

PROPER AND REIMBURSED CARE FOR NATIVE VETERANS
ACT

NOVEMBER 16, 2020.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 6237]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6237) to amend the Indian Health Care Improvement Act to clarify the requirement of the Department of Veterans Affairs and the Department of Defense to reimburse the Indian Health Service for certain health care services, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 6237 is to amend the Indian Health Care Improvement Act to clarify the requirement of the Department of Veterans Affairs and the Department of Defense to reimburse the Indian Health Service for certain health care services.

BACKGROUND AND NEED FOR LEGISLATION

The Indian Health Service (IHS) system delivers health care through direct services provided in IHS, tribal, and urban health facilities to approximately 2.6 million American Indians and Alaska Natives (AI/AN). However, IHS and tribal facilities are not always able to directly provide all the necessary health care services. In order to bridge this gap, the Purchased/Referred Care (PRC) program was created, which authorizes the purchase of services from a network of private providers when care is not available at IHS

or tribal facilities.¹ As such, the PRC program is integral to providing comprehensive health care services to American Indians and Alaska Natives.

The Veterans Health Administration (VHA) is America's largest integrated health care system, providing care at 1,255 health care facilities, including 170 medical centers and 1,074 outpatient clinics, serving more than 9 million enrolled veterans each year,² including an estimated 146,000 AI/AN veterans.³

By law, an AI/AN veteran is eligible for services under both the VHA and IHS. In instances where an AI/AN veteran is eligible for a particular health care service from both the VHA and IHS, the VHA is the primary payer. In order to facilitate care, various Memorandums of Understanding (MOUs) have been agreed upon by the VHA and IHS regarding the care of AI/AN veterans. The VHA currently reimburses IHS and tribal facilities for care that they provide directly under the MOUs. In addition, during permanent reauthorization of the Indian Health Care Improvement Act (IHCIA),⁴ Congress amended section 405(c) to require the VHA to reimburse IHS and tribes for health services provided under the PRC program.⁵

However, the VHA claims that this language does not statutorily require them to reimburse specialty and referral services provided through IHS or tribal facilities. For example, if an AI/AN veteran goes to an IHS or tribal facility for service and then needs a referral, the same patient must be seen within the VHA system before a referral can be secured. These extra steps cause significant hardships for and delayed treatment of many AI/AN veterans. The result is that many IHS and tribal facilities are referring veterans out for specialty care and paying for it themselves with their already-meager PRC funds, just so the patient can be treated in a timely and competent manner.

H.R. 6237 clarifies that the VHA is responsible for reimbursing not only direct care to AI/AN veterans provided by a tribe or IHS, but also specialty and contract care provided through a referral by a tribe or IHS. Reimbursing IHS and tribes for PRC is absolutely vital in making sure AI/AN veterans have timely, affordable access to the care they need, and that tribes and IHS have sufficient resources to treat patients and respond to public health emergencies like the COVID-19 pandemic.

¹This was originally called the Contract Health Services program and originated under the Bureau of Indian Affairs (BIA) when medical health care services were contracted out to health care providers. It then moved to IHS when that service was created in 1955. In January 2014, the Consolidated Appropriations Act of 2014 renamed the Contract Health Services program to the Purchased/Referred Care (PRC) program, but its policies and practices remain the same.

²*Veterans Health Administration*, U.S. DEP'T OF VET. AFF., <https://www.va.gov/health/> (last updated July 13, 2020).

³*Recognizing the Sacrifice: Honoring a Nation's Promise to Native Veterans to Receive Testimony on S.1001, Tribal Veterans Health Care Enhancement Act and S.2365, Health Care Access for Urban Native Veterans Act Of 2019 Before the S.Comm. on Indian Aff.*, 116th Cong. 43 (2019) (statement of the National Indian Health Board), <https://www.govinfo.gov/content/pkg/CHRG-116shrg40402/pdf/CHRG-116shrg40402.pdf>.

⁴Pub. L. No. 94-437, 90 Stat. 1400 (1976), <https://uscode.house.gov/statviewer.htm?volume=90&page=1400> (codified as amended at 25 U.S.C. §§ 1601-80v, https://uscode.house.gov/table3/94_437.htm) (statutory compilation as amended through P.L. 115-91 at <https://www.govinfo.gov/content/pkg/COMPS-1406/pdf/COMPS-1406.pdf>).

⁵Patent Protection and Affordable Care Act, Pub. L. No. 111-148, § 10221(a), 124 Stat. 119, 935 (2010), <https://uscode.house.gov/statviewer.htm?volume=124&page=935> (incorporating by reference S. 1790 (111th), as reported, <https://www.congress.gov/111/bills/s1790/BILLS-111s1790rs.pdf>; see *id.* at § 154) (codified as 25 U.S.C. § 1645(c)).

