress, initiatives intended to improve health care delivery.

In Alaska especially, challenges of climate and geography are substantial factors in the need for advance appropriations. Alaska spans over 660,000 square miles with over 80% of our communities off the road system and therefore rely on large bulk purchases of items such as heating fuel to support operations. Without the ability to purchase heating oil in bulk for the winter season when the barges are running, heating oil would have to be flown in to communities in small bush planes at exorbitant cost. For the same reasons, and even more so, the transport of construction materials must be transported to the villages via the barge system.

As another example of adverse impact, multiple CRs also impede the IHS Joint Venture Construction Program (JVCP) where tribes invest in development of building of facilities and in exchange, the IHS commits to requesting staffing for those facilities. IHS estimates that the current backlog of needed funding for construction would take 400 years to clear if it was all done with federal funding. Tribes and tribal organizations cannot wait this out, whether it be via the JVCP or otherwise. CRs represent uncertainty in lending for tribes wanting to take advantage of the JVCP system or other forms of construction. The uncertainty results in a downgrade to credit rating levels and consequently higher interest rates increasing the cost of financing.

Long Term Funding Solutions for IHS

ANHB acknowledges that IHS Advance Appropriations would not be the full solution to challenges that the Indian health system which suffers from decades of chronic underfunding. To be sure, it will provide much needed relief when planning and delivering health care services to know the full year's appropriation at the start of the fiscal year. However, that the Indian health system still experiences significant underfunding. The IHS Tribal Budget Formulation Workgroup (TBFWG) recommended funding IHS at $49.8 billion in FY 2023[2], yet, current IHS funding is just $6.6 billion.

To address this challenge, the Biden Administration recommended enacting mandatory funding for IHS in FY 2023. As noted in the President's budget request, "Mandatory funding for the IHS provides the opportunity for significant funding increases that could not be achieved under discretionary funding caps." [3] We look forward to working collaboratively with Congress and the Administration on further developing this proposal, as it would provide a pathway to achieving more stable and adequate appropriations for IHS in the long-term. We also support the interim steps of enacting mandatory funding for Contract Support Costs (CSC) and 105(*l*) leases to better reflect the true nature of these appropriations and to take pressure off the remainder of the IHS discretionary budget.

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[2] Building Health Equity with Tribal Nations: The National Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2023 Budget. The IHS Tribal Budget Formulation Workgroup. May 2021, p. 3.

[3] Department of Health and Human Services, Fiscal Year 2023, Indian Health Service, Justification of Estimates for Appropriations Committees, p. CJ-3.

We continue to support IHS advance appropriations, given its widespread support, in the near term to help alleviate some of the previously mentioned funding challenges for IHS and Tribal health programs. Advance appropriations would allow for planning to support timely health construction and planning for development of much needed health services.

Addressing Advance Appropriations Assumptions

Some have said that IHS advance appropriations would create implementation challenges for the agency. For example, it is true that the Appropriations Committee would have to address funding levels needed well in advance of the next fiscal year. However, like the VHA, Congress would also have the opportunity to enact funding changes during the current year appropriation that could respond to immediate challenges. And with, as previously mentioned, *a $43.2 billion* gap between current funding and estimated need, there should not be a concern about the Appropriations Committees accidently providing too many resources for this chronically underfunded health system.

Tribes, through the TBFWG, already collaboratively work on the Tribal budget request on a 3-year cycle and provide recommendations to IHS in advance of the agency's development of their upcoming request each year. While some discrete needs will change from year to year, overall, the provision of health services and the base budget of IHS is consistent from year to year and able to be predicted based on inflation, population growth and anticipated needs.

We have also heard the criticism that if IHS receives advance appropriations then other "interest groups" will similarly request such authority. This uninformed belief does not acknowledge the fact that the federal trust responsibility for health is not just one of the federal government's many programs. The IHS carries out federal government's obligation to ensure the health and wellbeing of AI/AN people and communities, a government-to-government relationship established in the Constitution, and given substance through subsequent treaties, Congressional legislation, Supreme Court decisions, and Executive Orders. When permanently renewing the Indian Health Care Improvement Act in 2010, Congress declared that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians— to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy…"[4]

Enacting IHS advance appropriations would not provide unique or "special treatment" to the IHS. But it would help the federal government meet its sacred obligation to Tribal Nations by ensuring that the Indian health system is afforded a funding stream that is stable and less dependent on the whims of yearly federal budget politics.

Conclusion

To conclude, we call upon the members of this subcommittee to not only swiftly move H.R. 5549, but to advocate with your colleagues on the Appropriations Committee and the Budget Committee to also support IHS advance appropriations.

The IHS is responsible for providing health services to AN/AIs and acts as the funding mechanism for Tribes and Tribal organizations carrying out these services. This is done in fulfillment of the federal trust responsibility to Tribal Nations. Yet, this solemn obligation is significantly compromised when funding needed by Tribal and IHS health providers is not enacted

[4] 25 U.S.C. § 1602

by the beginning of the fiscal year. This late funding impacts budgeting, recruitment and retention, provision of services, facility maintenance and construction efforts. Enacting IHS advance appropriations will help insulate critical, life-saving health services.

Thank you for holding this important hearing. I am happy to answer any questions you may have.