

S. 3650, Coverage for Urban Indian Health Providers Act

As ordered reported by the Senate Committee on Indian Affairs on July 29, 2020

By Fiscal Year, Millions of Dollars	2021	2021-2025	2021-2030
Direct Spending (Outlays)	0	7	23
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	7	23
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 3650 would include Urban Indian Health Programs (UIHPs) and their employees in the pool of entities and individuals that receive liability protection under the Federal Tort Claims Act (FTCA). In addition, S. 3650 would deem the Native Hawaiian Health Care System (NHHCS) and its clinics to be federal agencies for purposes of providing liability protection. Under the FTCA, the federal government pays for court judgments and compromise settlements of lawsuits out of the Judgement Fund. The Judgment Fund is a permanent, indefinite appropriation that is available to pay monetary awards against the United States that are judicially or administratively ordered.

Under current law, UIHPs are health care organizations that are grantees of the Indian Health Service (IHS) but are not considered federal entities; therefore, their employees are not covered under the FTCA. Similarly, the NHHCS comprises five health care clinics that are grantees of the Health Resources and Services Administration (HRSA) that are not considered federal entities. However, unlike the UIHPs, three of the five clinics have FTCA coverage for medical malpractice claims by virtue of receiving certain HRSA grants. S. 3650 would extend FTCA coverage for other types of suits to those three clinics, in addition to providing full FTCA protection to the remaining two clinics that do not have coverage under current law.

For this estimate, CBO used information from the Department of Treasury's Bureau of the Fiscal Service about the number and amount of payments from the Judgement Fund that were used to settle claims and litigation on behalf of IHS employees. While UIHPs and

NHHCSs are not part of IHS, they provide similar services, and CBO expects they would experience a similar rate of lawsuits and settlements.

According to the Judgement Fund data, over the last five years an average of about \$19.5 million has been paid for legal claims and settlements against IHS employees, or about \$2,700 per year per IHS clinical employee. UIHPs and NHHCSs together employ about 1,200 clinical workers, and CBO estimates that payments from the Judgement Fund would total about \$3 million per year once fully implemented. CBO expects that it would take some time for patients to initiate legal action and for the legal system to finalize judgements and settlements against the UIHPs and NHHCSs. Therefore, CBO estimates that the outlays from the Judgement Fund would gradually increase until reaching a stable level by 2025. In total, CBO estimates that S. 3650 would increase direct spending by \$23 million over the 2021-2030 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1. The costs of the legislation fall within budget function 800 (general government).

Table 1.
CBO’s Estimate of the Statutory Pay-As-You-Go Effects of S. 3650, as Ordered Reported by the Senate Committee on Indian Affairs on July 29, 2020

	By Fiscal Year, Millions of Dollars										2021-2025	2021-2030
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
	Net Increase or Decrease (-) in the [On-Budget] Deficit											
Pay-As-You-Go Effect	0	0	1	2	3	3	3	3	3	3	7	23

Components may not sum to totals because of rounding.

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