



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

October 19, 2007

**S. 2087**

**Native American Omnibus Technical Corrections Act of 2007**

*As ordered reported by the Senate Committee on Indian Affairs on September 27, 2007*

**SUMMARY**

S. 2087 would extend the authorization of appropriations through 2012 for Indian tribal courts and other judicial systems. The bill also would make a number of changes and technical corrections to current laws concerning Native Americans. Many of those changes include amendments to the Indian probate code. Assuming appropriations of the necessary amounts, CBO estimates that implementing S. 2087 would cost \$54 million in 2008 and \$312 million over the 2008-2012 period.

S. 2087 also would modify penalties imposed on persons who sell goods fraudulently marketed as Indian arts or products. Criminal fines are recorded as revenues, deposited into the Crime Victims Fund, and later spent. CBO estimates that enacting S. 2087 could change the amount of revenues deposited into the fund, and direct spending from the fund, but any such effects would be insignificant.

S. 2087 contains no intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 2087 would impose a private-sector mandate, as defined in UMRA, on certain individuals by limiting the right they now have to bid without the consent of the heirs on small fractional property interests at probate. CBO expects that the cost of complying with this mandate would not be significant and would fall well below the annual threshold established in UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

**ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of S. 2087 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

---

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012

---

**CHANGES IN SPENDING SUBJECT TO APPROPRIATION**

BIA Tribal Justice Systems					
Authorization Level <sup>a</sup>	58	58	58	58	58
Estimated Outlays	52	58	58	58	58
DOJ Technical and Legal Assistance for Tribal Justice					
Estimated Authorization Level <sup>b</sup>	8	8	9	9	9
Estimated Outlays	2	4	6	7	9
Total Changes					
Estimated Authorization Level	66	66	67	67	67
Estimated Outlays	54	62	64	65	67

---

Note: BIA = Bureau of Indian Affairs; DOJ = Department of Justice.

- a. A full-year appropriation for this program has not yet been enacted for 2008. The 2007 appropriation for BIA Tribal Justice Systems was about \$14 million.
  - b. A full-year appropriation for this program has not yet been enacted for 2008. The 2007 appropriation for DOJ Technical and Legal Assistance was about \$8 million.
- 

**BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 2087 will be enacted near the start of fiscal year 2008, that the necessary amounts will be appropriated each year, and that outlays will follow historical spending patterns.

**Spending Subject to Appropriation**

S. 2087 would authorize the appropriation of \$58 million in 2008 and \$290 million over the 2008-2012 period for Bureau of Indian Affairs (BIA) tribal justice systems. In addition to these amounts, CBO estimates that an additional \$43 million would be needed under the bill through 2012 for Department of Justice (DOJ) technical and legal assistance programs for tribal justice. We estimate that other provisions of the bill, including technical amendments to the Indian probate code, would result in no significant federal spending. Assuming appropriation of the authorized and estimated amounts, we estimate that implementing

S. 2087 would result in discretionary outlays of \$54 million in 2008 and \$312 million over the 2008-2012 period.

**BIA Tribal Justice Systems.** S. 2087 would authorize the appropriation of \$58 million a year through 2012 for the Bureau of Indian Affairs to provide grants to Indian tribes for tribal justice systems and for administrative expenses of the Office of Tribal Justice Support. The fiscal year 2007 appropriation for those activities was about \$14 million. Those grants could be used to hire judicial personnel, provide technical assistance and training, offer victim assistance, acquire law library materials, or for other purposes. Assuming appropriation of the authorized amounts, CBO estimates that implementing this provision would cost \$52 million in 2008 and \$284 million over the 2008-2012 period.

**DOJ Technical and Legal Assistance for Tribal Justice.** S. 2087 would authorize the appropriation of such sums as necessary for fiscal years 2008-2012 to DOJ for grants to support tribal courts and legal assistance programs. In 2007, about \$8 million was appropriated for those programs. CBO estimates that continuing this program at the current level and adjusting for anticipated inflation over the 2008-2012 period would cost \$28 million.

**Indian Land Consolidation Act Amendments.** S. 2087 would make technical and clarifying amendments primarily to the Indian probate code specified under the Indian Land Consolidation Act. The Indian probate code was substantively amended in 2004 under the American Indian Probate Reform Act (Public Law 108-374), and S. 2087 would further modify the code. Specifically, S. 2087 would allow tribal members to transmit in a will certain reservation lands to non-Indians upon the Secretary of the Interior's approval of a tribal resolution. CBO estimates that implementing this provision could result in cost savings to BIA because there could be fewer individual owners of interests in trust lands. However, we estimate that any potential savings would not be significant over the 2008-2012 period.

The bill also would simplify the process for consolidating and purchasing fractional interests in land during probate proceedings. When the Secretary receives multiple requests to purchase land during probate, the applicable heir or spouse would choose the eligible buyer. Also, during certain probate proceedings when the consent of an heir is not required, S. 2087 would limit who can purchase very small interests in land. Last, the bill would delay the implementation of certain inheritance provisions of the probate code until September 1, 2008. Based on information from BIA, CBO expects that those changes would affect a small number of cases; therefore, we estimate that BIA's cost to implement those provisions would be insignificant.

**Other Provisions.** The bill would authorize the inclusion of Indian tribes in DOJ's methamphetamine programs. The legislation also would expand who can conduct an

investigation relating to the sale of counterfeit Indian art products. The bill would allow any federal law enforcement officer to investigate such a violation, rather than only employees of the Federal Bureau of Investigation as under current law. CBO estimates that the costs of those provisions would be insignificant. Any additional spending would be subject to appropriation.

### **Direct Spending and Revenues**

S. 2087 would modify the penalties imposed on persons who sell goods fraudulently marketed as Indian arts or products. Criminal fines are recorded as revenues, deposited into the Crime Victims Fund, and later spent. CBO estimates that enacting S. 2087 could change the amount of revenues deposited into the fund and direct spending from the fund, but any such effects would be insignificant.

### **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 2087 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Several provisions would benefit tribes by extending the authorization of current assistance programs and making tribes eligible to participate in other programs. Any costs to those tribes would be incurred voluntarily as a condition of receiving federal assistance.

### **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 2087 would impose a private-sector mandate by limiting the right of individuals to bid on small fractional interests at certain probate proceedings. Currently a specified set of eligible purchasers may bid on small fractional property interests without the consent of the heirs at such proceedings. The bill would allow only the Secretary of the Interior and the Indian tribe with jurisdiction over the interests to bid on those interests without consent in such cases. All other eligible purchasers could still bid, but only with consent of the heirs or surviving spouse. The restriction on bidding would only apply to sales in which the interests represent less than 5 percent of the entire undivided ownership of the parcel of land in cases where there is no will. The changes in probate code would apply to very small interests in few cases. Thus, CBO expects that the cost of complying with this mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

**ESTIMATE PREPARED BY:**

Federal Costs: Leigh Angres and Mark Grabowicz  
Impact on State, Local, and Tribal Governments: Melissa Merrell  
Impact on the Private Sector: MarDestinee Perez

**ESTIMATE APPROVED BY:**

Theresa Gullo  
Deputy Assistant Director for Budget Analysis