

At a Glance

S. 210, Tribal Law and Order Reauthorization and Amendments Act of 2019

As ordered reported by the Senate Committee on Indian Affairs on January 29, 2019

Millions of Dollars	Direct Spending	Revenues	Net Deficit Effect	Spending Subject to Appropriation
2019	0	0	0	0
2019-2024	*	*	*	907
2019-2029	*	*	*	n.a.

Pay-as-you-go procedures apply? **Yes**

Mandate Effects

Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030? **No**

Contains intergovernmental mandate? **No**

Contains private-sector mandate? **No**

n.a. = not applicable; * = between zero and \$500,000.

The bill would

- Extend the authority for the Bureau of Indian Affairs, the Department of Justice, and the Judiciary to carry out various programs concerning public safety in Indian communities, including law enforcement, alcohol and substance abuse prevention, and control of illegal narcotics
- Authorize the appropriation of funds for those programs for fiscal years 2020 through 2024

Estimated budgetary effects would primarily stem from

- Authorized appropriations to implement each program

Areas of Uncertainty Include

- Differences in the interpretation of current law between the Bureau of Indian Affairs and the Indian Health Service

Detailed estimate begins on the next page.

Bill Summary

S. 210 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.

Estimated Federal Cost

The estimated budgetary effect of S. 210 is shown in Table 1. The costs of the legislation fall within budget functions 450 (community and regional development) and 750 (administration of justice).

Table 1.
Estimated Increases in Spending Subject to Appropriation Under S. 210

	By Fiscal Year, Millions of Dollars						2019-2024
	2019	2020	2021	2022	2023	2024	
Indian Law Enforcement, Courts, and Detention Facilities							
Authorization	0	152	150	150	150	150	752
Estimated Outlays	0	66	104	124	138	150	582
Prevention of Alcohol and Drug Abuse and Juvenile Delinquency							
Authorization	0	58	58	58	58	58	290
Estimated Outlays	0	23	38	47	53	58	219
Other Programs							
Estimated Authorization	0	28	29	28	29	29	143
Estimated Outlays	0	12	19	22	25	28	106
Total Changes							
Estimated Authorization	0	238	237	236	237	237	1,185
Estimated Outlays	0	101	161	193	216	236	907

Basis of Estimate

For this estimate, CBO assumes that S. 210 will be enacted late in fiscal year 2019 and that the necessary amounts will be appropriated for each fiscal year starting in 2020. Estimated outlays are based on historical spending patterns for similar programs.

S. 210 would specifically authorize the appropriation of about \$1 billion over the 2020-2024 period for BIA and DOJ to carry out the bill’s provisions. 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 \$143 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. 210 that would authorize funding for Indian law enforcement, courts, and detention facilities would cost \$582 million over the 2020-2024 period and an additional \$170 million after 2024.

For each year through 2024, 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 DOJ 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 the appropriation of \$1.5 million in 2020 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. 210 that concern programs to reduce alcohol and drug abuse and juvenile delinquency on tribal lands would cost \$219 million over the 2020-2024 period and an additional \$71 million after 2024.

For each year through 2024, 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

The bill would authorize the appropriation of whatever amounts are necessary for the following programs. In addition, S. 210 would require the agencies to implement the provisions detailed below. CBO used information from the different agencies about the cost

of similar activities, or the amount of recent appropriations, to estimate the costs of those provisions.

Grants for Tribal Courts Training. S. 210 would reauthorize two DOJ programs that provide grants to improve tribal courts and to provide technical and legal assistance to tribes. In 2018, about \$19 million was allocated for those programs. CBO estimates that continuing those programs through 2024 would cost \$69 million over the 2020-2024 period.

Training Related to Substance Abuse and Illegal Narcotics. S. 210 would reauthorize a program that provides training to tribal law enforcement about substance abuse and illegal narcotics. In 2018, about \$22 million was allocated for all Indian police and judicial training by BIA. CBO estimates that about \$2 million of that amount was used for training about substance abuse and illegal narcotics. Assuming that level of training continues, CBO estimates that implementing this provision would cost \$10 million over the 2020-2024 period.

Public Defenders. The bill would require offices of federal public defenders whose districts 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 funding for travel, technology, and training. CBO estimates that implementing the provision would cost \$20 million over the 2020-2024 period.

Reports, Consultation, and Pilot Program. The bill would require agencies to report on various activities, consult with Indian tribes, and run a pilot program on background checks for applicants to law enforcement positions within BIA. In total, CBO estimates, implementing these provisions would cost \$7 million over the 2020-2024 period.

Uncertainty

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 where a person resides. 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 to a small number of individuals. 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.

However, IHS believes 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 could require additional clinic hours and medical personnel. In that scenario, the provision could 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. 210 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 or civil adjudications. Because those prosecuted and convicted under S. 210 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: None

Mandates

S. 210 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

However, the bill would provide several benefits to Indian tribes. S. 210 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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