



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 14, 2000

S. 964

Cheyenne River Sioux Tribe Equitable Compensation Act

As ordered reported by the House Committee on Resources on September 13, 2000

SUMMARY

S. 964 would compensate the Cheyenne River Sioux Tribe—in 2011—for the taking of certain lands in South Dakota and would authorize appropriations for the construction of a memorial for the Navajo and Mescalero Apache people who were incarcerated at Bosque Redondo, New Mexico, in the 1800s. CBO estimates that implementing S. 964 would cost \$2 million over the 2001-2005 period, assuming appropriation of the necessary amounts. Enacting S. 964 also would increase direct spending by an estimated \$493 million, but pay-as-you-go procedures would not apply because the spending would not occur until fiscal year 2011.

S. 964 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State, local, and tribal governments might incur some costs as a result of S. 964's enactment, but these costs would be voluntary.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

For purposes of this estimate, CBO assumes that S. 964 will be enacted near the start of fiscal year 2001 and that the amounts necessary to implement the act will be appropriated each year. Estimated outlays are based on historical spending patterns for similar activities.

Direct Spending

Title I of S. 964 would provide additional compensation to the Cheyenne River Sioux Tribe for the taking of 104,492 acres of land by the federal government to construct the Oahe Dam and Reservoir project. Construction of the dam began in 1948 and compensation of about \$10 million was paid to the tribe in 1955. The act would establish the Cheyenne River Sioux

Tribal Recovery Trust Fund and would direct the Secretary of the Treasury to deposit \$291 million in the fund on the first day of fiscal year 2011. An additional deposit equal to the amount of interest that the fund would have earned if the fund had been capitalized and invested in 2001 would be made at the same time. CBO estimates that this additional payment would total \$202 million, for a total deposit of \$493 million in 2011. Once the Secretary pays these amounts, any monetary claims the tribe may have against the United States regarding this project would be extinguished. Starting in 2011, the act would allow the tribe to spend amounts equivalent to the annual interest earned on the fund pursuant to a tribal spending plan.

The federal budget excludes trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes. Hence, deposits to the trust fund established under this act would be treated as payments to a nonfederal entity. As a result, CBO expects that the entire amount deposited to the fund in 2011 would be recorded as budget authority and outlays in that year. Because the trust fund would be nonbudgetary, the subsequent use of such funds by the tribe would not affect federal outlays.

Spending Subject to Appropriation

Title I would authorize the appropriation of such sums as may be necessary to cover the administrative costs of the Cheyenne River Sioux Tribal Recovery Trust Fund. Based on information from the Department of the Interior, CBO estimates that these costs would not be significant in any year.

Title II would authorize the Secretary of Defense, upon the request of the state of New Mexico, to establish the Bosque Redondo Memorial within the boundaries of Fort Sumner State Monument. The provision would authorize the Secretary to make grants to New Mexico for up to 50 percent of its construction costs. CBO estimates that the federal share of the memorial would cost \$2 million. The act would require the state to match the federal contribution to be eligible for the grants. Based on information from the state, CBO expects these matching funds to be provided during 2001. Assuming appropriation of the necessary amounts, CBO estimates that the entire federal share of the cost of constructing the monument would be spent during the 2001-2005 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years

are counted. Although enacting this legislation would increase direct spending by an estimated \$493 million, pay-as-you-go procedures would not apply to the act because the outlay would occur in fiscal year 2011.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 964 contains no intergovernmental mandates as defined in UMRA, but it would impose some conditions on the Cheyenne River Sioux and on the state of New Mexico for receipt of federal funds. Title I would require the tribe to prepare and adopt a plan for using payments from the trust fund and to obtain an audit of the funded expenditures. Based on information provided by tribal officials, CBO does not expect that these requirements would result in significant additional costs for the tribe. Title II would require New Mexico to contribute matching funds equal to 50 percent of the costs of constructing the Bosque Redondo Memorial.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This act contains no new private-sector mandates as defined in UMRA.

PREVIOUS CBO ESTIMATE

On November 5, 1999, CBO transmitted a cost estimate for S. 964, a bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes, as ordered reported by the Senate Committee on Indian Affairs on October 13, 1999, and subsequently amended on October 27, 1999. The two versions of the legislation are nearly identical. Differences in our cost estimates for these versions of the legislation reflect changes in CBO's projection of interest rates.

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