

CROW CREEK SIOUX TRIBE INFRASTRUCTURE  
DEVELOPMENT TRUST FUND ACT OF 1996

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SEPTEMBER 4, 1996.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 2512]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2512) to provide for certain benefits of the Missouri River basin Pick-Sloan project to the Crow Creek Sioux Tribe, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996”.

**SEC. 2. FINDINGS.**

(a) FINDINGS.—The Congress finds that—

(1) the Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944, commonly known as the “Flood Control Act of 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan program, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the western boundary of the Crow Creek Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most pro-

ductive agricultural and pastoral lands of the Crow Creek Sioux Tribe and the homeland of the members of the Tribe;

(4) Public Law 85-916 (72 Stat. 1766 et seq.) authorized the acquisition of 9,418 acres of Indian land on the Crow Creek Indian Reservation for the Fort Randall project and Public Law 87-735 (76 Stat. 704 et seq.) authorized the acquisition of 6,179 acres of Indian land on Crow Creek for the Big Bend project;

(5) Public Law 87-735 (76 Stat. 704 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation, by directing the Secretary of the Army to—

(A) replace, relocate, or reconstruct—

(i) any existing essential governmental and agency facilities on the reservation, including schools, hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters; and

(ii) roads, bridges, and incidental matters or facilities in connection with such facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the requirements under Public Law 87-735 (76 Stat. 704 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation have not been fulfilled;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Crow Creek Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Crow Creek Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan program; and

(9) the Crow Creek Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River basin program.

### SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) **FUND.**—The term “Fund” means the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) **PLAN.**—The term “plan” means the plan for socioeconomic recovery and cultural preservation prepared under section 5.

(3) **PROGRAM.**—The term “Program” means the power program of the Pick-Sloan Missouri River basin program, administered by the Western Area Power Administration.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(5) **TRIBE.**—The term “Tribe” means the Crow Creek Sioux Tribe of Indians, a band of the Great Sioux Nation recognized by the United States of America.

### SEC. 4. ESTABLISHMENT OF CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) **CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.**—There is established in the Treasury of the United States a fund to be known as the “Crow Creek Sioux Tribe Infrastructure Development Trust Fund”.

(b) **FUNDING.**—Beginning with fiscal year 1997, and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited in the Fund is equal to \$27,500,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(c) **INVESTMENTS.**—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) **PAYMENT OF INTEREST TO TRIBE.**—

(1) **ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.**—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account

established by the Secretary of the Treasury in the Treasury of the United States.

(2) PAYMENTS.—

(A) IN GENERAL.—Beginning with the fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) WITHDRAWAL AND TRANSFER OF FUNDS.—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under such paragraph and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

**SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.**

(a) PLAN.—

(1) IN GENERAL.—The Tribe shall, not later than 2 years after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under section 4(d)(2). In developing the plan, the Tribe shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(2) REQUIREMENTS FOR PLAN COMPONENTS.—The plan shall, with respect to each component of the plan—

- (A) identify the costs and benefits of that component; and
- (B) provide plans for that component.

(b) CONTENT OF PLAN.—The plan shall include the following programs and components:

(1) EDUCATIONAL FACILITY.—The plan shall provide for an educational facility to be located on the Crow Creek Indian Reservation.

(2) COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary of Health and Human Services, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

- (A) needed; and
- (B) unavailable through existing facilities of the Indian Health Service on the Crow Creek Indian Reservation at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Crow Creek Indian Reservation.

(4) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Crow Creek Indian Reservation in South Dakota.

(5) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4.

**SEC. 7. EFFECT OF PAYMENTS TO TRIBE.**

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River basin power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or  
(B) any treaty obligation of the United States.

Amend the title so as to read:

A bill to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

**PURPOSE OF THE BILL**

The purpose of H.R. 2512 is to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe.

**BACKGROUND AND NEED FOR LEGISLATION**

H.R. 2512, the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996, would establish for the benefit of the Crow Creek Sioux Tribe a \$27.5 million fund, using receipts from the programs of the Eastern Division of the Pick-Sloan Missouri River basin program.

When Congress enacted the Pick-Sloan Missouri River basin program in 1944, it authorized two projects, the Fort Randall and Big Bend projects, which overlie the western boundary of the Crow Creek Indian Reservation. These projects have inundated the bottom lands of that Tribe along the Missouri River.

