

107TH CONGRESS
1ST SESSION

H. R. 2408

To provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. OSBORNE introduced the following bill; which was referred to the
Committee on Resources

A BILL

To provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

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 “Yankton Sioux Tribe
5 and Santee Sioux 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 commonly known as the “Flood Control Act of

1 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–
2 1 et seq.) Congress approved the Pick-Sloan Mis-
3 souri River Basin program (referred to in this sec-
4 tion as the “Pick-Sloan program”)—

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

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

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

11 (D) for other purposes;

12 (2) the waters impounded for the Fort Randall
13 and Gavins Point projects of the Pick-Sloan pro-
14 gram have inundated the fertile, wooded bottom
15 lands along the Missouri River that constituted the
16 most productive agricultural and pastoral lands of,
17 and the homeland of, the members of the Yankton
18 Sioux Tribe and the Santee Sioux Tribe;

19 (3) the Fort Randall project (including the Fort
20 Randall Dam and Reservoir) overlies the western
21 boundary of the Yankton Sioux Tribe Indian Res-
22 ervation;

23 (4) the Gavins Point project (including the Gav-
24 ins Point Dam and Reservoir) overlies the eastern
25 boundary of the Santee Sioux Tribe;

1 (5) although the Fort Randall and Gavins Point
2 projects are major components of the Pick-Sloan
3 program, and contribute to the economy of the
4 United States by generating a substantial amount of
5 hydropower and impounding a substantial quantity
6 of water, the reservations of the Yankton Sioux
7 Tribe and the Santee Sioux Tribe remain undevel-
8 oped;

9 (6) the United States Army Corps of Engineers
10 took the Indian lands used for the Fort Randall and
11 Gavins Point projects by condemnation proceedings;

12 (7) the Federal Government did not give the
13 Yankton Sioux Tribe and the Santee Sioux Tribe an
14 opportunity to receive compensation for direct dam-
15 ages from the Pick-Sloan program, even though the
16 Federal Government gave 5 Indian reservations up-
17 stream from the reservations of those Indian tribes
18 such an opportunity;

19 (8) the Yankton Sioux Tribe and the Santee
20 Sioux Tribe did not receive just compensation for
21 the taking of productive agricultural Indian lands
22 through the condemnation referred to in paragraph
23 (6);

24 (9) the settlement agreement that the United
25 States entered into with the Yankton Sioux Tribe

1 and the Santee Sioux Tribe to provide compensation
2 for the taking by condemnation referred to in para-
3 graph (6) did not take into account the increase in
4 property values over the years between the date of
5 taking and the date of settlement; and

6 (10) in addition to the financial compensation
7 provided under the settlement agreements referred
8 to in paragraph (9)—

9 (A) the Yankton Sioux Tribe should re-
10 ceive an aggregate amount equal to
11 \$23,023,743 for the loss value of 2,851.40
12 acres of Indian land taken for the Fort Randall
13 Dam and Reservoir of the Pick-Sloan program;
14 and

15 (B) the Santee Sioux Tribe should receive
16 an aggregate amount equal to \$4,789,010 for
17 the loss value of 593.10 acres of Indian land lo-
18 cated near the Santee village.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) INDIAN TRIBE.—The term “Indian tribe”
22 has the meaning given that term in section 4(e) of
23 the Indian Self-Determination and Education Assist-
24 ance Act (25 U.S.C. 450b(e)).

1 (2) SANTEE SIOUX TRIBE.—The term “Santee
2 Sioux Tribe” means the Santee Sioux Tribe of Ne-
3 braska.

4 (3) YANKTON SIOUX TRIBE.—The term
5 “Yankton Sioux Tribe” means the Yankton Sioux
6 Tribe of South Dakota.

7 **SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**
8 **FUND.**

9 (a) ESTABLISHMENT.—There is established in the
10 Treasury of the United States a fund to be known as the
11 “Yankton Sioux Tribe Development Trust Fund” (re-
12 ferred to in this section as the “Fund”). The Fund shall
13 consist of any amounts deposited in the Fund under this
14 Act.

