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S. 964

[Report No. 106-944]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2000

Referred to the Committee on Resources

OCTOBER 6, 2000

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

AN ACT

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 **TITLE I—CHEYENNE RIVER**
4 **SIoux TRIBE EQUITABLE**
5 **COMPENSATION**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Cheyenne River Sioux
8 Tribe Equitable Compensation Act”.

1 **SEC. 102. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) by enacting the Act of December 22, 1944,
4 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
5 seq.), commonly known as the “Flood Control Act of
6 1944”, Congress approved the Pick-Sloan Missouri
7 River Basin program (referred to in this section as
8 the “Pick-Sloan program”)—

9 (A) to promote the general economic devel-
10 opment of the United States;

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

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

15 (D) for other purposes;

16 (2) the Oahe Dam and Reservoir project—

17 (A) is a major component of the Pick-
18 Sloan program, and contributes to the economy
19 of the United States by generating a substan-
20 tial amount of hydropower and impounding a
21 substantial quantity of water;

22 (B) overlies the eastern boundary of the
23 Cheyenne River Sioux Indian Reservation; and

24 (C) has not only contributed little to the
25 economy of the Tribe, but has severely damaged
26 the economy of the Tribe and members of the

1 Tribe by inundating the fertile, wooded bottom
2 lands of the Tribe along the Missouri River that
3 constituted the most productive agricultural
4 and pastoral lands of the Tribe and the home-
5 land of the members of the Tribe;

6 (3) the Secretary of the Interior appointed a
7 Joint Tribal Advisory Committee that examined the
8 Oahe Dam and Reservoir project and concluded
9 that—

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

15 (B) the Tribe should be adequately com-
16 pensated for the land acquisition described in
17 subparagraph (A);

18 (4) after applying the same method of analysis
19 as is used for the compensation of similarly situated
20 Indian tribes, the Comptroller General of the United
21 States (referred to in this title as the “Comptroller
22 General”) determined that the appropriate amount
23 of compensation to pay the Tribe for the land acqui-
24 sition described in paragraph (3)(A) would be
25 \$290,723,000;

1 (5) the Tribe is entitled to receive additional fi-
2 nancial compensation for the land acquisition de-
3 scribed in paragraph (3)(A) in a manner consistent
4 with the determination of the Comptroller General
5 described in paragraph (4); and

6 (6) the establishment of a trust fund to make
7 amounts available to the Tribe under this title is
8 consistent with the principles of self-governance and
9 self-determination.

10 (b) PURPOSES.—The purposes of this title are as fol-
11 lows:

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

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

23 **SEC. 103. DEFINITIONS.**

24 In this title:

1 (1) **TRIBE.**—The term “Tribe” means the
2 Cheyenne River Sioux Tribe, which is comprised of
3 the Itazipco, Siha Sapa, Minniconjou, and
4 Oohenumpa bands of the Great Sioux Nation that
5 reside on the Cheyenne River Reservation, located in
6 central South Dakota.

7 (2) **TRIBAL COUNCIL.**—The term “Tribal Council”
8 means the governing body of the Tribe.

9 **SEC. 104. CHEYENNE RIVER SIOUX TRIBAL RECOVERY**
10 **TRUST FUND.**

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

17 (b) **FUNDING.**—On the first day of the 11th fiscal
18 year that begins after the date of enactment of this Act,
19 the Secretary of the Treasury shall, from the General
20 Fund of the Treasury, deposit into the Fund established
21 under subsection (a)—

22 (1) \$290,722,958; and

23 (2) an additional amount that equals the
24 amount of interest that would have accrued on the
25 amount described in paragraph (1) if such amount

1 had been invested in interest-bearing obligations of
2 the United States, or in obligations guaranteed as
3 to both principal and interest by the United States,
4 on the first day of the first fiscal year that begins
5 after the date of enactment of this Act and com-
6 pounded annually thereafter.

