

WASHINGTON, D.C.—Today Representative Xavier Becerra (CA-31), Vice Chair of the House Democratic Caucus and a senior member of the Ways and Means Committee, and Rep. Devin Nunes (CA-21), a member of the Ways and Means Committee, introduced the “Tribal Health Benefits Clarification Act of 2009” in the House of Representatives. The bill addresses an ambiguity in the tax law by clarifying that health care coverage and services provided by an Indian tribe to its members is exempt from taxation.

“This legislation will provide greater certainty for tribal governments who are making every effort to ensure their members have access to quality health care,” Rep. Becerra said. “Given the chronic underfunding of the Indian Health Service, this legislation represents an important step in furthering the federal government’s stated goal to raise the health status of Native Americans to the highest possible level.”

“Federal programs have failed to offer the full range of benefits American Indians need. Recognizing this fact, tribal governments have stepped in to offer their own health benefits,” said Rep. Nunes. “However in doing so, they have come under undue scrutiny by the IRS. Congress needs to clarify tax law and ensure tribes can provide necessary services to its members without facing a massive tax bill.”

The Federal government has a longstanding policy of providing non-taxable medical care to Native Americans. However, federal funds appropriated for IHS programs have consistently been inadequate to meet even basic health care needs. In fact, IHS found that “[t]he average cost of mainstream health insurance plans is approximately 40% greater than the IHS funding level for American Indian and Alaska Native people,” thus limiting health services and contributing to health disparities among the population it is intended to serve.

To address the needs of their people in the face of the IHS funding shortfall, many Indian tribal governments have dedicated portions of their revenues to funding health care programs. The IRS and federal courts have consistently held that payments made under similar social benefit programs for the promotion of general welfare are not taxable. However, the test to determine whether a benefit falls under this doctrine is based on facts and circumstances and is difficult to apply. In addition, no formal guidance has been issued by the IRS to assist in these determinations. Statutory language is needed to clarify the tax treatment of these medical care benefits.

Consistent with the Federal government's policy of providing health care services to Native Americans, the "Tribal Health Benefits Clarification Act of 2009" would clarify that neither health care provided by IHS nor medical care or health coverage provided by an Indian tribe to its members is subject to income taxation.

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