

AMERICAN BAR ASSOCIATION

HOUSE OF DELEGATES

ADOPTED AUGUST 12-13, 2019

RESOLUTION

RESOLVED, That the American Bar Association urges Congress to ensure that the health care delivered by the Indian Health Service ("IHS") is exempt from government shutdowns and federal budget sequestrations on par with the exemptions provided to the Veterans Health Administration;

FURTHER RESOLVED, That the American Bar Association urges Congress to enact advance appropriations legislation that would stabilize funding for IHS and provide funding that becomes available one year or more after the year of the appropriations act in which it is provided; and

FURTHER RESOLVED, That the American Bar Association encourages and supports legislation that:

- (1) addresses threats to the health and well-being of American Indian and Alaska Native people who tend to live in the most geographically remote and medically underserved parts of the United States;
- (2) avoids short-term continuing resolutions to fund the IHS budget;
- (3) ameliorates the harmful effects of federal budget sequestrations on IHS;
- (4) contributes to the fulfillment of the United States' historic and unique federal trust responsibility owed to Indian tribes; and
- (5) provides sufficient, consistent, and predictable funding to support the basic health care needs of American Indian and Alaska Native people.

REPORT

I. Introduction

This Resolution urges Congress 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), or similar legislation, and in addition, legislation that would exempt the Indian Health Service from federal budget sequestrations. The Indian Programs Advanced Appropriations Act and the Indian Health Service Advance Appropriations Act of 2019 would both authorize advance appropriations for the Indian Health Service (IHS). Legislation exempting IHS from federal budget sequestrations would safeguard IHS from funding reductions caused by automatic cuts to federal government spending.

IHS is a division within the U.S. Department of Health and Human Services that receives an annual appropriation from Congress to provide direct medical and health services to over 2 million American Indian and Alaska Native people in the United States. IHS provides services directly through a network of hospitals, clinics, and health stations operated by IHS, and also funds services provided at tribally operated health facilities. IHS's mission is to raise the physical, mental, social, and spiritual health of American Indian and Alaska Native people to the highest level. IHS has the goal of assuring that comprehensive and culturally acceptable health services are available and accessible to American Indian and Alaska Native people.

The IHS organizational structure includes a headquarters office in Rockville, MD, and 12 area offices that work with a unique group of Indian tribes on a day-to-day basis through a network of hospitals, clinics, and health stations. As reported in 2017, facilities directly managed by IHS consisted of 26 hospitals, 59 health centers, and 32 health stations. IHS employs over 15,000 individuals, which include approximately 2,400 nurses, 730 physicians, 750 pharmacists, 270 dentists, 130 physician assistants, and 130 environmental health and sanitarians. The Urban Indian Health Program comprises of 41 different programs across the country. During 2017, the IHS system had more than 39,367 hospital admissions and nearly 13.8 million outpatient medical care visits.

As a result of treaties entered into between the United States federal government and Indian tribes, a unique government-to-government relationship exists between Indian tribes and the federal government. Consistent with this government-to-government relationship and statutory authority, IHS is committed to ensuring that comprehensive and culturally appropriate health services are available and accessible to American Indian and Alaska Native people. Over 60 percent of the IHS appropriation is administered by Indian tribes, primarily through self-determination contracts and self-governance compacts. IHS retains the remaining funds and delivers health services directly to Indian tribes that choose to have IHS administer health programs. IHS also works closely with Indian tribes as they assume a greater role in improving health care in their own communities.

Advance appropriations refer to federal funding that becomes available one year or more after the year of the appropriation is provided. To obtain an advance appropriation for a

115A

federal program, legislation authorizing an advance appropriation for the program must first be enacted by Congress. Importantly, advance appropriations allow federal programs to avert funding gaps and avoid short-term continuing resolutions that are enacted to prevent a funding gap from occurring until regular appropriations are completed or the fiscal year ends.

Sequestration refers to the process of automatic and largely across-the-board spending reductions under which budgetary resources are permanently canceled to enforce certain budget policy goals. When sequestration occurs, all nonexempt federal programs must be reduced by a uniform percentage. Congress may pass legislation to exempt certain federal programs from sequestrations and special rules to govern the sequestration of federal programs. Special rules adopted by Congress may provide that sequestrations can only reduce funding appropriated by a certain percentage.

