

**JANUARY 2011 REGULAR SESSION OF THE CROW TRIBAL LEGISLATURE**

**CLB NO. 11-01**

Introduced by Senator Carlson Goes Ahead  
Arrow Creek District

A Bill For An Act Titled:

**AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007  
TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND PROFESSIONALISM  
IN TRIBAL ACCOUNTING**

Legislative Findings:

**WHEREAS**, under Article V, Section 2(a) of the 2001 Crow Constitution (“2001 Constitution”) the Crow Tribal Legislature (“Legislature”) has the power and duty to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the 2001 Constitution and federal laws for the governance of the Crow Tribe of Indians; and

**WHEREAS**, under Article IV, Section 3(d) of the 2001 Constitution the Crow Tribal Executive Branch (“Executive Branch”) has the power and responsibility to propose an annual tribal budget for each of the three branches of government, subject to final approval by the Legislature; and

**WHEREAS**, under Article IV, Section 3(d) and Section 4 of the 2001 Constitution, the Executive Branch has the power, responsibility, and duty to provide for the fiscal management of its own budget and to administer any funds within the control of the Tribe, through the implementation of Crow tribal law, including a duly-approved annual budget; and

**WHEREAS**, under Article IV, Section 4(b) of the 2001 Constitution, the Executive Branch officials have a duty to provide complete financial reports to the Legislature on a quarterly basis and to the Crow Tribal General Council (“General Council”) on a biannual basis; and

**WHEREAS**, under Article IV, Section 5(a) of the 2001 Constitution, the Chairman of the Executive Branch has the specific duty and authority to appoint a bonded Tribal Comptroller; and

**WHEREAS**, the intent of the Legislature’s passage of the Crow Tribal Fiscal Management Act in 2007 was to establish a process for approving annual tribal budgets and amendments or modifications thereto, to establish statutory duties for the Tribal Comptroller and CPA, and to increase accountability and transparency in the management of the Tribe’s financial resources to the General Council; and

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**AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007 TO INCREASE  
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**WHEREAS**, the Legislature seeks to improve transparency and accountability to the greatest extent possible to ensure sound and lawful management of the Tribe's fiscal resources; and

**WHEREAS**, the precise lawful duties of the Crow Tribal Comptroller, who is a constitutional officer, need further definition and refinement by Crow tribal law in order to increase accountability and professional independence.

**NOW, THEREFORE, BE IT HEREBY ENACTED AS CROW TRIBAL LAW BY THE  
CROW TRIBAL LEGISLATURE IN REGULAR SESSION:**

That the Crow Tribal Fiscal Management Act (CLB 07-08; hereinafter "FMA") is hereby amended to reflect the following changes:

Section 2 of the FMA is amended as follows:

**"Administer" or "administering"** of Crow Tribal Funds shall mean the act of physically receiving or authorizing to be received all Crow Tribal Funds for deposit into the Tribe's General Fund and shall mean the act of physically dispersing or authorizing to be dispersed money from the Crow Tribal General Fund for a purpose authorized under the annual comprehensive budget. Administering also means the preparation of an annual budget for presentation to the Legislature for final approval, and the oversight of all expenditures and receipts of Crow Tribal Funds, notwithstanding source or amount.

**"Carry-over"** means that a fund will be forwarded into the next fiscal year with a continued spending authorization.

**"Crow Tribal Funds"** means all funds, monies, securities, property, income and any other financial assets owned in any part by the Crow Tribe and/or reported within the Crow Tribe's accounting system and/or within the Crow Tribe's control, including but not limited to general funds, special revenue funds, capital projects funds, enterprise funds and revenues, special events funds and revenues (including Crow Fair and Crow Native Days), revenues from trust assets, agency licensing or permitting fees, fines and penalties, rents and royalties, interest accruals on any tribal account, outside source grant monies, settlement funds including but not limited to settlement funds associated with the Crow-Montana Water Compact and/or Crow Water Rights Settlement Act, and any other funds, including federal self-determination contract or other federal grant funding, and any other property and/or income designated by federal and/or tribal law for use by the Crow Tribe or any instrumentality or agency therein. The intent of this subsection is to include all items of value which are considered part of the Tribe's annual accounting for purposes of budgeting and expenditure.

**“Judicial Branch funds”** means all Crow Tribal Funds which have been authorized under the annual comprehensive budget to be spent by the Judicial Branch. Judicial Branch funds are not subject to administration by the Executive Branch once appropriated to the Judicial Branch in accordance with the annual comprehensive budget, and Section 9 of this Act.

