

106TH CONGRESS
1ST SESSION

S. 964

To provide for equitable compensation for the Cheyenne River Sioux Tribe,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 1999

Mr. DASCHLE introduced the following bill; which was read twice and referred
to the Committee on Indian Affairs

A BILL

To provide for equitable compensation for the Cheyenne
River 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cheyenne River Sioux
5 Tribe Equitable Compensation Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) by enacting the Act of December 22, 1944,
9 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
10 seq.), commonly known as the “Flood Control Act of

1 1944”, Congress approved the Pick-Sloan Missouri
2 River Basin program (referred to in this section as
3 the “Pick-Sloan program”)—

4 (A) to promote the general economic devel-
5 opment of the United States;

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

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

10 (D) for other purposes;

11 (2) the Oahe Dam and Reservoir project—

12 (A) is a major component of the Pick-
13 Sloan program, and contributes to the economy
14 of the United States by generating a substan-
15 tial amount of hydropower and impounding a
16 substantial quantity of water;

17 (B) overlies the eastern boundary of the
18 Cheyenne River Sioux Indian Reservation; and

19 (C) has not only contributed little to the
20 economy of the Tribe, but has severely damaged
21 the economy of the Tribe and members of the
22 Tribe by inundating the fertile, wooded bottom
23 lands of the Tribe along the Missouri River that
24 constituted the most productive agricultural

1 and pastoral lands of the Tribe and the home-
2 land of the members of the Tribe;

3 (3) the Secretary of the Interior appointed a
4 Joint Tribal Advisory Committee that examined the
5 Oahe Dam and Reservoir project and correctly con-
6 cluded that—

7 (A) the Federal Government did not jus-
8 tify, or fairly compensate the Tribe for, the
9 Oahe Dam and Reservoir project when the Fed-
10 eral Government acquired 104,492 acres of land
11 of the Tribe for that project; and

12 (B) the Tribe should be adequately com-
13 pensated for the land acquisition described in
14 subparagraph (A);

15 (4) after applying the same method of analysis
16 as is used for the compensation of similarly situated
17 Indian tribes, the Comptroller General of the United
18 States (referred to in this Act as the “Comptroller
19 General”) determined that the appropriate amount
20 of compensation to pay the Tribe for the land acqui-
21 sition described in paragraph (3)(A) would be
22 \$290,722,958;

23 (5) the Tribe is entitled to receive additional fi-
24 nancial compensation for the land acquisition de-
25 scribed in paragraph (3)(A) in a manner consistent

1 with the determination of the Comptroller General
2 described in paragraph (4); and

3 (6) the establishment of a trust fund to make
4 amounts available to the Tribe under this Act is con-
5 sistent with the principles of self-governance and
6 self-determination.

7 (b) PURPOSES.—The purposes of this Act are as fol-
8 lows:

9 (1) To provide for additional financial com-
10 pensation to the Tribe for the acquisition by the
11 Federal Government of 104,492 acres of land of the
12 Tribe for the Oahe Dam and Reservoir project in a
13 manner consistent with the determinations of the
14 Comptroller General described in subsection (a)(4).

15 (2) To provide for the establishment of the
16 Cheyenne River Sioux Tribal Recovery Fund, to be
17 managed by the Secretary of the Treasury in order
18 to make payments to the Tribe to carry out projects
19 under a plan prepared by the Tribe.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) TRIBE.—The term “Tribe” means the
23 Cheyenne River Sioux Tribe, which is comprised of
24 the Itazipco, Siha Sapa, Minniconjou, and
25 Oohenumpa bands of the Great Sioux Nation that

1 reside on the Cheyenne Reservation, located in cen-
2 tral South Dakota.

3 (2) TRIBAL COUNCIL.—The term “Tribal Coun-
4 cil” means the governing body of the Tribe.

5 **SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST**
6 **FUND.**

7 (a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY
8 TRUST FUND.—There is established in the Treasury of
9 the United States a fund to be known as the “Cheyenne
10 River Sioux Tribal Recovery Trust Fund” (referred to in
11 this Act as the “Fund”). The Fund shall consist of any
12 amounts deposited into the Fund under this Act.

13 (b) FUNDING.—Out of any money in the Treasury
14 not otherwise appropriated, the Secretary of the Treasury
15 shall deposit \$290,722,958 into the Fund not later than
16 60 days after the date of enactment of this Act.

17 (c) INVESTMENT OF TRUST FUND.—It shall be the
18 duty of the Secretary of the Treasury to invest such por-
19 tion of the Fund as is not, in the Secretary of Treasury’s
20 judgment, required to meet current withdrawals. Such in-
21 vestments may be made only in interest-bearing obliga-
22 tions of the United States or in obligations guaranteed as
23 to both principal and interest by the United States. The
24 Secretary of the Treasury shall deposit interest resulting
25 from such investments into the Fund.

1 (d) PAYMENT OF INTEREST TO TRIBE.—

2 (1) IN GENERAL.—

3 (A) WITHDRAWAL OF INTEREST.—Begin-
4 ning at the end of the first fiscal year in which
5 interest is deposited into the Fund, the Sec-
6 retary of the Treasury shall withdraw the appli-
7 cable percentage amount of the aggregate
8 amount of interest deposited into the Fund for
9 that fiscal year (as determined under subpara-
10 graph (B)) and transfer that amount to the
11 Secretary of the Interior for use in accordance
12 with paragraph (2). Each amount so trans-
13 ferred shall be available without fiscal year limi-
14 tation.