For several years, Indian tribes and tribal organizations have urged Congress to enact legislation providing IHS with advance appropriations to facilitate improved planning and provide for more efficient spending. Legislation authorizing advance appropriations for IHS would prevent federal funding gaps and avoid uncertainties associated with receiving funds through the enactment of short-term continuing resolutions. In addition, the enactment of legislation exempting IHS from federal budget sequestrations and legislation authorizing advance appropriations would provide equivalent status to IHS that currently is afforded to the Veterans Health Administration.

II. Provide Equivalent Status to IHS as is Afforded to the Veterans Health Administration

The Veterans Health Administration provides direct medical care to eligible and enrolled veterans in the United States. In 2009, Congress enacted the Veterans Health Care and Budget Reform and Transparency Act of 2009 (Pub. L. No. 111-81) authorizing advance appropriations for three accounts that comprise the Veterans Health Administration: (1) Medical Services, (2) Medical Support and Compliance, and (3) Medical Facilities. The Veterans Health Care and Budget Reform and Transparency Act of 2009 also requires the Department of Veterans Affairs to submit a request for advance appropriations for the Veterans Health Administration with its budget request each year. Congress first provided advance appropriations for the three Veterans Health Administration accounts in FY 2010 and has continued to provide advance appropriations to the Veterans Health Administration accounts in each subsequent fiscal year. Additionally, Congress has enacted legislation that exempts programs administered by the Veterans Health Administration from sequestrations, including the Medical Care account.

The fact that Congress has enacted and implemented advance appropriations for medical accounts within the Veterans Health Administration provides a compelling reason for Congress to enact legislation that would authorize advance appropriations for medical accounts within IHS. Specifically, both the Veterans Health Administration and IHS provide direct medical care to specific segments of the United States population as a result of federal policy. Further, just as veterans organizations were alarmed of the impact

of delayed funding upon the provision of health care services to veterans and the ability of the Veterans Health Administration to properly plan and manage its resources, Indian tribes and tribal organizations continue to have these same concerns about the IHS system. Ultimately, the fact that Congress has authorized advance appropriations to the Veterans Health Administration and exempted the Veterans Health Administration from federal budget sequestrations should justify the enactment of legislation to provide equivalent treatment to IHS.

III. Benefits of Advance Appropriations for IHS and the Exemption of IHS from Federal Budget Sequestrations

The enactment of the Indian Programs Advanced Appropriations Act and the Indian Health Service Advance Appropriations Act of 2019, and separate legislation to exempt IHS from federal sequestrations is needed for a variety of reasons, including:

(1) *Fulfillment of the federal government's trust responsibility owed to Indian tribes.* Through treaties between Indian tribes and the federal government, a trust responsibility was established in which the federal government promised the right of Indian tribes to govern themselves, and to enable Indian tribes to deliver essential services and provide adequate resources to do so effectively. Although the trust responsibility requires the federal government to provide for the health and welfare of Indian tribes, IHS remains highly underfunded,¹ and American Indian and Alaska Native people continue to experience lower life expectancy and disproportionate disease rates compared with other Americans. Fulfillment of the federal government's historic and unique federal trust responsibility owed to Indian tribes mandates that sufficient, consistent, and predictable funding is available to support the basic health care needs of American Indian and Alaska Native people.

(2) *Avoiding the threat and effects of government shutdowns such as the recent 35-day government shutdown.* The recent 35-day government shutdown, which took place December 22, 2018 to January 25, 2019, destabilized tribal health care delivery and access to health care providers within Indian Country. During this shutdown, Indian tribes and urban Indian centers across the United States were forced to ration health care services. Numerous facilities faced closure.² In addition, the recent government shutdown caused doctors and medical staff to work without pay. Tribes are among the worst impacted by shutdowns because it affects the day-to-day operation of their health clinics and hospitals.

¹ Jessica Farb, *Indian Health Service: Spending Levels and Characteristics of IHS and Three Other Federal Health Care Programs*, U.S. Government Accountability Office (Dec. 10, 2018), <https://www.gao.gov/assets/700/695871.pdf> (comparing funding levels between IHS, the Veterans Health Administration, Medicare, and Medicaid. The GAO report noted that in 2016, IHS health care expenditures per person were only \$2,834, compared to \$9,990 per person for federal health care spending nationwide.)

² Susannah Luthi, *Indian Health Service Urban Programs Threatened by Government Shutdown*, Modern Healthcare (Jan. 07, 2019), <https://www.modernhealthcare.com/article/20190107/NEWS/190109933/indian-health-service-urban-programs-threatened-by-government-shutdown>.

