

PARITY FOR TRIBAL LAW ENFORCEMENT ACT

OCTOBER 25, 2024.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 4524]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4524) to amend the Indian Law Enforcement Reform Act to provide for advancements in public safety services to Indian communities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Parity for Tribal Law Enforcement Act”.

SEC. 2. TRIBAL LAW ENFORCEMENT OFFICERS.

The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) is amended by inserting after section 4 the following:

“SEC. 4A. TRIBAL LAW ENFORCEMENT OFFICERS.

“(a) Notwithstanding any other provision of Federal law, law enforcement officers of any Indian Tribe that has contracted or compacted any or all Federal law enforcement functions through the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall have the authority to enforce Federal law within the area under the Tribe’s jurisdiction, if—

“(1) the Tribal officers involved have—

“(A) completed training that is comparable to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country, as determined by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs or the Deputy Bureau Director’s designee;

“(B) passed an adjudicated background investigation equivalent to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country; and

“(C) received a certification from the Office of Justice Services of the Bureau of Indian Affairs, as described in subsection (c); and

“(2) the Tribe has adopted policies and procedures that meet or exceed those of the Office of Justice Services of the Bureau of Indian Affairs for the same program, service, function, or activity.

“(b) Subject to subsection (c)(1)(B), while acting under the authority granted by the Secretary through an Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) contract or compact, a Tribal law enforcement officer shall be deemed to be a Federal law enforcement officer for the purposes of—

“(1) sections 111 and 1114 of title 18, United States Code;

“(2) consideration as an eligible officer under subchapter III of chapter 81 of title 5, United States Code;

“(3) subchapter III of chapter 83 and chapter 84 of title 5, United States Code; and

“(4) chapter 171 of title 28, United States Code (commonly known as the ‘Federal Tort Claims Act’).

“(c)(1) Not later than 24 months after the date of enactment of this section, the Secretary shall—

“(A) develop procedures for the credentialing of Tribal officers under this section, independent of section 5, to provide confirmation that Tribal officers meet minimum certification standards and training requirements for Indian country peace officers, as prescribed by the Secretary; and

“(B) promulgate guidance, in consultation with Indian Tribes, to otherwise implement the provisions of this section ensuring that, in implementing subsection (b)(3), such guidance—

“(i) provides for the voluntary participation by the law enforcement officers of an Indian Tribe, on a position-by-position basis;

“(ii) allows law enforcement officers of an Indian Tribe to purchase service credit for prior Federal service consistent with applicable rules of the Office of Justice Services of the Bureau of Indian Affairs;

“(iii) allows for the participation of law enforcement officers of an Indian Tribe whose salaries are funded in whole or in part by grants from the Office of Community Oriented Policing Services (COPS) or any other agency in the Department of Justice; and

“(iv) recognizes that Tribal law enforcement officers may participate if their respective Indian Tribes have a mandatory retirement age that exceeds the applicable Federal mandatory retirement age for Federal law enforcement officers.

“(2) Tribal law enforcement officers who choose to attend a State or other equivalent training program approved by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs, or the Deputy Bureau Director’s designee, rather than attend the Indian Police Academy, shall be required to attend the IPA Bridge Program, or an equivalent program, prior to receiving a certification under this subsection.”.

SEC. 3. OVERSIGHT, COORDINATION, AND ACCOUNTABILITY.

The Attorney General, acting through the Deputy Attorney General, shall coordinate and provide oversight for all Department of Justice activities, responsibilities, functions, and programs to ensure a coordinated approach for public safety in Indian communities, accountability, and compliance with Federal law, including—

(1) the timely submission of reports to Congress;

(2) robust training, as required under Federal law and as needed or requested by Indian Tribes or Federal and State officials relating to—

(A) public safety in Indian communities; and

(B) training outcomes demonstrating a better understanding of public safety approaches in Indian communities;

(3) the updating and improvements to United States attorney operational plans;

(4) comprehensive evaluation and analysis of data, including approaches to collecting better data, relating to public safety in Indian communities; and

