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House of Representatives

EXPLANATORY STATEMENT SUBMITTED BY MR. FRELINGHUYSEN, CHAIRMAN OF THE HOUSE COMMITTEE ON APPROPRIATIONS, REGARDING THE HOUSE AMENDMENT TO SENATE AMENDMENT ON H.R. 1625

The following is an explanation of the Consolidated Appropriations Act, 2018.

This Act includes 12 regular appropriations bills for fiscal year 2018. The divisions contained in the Act are as follows:

- Division A—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2018
- Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018
- Division C—Department of Defense Appropriations Act, 2018
- Division D—Energy and Water Development and Related Agencies Appropriations Act, 2018
- Division E—Financial Services and General Government Appropriations Act, 2018
- Division F—Department of Homeland Security Appropriations Act, 2018
- Division G—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2018
- Division H—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2018
- Division I—Legislative Branch Appropriations Act, 2018
- Division J—Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018
- Division K—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018
- Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2018
- Division M—Extensions
- Division N—BUILD ACT
- Division O—Wildfire Suppression Funding and Forest Management Activities Act
- Division P—Ray Baum's Act of 2018
- Division Q—Kevin and Avonte's Law
- Division R—TARGET Act (This is the original subject matter of H.R. 1625.)
- Division S—Other Matter
- Division T—Revenue Provisions
- Division U—Tax Technical Corrections
- Division V—CLOUD Act

Section 1 of the Act is the short title of the bill.

Section 2 of the Act displays a table of contents.

Section 3 of the Act states that, unless expressly provided otherwise, any reference to "this Act" contained in any division shall be treated as referring only to the provisions of that division.

Section 4 of the Act states that this explanatory statement shall have the same effect with respect to the allocation of funds and implementation of this legislation as if it were a joint explanatory statement of a committee of conference.

Section 5 of the Act provides a statement of appropriations.

Section 6 of the Act states that each amount designated by Congress as being for Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT) is contingent on the President so designating all such OCO/GWOT amounts and transmitting such designations to Congress. The provision is consistent with the requirements in the Budget Control Act of 2011.

Section 7 of the Act addresses salaries and compensation rates and provides for a death gratuity.

The Act does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined by clause 9 of rule XXI of the Rules of the House of Representatives.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

CONGRESSIONAL DIRECTIVES

The explanatory statement is silent on provisions that were in both the House Report (H. Rpt. 115-232) and Senate Report (S. Rpt. 115-131) that remain unchanged by this agreement, except as noted in this explanatory statement.

The agreement restates that executive branch wishes cannot substitute for Congress's own statements as to the best evidence of congressional intentions, which are the official reports of the Congress. The agreement further points out that funds in this Act must be used for the purposes for which appropriated, as required by section 1301 of title 31 of the United States Code, which provides: "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

The House and Senate report language that is not changed by the explanatory statement is approved and indicates congressional intentions. The explanatory statement, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

In cases in which the House or the Senate have directed the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations no later than 60 days after enactment of this Act, unless otherwise directed.

Hereafter, in division A of this statement, the term the Committees' refers to the Committees on Appropriations of the House of Representatives and the Senate.

For the appropriations provided by this Act and previous Acts, the departments and agencies funded by this agreement are reminded that the Committees use the definitions for transfer, reprogramming, and program, project, and activity as defined by the Government Accountability Office (GAO) in GAO-04-261SP Appropriations Law—Vol. I and GAO-05-734SP Budget Glossary.

A transfer is the shifting of funds between appropriations. It applies to (1) transfers from one agency to another, (2) transfers from one account to another within the same agency, and (3) transfers to an interagency or intra-agency working fund. In each instance, statutory authority is required.

Reprogramming is the utilization of funds in an appropriation account for purposes other than those contemplated at the time of appropriation. It is the shifting of funds from one object to another within an appropriation.

A program, project, or activity (PPA) is an element within a budget account. PPAs are identified by reference to include the most specific level of budget items identified in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 2018, accompanying Committee reports, explanatory statements, the Statement of Managers, and budget justifications. Program activity structures are intended to provide a meaningful representation of the operations financed by a specific budget account by project, activity, or organization.

For fiscal year 2018, the Committees continue to include bill language requiring advanced notification of certain agency actions. Notification will be required at least

well as other systems that help detect and monitor fire activity.