115A

For the Sault Ste. Marie Tribe, the government shutdown cost about \$100,000, every day, of federal money that did not arrive to keep health clinics staffed, food pantry shelves full, and employees paid.³ In San Jose, California four IHS facilities serving 25,000 Native American patients per year experienced a lack in funding due to the shutdown.⁴ San Diego County neighbors 18 federally recognized tribes, and Indian Health Centers in the area provide services for thousands of tribal members.⁵ In Navajo Nation, a 68-year-old woman who underwent eye surgery [could not get a referral from furloughed Indian Health Service \(IHS\) staff](#) to deal with high pressure in her eye. In Minnesota, the Red Lake Nation [suspended construction of a dialysis center](#). A health care contractor announced the immediate suspension of dental services, and curtailment of financial assistance programs and ride share services, including addiction counseling.⁶

(3) *Avoiding the constant need to enact short-term continuing resolutions to fund the IHS budget.* During virtually the entire last 20 years, short-term continuing resolutions have been enacted to fund the IHS budget while Congress works to pass an annual appropriations act. The constant enactment of short-term continuing resolutions to fund IHS results in periods of budget uncertainty and prohibits IHS providers from initiating new activities and projects intended to improve health care delivery services for American Indian and Alaska Native people. The enactment of legislation authorizing advance appropriations to the IHS budget would significantly mitigate the funding uncertainty and disruption to the delivery of health care services caused by the enactment of short-term continuing resolutions to fund the IHS budget.

(4) *Addressing the harmful effects of federal budget sequestrations.* In FY 2013, the federal budget sequestration resulted in a loss of over \$219 million to the IHS budget, which translated into a reduction of primary health care and disease prevention services for American Indian and Alaska Native people. Federal budget sequestration and the impacts of the cancellation of budgetary resources continue to be a concern for Indian tribes and tribal organizations. Legislation exempting IHS from federal budget sequestrations is needed to allow IHS providers to do the best job possible in planning, decision-making, and administering health care programs.

(5) *Improve the ability of IHS providers to budget, recruit, retain, provide services, maintain facilities, and perform necessary construction efforts.* In general, IHS hospitals and tribal health care facilities are located in the most geographically remote and

³ Mitch Smith and Julie Turkewitz, *Shutdown Leaves Food, Medicine, and Pay in Doubt in Indian Country*, NY TIMES, Jan. 1, 2019, <https://www.nytimes.com/2019/01/01/us/native-american-government-shutdown.html>.

⁴ David Louie, *Federal Shutdown Creates Health Center Crisis for Native Americans in California*, ABC 7 NEWS, Jan. 15, 2019, <https://abc7news.com/politics/federal-shutdown-creates-health-center-crisis-for-native-americans/5084968/>.

⁵ Ebone Monet and Anica Colbert, *Native American Clinics May Limit Services Due to Government Shutdown*, KPBS, Jan. 11, 2019, <https://www.kpbs.org/news/2019/jan/11/native-american-clinics-may-limit-services-due-gov/>.

⁶ Derrick Z. Jackson, *How the Government Shutdown Shredded Indian Health Services*, Union of Concerned Scientists (Feb. 8, 2019), <https://blog.ucsusa.org/derrick-jackson/how-the-government-shutdown-shredded-indian-health-services>.

medically underserved parts of the United States. These IHS and tribal health care providers face significant challenges recruiting and retaining qualified health professionals, which is exacerbated by inconsistent and uncertain federal funding for the IHS budget. The threat of inconsistent and uncertain funding for the IHS budget means that health care providers cannot budget with certainty, recruit and retain health professionals, and deliver health care services that American Indian and Alaska Native people need. Advance appropriations and the exemption of IHS from federal budget sequestrations would allow IHS and tribal health care providers to improve budgeting and better attract and retain medical professionals to work in remote and medically underserved areas within the United States.

IV. Supportive ABA Policy

The ABA has an extensive history of supporting comprehensive access to healthcare for American Indians and Alaska Natives, specifically through equitable and efficient funding streams.

In 2004, in **2004 MM 103C**, the ABA called for addressing the various areas where health care for American Indians and Alaska Natives is deficient, including through the reauthorization of the Indian Health Care Improvement Act. The resolution specifically supports federal policy that encourages the administration of health care to Indian and Alaska Natives, and

“urges Congress to exercise oversight to assure that the Indian Health Service continues to carry out its responsibilities based upon the federal policies of tribal self-determination and self-governance.”