**“Legislative Branch funds”** means all Crow Tribal Funds which have been authorized under the annual comprehensive budget to be spent by the Legislature. Legislative Branch funds are not subject to administration by the Executive Branch once appropriated to the Legislature in accordance with the annual comprehensive budget, and Section 9 of this Act.

Section 3 (A) of the FMA is amended and shall, upon passage of this Act, read as follows:

**Comprehensive Budget.** The Crow Tribal Government shall operate pursuant to An annual comprehensive budget including separate budgets for the Legislative and Judicial Branches prepared by the Executive Branch, with assistance by the Comptroller and CPA, and approved by the Legislature. Any expenditure of Crow Tribal Funds that is not specifically authorized by the annual comprehensive budget or this Act shall be unlawful and strictly punished under this Act and any other applicable Crow tribal law.

Section 3 (D) of the FMA is amended and shall, upon passage of this Act, read as follows:

**Receipt of Additional Revenues.** Before expenditure, any Crow Tribal Funds of any type or amount received in excess of the annual revenue projection shall be budgeted by amendment to the current fiscal year comprehensive budget, which shall be presented to the Legislature for final approval. All excess revenue funds received shall be reported in certified writing by the Comptroller during the following quarterly session of the Legislature. Failure to comply with this requirement shall be considered unlawful and strictly punished in accordance with this Act and any other applicable Crow tribal law.

Section 3 (E) of the FMA is amended and shall, upon passage of this Act, read as follows:

**E. District Appropriations.** Any and all Crow Tribal Funds designated for use by a particular District must be included in the annual comprehensive budget. In no event shall any District receive an annual appropriation of less than \$50,000 per year and, in addition, each District shall receive quarterly payments equal to 1% of the net income received during that fiscal quarter from any energy or mineral development project involving any Crow natural resources.

Section 3 (F) of the FMA is hereby rescinded and shall be replaced by Section 10 of this Act.

Section 7 of the FMA is amended and shall, upon passage of this Act, read as follows:

Section 7. ***BUDGET MODIFICATION AND REALLOCATIONS.***

- A. Substantial monetary budget allocations from one department/program to another, which individually or cumulatively exceed ten-thousand dollars (\$10,000) or 50% of the department's annual budget, whichever is less, shall be submitted by the Executive Branch to the Legislature for approval in order to be a lawful amendment to the annual comprehensive budget.
- B. Unless authorized under Subsection (A) of this Section, no modification to the annual comprehensive budget shall be lawful without final approval by the Legislature.
- C. Any Crow Tribal Funds budgeted for the Legislature or Judicial Branch or any District for a particular fiscal year that are not expended during that fiscal year shall be a carry-over for the respective Branch or District for use during the next fiscal year. All interest generated by Crow Tribal Funds managed by a Branch or District shall immediately be available for use by such entity, provided that full disclosure and reporting be provided to the Comptroller and Executive Branch Officials.
- D. All fines and fees received by any court of the Judicial Branch shall be available for placement by the Chief Judge, or his or her designee, in an interest-bearing financial account for use by the Judicial Branch to help pay administrative costs of the courts. All such fines and fees shall be paid to the Crow Tribe and the Comptroller shall make monthly appropriations to the Judicial Branch under this Subsection.

Section 9 of the FMA is amended and shall, upon passage of this Act, read as follows:

Section 9. ***SEPARATION OF FINANCES.***

- A. **Policy of Crow Tribe.** Upon final approval of the annual comprehensive budget, each of the three separate Branches of the Crow Tribal Government shall assume full control of their respective budgets. All Crow Tribal Funds lawfully appropriated in accordance to an annual comprehensive budget may be deposited by the respective Branches in an interest-bearing account at a financial institution of each Branch's choosing. Signature authority is granted to each Branch Chief and shall be exercised with the respective Branch chief financial officer, in accordance with established policy of each Branch.

- B. Quarterly Appropriations.** The Comptroller shall transfer or authorized to be transferred each to the Legislature and the Judicial Branch one-fourth of the total budgeted amount of each Branch no later than the first day of October, January, April, and July of each fiscal year. All such appropriations to the Legislature and Judicial Branch shall be made by the Executive Branch Officials in the absence or unavailability of the Comptroller.