Aviation Safety.—The bill repurposes $65,000,000 provided in fiscal year 2015 for the purchase of new aircraft in order to enhance firefighter mobility, effectiveness, efficiency, and the operational safety of the Service's aviation program. The funds shall be used to modernize aviation, radio, and evacuation system infrastructure; and acquire sensory equipment, UAS, and other platforms that detect and monitor fire. Projects may include replacement or upgrades of existing infrastructure at airtanker, helicopter, and smokejumper bases; replacement of equipment, including agency-owned aircraft; and improvements in training and night air operations, but no project shall be undertaken that increases recurring program costs. Within 60 days of enactment of this Act, the Service shall provide a complete list of anticipated projects to the Committees on Appropriations utilizing this entire amount. The Committees expect these funds to be obligated in fiscal years 2018 and 2019.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

The agreement provides a total of $5,537,764,000 for the Indian Health Service (IHS), of which $3,952,290,000 is for the Services account as detailed below and in the funding allocation table at the end of this explanatory statement. All proposed cuts are restored, and increases above the fiscal year 2017 enacted levels are detailed below and in the table. The Service is reminded of the guidance and reporting requirements contained in House Report 115-238 which must be complied with unless specifically addressed to the contrary herein, as explained in the front matter of this explanatory statement.

Current Services.—The agreement provides $93,935,000 to partially cover the cost of maintaining current levels of service, of which $23,543,000 is for pay costs and $70,392,000 is for medical inflation.

Indian Health Care Improvement Fund.—The agreement provides $72,260,000 for the Indian Health Care Improvement Fund. The Committees recognize the funding disparities that exist across the Indian Health Service system and the ongoing efforts by Tribes and the Service to update the allocation formula accordingly. Upon completion of these efforts, the Service is directed to update the Committees on the resulting allocations.

Staffing for New Facilities.—The agreement includes $60,336,000 for staffing newly opened health facilities, which is the full amount based upon updated estimates provided to the Committees. Funds for the staffing of new facilities are limited to facilities funded through the Health Care Facilities Construction Priority System or the Joint Venture Construction Program that have opened in fiscal year 2017 or will open in fiscal year 2018. None of these funds may be allocated to a facility until such facility has achieved beneficial occupancy status.

Accreditation Emergencies.—The Committees consider the loss or potential loss of a Medicare or Medicaid agreement with the Centers for Medicare and Medicaid Services (CMS) at any facility to be an accreditation emergency. The agreement includes $58,000,000 for accreditation emergencies at an increasing number of direct service facilities, and is based upon updated and itemized information provided to the Committees on December 13, 2017. The Service is encouraged to share this information with Tribes, and to keep Tribes and the Committees apprised of any need for significant deviations from the planned used of funds. Bill language has been added as requested to allow the use of a portion of the funds for facility expansion or renovation and staff quarters.

Of the amounts provided, no less than $20,000,000 is directed to facilities for purchased/referred care, replacement of third-party revenues lost as a result of decertification, replacement of third-party carryover funds expended to respond to decertification, and reasonable costs of achieving recertification, including recruitment costs necessary to stabilize staffing. Primary consideration should be given but is not limited to facilities that have been without certification the longest. Such funds shall be made available to Tribes assuming operation of such facilities pursuant to the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638).

The Committees are concerned by the continued occurrence of deficiencies in patient care, facilities and hospital administration at IHS facilities, including the recent identification of these deficiencies at the Gallup Indian Medical Center (GIMC) by the Centers for Medicare and Medicaid Services (CMS) and the Joint Commission. It is imperative that the Service take all needed steps to ensure patient safety, improve the quality of care, and ensure that GIMC does not lose access to third-party reimbursements, which account for more than 90 percent of the facility's funding. Within 90 days of enactment of this Act, the Service is directed to provide a report to the Committees that details all actions taken to address the deficiencies identified by CMS and the Joint Commission and a list of any outstanding recommendations that require future action by GIMC or the Service to implement. The Service is expected to include its corrective action plans submitted to CMS and the Joint Commission as well as the CMS 2567 deficiency report as part of this report.

