



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

RESOLUTION

No. 2019-02

Supporting safeguarded automatic carry-overs to prevent Federal government shutdowns

Reported to the Caucus by the NHCSL
Latino Voting and Elections Task Force

Unanimously ratified by the Caucus on December 5, 2019

- 1 **WHEREAS**, federal government shutdowns due to budgetary impasses have become
- 2 increasingly common; and,
- 3 **WHEREAS**, the most recent record-breaking government shutdown of late 2018 and
- 4 early 2019, produced negative consequences for all Americans, including a staggering

Supporting safeguarded automatic carry-overs to prevent Federal government shutdowns

5 economic loss of at least \$11 billion,¹ food safety concerns² and roadblocks to the
6 enforcement of environmental,³ financial and criminal laws;⁴ and,

7 **WHEREAS**, shutdowns are particularly unfair to innocent government workers and
8 small contractors caught in the political crossfire,⁵ and the uncertainty they provoke
9 tarnishes the attractiveness of public service careers; and,

10 **WHEREAS**, Americans of color are especially impacted by federal government
11 shutdowns because they depend more than others on the protection of their
12 government; and,

13 **WHEREAS**, due to certain recent policies, shutdowns and impasses are increasingly
14 centered on issues of particular concern to Hispanic Americans, such as the southern
15 border⁶ and DACA;⁷ and,

16 **WHEREAS**, earlier this year, the National Hispanic Leadership Agenda’s (NHLA)
17 Government Accountability Committee, co-chaired by NHCSL’s Executive Director,
18 Kenneth Romero, discussed the aforementioned situation, approving and
19 recommending the policy we adopt in this Resolution to help prevent Federal
20 government shutdowns; and,

21 **WHEREAS**, the Committee recognized that budgetary impasses are a natural
22 consequence of the separation of powers, an important bulwark of our democracy;
23 and,

¹ Ylan Mui, *The government shutdown cost the economy \$11 billion, including a permanent \$3 billion loss*, Congressional Budget Office says (CNBC, Jan. 28, 2019), available at

<https://www.cnbc.com/2019/01/28/government-shutdown-cost-the-economy-11-billion-cbo.html>

² Damian Paletta and Erica Werner, *Millions face delayed tax refunds, cuts to food stamps as White House scrambles to deal with shutdown’s consequences* (The Washington Post, January 4, 2019), available at https://www.washingtonpost.com/business/economy/millions-face-delayed-tax-refunds-cuts-to-food-aid-as-white-house-scrambles-to-deal-with-shutdown/2019/01/04/b5b58616-0fa3-11e9-8938-5898adc28fa2_story.html?utm_term=.1e7fe21388d3

³ Lindsay McPherson, *10 House Republicans cross aisle to support ending shutdown of Interior-Environment programs* (Roll Call, Jan. 11 2019), available at <https://www.rollcall.com/news/10-house-republicans-cross-aisle-to-support-ending-shutdown>

⁴ Rich Schapiro, *FBI agents say shutdown is hampering counterterrorism, sex trafficking probes* (NBC News, Jan. 22, 2019), available at <https://www.nbcnews.com/politics/justice-department/fbi-agents-say-shutdown-hampering-counterterrorism-sex-trafficking-probes-n961371>.

⁵ Laurel Wamsley, *How Is The Shutdown Affecting America? Let Us Count The Ways* (NPR, Jan. 8. 2019), available at <https://www.npr.org/2019/01/09/683642605/how-is-the-shutdown-affecting-america-let-us-count-the-ways>

⁶ Julie Hirschfeld Davis & Michael Tackett, *Trump and Democrats Dig In After Talks to Reopen Government Go Nowhere* (The NY Times, Jan. 2, 2019), available at <https://www.nytimes.com/2019/01/02/us/politics/trump-congress-shutdown.html>

⁷ Jennifer Agiesta, *CNN poll: DACA not worth a shutdown, except to Democrats* (CNN, Jan. 19, 2018), available at <https://edition.cnn.com/2018/01/19/politics/cnn-poll-shutdown-trump-immigration-daca/index.html>

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24 **WHEREAS**, the Committee stressed that, because shutdowns are a consequence of a
 25 Congressional enactment,⁸ and not of the Constitution, an appropriate amendment to
 26 the law could help to prevent them; and,

27 **WHEREAS**, the Committee recommended automatic budgetary carry-overs with
 28 certain safeguards to prevent abuses,⁹ as the proper way to address the increasing
 29 frequency of shutdowns.

30 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State
 31 Legislators believes that an open Federal government should be a priority and that,
 32 in the event of a budgetary impasse, the Congress and the Executive should prevent
 33 shutdowns by carrying over the latest approved budget at the end of a fiscal year,
 34 month by month, with inflationary adjustments, until a new one is agreed to; and,

35 **BE IT FURTHER RESOLVED**, that, in order to guarantee that congressional elections
 36 can always affect budgetary policy, the continuation described above should have a
 37 one-year sunset, thereby forcing a new budget at least every two years; and,

38 **BE IT FURTHER RESOLVED**, that for the above continuation to be effective,
 39 monetary totals for recurrent expenditures, like employee salaries, and safety-net
 40 programs, like Medicaid, veterans’ compensation, SSI and SNAP, should be
 41 automatically deemed appropriated and increased to cover inflation; and,

42 **BE IT FINALLY RESOLVED**, that a copy of this Resolution be sent to the members of
 43 the National Hispanic Leadership Agenda, the appropriate members of Congress and
 44 the President of the United States.

45 THE NHCSL EXECUTIVE COMMITTEE UNANIMOUSLY APPROVED THIS
 46 RESOLUTION ON MAY 6, 2019 AT ITS SPRING MEETING IN WASHINGTON, DC.

47 THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS UNANIMOUSLY
 48 RATIFIED THIS RESOLUTION ON DECEMBER 5, 2019, AT THE ANNUAL MEETING
 49 IN SAN JUAN, PR.

⁸ The Antideficiency Act (as amended), 31 U.S.C. § 1341 and §§ 1501-1519, prohibits officers in the Federal Executive from authorizing expenditures or entering into obligations or contracts for which there are no approved appropriations or funds. It also requires that appropriations be apportioned and allocated to specific uses before they can be expended by the Executive. According to a 1980 interpretation by then Attorney General Benjamin Civiletti this requires shutdowns when there is a budgetary impasse.

⁹ The main safeguard would attempt to ensure that a majority change in either house of Congress would impact at least one budget, so that democratic results are respected. Another potential abuse for which a safeguard is provided is that those wishing to indiscriminately shrink the size of the government could use impasses to force carry-overs and prevent inflationary adjustments.