This resolution is a natural extension of this broader policy to support Native access to healthcare.

In January 2019, the ABA acknowledged and condemned the devastating impact of the December 22, 2018 to January 25, 2019 federal government shutdown, **2019 MM 10B**, particularly in the federal judiciary and the rule of law.

This resolution is also part of extensive ABA policy in support of access to health care generally. **1994 MM 105** reaffirms support from 1990 and 1972 resolutions, calling for access to quality health care for all Americans, regardless of income. **2009 AM 10A** extended those calls, while broadening the call to not necessarily be restricted by the existence of a single-payor system. Notably, **2013 AM 101** calls for parity in coverage for mental health and substance use disorder treatment services with other health benefits coverage. **1997 AM 113** supports the provision of comprehensive health care for children 18 years of age and younger, and prenatal care for pregnant women.

The ABA has specifically recognized the importance of reliable and consistent healthcare funding to ensure continuity and quality of care. In 2017, resolution **2017 MM 116** called for broadening the scope of Medicare coverage from “medical necessity” to include

115A

reasonable and necessary prognostic tests, so as to cover items and services for the prevention of disease, not just diagnose and treatment. **2016 MM 300** sought to relieve administrative billing barriers against advanced practice providers as a means to increase productive and focus on patient-centric responsibilities. **2014 MM 110** similarly calls for recognizing outpatient observation care services in a hospital as billable under Medicare Part A. **2007 AM 122** calls for continuity in Medicaid funding for persons newly released from custody. **2005 AM 113B** specifically highlights the shared legal obligation that the federal, state, and territorial governments have to provide a comprehensive set of benefits to all individuals who meet Medicaid eligibility criteria.

The ABA has additionally long taken a stance supporting Native peoples, including upholding the federal responsibility to Natives. In 1980, the ABA adopted **1980 MM 110**, urging strict adherence to Indian treaty obligations. The report to the resolution notes:

The trust responsibility imposes on the United States an important standard of conduct. In *Seminole Nation v. United States*, 316 U.S. 286 (1942), the Supreme Court stated that the United States “has charged itself with moral obligations of the highest responsibility and trust. Its conduct, as disclosed in the acts of those who represent it in dealing with the Indians should therefore be judged by the most exacting fiduciary standards.” *Id.* at 297. ... Under the trust responsibility to Indian tribes, specifically recognized by Congress and the courts and secured by the treaties, statutes, and 150 years of judicial precedent, Indian tribes should be able to look to the future confident that the federal government will approach its obligation to Indian tribes in a manner consistent with its duty of protection.

80M110, 2-3.

2015 AM 113, which adopts the recommendations contained in the 2014 U.S. Attorney General’s Advisory Committee on American Indian and Alaska Native Children Exposed to Violence report. In Recommendation 4.5, calling for periodic training in culturally adapted trauma-informed interventions and cultural competency for the Indian Health Service (IHS), the report notes that IHS is woefully under-resourced, noting that “IHS continues to operate at 52 percent of need and mental health and substance abuse services are funded at an appalling 7 percent of need.”⁷

The ABA has previously sought parity in funding access for tribes. In 2001, the ABA adopted **2001 AM 105C** calling on Congress to amend Title IV-E of the Social Security Act to provide direct tribal access to federal Title IV-E foster care and adoption funding for children under tribal court jurisdiction. This was reiterated **2013 AM 111A**, which called for the “increased use of federal Title IV-E cooperative agreements and memoranda of

⁷ ATTORNEY GENERAL’S ADVISORY COMMITTEE ON AMERICAN INDIAN AND ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE, U.S. DEP’T OF JUSTICE, REPORT OF THE ADVISORY COMMITTEE ON AMERICAN INDIAN AND ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE: ENDING VIOLENCE SO CHILDREN CAN THRIVE 122 (November 2014), www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2015/03/23/ending_violence_s_o_children_can_thrive.pdf, citing, Gone, J. P., “Mental Health Services for Native Americans in the 21st Century United States,” *Professional Psychology: Research and Practice* 35(1) (2004): 10–18.

understanding between states and Tribes to enable Tribes to operate their own child protection programs.” **2008 AM 117A** urged long-term funding for tribal justice systems, noting “the effective operation of tribal courts is essential to promote the sovereignty and self-governance of the Indian tribes.’ In adopting the Indian Law and Order Commission Report of 2010 in **2015 MM 111A**, the ABA recognized immense deficiencies in federal funding for tribes.