Hospitals and Health Clinics.—The agreement provides $2,045,128,000 for hospitals and health clinics, including: $36,242,000 for current services; $43,708,000 for staffing new facilities; $1,000,000 for retinal cameras; $58,000,000 for accreditation emergencies as discussed above; $11,000,000 to continue operations and maintenance of village built and tribally leased clinics; $4,000,000 to continue domestic violence prevention; and $1,000,000 to continue prescription drug monitoring.

Dental Health.—The agreement provides $195,283,000 and includes $5,864,000 for current services and $6,822,000 for staffing new facilities. The Service is directed to backfill vacant dental health positions in headquarters and encouraged to coordinate with the Bureau of Indian Education to integrate preventive dental care at schools across the system.

Mental Health.—The agreement provides $99,900,000 for mental health programs and includes: $2,891,000 for current services; $2,929,000 for staffing of new facilities; $6,946,000 to continue behavioral health integration; and $3,600,000 to continue the suicide prevention initiative.

Alcohol and Substance Abuse.—The agreement provides $227,788,000 for alcohol and substance abuse programs and includes: $8,220,000 for current services; $1,215,000 for staffing new facilities; $6,500,000 for the Generation Indigenous initiative; $1,800,000 for the youth pilot project; and $2,000,000 to fund essential detoxification and related services provided by the Service's public and private partners to IHS beneficiaries. The Committees expect the Service to continue its partnership with the Na' Nizhoozhi Center in Gallup, New Mexico, as directed by the Consolidated Appropriations Act, 2017, and to distribute funds provided for detoxification services in the same manner as in fiscal year 2017.

Purchased/Referred Care.—The agreement provides $962,695,000 and includes $32,327,000 for current services and $1,538,000 for staffing new facilities. The Committees remain concerned about the inequitable distribution of funds as reported by the Government Accountability Office (GAO-12-446).

Public Health Nursing.—The agreement provides $85,043,000 for public health nursing and includes $2,702,000 for current services and $3,640,000 for staffing new facilities.

Health Education.—The agreement provides $19,871,000 for health education and includes $724,000 for current services and $484,000 for staffing new facilities.

Urban Indian Health.—The agreement provides $49,315,000 for urban Indian health and includes $1,637,000 for current services. The Service is expected to continue to include current services estimates for urban Indian health in future budget requests.

The Committees direct the Service to work with Veterans Affairs on the report examining services for Indian veterans at urban clinics as outlined in House Report 115-188 accompanying the Fiscal Year 2018 Military Construction, Veterans Affairs, and Related Agencies Appropriations bill.

Indian Health Professions.—The agreement provides $49,363,000 for Indian health professions and includes $18,000 for current services. Within funds, the agreement includes funding for the Quentin N. Burdick American Indians into Nursing Program, Indians into Medicine Program, and American Indians into Psychology Program at no less than fiscal year 2017 enacted levels.

Extension Services.—The Committees continue to be concerned about the urgent need for skilled health providers in AI/AN communities and are encouraged by the success of the University of New Mexico's Project ECHO—Extension for Community Healthcare Outcomes—in delivering timely care to underserved communities. The Service shall consider how Project ECHO could support existing Indian Health Service providers, and how potential partnerships with Project ECHO could aid in the recruitment and retention of healthcare providers to IHS sites, thereby expanding the provider network and improving access to care.

Patient Wait Times.—The Committees are encouraged by the Service's recent focus on improving wait times for patients seeking primary and urgent care, including the August 2017 publication of Circular No. 17-11 and related efforts to track, report, and improve patient wait times. The Committees direct the Service to provide a report to the Committees on the status of these efforts no later than 90 days after enactment of this Act. This report shall include a clear explanation of how these efforts will address GAO's recommendation in report number GAO-16 333 of setting and monitoring agency-wide standards for patient wait times in federally operated facilities and an analysis of any potential barriers to continued monitoring of wait times caused by IT infrastructure limitations or incompatibility.

The Committees request that the Service provide, no later than 90 days after the date of enactment of this Act, a detailed plan with specific amounts identified to fully fund and implement the Indian Health Care Improvement Act, as discussed in House Report 115-238.

Reimbursable Funding.—This agreement directs the Service to report, within 180 days of enactment of this Act, on patient population and service growth over the past ten years and the funding sources used to provide for these medical services. The Service is to include a breakdown, by dollar amount and percentage, of funding sources which supplement appropriated dollars to cover the provision of medical services at Service operated facilities. The Committees are interested in detailed information on whether