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

20 (1) \$23,023,743; and

21 (2) an additional amount that equals the
22 amount of interest that would have accrued on the
23 amount described in paragraph (1) if such amount
24 had been invested in interest-bearing obligations of
25 the United States, or in obligations guaranteed as to

1 both principal and interest by the United States, on
2 the first day of the first fiscal year that begins after
3 the date of enactment of this Act and compounded
4 annually thereafter.

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

14 (d) PAYMENT OF INTEREST TO TRIBE.—

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

25 (2) PAYMENTS TO YANKTON SIOUX TRIBE.—

1 (A) IN GENERAL.—The Secretary of the
 2 Interior shall use the amounts transferred
 3 under paragraph (1) only for the purpose of
 4 making payments to the Yankton Sioux Tribe,
 5 as such payments are requested by that Indian
 6 tribe pursuant to tribal resolution.

7 (B) LIMITATION.—Payments may be made
 8 by the Secretary of the Interior under subpara-
 9 graph (A) only after the Yankton Sioux Tribe
 10 has adopted a tribal plan under section 6.

11 (C) USE OF PAYMENTS BY YANKTON
 12 SIOUX TRIBE.—The Yankton Sioux Tribe shall
 13 use the payments made under subparagraph
 14 (A) only for carrying out projects and programs
 15 under the tribal plan prepared under section 6.

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

20 **SEC. 5. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.**

21 (a) ESTABLISHMENT.—There is established in the
 22 Treasury of the United States a fund to be known as the
 23 “Santee Sioux Tribe Development Trust Fund” (referred
 24 to in this section as the “Fund”). The Fund shall consist
 25 of any amounts deposited in the Fund under this Act.

1 (b) FUNDING.—On the first day of the 11th fiscal
2 year that begins after the date of enactment of this Act,
3 the Secretary of the Treasury shall, from the General
4 Fund of the Treasury, deposit into the Fund established
5 under subsection (a)—

6 (1) \$4,789,010; and

7 (2) an additional amount that equals the
8 amount of interest that would have accrued on the
9 amount described in paragraph (1) if such amount
10 had been invested in interest-bearing obligations of
11 the United States, or in obligations guaranteed as to
12 both principal and interest by the United States, on
13 the first day of the first fiscal year that begins after
14 the date of enactment of this Act and compounded
15 annually thereafter.

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

25 (d) PAYMENT OF INTEREST TO TRIBE.—

1 (1) WITHDRAWAL OF INTEREST.—Beginning on
2 the first day of the 11th fiscal year after the date
3 of enactment of this Act and, on the first day of
4 each fiscal year thereafter, the Secretary of the
5 Treasury shall withdraw the aggregate amount of in-
6 terest deposited into the Fund for that fiscal year
7 and transfer that amount to the Secretary of the In-
8 terior for use in accordance with paragraph (2).
9 Each amount so transferred shall be available with-
10 out fiscal year limitation.

11 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

12 (A) IN GENERAL.—The Secretary of the
13 Interior shall use the amounts transferred
14 under paragraph (1) only for the purpose of
15 making payments to the Santee Sioux Tribe, as
16 such payments are requested by that Indian
17 tribe pursuant to tribal resolution.

18 (B) LIMITATION.—Payments may be made
19 by the Secretary of the Interior under subpara-
20 graph (A) only after the Santee Sioux Tribe has
21 adopted a tribal plan under section 6.

22 (C) USE OF PAYMENTS BY SANTEE SIOUX
23 TRIBE.—The Santee Sioux Tribe shall use the
24 payments made under subparagraph (A) only

1 for carrying out projects and programs under
2 the tribal plan prepared under section 6.

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

7 **SEC. 6. TRIBAL PLANS.**

8 (a) IN GENERAL.—Not later than 24 months after
9 the date of enactment of this Act, the tribal council of
10 each of the Yankton Sioux and Santee Sioux Tribes shall
11 prepare a plan for the use of the payments to the tribe
12 under section 4(d) or 5(d) (referred to in this subsection
13 as a “tribal plan”).

14 (b) CONTENTS OF TRIBAL PLAN.—Each tribal plan
15 shall provide for the manner in which the tribe covered
16 under the tribal plan shall expend payments to the tribe
17 under subsection (d) to promote—

18 (1) economic development;

19 (2) infrastructure development;

20 (3) the educational, health, recreational, and so-
21 cial welfare objectives of the tribe and its members;

22 or

23 (4) any combination of the activities described
24 in paragraphs (1), (2), and (3).

