

Calendar No. 282

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 156**

[Report No. 105-146]

---

---

## **A BILL**

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

---

---

NOVEMBER 8, 1997

Reported with amendments

**Calendar No. 282**105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 156****[Report No. 105-146]**

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. DASCHLE (for himself and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 21, 1997

Committee discharged; ordered referred to the Committee on Indian Affairs

NOVEMBER 8, 1997

Reported by Mr. CAMPBELL, with amendments

[Omit the part struck through and insert the part printed in *italic*]

---

**A BILL**

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Lower Brule Sioux  
3 Tribe Infrastructure Development Trust Fund Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) under the Act of December 22, ~~1994~~ *1944*,  
7 commonly known as the “Flood Control Act of ~~1994~~  
8 *1944*” (58 Stat. 887, chapter 665; 33 U.S.C. 701–  
9 1 et seq.) Congress approved the Pick-Sloan Mis-  
10 souri River Basin program—

11 (A) to promote the general economic devel-  
12 opment of the United States;

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

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

17 (D) for other purposes;

18 (2) the Fort Randall and Big Bend projects are  
19 major components of the Pick-Sloan Missouri River  
20 Basin program, and contribute to the national econ-  
21 omy by generating a substantial amount of hydro-  
22 power and impounding a substantial quantity of  
23 water;

24 (3) the Fort Randall and Big Bend projects  
25 overlie the ~~western~~ *eastern* boundary of the Lower  
26 Brule Indian Reservation, having inundated the fer-

1 tile, wooded bottom lands of the Tribe along the  
2 Missouri River that constituted the most productive  
3 agricultural and pastoral lands of the Lower Brule  
4 Sioux Tribe and the homeland of the members of the  
5 Tribe;

6 (4) Public Law 85–923 (72 Stat. 1773 et seq.)  
7 authorized the acquisition of 7,997 acres of Indian  
8 land on the Lower Brule Indian Reservation for the  
9 Fort Randall project and Public Law 87–734 (76  
10 Stat. 698 et seq.) authorized the acquisition of  
11 14,299 acres of Indian land on the Lower Brule In-  
12 dian Reservation for the Big Bend project;

13 (5) Public Law 87–734 (76 Stat. 698 et seq.)  
14 provided for the mitigation of the effects of the Fort  
15 Randall and Big Bend projects on the Lower Brule  
16 Indian Reservation, by directing the Secretary of the  
17 Army to—

18 (A) as necessary, by reason of the Big  
19 Bend project, protect, replace, relocate, or re-  
20 construct—

21 (i) any essential governmental and  
22 agency facilities on the reservation, includ-  
23 ing schools, hospitals, offices of the Public  
24 Health Service and the Bureau of Indian  
25 Affairs, service buildings, and employee

1           quarters existing at the time that the  
2           projects were carried out; and

3                   (ii) roads, bridges, and incidental mat-  
4           ters or facilities in connection with those  
5           facilities;

6           (B) provide for a townsite adequate for 50  
7           homes, including streets and utilities (including  
8           water, sewage, and electricity), taking into ac-  
9           count the reasonable future growth of the town-  
10          site; and

11           (C) provide for a community center con-  
12          taining space and facilities for community gath-  
13          erings, tribal offices, tribal council chamber, of-  
14          fices of the Bureau of Indian Affairs, offices  
15          and quarters of the Public Health Service, and  
16          a combination gymnasium and auditorium;

17          (6) the requirements under Public Law 87-734  
18          (76 Stat. 698 et seq.) with respect to the mitigation  
19          of the effects of the Fort Randall and Big Bend  
20          projects on the Lower Brule Indian Reservation have  
21          not been fulfilled;

22          (7) although the national economy has benefited  
23          from the Fort Randall and Big Bend projects, the  
24          economy on the Lower Brule Indian Reservation re-  
25          mains underdeveloped, in part as a consequence of

1 the failure of the Federal Government to fulfill the  
2 obligations of the Federal Government under the  
3 laws referred to in paragraph (4);

4 (8) the economic and social development and  
5 cultural preservation of the Lower Brule Sioux Tribe  
6 will be enhanced by increased tribal participation in  
7 the benefits of the Fort Randall and Big Bend com-  
8 ponents of the Pick-Sloan Missouri River Basin pro-  
9 gram; and

10 (9) the Lower Brule Sioux Tribe is entitled to  
11 additional benefits of the Pick-Sloan Missouri River  
12 Basin program.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) **FUND.**—The term “Fund” means the  
16 Lower Brule Sioux Tribe Infrastructure Develop-  
17 ment Trust Fund established under section 4(a).

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

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

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

3           (5) TRIBE.—The term “Tribe” means the  
4           Lower Brule Sioux Tribe of Indians, a band of the  
5           Great Sioux Nation recognized by the United States  
6           of America.

7 **SEC. 4. ESTABLISHMENT OF LOWER BRULE SIOUX TRIBE**  
8                           **INFRASTRUCTURE DEVELOPMENT TRUST**  
9                           **FUND.**

10          (a) LOWER BRULE SIOUX TRIBE INFRASTRUCTURE  
11 DEVELOPMENT TRUST FUND.—There is established in  
12 the Treasury of the United States a fund to be known  
13 as the “Lower Brule Sioux Tribe Infrastructure Develop-  
14 ment Trust Fund”.