COMMITTEE ACTION

H.R. 6237 was introduced on March 12, 2020, by Representative Ruben Gallego (D–AZ). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Energy and Commerce. Within the Natural Resources Committee, the bill was referred to the Subcommittee for Indigenous Peoples of the United States. On July 22, 2020, the Subcommittee held a hearing on the bill. On July 29, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered. The bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 6237: legislative hearing by the Subcommittee for Indigenous Peoples of the United States held on July 22, 2020.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 18, 2020.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6237, the Proper and Reimbursed Care for Native Veterans Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 6237, Proper and Reimbursed Care for Native Veterans Act			
As ordered reported by the House Committee on Natural Resources on July 29, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	40	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 6237 would require the Department of Veterans Affairs (VA) to pay for health care and related services provided to Native American veterans at certain nonfederal facilities as authorized by the Indian Health Service (IHS) and certain tribal health programs. Under current law, VA reimburses those entities for care only if it is provided at their own facilities.

In 2019, VA paid about \$20 million to IHS and the tribal medical facilities for health care provided directly to roughly 5,300 Native American veterans. Using information from IHS about health care obtained through contracts with other medical providers, CBO estimates that VA's costs would increase by about one-third—or by about \$8 million each year. Thus, CBO estimates that additional reimbursements to IHS and tribal medical facilities would total \$40 million over the 2020–2025 period; such spending would be subject to the appropriation of the necessary amounts (see Table 1).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 6237

	By fiscal year, millions of dollars—						
	2020	2021	2022	2023	2024	2025	2020–2025
Estimated Authorization	0	7	8	8	8	9	40
Estimated Outlays	0	7	8	8	8	9	40

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to amend the Indian Health Care Improvement Act to clarify the requirement of the Department of Veterans Affairs and the Department of Defense to reimburse the Indian Health Service for certain health care services.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

INDIAN HEALTH CARE IMPROVEMENT ACT

* * * * *

TITLE IV—ACCESS TO HEALTH SERVICES

* * * * *

SEC. 405. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian tribes, and tribal organizations and the Department of Veterans Affairs and the Department of Defense.

(2) **CONSULTATION BY SECRETARY REQUIRED.**—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian tribes which will be significantly affected by the arrangement.

(b) **LIMITATIONS.**—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

(1) the priority access of any Indian to health care services provided through the Service and the eligibility of any Indian to receive health services through the Service;

(2) the quality of health care services provided to any Indian through the Service;

(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

(4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense; or

(5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

(c) REIMBURSEMENT.—The Service, Indian tribe, or tribal organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian tribe, or a tribal organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law, *regardless of whether such services are provided directly by the Service, an Indian tribe, or tribal organization, through contract health services, or through a contract for travel described in section 213(b).*

(d) CONSTRUCTION.—Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

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RAUL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

COMMITTEE CORRESPONDENCE

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

ROB BISHOP OF UTAH
RANKING REPUBLICAN

PARISH BRADEN
REPUBLICAN STAFF DIRECTOR

September 1, 2020

The Honorable Frank Pallone Jr.
Chair
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515


Dear Chair Pallone:

I write to you concerning H.R. 6237, the "Proper and Reimbursed Care for Native Veterans Act."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce. I acknowledge that your Committee will not formally consider H.R. 6237 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to working with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member
The Honorable Thomas J. Wickham Jr., Parliamentarian

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

GREG WALDEN, OREGON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

September 22, 2020

The Honorable Raúl M. Grijalva
Chair
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Grijalva:

I write concerning H.R. 6237, the "PRC for Native Veterans Act," which was additionally referred to the Committee on Energy and Commerce (Committee).

In recognition of the desire to expedite consideration of H.R. 6237, the Committee agrees to waive formal consideration of the bill as to provisions that fall within the Rule X jurisdiction of the Committee. The Committee takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that the Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. I also request that you support my request to name members of the Committee to any conference committee to consider such provisions.

Finally, I would appreciate the inclusion of this letter into the *Congressional Record* during floor consideration of H.R. 6237.

Sincerely,



Frank Pallone, Jr.
Chairman

Attachments

The Honorable Raúl M. Grijalva
Page 2

cc: The Honorable Nancy Pelosi, Speaker
The Honorable Steny Hoyer, Majority Leader
The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Parliamentarian

116TH CONGRESS
2D SESSION

H. R. 6237

[Report No. 116-]

To amend the Indian Health Care Improvement Act to clarify the requirement of the Department of Veterans Affairs and the Department of Defense to reimburse the Indian Health Service for certain health care services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2020

Mr. GALLEGO (for himself and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AUGUST --, 2020

Reported from the Committee on Natural Resources

A BILL

To amend the Indian Health Care Improvement Act to clarify the requirement of the Department of Veterans Affairs and the Department of Defense to reimburse the Indian Health Service for certain health care services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Proper and Reim-
5 bursed Care for Native Veterans Act” or the “PRC for
6 Native Veterans Act”.

7 **SEC. 2. CLARIFICATION OF REQUIREMENT OF DEPART-**
8 **MENT OF VETERANS AFFAIRS AND DEPART-**
9 **MENT OF DEFENSE TO REIMBURSE INDIAN**
10 **HEALTH SERVICE FOR CERTAIN HEALTH**
11 **CARE SERVICES.**

12 Section 405(c) of the Indian Health Care Improve-
13 ment Act (25 U.S.C. 1645) is amended by inserting before
14 the period at the end the following: “, regardless of wheth-
15 er such services are provided directly by the Service, an
16 Indian tribe, or tribal organization, through contract
17 health services, or through a contract for travel described
18 in section 213(b)”.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS
None.