7 (c) INVESTMENT OF TRUST FUND.—It shall be the
8 duty of the Secretary of the Treasury to invest such por-
9 tion of the Fund as is not, in the Secretary of Treasury’s
10 judgment, required to meet current withdrawals. Such in-
11 vestments may be made only in interest-bearing obliga-
12 tions of the United States or in obligations guaranteed as
13 to both principal and interest by the United States. The
14 Secretary of the Treasury shall deposit interest resulting
15 from such investments into the Fund.

16 (d) PAYMENT OF INTEREST TO TRIBE.—

17 (1) WITHDRAWAL OF INTEREST.—Beginning on
18 the first day of the 11th fiscal year after the date
19 of enactment of this Act and, on the first day of
20 each fiscal year thereafter, the Secretary of the
21 Treasury shall withdraw the aggregate amount of in-
22 terest deposited into the Fund for that fiscal year
23 and transfer that amount to the Secretary of the In-
24 terior for use in accordance with paragraph (2).

1 Each amount so transferred shall be available with-
2 out fiscal year limitation.

3 (2) PAYMENTS TO TRIBE.—

4 (A) IN GENERAL.—The Secretary of the
5 Interior shall use the amounts transferred
6 under paragraph (1) only for the purpose of
7 making payments to the Tribe, as such pay-
8 ments are requested by the Tribe pursuant to
9 tribal resolution.

10 (B) LIMITATION.—Payments may be made
11 by the Secretary of the Interior under subpara-
12 graph (A) only after the Tribe has adopted a
13 plan under subsection (f).

14 (C) USE OF PAYMENTS BY TRIBE.—The
15 Tribe shall use the payments made under sub-
16 paragraph (B) only for carrying out projects
17 and programs under the plan prepared under
18 subsection (f).

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

23 (f) PLAN.—

24 (1) IN GENERAL.—Not later than 18 months
25 after the date of enactment of this Act, the gov-

1 erning body of the Tribe shall prepare a plan for the
2 use of the payments to the Tribe under subsection
3 (d) (referred to in this subsection as the “plan”).

4 (2) CONTENTS OF PLAN.—The plan shall pro-
5 vide for the manner in which the Tribe shall expend
6 payments to the Tribe under subsection (d) to
7 promote—

8 (A) economic development;

9 (B) infrastructure development;

10 (C) the educational, health, recreational,
11 and social welfare objectives of the Tribe and
12 its members; or

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

15 (3) PLAN REVIEW AND REVISION.—

16 (A) IN GENERAL.—The Tribal Council
17 shall make available for review and comment by
18 the members of the Tribe a copy of the plan be-
19 fore the plan becomes final, in accordance with
20 procedures established by the Tribal Council.

21 (B) UPDATING OF PLAN.—The Tribal
22 Council may, on an annual basis, revise the
23 plan to update the plan. In revising the plan
24 under this subparagraph, the Tribal Council
25 shall provide the members of the Tribe oppor-

1 tunity to review and comment on any proposed
2 revision to the plan.

3 (C) CONSULTATION.—In preparing the
4 plan and any revisions to update the plan, the
5 Tribal Council shall consult with the Secretary
6 of the Interior and the Secretary of Health and
7 Human Services.

8 (4) AUDIT.—

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

15 (B) DETERMINATION BY AUDITORS.—The
16 auditors that conduct the audit described in
17 subparagraph (A) shall—

18 (i) determine whether funds received
19 by the Tribe under this section for the pe-
20 riod covered by the audit were expended to
21 carry out the plan in a manner consistent
22 with this section; and

23 (ii) include in the written findings of
24 the audit the determination made under
25 clause (i).

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

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

11 **SEC. 105. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
12 **AND SERVICES.**

13 No payment made to the Tribe under this title shall
14 result in the reduction or denial of any service or program
15 with respect to which, under Federal law—

16 (1) the Tribe is otherwise entitled because of
17 the status of the Tribe as a federally recognized In-
18 dian tribe; or

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

22 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such funds
24 as may be necessary to cover the administrative expenses
25 of the Fund.