(5) other duties or responsibilities as needed to improve public safety in Indian communities.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 4524 is to amend the Indian Law Enforcement Reform Act to provide for advancements in public safety services to Indian communities, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Indian Law Enforcement Act of 1990 and its implementing regulations provide the main statutory and regulatory authority for

the Bureau of Indian Affairs' (BIA) Office of Justice Services (OJS) to carry out law enforcement functions in Indian country.¹ The BIA provides basic police and corrections services while other federal agencies such as the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) also have responsibilities to investigate crimes in Indian country.²

To carry out law enforcement activities, the BIA can either provide "direct" service (i.e. with federal employee law enforcement officers) or it can contract or compact with a tribe to carry out the functions the BIA would otherwise provide, pursuant to the Indian Self Determination and Education Assistance Act (ISDEAA).³ Tribally operated law enforcement agencies in the U.S. has increased by 32 percent in the past 10 years, indicating that tribes want to have more involvement in policing their lands and populations.⁴ However, Special Law Enforcement Commission (SLEC) agreements from BIA are required for tribal or local law enforcement officers to enforce federal criminal laws in Indian country.⁵ For Indian tribes in some regions of the country, obtaining SLEC agreements and renewing those agreements has proven administratively difficult and some tribal officers are unable to respond in certain instances.⁶ As discussed in a recent subcommittee oversight hearing, tribes have consistently faced challenges recruiting and retaining law enforcement officers and other public safety personnel, making it a long-standing issue for Indian country.⁷

H.R. 4524 would authorize tribal officers acting under a contract or compact entered into by their respective tribal employers under the ISDEAA to be considered federal law enforcement officers and to enforce federal law without requiring SLECs. Tribal law enforcement officers would need to meet certain qualifications and requirements comparable to what federal and BIA law enforcement officers meet.

The bill would also treat tribal law enforcement officers acting under an ISDEAA contract or compact as federal law enforcement officers for purposes of certain other federal laws, including for benefits applicable to federal law enforcement officers for injury and death, retirement, and pension benefits. Tribal law enforcement officers are currently ineligible for these federal benefit programs, but BIA law enforcement officers are eligible. H.R. 4524 would ensure these benefits are available to all law enforcement officers carrying out duties in Indian country.

¹ 25 U.S.C. Sec. 2801.

² "Testimony before the Senate Committee on Indian Affairs: Federal Declinations to Prosecute in Indian Country" Director William Patrick Ragsdale, Sept. 18, 2008.

³ 25 U.S.C. 5301 *et seq.*

⁴ *Tribal Crime Data Collection Activities*, 2023. DOJ. Bureau of Justice Statistics. July 2023. <https://bjs.ojp.gov/document/tcdea23.pdf>.

⁵ "Training Fulfills Key Requirement of Tribal Law and Order Act, Makes Tribal Police Eligible to Enforce Federal Laws." DOI, Mar. 21, 2011, <https://www.bia.gov/as-ia/opa/online-press-release/justice-and-interior-departments-launch-national-criminal-justice>.

⁶ "Testimony before the Senate Committee on Indian Affairs: Tribal Law and Order Reauthorization Act of 2017," Honorable Bryan Rice, Oct. 25, 2017, <https://www.indian.senate.gov/sites/default/files/10.25.17%20Bryan%20Rice%20Testimony.pdf>.

⁷ Indian and Insular Affairs Oversight Hearing, "Opportunities and Challenges for Improving Public Safety in Tribal Communities." Nov. 14, 2023. 118th Congress, House Natural Resources Committee.

COMMITTEE ACTION

H.R. 4524 was introduced on July 10, 2023, by Rep. Dan Newhouse (R-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Insular Affairs. On December 5, 2023, the Subcommittee on Indian and Insular Affairs held a hearing on the bill. On March 12, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Indian and Insular Affairs was discharged from further consideration of H.R. 4524 by unanimous consent. Representative Harriet M. Hageman (R-WY) offered an Amendment designated Hageman 208. The amendment was agreed to by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Indian and Insular Affairs held on December 5, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 2. Tribal Law Enforcement Officers

Amends the Indian Law Enforcement Reform Act to give law enforcement officers employed by Indian tribes that have self-governance compacts or contracts with the federal government, the authority to enforce federal law in areas under tribal jurisdiction if they have completed the required training, passed an adjudicated background investigation, received BIA certification, and the Indian tribe has adopted the required policies and procedures that meet or exceed the same or similar policies of the BIA's Office of Justice Services.