The following Sections are added and shall, upon passage of this Act, be considered part of the FMA:

Section 10. ***OFFICE OF THE COMPTROLLER.***

**A. Appointment.** [Reserved].

**B. Qualifications.** [Reserved].

**C. Duties.** The Comptroller is the treasurer of the Crow Tribe and shall be considered in a fiduciary relationship to the Crow people, the Crow Tribal Government and all Crow tribal enterprises. The Comptroller shall be responsible for the consolidation and preparation of all phases of the annual Crow Tribal comprehensive budget upon final approval by the Legislature. The Comptroller shall keep accurate, up-to-date, and complete records of all appropriations or receptions of Crow Tribal Funds and any other tribal actions increasing or decreasing the value or amount on all Crow Tribal Funds or otherwise incurring financial liabilities or other financial obligations to the Crow Tribe. All expenditures of Crow Tribal Funds shall be considered public records and shall be provided by the Comptroller to any member of the Crow Tribal General Council within ten (10) working days upon written request. The Comptroller shall provide a copy of all documentation kept in his or her office to the Crow Tribal Secretary for permanent record-keeping and reporting to the General Council and Legislature. The Comptroller must maintain regular office hours in the Tribal Administration Building. All other Comptroller duties prescribed under the FMA shall be considered duties for purposes of this subsection. At the written request of either the Executive Branch Chairman, Speaker of the House, the Legislative Branch Revenue Committee, or the Chief Tribal Court Judge, the Comptroller shall provide a budget analysis with an accurate and up to date bank statement of the Crow Tribal General Fund. The Comptroller shall be required at all times to adhere to all requirements under this Act and other applicable Crow tribal law.

**D. Rule-making authority.** [Reserved].

- E. Compensation.** The Comptroller shall be paid an annual salary as determined by the Tribal Chairman but not to exceed \$75,000 per year. The Comptroller shall be reimbursed for all training-related travel expenditures only when pre-authorized by the Executive Branch Officials, but in all other respects shall have no greater benefits than any other tribal employee.
- F. Independent Counsel.** [Reserved].
- G. Bonding.** The Comptroller shall at all times be personally bonded by an insurance company authorized by any applicable federal and Montana law to bond financial controllers or public accountants. In no event shall Crow Tribal Funds be used to pay for the Comptroller's bonding.
- H. Other staff.** The Office of the Comptroller shall consist of all employees hired by the Executive Branch Officials in accordance with Crow tribal law, including but not limited to the Crow Workforce Protection Act, as amended. All employees of this Office shall be knowledgeable of the Fiscal Management Act, as amended.

Section 11. ***THE CROW TRIBAL ACCOUNTING BOARD.***

- A. Composition.** [Reserved].
- B. Duties.** [Reserved].
- C. Tribal CPA Licensure exam.** [Reserved].

Section 12. ***TRIBAL TREASURY MANAGEMENT SERVICES.***

- A. Policy.** It is hereby declared the policy of the Crow Tribe to seek the most positive and rewarding financial institution for banking services, until such time as the Apsaalooke National Bank is fully established.
- B. Public recording of agreement with financial institution.** [Reserved].
- C. District treasury accounts, chief financial officers.** [Reserved].

Section 13. ***SALARIES OF TRIBAL EMPLOYEES, CONTRACTORS, AND ELECTED OFFICIALS.***

The salaries of all tribal employees, elected officials of each Branch, and all tribal contractors shall be considered a public tribal record and made available by the Comptroller upon written request by any member of the Crow General Council.

Section 14. **ENFORCEMENT.**

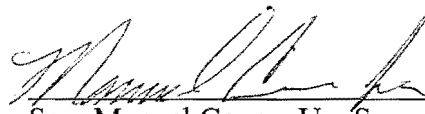
- A. **Misdemeanor.** Violations of this Act, involving any misappropriation of Crow Tribal Funds, if the amount in question is less than or equal to \$1,000, shall be considered a tribal misdemeanor and punishable by up to six (6) months in jail and a \$500 fine.
- B. **Felony.** Violations of this Act, involving any misappropriation of Crow Tribal Funds, if the amount in question is greater than \$1,000, shall be considered a tribal felony and punishable by up to one (1) year in jail and a \$1,000 fine.
- C. **Mens rea requirement.** All alleged criminal violations of this Act shall require the Tribal Prosecutor to prove beyond a reasonable doubt that the defendant knowingly violated the terms of this Act.
- D. **Criminal restitution.** In all cases, a convicted defendant shall pay full restitution to the Crow Tribe in accordance to terms established by order of the Crow Tribal Court.
- E. **Civil violations.** Any violation of this Act shall be considered unlawful, shall be prosecuted civilly by the Tribal Prosecutor, and punishable by up to a \$1,000 fine and restitution shall be required in appropriate circumstances as determined by the Crow Tribal Court. All such civil prosecutions shall be in accordance with the Crow Rules of Civil Procedure.
- F. **Subpoena powers, contempt.** [Reserved].
- G. **Qui tam enforcement.** [Reserved].