15 (B) APPLICABLE PERCENTAGE
16 AMOUNTS.—The applicable percentage amount
17 referred to in subparagraph (A) shall be as fol-
18 lows:

19 (i) 10 percent for the first fiscal year
20 for which interest is deposited into the
21 Fund.

22 (ii) 20 percent for the 2d such fiscal
23 year.

24 (iii) 30 percent for the 3rd such fiscal
25 year.

1 (iv) 40 percent for the 4th such fiscal
2 year.

3 (v) 50 percent for the 5th such fiscal
4 year.

5 (vi) 60 percent for the 6th such fiscal
6 year.

7 (vii) 70 percent for the 7th such fiscal
8 year.

9 (viii) 80 percent for the 8th such fis-
10 cal year.

11 (ix) 90 percent for the 9th such fiscal
12 year.

13 (x) 100 percent for the 10th such fis-
14 cal year, and for each such fiscal year
15 thereafter.

16 (2) PAYMENTS TO TRIBE.—

17 (A) IN GENERAL.—The Secretary of the
18 Interior shall use the amounts transferred
19 under paragraph (1) only for the purpose of
20 making payments to the Tribe, as such pay-
21 ments are requested by the Tribe pursuant to
22 tribal resolution.

23 (B) LIMITATION.—Payments may be made
24 by the Secretary of the Interior under subpara-

1 graph (A) only after the Tribe has adopted a
2 plan under subsection (f).

3 (C) USE OF PAYMENTS BY TRIBE.—The
4 Tribe shall use the payments made under sub-
5 paragraph (B) only for carrying out projects
6 and programs under the plan prepared under
7 subsection (f).

8 (D) PLEDGE OF FUTURE PAYMENTS.—

9 (i) IN GENERAL.—Subject to clause
10 (ii), the Tribe may enter into an agreement
11 under which the Tribe pledges future pay-
12 ments under this paragraph as security for
13 a loan or other financial transaction.

14 (ii) LIMITATIONS.—The Tribe—

15 (I) may enter into an agreement
16 under clause (i) only in connection
17 with the purchase of land or other
18 capital assets; and

19 (II) may not pledge, for any year
20 under an agreement referred to in
21 clause (i), an amount greater than 40
22 percent of any payment under this
23 paragraph for that year.

24 (e) TRANSFERS AND WITHDRAWALS.—Except as
25 provided in subsections (c) and (d)(1), the Secretary of

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

3 (f) PLAN.—

4 (1) IN GENERAL.—Not later than 18 months
5 after the date of enactment of this Act, the gov-
6 erning body of the Tribe shall prepare a plan for the
7 use of the payments to the Tribe under subsection
8 (d) (referred to in this subsection as the “plan”).

9 (2) CONTENTS OF PLAN.—The plan shall pro-
10 vide for the manner in which the Tribe shall expend
11 payments to the Tribe under subsection (d) to
12 promote—

13 (A) economic development;

14 (B) infrastructure development;

15 (C) the educational, health, recreational,
16 and social welfare objectives of the Tribe and
17 its members; or

18 (D) any combination of the activities de-
19 scribed in subparagraphs (A) through (C).

20 (3) PLAN REVIEW AND REVISION.—

21 (A) IN GENERAL.—The Tribal Council
22 shall make available for review and comment by
23 the members of the Tribe a copy of the plan be-
24 fore the plan becomes final, in accordance with
25 procedures established by the Tribal Council.

1 (B) UPDATING OF PLAN.—The Tribal
2 Council may, on an annual basis, revise the
3 plan to update the plan. In revising the plan
4 under this subparagraph, the Tribal Council
5 shall provide the members of the Tribe oppor-
6 tunity to review and comment on any proposed
7 revision to the plan.

8 (C) CONSULTATION.—In preparing the
9 plan and any revisions to update the plan, the
10 Tribal Council shall consult with the Secretary
11 of the Interior and the Secretary of Health and
12 Human Services.

13 (4) AUDIT.—

14 (A) IN GENERAL.—The activities of the
15 Tribe in carrying out the plan shall be audited
16 as part of the annual single-agency audit that
17 the Tribe is required to prepare pursuant to the
18 Office of Management and Budget circular
19 numbered A-133.

20 (B) DETERMINATION BY AUDITORS.—The
21 auditors that conduct the audit described in
22 subparagraph (A) shall—

23 (i) determine whether funds received
24 by the Tribe under this section for the pe-
25 riod covered by the audit were expended to

1 carry out the plan in a manner consistent
2 with this section; and

3 (ii) include in the written findings of
4 the audit the determination made under
5 clause (i).

6 (C) INCLUSION OF FINDINGS WITH PUBLI-
7 CATION OF PROCEEDINGS OF TRIBAL COUN-
8 CIL.—A copy of the written findings of the
9 audit described in subparagraph (A) shall be in-
10 serted in the published minutes of the Tribal
11 Council proceedings for the session at which the
12 audit is presented to the Tribal Council.

13 (g) PROHIBITION ON PER CAPITA PAYMENTS.—No
14 portion of any payment made under this Act may be dis-
15 tributed to any member of the Tribe on a per capita basis.

16 **SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
17 **AND SERVICES.**

18 No payment made to the Tribe under this Act shall
19 result in the reduction or denial of any service or program
20 with respect to which, under Federal law—

21 (1) the Tribe is otherwise entitled because of
22 the status of the Tribe as a federally recognized In-
23 dian tribe; or

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

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

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

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