



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

July 7, 2008

S. 160

Lower Brule and Crow Creek Tribal Compensation Act

As ordered reported by the Senate Committee on Indian Affairs on June 19, 2008

SUMMARY

S. 160 would increase the size of two existing tribal trust funds established by the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act and the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996. The Congress created those funds as compensation for damages to the tribes caused by the Pick-Sloan Missouri River Basin project; this bill would constitute a final settlement of claims by the two tribes against the United States. CBO estimates that enacting S. 160 would increase direct spending by \$169 million over the 2009-2018 period. Enacting the bill would not affect revenues.

S. 160 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 160 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

By Fiscal Years, in Millions of Dollars											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2018
CHANGES IN DIRECT SPENDING											
Transfers to Lower Brule Fund											
Estimated Budget Authority	0	130	0	0	0	0	0	0	0	0	130
Estimated Outlays	0	130	0	0	0	0	0	0	0	0	130
Transfers to Crow Creek Fund											
Estimated Budget Authority	69	0	0	0	0	0	0	0	0	0	69
Estimated Outlays	69	0	0	0	0	0	0	0	0	0	69
Interest on Lower Brule Fund											
Estimated Budget Authority	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-20
Estimated Outlays	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-20
Interest on Crow Creek Fund											
Estimated Budget Authority	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-10
Estimated Outlays	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-10
Total Changes											
Estimated Budget Authority	66	127	-3	-3	-3	-3	-3	-3	-3	-3	169
Estimated Outlays	66	127	-3	-3	-3	-3	-3	-3	-3	-3	169

BASIS OF ESTIMATE

CBO estimates that enacting this legislation would result in a net increase in direct spending of \$169 million over the 2009-2018 period. By increasing the maximum funding level of two tribal trust funds and establishing a final settlement of certain tribal claims against the federal government, CBO estimates that enacting S. 160 would increase direct spending by \$199 million over the 2009-2018 period. Partially offsetting those costs, the bill also would reduce direct spending for interest payments made to the tribes by \$30 million over the 2009-2018 period. For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2009 and that additional transfers to the trust funds would begin in that year.

Trust Fund Activity Under Current Law

In 1996 and 1997, the Congress enacted legislation creating the Crow Creek Sioux Tribe Infrastructure Development Trust Fund (Crow Creek Fund) and the Lower Brule Sioux Tribe

Infrastructure Development Trust Fund (Lower Brule Fund). Both acts authorized the Secretary of the Treasury to transfer 25 percent of gross revenues from electricity sales made by the Western Area Power Administration (WAPA), the agency that manages the Pick-Sloan project, to each fund. Such transfers were made annually until the funds reached the maximum balances—\$39 million for Lower Brule Fund and \$28 million for the Crow Creek Fund—set forth in law. Consistent with the treatment of similar tribal trust funds, both funds are classified as accounts on the federal budget because all claims against the federal government for related damages have not been extinguished. Thus, transfers to the funds made to date have been considered intragovernmental and have had no net effect on the federal budget.

Current law also directs the Secretary to transfer any interest earned by the Crow Creek Fund and the Lower Brule Fund into separate accounts for the benefit of the tribes. Payments from the interest accounts may only occur after the trust fund has reached its maximum funding level. Because both trust funds are currently at their maximum levels, CBO estimates that such payments will total \$20 million for the Lower Brule Fund and \$10 million for the Crow Creek Fund over the 2009-2018 period.

Trust Fund Activity Under S. 160

S. 160 would increase the maximum size of the Lower Brule Fund to \$130 million and that of the Crow Creek Fund to \$69 million. As under current law, each fund would receive deposits equal to 25 percent of proceeds from the Pick-Sloan project from the previous year. Annual deposits would continue until the total balance of the trust fund reaches the new maximum level. According to information from WAPA, gross revenues from its sale of electricity from the Pick-Sloan project will be \$356 million in 2008 and average approximately \$426 million per year thereafter. Based on those projections, CBO estimates that the Crow Creek Fund and the Lower Brule Fund would reach their new maximum levels in 2009 and 2010, respectively.

Upon full funding of their trust funds, S. 160 would extinguish future claims against the federal government by the two tribes. Consistent with the treatment of similar tribal funds, outlays would be recorded on the budget in the year that all funds are provided to the tribe and all claims against the government are released. As a result, CBO estimates that enacting S. 160 would increase direct spending by \$69 million in 2009 for the Crow Creek Fund and by \$130 million in 2010 for the Lower Brule Fund. Subsequent use of those funds would have no further impact on the federal budget as tribal trust funds managed in a fiduciary capacity by the federal government are treated as nonfederal funds.

In addition, any future interest earnings and payments would not be considered part of the federal budget after those funds are transferred. (Additionally, because under the bill the Lower Brule Fund would be below its maximum funding level in 2009, no interest payments would be made to the tribe in that year.) As such, CBO estimates that enacting S. 160 would reduce direct spending for interest payments to the tribes by \$30 million (\$20 million for the Lower Brule Fund and \$10 million for the Crow Creek Fund) over the 2009-2018 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 160 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The payments authorized by this bill would benefit the Lower Brule Sioux and Crow Creek Sioux tribes.

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