Deems law enforcement officers employed by Indian tribes that have compacted or contracted with the federal government to be federal law enforcement officers for purposes of certain federal laws, including those that provide for criminal penalties for assaulting federal law enforcement officers, provide injury and death benefits and pension and retirement benefits for federal law enforcement officers, and provide coverage for federal law enforcement officers under the Federal Tort Claims Act. In addition, it provides flexibility to individual tribal law enforcement officers to permit voluntary participation in federal benefit systems, allows officers to purchase service credit for prior federal service, and allows for the participation of officers whose salaries are funded by grants from the U.S. Department of Justice.

Section 3. Oversight, Coordination, and Accountability

Directs the U.S. Attorney General to coordinate and conduct oversight into all Department of Justice activities, responsibilities, functions, and programs for public safety in Indian communities.

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.* Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Indian Law Enforcement Reform Act to provide for advancements in public safety services to Indian communities, and for other purposes.

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

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

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 LAW ENFORCEMENT REFORM ACT

* * * * *

SEC. 4A. TRIBAL LAW ENFORCEMENT OFFICERS.

(a) *Notwithstanding any other provision of Federal law, law enforcement officers of any Indian Tribe that has contracted or compacted any or all Federal law enforcement functions through the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall have the authority to enforce Federal law within the area under the Tribe's jurisdiction, if—*

(1) *the Tribal officers involved have—*

(A) *completed training that is comparable to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country, as determined by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs or the Deputy Bureau Director's designee;*

(B) *passed an adjudicated background investigation equivalent to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country; and*

(C) *received a certification from the Office of Justice Services of the Bureau of Indian Affairs, as described in subsection (c); and*

(2) *the Tribe has adopted policies and procedures that meet or exceed those of the Office of Justice Services of the Bureau of Indian Affairs for the same program, service, function, or activity.*

(b) *Subject to subsection (c)(1)(B), while acting under the authority granted by the Secretary through an Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) contract or compact, a Tribal law enforcement officer shall be deemed to be a Federal law enforcement officer for the purposes of—*

(1) *sections 111 and 1114 of title 18, United States Code;*

(2) *consideration as an eligible officer under subchapter III of chapter 81 of title 5, United States Code;*

(3) *subchapter III of chapter 83 and chapter 84 of title 5, United States Code; and*

(4) chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

(c)(1) Not later than 24 months after the date of enactment of this section, the Secretary shall—

(A) develop procedures for the credentialing of Tribal officers under this section, independent of section 5, to provide confirmation that Tribal officers meet minimum certification standards and training requirements for Indian country peace officers, as prescribed by the Secretary; and

(B) promulgate guidance, in consultation with Indian Tribes, to otherwise implement the provisions of this section ensuring that, in implementing subsection (b)(3), such guidance—

(i) provides for the voluntary participation by the law enforcement officers of an Indian Tribe, on a position-by-position basis;

(ii) allows law enforcement officers of an Indian Tribe to purchase service credit for prior Federal service consistent with applicable rules of the Office of Justice Services of the Bureau of Indian Affairs;

(iii) allows for the participation of law enforcement officers of an Indian Tribe whose salaries are funded in whole or in part by grants from the Office of Community Oriented Policing Services (COPS) or any other agency in the Department of Justice; and

(iv) recognizes that Tribal law enforcement officers may participate if their respective Indian Tribes have a mandatory retirement age that exceeds the applicable Federal mandatory retirement age for Federal law enforcement officers.

(2) Tribal law enforcement officers who choose to attend a State or other equivalent training program approved by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs, or the Deputy Bureau Director’s designee, rather than attend the Indian Police Academy, shall be required to attend the IPA Bridge Program, or an equivalent program, prior to receiving a certification under this subsection.

* * * * *