Section 15. **CODIFICATION INSTRUCTIONS.** This Act shall be codified in Title 1 of the 2010 Crow Law and Order Code and all subsequent codes as authorized by Crow Tribal law. Beginning with the 2010 Crow Law and Order Code, Title 1 shall be renamed "Government Administration."

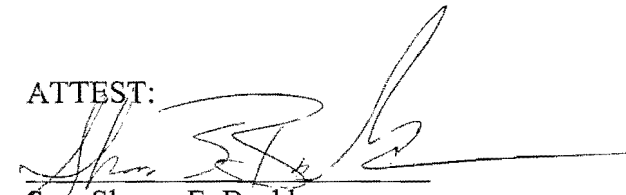
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**CERTIFICATION**

I hereby certify that this bill for an act titled **AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007 TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND PROFESSIONALISM IN TRIBAL ACCOUNTING** was duly approved by the Crow Tribal Legislature with a vote of 15 in favor, 0 opposed, and 0 abstained, and that a quorum was present on this 13<sup>th</sup> day of **January, 2011**.

  
Sen. Manuel Covers Up, Sr.  
Speaker of the House  
Crow Tribal Legislature

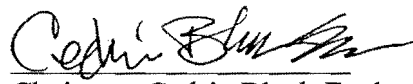
ATTEST:

  
Sen. Shawn E. Backbone  
Secretary Pro Tem  
Crow Tribal Legislature

**EXECUTIVE ACTION**

I hereby  
 approve  
 veto

**AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007 TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND PROFESSIONALISM IN TRIBAL ACCOUNTING** pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 and Article IV, Sections 3(f) and 3(k) of the Constitution and Bylaws of the Crow Tribe of Indians on this 16<sup>th</sup> day of January, 2011.

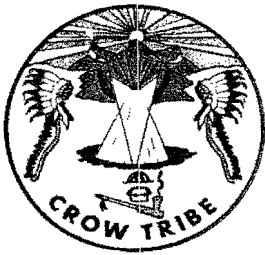
Feb.  
  
Chairman Cedric Black Eagle  
Crow Tribal Executive Branch

January 2011 Session

**AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007 TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND PROFESSIONALISM IN TRIBAL ACCOUNTING**







# LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

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Crow Country

## Legislative Branch

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#### Arrow Creek

Carlson Goes Ahead  
Bryce Hugs  
Lawrence DeCrane

### Big Horn

#### Valley of the Give

#### Away

Vincent Crooked Arm  
Marlin D. Not Afraid  
Pat Alden, Jr.

### Dunmore

#### Black Lodge

Conrad J. Stewart  
V. Jeannie Pretty Paint  
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#### Center Lodge

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#### Valley of the Chief

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**Speaker of the House**  
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Woodrow Plainfeather

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#### Mighty Few

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Gordon Real Bird, Jr.

### Staff

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Attorney at Law

Leslie Plain Feather  
Legal Assistant

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Jackie Blacksmith,  
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William Old Crow  
Finance Officer/Admin.  
Assist.

Sheri Chandler  
Office Assist./Receptionist  
/Editor

Kenny Pretty On Top  
Maintenance/Custodian  
Sergeant at Arms

## OFFICIAL CERTIFICATE OF DELIVERY

I, Pat Alden, Jr. Secretary of the Legislative Branch of the Crow Tribal Government hereby

this Transitional Action do deliver a True and Correct Official copy

Of the Final Approval for the following:

Introduced by Senator Carlson Goes Ahead

Arrow Creek District

**A BILL FOR AN ACT TITLED: "AN ACT TO AMEND THE CROW TRIBAL FISCAL MANAGEMENT ACT OF 2007 TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND PROFESSIONALISM IN TRIBAL ACCOUNTING."**

**CLB11-01** to William C. [Signature] in the

Position of: Executive Legal Counsel for the

**Crow Tribal Executive Branch.**

Done and dated this 25<sup>th</sup> day of Jan, 2011 @ 5.15 a.m./p.m.

Pat Alden Jr.  
Secretary Of The House  
Legislative Branch of the  
Crow Tribal Government

Served by:

Jackie Blacksmith  
Legislative Branch Staff

Cc: file

Certificate Number  
2011-06