



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 20, 2018

S. 1953

Tribal Law and Order Reauthorization and Amendments Act of 2018

As ordered reported by the Senate Committee on Indian Affairs on February 14, 2018

SUMMARY

S. 1953 would amend the Tribal Law and Order Act of 2010 and the Indian Law Enforcement Reform Act. It would establish or reauthorize various programs and offices within the Bureau of Indian Affairs (BIA), the Department of Justice (DOJ), and the Judiciary concerning public safety in Indian communities.

CBO estimates that implementing S. 1953 would cost \$810 million over the 2019-2023 period, assuming appropriation of the authorized and necessary amounts.

Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be insignificant.

CBO estimates that enacting S. 1953 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 1953 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). However, the bill would provide benefits to Indian tribes, and any costs to tribal governments would result from those tribes' compliance with conditions of assistance.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of S. 1953 is shown in the following table. The costs of the legislation fall within budget functions 450 (community and regional development) and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars						2019-
	2018	2019	2020	2021	2022	2023	2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Indian Law Enforcement, Courts, and Detention Facilities							
Authorization Level	150	152	150	150	150	0	602
Estimated Outlays	0	66	103	124	138	85	516
Prevention of Alcohol and Drug Abuse and Juvenile Delinquency							
Authorization Level	58	58	58	58	58	0	232
Estimated Outlays	0	23	38	47	53	35	196
Other Programs							
Estimated Authorization Level	0	28	28	28	29	4	117
Estimated Outlays	0	12	18	22	25	21	98
Total Costs							
Estimated Authorization Level	208	238	236	236	237	4	951
Estimated Outlays	0	101	159	193	216	141	810

The bill would authorize appropriations totaling \$201 million in 2018. CBO does not estimate any outlays for those authorizations because appropriations for 2018 have already been enacted. The Congress provided \$370 million for similar purposes in 2018.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1953 will be enacted near the end of 2018 and that the authorized and necessary amounts will be appropriated for each year beginning in 2019. Estimated outlays are based on historical spending patterns for similar programs.

S. 1953 would specifically authorize the appropriation of about \$800 million over the 2018-2022 period for BIA and DOJ to carry out the bill's provisions. Of that amount \$0.2 billion would be for 2018. CBO does not estimate any outlays for those authorizations because appropriations for 2018 have already been enacted. The Congress provided \$370 million for similar purposes in 2018.

In addition, using information from BIA, DOJ, and the Administrative Office of the U.S. Courts (AOUSC), CBO estimates that appropriations totaling \$117 million over the five-year period also would be necessary to implement additional provisions of the bill.

Indian Law Enforcement, Courts, and Detention Facilities

CBO estimates that implementing the provisions of S. 1953 that would authorize funding for Indian law enforcement, courts, and detention facilities would cost \$516 million over the 2019-2023 period.

For each year through 2022, the bill would authorize the following annual appropriations:

- \$58 million for BIA to aid tribal justice systems;
- \$40 million for DOJ to make grants to Indian tribes to hire, train, and equip law enforcement officers;
- \$35 million for grants to Indian tribes for the construction and maintenance of detention facilities and tribal justice centers; and
- \$17 million to construct, renovate, and staff juvenile detention centers on Indian lands.

The bill also would authorize \$1.5 million to be appropriated in 2019 for BIA to establish standards for and train BIA law enforcement officials in the process of taking people into protective custody for mental health reasons.

Prevention of Alcohol and Drug Abuse and Juvenile Delinquency

CBO estimates that implementing the provisions of S. 1953 that concern programs to reduce alcohol and drug abuse and juvenile delinquency on tribal lands would cost \$196 million over the 2019-2023 period.

For each year through 2022, the bill would authorize the following annual appropriations:

- \$25 million for DOJ to make grants for local and tribal delinquency prevention programs;
- \$17 million for BIA to construct, renovate, and staff emergency shelters for Indian youth who abuse alcohol or illegal substances;
- \$7 million for BIA to make grants to Indian tribes to create curricula aimed at preventing alcohol and drug abuse;
- \$5 million for BIA to implement summer youth programs to prevent substance abuse; and
- \$4 million for BIA to combat illegal narcotics trafficking on tribal land.