V. Conclusion

The American Bar Association strongly supports and encourages the enactment of legislation that would bring stability and certainty to the IHS budget by changing its funding to advance appropriations and providing an exemption from federal budget sequestrations. This is what Congress has authorized for the medical accounts of the Veterans Health Administration, and comparable treatment should be authorized for IHS to promote to the highest level, the health, safety, and welfare of American Indian and Alaska Native people in the United States.

Respectfully submitted,

Wilson Adam Schooley
Chair, Section of Civil Rights &
Social Justice
August 2019

115A

GENERAL INFORMATION FORM

Submitting Entity: Section of Civil Rights and Social Justice

Submitted By: Wilson A. Schooley, Chair, Section of Civil Rights and Social Justice

1. Summary of Resolution(s). This resolution urges Congress to ensure that the health care delivered by the Indian Health Service (IHS) is exempt from government shutdowns and federal budget sequestrations on par with the exemptions provided to the Veterans Health Administration, and to enact advance appropriations legislation that would stabilize funding for IHS and provide for advance appropriations.
2. Approval by Submitting Entity. The Council of the Section of Civil Rights and Social Justice approved sponsorship of the Resolution during its Spring Meeting on April 12, 2019.

The National Native American Bar Association approved cosponsorship of this policy on May 6, 2019.

The Commission on Homelessness and Poverty approved cosponsorship of this policy on May 3, 2019.

3. Has this or a similar resolution been submitted to the House or Board previously?
No.
4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? Over several decades, the ABA has adopted policies supporting comprehensive access to healthcare for American Indians and Alaska Natives. the ABA called for addressing the various areas where health care for American Indians and Alaska Natives is deficient, including through the reauthorization of the Indian Health Care Improvement Act. (ABA Report and Recommendation 2004M103C, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2004_my_103c.authcheckdam.pdf) This resolution is a natural extension of this broader policy to support Native access to healthcare. The ABA also acknowledged and condemned the devastating impact of the December 2018 federal government shutdown upon the federal judiciary and the rule of law. (ABA Report and Recommendation 2019M10B, *available at* <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2019/10b-midyear-2019.pdf>.) This resolution is also part of the ABA's long tradition of advocating for access to health care. (See ABA Report and Recommendation 1994M105, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/1994_my_105.authcheckdam.pdf, ABA Report and Recommendation 2009A10A, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2009_am_10a.pdf, ABA Report and Recommendation 1997A113, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/1997_am_113.authcheckdam.pdf)

[dam.pdf](#), ABA Report and Recommendation 2013A101, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/aug-13-mental-health-disorder-coverage.authcheckdam.pdf>.) Furthermore, the ABA has recognized the importance of reliable and consistent healthcare funding to ensure continuity and quality of care. (ABA Report and Recommendation 2017M116, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2017_hod_midyear_116.docx, ABA Report and Recommendation 2016M300, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/feb-16-medicaid-benefits.pdf>, ABA Report and Recommendation 2014M110, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/feb-14-medicare-coverage.pdf>, ABA Report and Recommendation 2007A122, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2007_am_122.authcheckdam.pdf) Specifically, the ABA highlighted the shared legal obligation that the federal, state, and territorial governments have to provide a comprehensive set of benefits to all individuals who meet Medicaid eligibility criteria. (ABA Report and Recommendation 2005A113B, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2005_am_113b.a_uthcheckdam.pdf.) The ABA has additionally long taken a stance supporting Native peoples, including upholding the federal responsibility to Natives by urging strict adherence to Indian treaty obligations (ABA Report and Recommendation 1980M110, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/feb-80-indian-treaty-obligations.authcheckdam.pdf>), calling on Congress to provide direct tribal access to federal Title IV-E foster care and adoption funding for children under tribal court jurisdiction (ABA Report and Resolution 2001A105C, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2001_am_105c.authcheckdam.pdf), enabling Tribes to operate their own child protection programs (ABA Report and Resolution 2013A111A, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/aug-13-indian-child-welfare-act-111A.authcheckdam.pdf>), urging long-term funding for tribal justice systems (ABA Report and Resolution 2008A117A, *available at* https://www.americanbar.org/content/dam/aba/directories/policy/2008_am_117a.authcheckdam.pdf), recognizing immense deficiencies in federal funding for tribes (ABA Report and Resolution 2015M111A, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/feb-15-make-native-america-safer.authcheckdam.pdf>), and urging periodic training in culturally adapted trauma-informed interventions and cultural competency for the HIS. (ABA Report and Resolution 2015M113, *available at* <https://www.americanbar.org/content/dam/aba/administrative/crsj/committee/aug-15-violence-against-children.authcheckdam.pdf>.)