25 (c) TRIBAL PLAN REVIEW AND REVISION.—

1 (1) IN GENERAL.—Each tribal council referred
2 to in subsection (a) shall make available for review
3 and comment by the members of the tribe a copy of
4 the tribal plan for the Indian tribe before the tribal
5 plan becomes final, in accordance with procedures
6 established by the tribal council.

7 (2) UPDATING OF TRIBAL PLAN.—Each tribal
8 council referred to in subsection (a) may, on an an-
9 nual basis, revise the tribal plan prepared by that
10 tribal council to update the tribal plan. In revising
11 the tribal plan under this paragraph, the tribal
12 council shall provide the members of the tribe oppor-
13 tunity to review and comment on any proposed revi-
14 sion to the tribal plan.

15 (3) CONSULTATION.—In preparing the tribal
16 plan and any revisions to update the plan, each trib-
17 al council shall consult with the Secretary of the In-
18 terior and the Secretary of Health and Human Serv-
19 ices.

20 (4) AUDIT.—

21 (A) IN GENERAL.—The activities of the
22 tribes in carrying out the tribal plans shall be
23 audited as part of the annual single-agency
24 audit that the tribes are required to prepare

1 pursuant to the Office of Management and
2 Budget circular numbered A-133.

3 (B) DETERMINATION BY AUDITORS.—The
4 auditors that conduct the audit described in
5 subparagraph (A) shall—

6 (i) determine whether funds received
7 by each tribe under this section for the pe-
8 riod covered by the audits were expended
9 to carry out the respective tribal plans in
10 a manner consistent with this section; and

11 (ii) include in the written findings of
12 the audits the determinations made under
13 clause (i).

14 (C) INCLUSION OF FINDINGS WITH PUBLI-
15 CATION OF PROCEEDINGS OF TRIBAL COUN-
16 CIL.—A copy of the written findings of the au-
17 dits described in subparagraph (A) shall be in-
18 serted in the published minutes of each tribal
19 council's proceedings for the session at which
20 the audit is presented to the tribal councils.

21 (d) PROHIBITION ON PER CAPITA PAYMENTS.—No
22 portion of any payment made under this Act may be dis-
23 tributed to any member of the Yankton Sioux Tribe or
24 the Santee Sioux Tribe of Nebraska on a per capita basis.

1 **SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
2 **AND SERVICES.**

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

7 (1) the Yankton Sioux Tribe or Santee Sioux
8 Tribe is otherwise entitled because of the status of
9 the tribe as a federally recognized Indian tribe; or

10 (2) any individual who is a member of a tribe
11 under paragraph (1) is entitled because of the status
12 of the individual as a member of the tribe.

13 (b) EXEMPTIONS FROM TAXATION.—No payment
14 made pursuant to this Act shall be subject to any Federal
15 or State income tax.

16 (c) POWER RATES.—No payment made pursuant to
17 this Act shall affect Pick-Sloan Missouri River Basin
18 power rates.

19 **SEC. 8. STATUTORY CONSTRUCTION.**

20 Nothing in this Act may be construed as diminishing
21 or affecting any water right of an Indian tribe, except as
22 specifically provided in another provision of this Act, any
23 treaty right that is in effect on the date of enactment of
24 this Act, any authority of the Secretary of the Interior
25 or the head of any other Federal agency under a law in
26 effect on the date of enactment of this Act.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this Act, including such sums
4 as may be necessary for the administration of the Yankton
5 Sioux Tribe Development Trust Fund under section 4 and
6 the Santee Sioux Tribe of Nebraska Development Trust
7 Fund under section 5.

8 **SEC. 10. EXTINGUISHMENT OF CLAIMS.**

9 Upon the deposit of funds under sections 4(b) and
10 5(b), all monetary claims that the Yankton Sioux Tribe
11 or the Santee Sioux Tribe of Nebraska has or may have
12 against the United States for loss of value or use of land
13 related to lands described in section 2(a)(10) resulting
14 from the Fort Randall and Gavins Point projects of the
15 Pick-Sloan Missouri River Basin program shall be extin-
16 guished.

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