1 **SEC. 107. EXTINGUISHMENT OF CLAIMS.**

2 Upon the deposit of funds (together with interest)
3 into the Fund under section 104(b), all monetary claims
4 that the Tribe has or may have against the United States
5 for the taking, by the United States, of the land and prop-
6 erty of the Tribe for the Oahe Dam and Reservoir Project
7 of the Pick-Sloan Missouri River Basin program shall be
8 extinguished.

9 **TITLE II—BOSQUE REDONDO**
10 **MEMORIAL**

11 **SEC. 201. SHORT TITLE.**

12 This title may be cited as the “Bosque Redondo Me-
13 morial Act”.

14 **SEC. 202. FINDINGS AND PURPOSES.**

15 (a) FINDINGS.—Congress finds that—

16 (1) in 1863, the United States detained nearly
17 9,000 Navajo and forced their migration across
18 nearly 350 miles of land to Bosque Redondo, a jour-
19 ney known as the “Long Walk”;

20 (2) Mescalero Apache people were also incarcer-
21 ated at Bosque Redondo;

22 (3) the Navajo and Mescalero Apache people la-
23 bored to plant crops, dig irrigation ditches and build
24 housing, but drought, cutworms, hail, and alkaline
25 Pecos River water created severe living conditions
26 for nearly 9,000 captives;

1 (4) suffering and hardships endured by the
2 Navajo and Mescalero Apache people forged a new
3 understanding of their strengths as Americans;

4 (5) the Treaty of 1868 was signed by the
5 United States and the Navajo tribes, recognizing the
6 Navajo Nation as it exists today;

7 (6) the State of New Mexico has appropriated
8 a total of \$123,000 for a planning study and for the
9 design of the Bosque Redondo Memorial;

10 (7) individuals and businesses in DeBaca Coun-
11 ty donated \$6,000 toward the production of a bro-
12 chure relating to the Bosque Redondo Memorial;

13 (8) the Village of Fort Sumner donated 70
14 acres of land to the State of New Mexico contiguous
15 to the existing 50 acres comprising Fort Sumner
16 State Monument, contingent on the funding of the
17 Bosque Redondo Memorial;

18 (9) full architectural plans and the exhibit de-
19 sign for the Bosque Redondo Memorial have been
20 completed;

21 (10) the Bosque Redondo Memorial project has
22 the encouragement of the President of the Navajo
23 Nation and the President of the Mescalero Apache
24 Tribe, who have each appointed tribal members to
25 serve as project advisors;

1 (11) the Navajo Nation, the Mescalero Tribe
2 and the National Park Service are collaborating to
3 develop a symposium on the Bosque Redondo Long
4 Walk and a curriculum for inclusion in the New
5 Mexico school curricula;

6 (12) an interpretive center would provide im-
7 portant educational and enrichment opportunities
8 for all Americans; and

9 (13) Federal financial assistance is needed for
10 the construction of a Bosque Redondo Memorial.

11 (b) PURPOSES.—The purposes of this title are as fol-
12 lows:

13 (1) To commemorate the people who were in-
14 terned at Bosque Redondo.

15 (2) To pay tribute to the native populations’
16 ability to rebound from suffering, and establish the
17 strong, living communities that have long been a
18 major influence in the State of New Mexico and in
19 the United States.

20 (3) To provide Americans of all ages a place to
21 learn about the Bosque Redondo experience and how
22 it resulted in the establishment of strong American
23 Indian Nations from once divergent bands.

24 (4) To support the construction of the Bosque
25 Redondo Memorial commemorating the detention of

1 the Navajo and Mescalero Apache people at Bosque
2 Redondo from 1863 to 1868.

3 **SEC. 203. DEFINITIONS.**

4 In this title:

5 (1) MEMORIAL.—The term “Memorial” means
6 the building and grounds known as the Bosque Re-
7 dondo Memorial.

8 (2) SECRETARY.—The term “Secretary” means
9 the Secretary of Defense.