5. If this is a late report, what urgency exists which requires action at this meeting of the House? N/A
6. Status of Legislation. Three bills have been introduced in the House and Senate on this issue— 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). S. 229 was introduced on Jan. 25th, 2019 and read twice and referred to the

115A

Committee on the Budget the same day. H.R. 1128 was introduced Feb. 8th, 2019 and referred to the Subcommittee on Indigenous Peoples of the United States the same day. H.R. 1135 was introduced on Feb 8, 2019 and referred to the Subcommittee on Indigenous Peoples of the United States on March 13, 2019.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates. The ABA will urge Congress 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), or similar legislation that accomplishes the goals of the policy, and in addition, legislation that would exempt the Indian Health Service from federal budget sequestrations.
8. Cost to the Association. (Both direct and indirect costs) Adoption of this proposed resolution would result in only minor indirect costs associated with staff time devoted to the policy subject matter as part of the staff members' overall substantive responsibilities.
9. Disclosure of Interest. There are no known conflicts of interest.
10. Referrals. By copy of this form, the Report with Recommendation will be referred to the following entities:
 - Health Law Section
 - Commission on Law and Aging
 - Section of Administrative Law and Regulatory Practice
 - Commission on Legal Problems of the Elderly
 - Senior Lawyers Division
 - Young Lawyers Division
 - Law Student Division
 - Standing Committee on Legal Aid and Indigent Defendants
 - Judicial Division
 - Tribal Court Council
 - Center for Human Rights
 - Coalition on Racial and Ethnic Justice
 - Commission on Disability Rights
 - Commission on Hispanic Legal Rights and Responsibilities
 - Commission on Sexual Orientation and Gender Identity
 - Commission on Domestic and Sexual Violence
 - Commission on Racial and Ethnic Diversity in the Profession
 - Commission on Women in the Profession
 - Section of State and Local Government Law
 - Government and Public Sector Division
11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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115A

EXECUTIVE SUMMARY

1. Summary of the Resolution

This resolution urges Congress to ensure that the health care delivered by the Indian Health Service (IHS) is exempt from government shutdowns and federal budget sequestrations on par with the exemptions provided to the Veterans Health Administration, and to enact advance appropriations legislation that would stabilize funding for IHS and provide for advance appropriations.

2. Summary of the Issue that the Resolution Addresses

IHS is a division within the U.S. DHHS that receives an annual appropriation from Congress to provide direct medical and health services to over 2 million American Indian and Alaska Native people in the United States. IHS provides services directly through a network of hospitals, clinics, and health stations operated by IHS, and funds services provided at tribally operated health facilities.

This resolution seeks advance appropriations to allow federal programs to avert funding gaps and avoid short-term continuing resolutions that are enacted to prevent a funding gap from occurring until regular appropriations are completed or the fiscal year ends. When sequestration occurs, all nonexempt federal programs must be reduced by a uniform percentage. Congress may pass legislation to exempt certain federal programs from sequestrations and special rules to govern the sequestration of federal programs.

For several years, Indian tribes and tribal organizations have urged Congress to enact legislation providing IHS with advance appropriations to facilitate improved planning and provide for more efficient spending. Legislation authorizing advance appropriations for IHS would prevent federal funding gaps and avoid uncertainties associated with receiving funds through the enactment of short-term continuing resolutions. In addition, the enactment of legislation exempting IHS from federal budget sequestrations and legislation authorizing advance appropriations would provide equivalent status to IHS that currently is afforded to the Veterans Health Administration.

3. Please Explain How the Proposed Policy Position Will Address the Issue

This policy supports and encourages the enactment of legislation that would bring stability and certainty to the IHS budget by changing its funding to advance appropriations and providing an exemption from federal budget sequestrations. By adopting this Resolution, the ABA can promote the health, safety, and welfare of American Indian and Alaska Native people in the United States to the highest level.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

No minority views or opposition have been identified.