Other Programs

Section 101 would authorize the appropriation of such sums as are necessary for BIA to provide training for Indian law enforcement and judicial personnel on matters relating to substance abuse and illegal narcotics. In 2017, about \$22 million was allocated for all Indian police and judicial training by BIA. Using information from BIA about the components of that training, CBO estimates about \$2 million of that sum was used for training concerning substance abuse and illegal narcotics. Continuing such training at the current level and accounting for anticipated inflation would require appropriations totaling \$10 million over the 2019-2022 period that would lead to spending of the same amount over that period, CBO estimates.

Sections 106 and 108 would require BIA, DOJ, and the Department of Health and Human Services to consult with Indian tribes on the effectiveness of tribal law enforcement. Using information from BIA about the level of effort expected for that activity, CBO estimates those requirements would cost \$2 million in 2019 and \$1 million in 2020.

Section 111 would authorize the appropriation of such sums as are necessary through 2022 for two DOJ grant programs to improve tribal courts and to provide technical and legal assistance to tribes. In 2017, about \$19 million was provided for such programs. CBO estimates that continuing those programs through 2022 would require appropriations totaling \$84 million that would lead to spending of \$64 million over the 2019-2022 period.

Section 112 would require offices of federal public defenders in judicial districts that include tribal lands to appoint one assistant federal public defender to serve as a tribal liaison and to ensure that each district has adequate representation for tribal members. Using information from the AOUSC, CBO estimates this provision would require about 20 additional full-time employees, and additional costs for travel, technology, and training. CBO estimates that implementing section 112 would cost about \$4 million annually, or \$20 million over the 2019-2023 period.

Section 103 would require the Indian Health Service (IHS) to be responsible for the medical care and treatment of all Indians detained or incarcerated in a BIA or tribal detention or correctional center, without regard to such a person's normal domicile. According to BIA, IHS routinely provides a variety of medical services to incarcerated Indians. Confusion occasionally arises regarding whether a local IHS clinic is required to treat someone from outside the local tribal area, which can result in delays in providing care. Based on our understanding of the law and the bill, CBO has concluded that this provision is intended to remove the confusion over IHS's responsibility to care for nonlocal inmates and would not require additional care to be provided. On that basis, CBO estimates that the provision would have no significant cost.

The uncertainty around CBO's estimate of section 103 arises from differences between IHS and CBO over what the bill requires. IHS has expressed the belief that the provision could be interpreted to require it to provide significantly more care to inmates of BIA detention centers than it does currently, and thus would require additional clinic hours and medical personnel. Although CBO considers BIA's interpretation of the statute to be more consistent with the statutory language, should IHS's interpretation ultimately prove correct, the provision would have higher costs than CBO estimates.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. S. 1953 would make it a federal crime to violate an order from a tribal court that excludes a person from tribal land because of certain previous criminal convictions. Because those prosecuted and convicted under S. 1953 could be subject to criminal fines, the federal government might collect additional amounts if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation action. CBO expects that any additional revenues and subsequent direct spending would not be significant in any year because the legislation would probably affect only a small number of cases.

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting S. 1953 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

S. 1953 contains no intergovernmental or private-sector mandates as defined in UMRA.

However the bill would provide several benefits to Indian tribes: The bill would authorize programs and grants to address tribal public safety, offender incarceration, alcohol and substance abuse, and treatment and prevention of juvenile delinquency. It would create tribal liaisons in offices of federal public defenders, and those liaisons would coordinate the cases of defendants who are accused of federal crimes on Indian land. The bill would direct DOJ to share information from criminal databases with Indian tribes, and it would require the Office of the U.S. Attorney to notify tribes when an enrolled member is convicted in a district court. The bill also would benefit tribes by extending a pilot program to allow offenders convicted in tribal courts to be held in Bureau of Prisons

facilities. Any costs to tribal governments would result from complying with conditions of federal assistance.

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