Public Law 85–916 authorized the acquisition of 9,418 acres of Indian land on the Crow Creek Indian Reservation for the Fort Randall project and Public Law 87–735 authorized the acquisition of 6,179 acres of land on the Crow Creek Indian Reservation for the Big Ben project. Public Law 87–735 also provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation by directing the Secretary of the Army to replace, relocate, or reconstruct existing essential government and agency facilities on the reservation, provide for a township adequate for 50 homes and utilities, and provide for various tribal facilities.

Because the Federal Government has failed to meet the mitigation requirements of P.L. 87–735, H.R. 2512 provides that the Crow Creek Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River basin program, including hydropower revenues and infrastructure development.

H.R. 2512 would establish in the Treasury of the United States, a \$27.5 million Crow Creek Sioux Tribe Infrastructure Development Trust Fund. This Fund would be financed, starting with fiscal year 1997, by the Secretary of the Treasury depositing in the Fund a portion of revenues from receipts from the programs of the East-

ern Division of the Pick-Sloan Missouri River basin program. Beginning with the fiscal year after the Fund reaches the \$27.5 million level, and for each fiscal year thereafter, all interest amounts transferred out of the Fund and into that separate account will be available without fiscal year limitation to the Secretary of the Interior for use pursuant to a Plan developed by the Tribe.

#### COMMITTEE ACTION

H.R. 2512 was introduced on October 19, 1995, by Congressman Tim Johnson (D-SD). The bill was referred to the Committee on Resources, and within the Committee jointly to the Subcommittees on Native American and Insular Affairs and Water and Power Resources. On April 25, 1996, the Subcommittee on Native American and Insular Affairs held a joint hearing with the Senate Committee on Indian Affairs on H.R. 2512, where the Department of the Interior generally supported the bill and indicated that it views some provisions of H.R. 2512 as an implementation tool through which the Tribe may finally realize the mandate expressed by Congress in the Big Bend Act of 1962. The Department of the Army deferred to the Department of the Interior for the Administration's position on the bills. On August 1, 1996, the Full Resources Committee met to consider H.R. 2512. The two subcommittees were discharged from further consideration of the bill. An amendment in the nature of a substitute was offered by Congressman Johnson and adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section titles the Act as the "Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996".

##### *Section 2. Findings*

This section provides the Congressional findings for the bill.

##### *Section 3. Definitions*

This section defines five terms, including Fund, Plan, Program, Secretary and Tribe.

##### *Section 4. Establishment of Crow Creek Sioux Tribe Infrastructure Development Trust Fund*

Subsection (a) would establish in the Treasury of the United States the Crow Creek Sioux Tribe Infrastructure Development Trust Fund.

Under subsection (b), starting with fiscal year 1997, and until an aggregate amount of \$27.5 million is deposited into the Fund, the Secretary of the Treasury shall deposit into the Fund 25 percent of the receipts from the deposits to the Treasury for the preceding fiscal year from the Pick-Sloan Missouri River basin program.

Under subsection (c), the Secretary of the Treasury shall invest the amounts deposited into the Fund only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Under subsection (d)(1), the Secretary of the Treasury shall transfer interest that accrues in the Fund into a separate account. Under paragraph (2), beginning with the fiscal year after the Fund reaches the \$27.5 million level, and for each fiscal year thereafter, all interest amounts transferred out of the Fund and into that separate account established under paragraph (1) above shall be available without fiscal year limitation to the Secretary of the Interior for use pursuant to subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account and transfer them to the Secretary of the Interior for the purpose specified in paragraph (C). Under subparagraph (C), the Secretary of the Interior shall only use the funds transferred pursuant to sections (A) and (B) above for the purpose of making payments to the Tribe. The Tribe shall use the payments received from the Secretary of the Interior only for carrying out projects and programs pursuant to the Plan prepared under section 5 below.

Under paragraph (3), no portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

Under subsection (e), except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

*Section 5. Plan for socioeconomic recovery and cultural preservation*

Under subsection (a), the Tribe shall prepare a Plan, after consulting with the Secretaries of the Interior and Health and Human Services, for the use of payments made to the Tribe out of the account. The Plan shall identify the costs and benefits and provide plans with respect to each component of the Plan.

Subsection (b) describes the content of the Plan. The Plan shall include the following programs and components:

(1) Educational Facility. The Plan shall provide for an educational facility to be located on the Crow Creek Indian Reservation.

(2) Comprehensive Inpatient and Outpatient Health Care Facility. The Plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services determined to be needed and unavailable through existing facilities of the Indian Health Service on the Tribe's reservation.

(3) Water System. The Plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Crow Creek Indian Reservation.

(4) Recreational Facilities. The Plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Crow Creek Reservation in South Dakota.