15          (b) FUNDING.—Beginning with fiscal year ~~imme-~~  
16 ~~diately following the fiscal year during which the aggre-~~  
17 ~~gate of the amounts deposited in the Crow Creek Sioux~~  
18 ~~Tribe Infrastructure Development Trust Fund is equal to~~  
19 ~~the amount specified in section 4(b) of the Crow Creek~~  
20 ~~Sioux Tribe Infrastructure Development Trust Fund Act~~  
21 ~~of 1996 (110 Stat. 3026 et seq.) 1998, and for each fiscal~~  
22 year thereafter, until such time as the aggregate of the  
23 amounts deposited in the Fund is equal to \$39,300,000,  
24 the Secretary of the Treasury shall deposit into the Fund  
25 an amount equal to 25 percent of the receipts from the

1 deposits to the Treasury of the United States for the pre-  
2 ceding fiscal year from the Program.

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

8 (d) PAYMENT OF INTEREST TO TRIBE.—

9 (1) ESTABLISHMENT OF ACCOUNT AND TRANS-  
10 FER OF INTEREST.—The Secretary of the Treasury  
11 shall, in accordance with this subsection, transfer  
12 any interest that accrues on amounts deposited  
13 under subsection (b) into a separate account estab-  
14 lished by the Secretary of the Treasury in the Treas-  
15 ury of the United States.

16 (2) PAYMENTS.—

17 (A) IN GENERAL.—Beginning with the fis-  
18 cal year immediately following the fiscal year  
19 during which the aggregate of the amounts de-  
20 posited in the Fund is equal to the amount  
21 specified in subsection (b), and for each fiscal  
22 year thereafter, all amounts transferred under  
23 paragraph (1) shall be available, without fiscal  
24 year limitation, to the Secretary of the Interior  
25 for use in accordance with subparagraph (C).

1           (B) WITHDRAWAL AND TRANSFER OF  
2 FUNDS.—For each fiscal year specified in sub-  
3 paragraph (A), the Secretary of the Treasury  
4 shall withdraw amounts from the account estab-  
5 lished under paragraph (1) and transfer such  
6 amounts to the Secretary of the Interior for use  
7 in accordance with subparagraph (C). The Sec-  
8 retary of the Treasury may only withdraw  
9 funds from the account for the purpose speci-  
10 fied in this paragraph.

11           (C) PAYMENTS TO TRIBE.—The Secretary  
12 of the Interior shall use the amounts trans-  
13 ferred under subparagraph (B) only for the  
14 purpose of making payments to the Tribe.

15           (D) USE OF PAYMENTS BY TRIBE.—The  
16 Tribe shall use the payments made under sub-  
17 paragraph (C) only for carrying out projects  
18 and programs pursuant to the plan prepared  
19 under section 5.

20           (3) PROHIBITION ON PER CAPITA PAYMENTS.—  
21 No portion of any payment made under this sub-  
22 section may be distributed to any member of the  
23 Tribe on a per capita basis.

24           (e) TRANSFERS AND WITHDRAWALS.—Except as  
25 provided in subsection (d)(1), the Secretary of the Treas-

1 ury may not transfer or withdraw any amount deposited  
2 under subsection (b).

3 **SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CUL-**  
4 **TURAL PRESERVATION.**

5 (a) PLAN.—

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

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

16 (A) identify the costs and benefits of that  
17 component; and

18 (B) provide plans for that component.

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

21 (1) EDUCATIONAL FACILITY.—The plan shall  
22 provide for an educational facility to be located on  
23 the Lower Brule Indian Reservation.

24 (2) COMPREHENSIVE INPATIENT AND OUT-  
25 PATIENT HEALTH CARE FACILITY.—The plan shall

1 provide for a comprehensive inpatient and outpatient  
2 health care facility to provide essential services that  
3 the Secretary of Health and Human Services, in  
4 consultation with the individuals and entities re-  
5 ferred to in subsection (a)(1), determines to be—

6 (A) needed; and

7 (B) unavailable through facilities of the In-  
8 dian Health Service on the Lower Brule Indian  
9 Reservation in existence at the time of the de-  
10 termination.

11 (3) WATER SYSTEM.—The plan shall provide  
12 for the construction, operation, and maintenance of  
13 a municipal, rural, and industrial water system for  
14 the Lower Brule Indian Reservation.

15 (4) RECREATIONAL FACILITIES.—The plan  
16 shall provide for recreational facilities suitable for  
17 high-density recreation at Lake Sharpe at Big Bend  
18 Dam and at other locations on the Lower Brule In-  
19 dian Reservation in South Dakota.

20 (5) OTHER PROJECTS AND PROGRAMS.—The  
21 plan shall provide for such other projects and pro-  
22 grams for the educational, social welfare, economic  
23 development, and cultural preservation of the Tribe  
24 as the Tribe considers to be appropriate.

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

2       There are authorized to be appropriated such funds  
3 as may be necessary to carry out this Act, including such  
4 funds as may be necessary to cover the administrative ex-  
5 penses of the Fund.

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

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

11           (1) the Tribe is otherwise entitled because of  
12 the status of the Tribe as a federally recognized In-  
13 dian tribe; or

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

17 (b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

18           (1) POWER RATES.—No payment made pursu-  
19 ant to this Act shall affect Pick-Sloan Missouri  
20 River Basin power rates.

21           (2) STATUTORY CONSTRUCTION.—Nothing in  
22 this Act may be construed as diminishing or affect-  
23 ing—

24           (A) any right of the Tribe that is not oth-  
25 erwise addressed in this Act; or

1                   (B) any treaty obligation of the United  
2                   States.