10 **SEC. 204. BOSQUE REDONDO MEMORIAL**

11 (a) ESTABLISHMENT.— Upon the request of the
12 State of New Mexico, the Secretary is authorized to estab-
13 lish a Bosque Redondo Memorial within the boundaries
14 of Fort Sumner State Monument in New Mexico. No me-
15 morial shall be established without the consent of the Nav-
16 ajo Nation and the Mescalero Tribe.

17 (b) COMPONENTS OF THE MEMORIAL.—The memo-
18 rial shall include—

19 (1) exhibit space, a lobby area that represents
20 design elements from traditional Mescalero and Nav-
21 ajo dwellings, administrative areas that include a re-
22 source room, library, workrooms and offices, rest-
23 rooms, parking areas, sidewalks, utilities, and other
24 visitor facilities;

25 (2) a venue for public education programs; and

1 (3) a location to commemorate the Long Walk
2 of the Navajo people and the healing that has taken
3 place since that event

4 **SEC. 205. CONSTRUCTION OF MEMORIAL.**

5 (a) GRANT.—

6 (1) IN GENERAL.—The Secretary may award a
7 grant to the State of New Mexico to provide up to
8 50 percent of the total cost of construction of the
9 Memorial.

10 (2) NON-FEDERAL SHARE.—The non-Federal
11 share of construction costs for the Memorial shall in-
12 clude funds previously expended by the State for the
13 planning and design of the Memorial, and funds pre-
14 viously expended by non-Federal entities for the pro-
15 duction of a brochure relating to the Memorial.

16 (b) REQUIREMENTS.—To be eligible to receive a
17 grant under this section, the State shall—

18 (1) submit to the Secretary a proposal that—

19 (A) provides assurances that the Memorial
20 will comply with all applicable laws, including
21 building codes and regulations; and

22 (B) includes such other information and
23 assurances as the Secretary may require; and

24 (2) enter into a Memorandum of Understanding
25 with the Secretary that shall include—

1 (A) a timetable for the completion of con-
2 struction and the opening of the Memorial;

3 (B) assurances that construction contracts
4 will be competitively awarded;

5 (C) assurances that the State or Village of
6 Fort Sumner will make sufficient land available
7 for the Memorial;

8 (D) the specifications of the Memorial
9 which shall comply with all applicable Federal,
10 State, and local building codes and laws;

11 (E) arrangements for the operation and
12 maintenance of the Memorial upon completion
13 of construction;

14 (F) a description of Memorial collections
15 and educational programming;

16 (G) a plan for the design of exhibits in-
17 cluding the collections to be exhibited, security,
18 preservation, protection, environmental controls,
19 and presentations in accordance with profes-
20 sional standards;

21 (H) an agreement with the Navajo Nation
22 and the Mescalero Tribe relative to the design
23 and location of the Memorial; and

1 (I) a financing plan developed by the State
2 that outlines the long-term management of the
3 Memorial, including—

4 (i) the acceptance and use of funds
5 derived from public and private sources to
6 minimize the use of appropriated or bor-
7 rowed funds;

8 (ii) the payment of the operating costs
9 of the Memorial through the assessment of
10 fees or other income generated by the Me-
11 morial;

12 (iii) a strategy for achieving financial
13 self-sufficiency with respect to the Memo-
14 rial by not later than 5 years after the
15 date of enactment of this Act; and

16 (iv) a description of the business ac-
17 tivities that would be permitted at the Me-
18 morial and appropriate vendor standards
19 that would apply.

20 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-
22 priated to carry out this title—

23 (1) \$1,000,000 for fiscal year 2000; and

24 (2) \$500,000 for each of fiscal years 2001 and
25 2002.

1 (b) CARRYOVER.—Any funds made available under
2 this section that are unexpended at the end of the fiscal
3 year for which those funds are appropriated, shall remain
4 available for use by the Secretary through September 30,
5 2002 for the purposes for which those funds were made
6 available.

Passed the Senate November 19, 1999.

Attest:

GARY SISCO,
Secretary.

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