



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

April 18, 2014

S. 1448 **Spokane Tribe of Indians of the Spokane Reservation** **Equitable Compensation Act**

As ordered reported by the Senate Committee on Indian Affairs on January 29, 2014

SUMMARY

S. 1448 would provide compensation to the Spokane Tribe of Indians for tribal lands used in the construction of the Grand Coulee Dam in Washington. The bill would establish the Spokane Tribe of Indians Recovery Trust Fund and would require the Bonneville Power Administration (BPA) to make annual payments to the tribe from receipts generated from the sale of electricity. CBO estimates that enacting S. 1448 would increase net direct spending by \$56 million over the 2015-2024 period. Because enacting S. 1448 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

S. 1448 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would extinguish the monetary claims of the Spokane Tribe of Indians against the United States for hydropower revenues and for past and continued use of the tribe's land. CBO estimates that the cost of the mandate would not exceed the annual threshold established in that act (\$76 million in 2014, adjusted annually for inflation).

S. 1448 contains no private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of S. 1448 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 270 (energy).

| | By Fiscal Year, in Millions of Dollars | | | | | | | | | | 2015- | 2015- |
|--|--|------|------|------|------|------|------|------|------|------|-------|-------|
| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2019 | 2024 |
| CHANGES IN DIRECT SPENDING | | | | | | | | | | | | |
| Spokane Tribe of Indians Recovery Trust Fund | | | | | | | | | | | | |
| Budget Authority | 53 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 53 | 53 |
| Estimated Outlays | 53 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 53 | 53 |
| Effects on BPA | | | | | | | | | | | | |
| Estimated Budget Authority | 11 | -11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 3 |
| Estimated Outlays | 11 | -11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 3 |
| Total Changes | | | | | | | | | | | | |
| Estimated Budget Authority | 64 | -11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 53 | 56 |
| Estimated Outlays | 64 | -11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 53 | 56 |

Note: BPA = Bonneville Power Administration.

BASIS OF ESTIMATE

For this estimate, CBO assumes that this bill will be enacted near the end of 2014.

Spokane Tribe of Indians Recovery Trust Fund

S. 1448 would create the Spokane Tribe of Indians Recovery Trust Fund to provide compensation for land taken from the tribe by the federal government to build the Grand Coulee Dam. S. 1448 would require that \$53 million be deposited to that trust fund on the first day of the first fiscal year after enactment. Under the bill, the Spokane Tribal Business Council would have 18 months to prepare a plan detailing how the trust fund would be used before the amounts deposited in the trust fund, as well as any accrued interest, could be spent.

Payments to certain tribal trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as payments to a nonfederal entity. As a result, CBO expects that the entire amount deposited to this trust fund would be recorded as budget authority and outlays at the time of the deposit. The Secretary of the Interior would be required to invest the funds in government securities until those funds are expended by the tribe.

Budgetary Effects on the Bonneville Power Administration

The legislation also would require BPA to make an annual payment to the Spokane Tribe of Indians. Beginning in 2014 and extending through 2024, that payment would equal 25 percent of the annual payment that BPA makes under current law to the Confederated Tribes of the Colville Reservation. After 2024, the annual payment to the Spokane Tribe would increase to 32 percent of the payment to the Confederated Tribes. CBO estimates that payments would total about \$5 million annually until 2024 and then increase to about \$8 million. Under the legislation, those payments would continue as long as electricity is generated at the Grand Coulee Dam.

Because BPA's operating costs are driven primarily by market and environmental conditions that are difficult to control, CBO expects that the agency would not be able to offset the cost of this bill by reducing operating expenses. Instead, we anticipate that BPA would increase the rates it charges customers for electricity to cover that cost. Therefore, those payments would generally be offset by an equivalent increase in the revenue collected from customers. However, because BPA has already set the rates it will charge customers for electricity through 2015, CBO expects that the agency would use reserve funds to make payments to the tribe for 2014 and 2015. CBO expects that BPA would use \$11 million of reserves for payments to the tribe in 2015 and that the agency would adjust its rates in 2016 to replenish the reserves. Beginning in 2016, CBO expects that the additional annual payment would become part of BPA's cost structure and would be fully offset by an increase in rates for electricity. Therefore, CBO estimates no net effect of the annual payments and rate increases after 2016.

In addition, starting in 2024, S. 1448 would reduce BPA's interest payments to the Treasury by \$2.7 million in the years that BPA makes payments to the tribe. Because those payments offset direct spending, such reductions would have the effect of increasing direct spending by \$2.7 million a year indefinitely, starting in 2024.

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 or revenues. The net change in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for S. 1448, as ordered reported by the Senate Committee on Indian Affairs on January 29, 2014

| | By Fiscal Year, in Millions of Dollars | | | | | | | | | | | 2014- | 2014- |
|--|--|------|------|------|------|------|------|------|------|------|------|-------|-------|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2019 | 2024 |
| NET INCREASE OR DECREASE (-) IN THE DEFICIT | | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Effect | 0 | 64 | -11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 53 | 56 |

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1448 contains an intergovernmental mandate as defined in UMRA. Upon deposit of funds into the trust for the tribe, monetary claims against the United States for hydropower revenues and for past and continued use of the tribe’s land would be extinguished. Eliminating an existing right of action is a mandate because the right to seek redress and recover damages beyond what is provided in the bill would be lost. Based on information from the tribe, CBO expects it is unlikely that the tribe would pursue such claims. Therefore, CBO estimates that the cost, if any, of the mandate would not exceed the annual threshold established in that act (\$76 million in 2014, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 1448 contains no private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY:

Federal Costs: Martin von Gnechten and Kathleen Gramp
 Effect on State, Local, and Tribal Governments: Melissa Merrell
 Effect on the Private Sector: Marin Burnett

ESTIMATE APPROVED BY:

Theresa Gullo
 Deputy Assistant Director for Budget Analysis