(5) Other Projects and Programs. The Plan shall provide for such various other projects and programs for the educational, social welfare, economic development and cultural preservation as the Tribe considers to be appropriate.

*Section 6. Authorization of appropriations*

There are authorized to be appropriated such funds as may be necessary to carry out this Act including such funds as may be necessary for administrative expenses of the Fund.

*Section 7. Effects of payments to tribe*

No payment made to the Tribe or a member of the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to federal law, the Tribe or member of the Tribe is otherwise entitled. However, no payment made pursuant to this Act shall affect Pick-Sloan Missouri River basin power rates, and nothing in this Act may be construed as diminishing or affecting any right of the Tribe that is not otherwise addressed in this Act or any treaty obligation of the United States.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2512 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2512. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2512 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. The bill would increase direct spending authority by approximately \$1.4 million per year beginning in 1998, for a total outlay of \$4 million.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2512.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the

Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2512 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 16, 1996.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2512, the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996.

Enacting H.R. 2512 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2512.
2. Bill title: Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996.
3. Bill status: As ordered reported by the House Committee on Resources on August 1, 1996.
4. Bill purpose: H.R. 2512 would provide for compensation to the Crow Creek Sioux Tribe for the taking of tribal lands for the site of the Fort Randall and Big Bend dam projects. The bill would establish an economic recovery fund for the tribe and make interest earned by the fund available to the tribe for education, health, maintenance of water systems, and other purposes.
5. Estimated cost to the Federal Government: CBO estimates that enacting H.R. 2512 would create new direct spending authority of about \$1.4 million each year, beginning in fiscal year 1998. We estimate that the resulting outlays would total about \$4 million over the 1997–2002 period, as shown in the following table.

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING						
Estimated budget authority .....	0	1.5	1.4	1.4	1.4	1.4
Estimated outlays .....	0	0.2	0.5	0.8	1.1	1.3

The costs of this bill fall within budget function 450.

6. Basis of estimate: H.R. 2512 would establish a Crow Creek Sioux Tribe Infrastructure Development Trust Fund, into which would be deposited an amount equal to 25 percent of the previous year's receipts from the power program of the Pick-Sloan Missouri River basin program, with a cap of no more than \$27.5 million.

Since the power program's receipts for fiscal year 1996 are estimated to be greater than \$200 million, CBO expects that the fund would be fully capitalized in fiscal year 1997. This transfer would be intragovernmental and there would be no outlays associated with such principal deposits.

The bill would direct that the principal be invested in interest-bearing Treasury obligations. The interest would be transferred to another account, which the tribe would be able to use for various purposes. H.R. 2512 states that the interest would be made available to the Secretary of the Interior to transfer to the tribe the year after the Infrastructure Development Trust Fund is fully funded. Assuming a transfer to the fund early in fiscal year 1997, CBO estimates that interest earnings of about \$1.4 million would be made available to the tribe in fiscal year 1998 and in each subsequent year. These amounts would be available for spending without appropriations action. Estimated outlays of this interest by the tribe are based on historical spending rates for programs with similar goals and activities as those stated in the bill.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting H.R. 2512 would affect direct spending in the form of payments to the Crow Creek Sioux Tribe from the tribe's Infrastructure Development Trust Fund. Such payments would begin in fiscal year 1998, but we estimate that outlays would total less than \$500,000 in that year. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal years in millions of dollars]

	1996	1997	1998
Change in outlays .....	0	0	0
Change in receipts .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Not applicable.

8. Estimated impact on State, local, and tribal governments: H.R. 2512 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

Section 5 of the bill would require the Crow Creek Sioux Tribe to prepare a plan for using payments from the Federal Government authorized by section 4 as a condition of receiving those payments and would specify a number of elements to be included in the plan. Based on information provided by the tribe, CBO estimates that the cost of complying with this requirement would be about \$500,000 over two years. The bill would not authorize any funds for preparing the plan, but the annual payments received from the Federal Government would be used by the tribe to carry out projects included in the plan.

H.R. 2512 would impose no other costs on state, local, or tribal governments.

9. Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in Public Law 104-4.

10. Previous CBO estimate: On August 9, 1996, CBO prepared a cost estimate for S. 1264 for the Senate Committee on Indian Affairs. The bills are identical, as are the cost estimates.

11. Estimate prepared by: Federal cost estimate: Lisa Daley and Rachel Robertson. Impact on State, local, and tribal governments: Marjorie Miller. Impact on the private sector: Amy Downs.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2512 contains no unfunded mandates as defined in Public Law 104-4.

CHANGES IN EXISTING LAW

If enacted, H.R. 2512 would make no changes in existing law.

