

Union Calendar No. 416

106TH CONGRESS
2^D SESSION

H. R. 2671

[Report No. 106-735]

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1999

Mr. BARRETT of Nebraska introduced the following bill; which was referred to the Committee on Resources

JULY 17, 2000

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

A BILL

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, 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 “Yankton Sioux Tribe
3 and Santee Sioux Tribe of Nebraska Development Trust
4 Fund Act”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress finds that—

7 (1) by enacting the Act of December 22, 1944,
8 commonly known as the “Flood Control Act of
9 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–
10 1 et seq.) Congress approved the Pick-Sloan Mis-
11 souri River Basin program (referred to in this sec-
12 tion as the “Pick-Sloan program”)—

13 (A) to promote the general economic devel-
14 opment of the United States;

15 (B) to provide for irrigation above Sioux
16 City, Iowa;

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

19 (D) for other purposes;

20 (2) the waters impounded for the Fort Randall
21 and Gavins Point projects of the Pick-Sloan pro-
22 gram have inundated the fertile, wooded bottom
23 lands along the Missouri River that constituted the
24 most productive agricultural and pastoral lands of,
25 and the homeland of, the members of the Yankton
26 Sioux Tribe and the Santee Sioux Tribe;

1 (3) the Fort Randall project (including the Fort
2 Randall Dam and Reservoir)—

3 (A) overlies the western boundary of the
4 Yankton Sioux Tribe Indian Reservation; and

5 (B) has caused the erosion of more than
6 400 acres of prime land on the Yankton Sioux
7 Reservation adjoining the east bank of the Mis-
8 souri River;

9 (4) the Gavins Point project (including the Gav-
10 ins Point Dam and Reservoir) overlies the eastern
11 boundary of the Santee Sioux Tribe;

12 (5) although the Fort Randall and Gavins Point
13 projects are major components of the Pick-Sloan
14 program, and contribute to the economy of the
15 United States by generating a substantial amount of
16 hydropower and impounding a substantial quantity
17 of water, the reservations of the Yankton Sioux
18 Tribe and the Santee Sioux Tribe remain undevel-
19 oped;

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

23 (7) the Federal Government did not give
24 Yankton Sioux Tribe and the Santee Sioux Tribe an
25 opportunity to receive compensation for direct dam-

1 ages from the Pick-Sloan program, even though the
2 Federal Government gave 5 Indian reservations up-
3 stream from the reservations of those Indian tribes
4 such an opportunity;

5 (8) the Yankton Sioux Tribe and the Santee
6 Sioux Tribe did not receive just compensation for
7 the taking of productive agricultural Indian lands
8 through the condemnation referred to in paragraph
9 (6);

10 (9) the settlement agreement that the United
11 States entered into with the Yankton Sioux Tribe
12 and the Santee Sioux Tribe to provide compensation
13 for the taking by condemnation referred to in para-
14 graph (6) did not take into account the increase in
15 property values over the years between the date of
16 taking and the date of settlement; and

17 (10) in addition to the financial compensation
18 provided under the settlement agreements referred
19 to in paragraph (9)—

20 (A) the Yankton Sioux Tribe should re-
21 ceive an aggregate amount equal to
22 \$34,323,743 for—

23 (i) the loss value of 2,851.40 acres of
24 Indian land taken for the Fort Randall

1 Dam and Reservoir of the Pick-Sloan pro-
2 gram; and

3 (ii) the use value of 408.40 acres of
4 Indian land on the reservation of that In-
5 dian tribe that was lost as a result of
6 stream bank erosion that has occurred
7 since 1953; and

8 (B) the Santee Sioux Tribe should receive
9 an aggregate amount equal to \$8,132,838 for
10 the loss value of—

11 (i) 593.10 acres of Indian land lo-
12 cated near the Santee village; and

13 (ii) 414.12 acres on Niobrara Island
14 of the Santee Sioux Tribe Indian Reserva-
15 tion used for the Gavins Point Dam and
16 Reservoir.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

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

23 (2) PROGRAM.—The term “Program” means
24 the power program of the Pick-Sloan Missouri River

1 Basin program, administered by the Western Area
2 Power Administration.

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

6 (4) TRIBAL PLAN.—The term “Tribal Plan”
7 means a plan developed pursuant to section 6.

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

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

16 (b) FUNDING.—Out of any money in the Treasury
17 not otherwise appropriated, the Secretary of the Treasury
18 shall deposit \$34,323,743 into the Fund not later than
19 60 days after the date of enactment of this Act.

20 (c) INVESTMENTS.—The Secretary of the Treasury
21 shall invest the amounts deposited under subsection (b)
22 in interest-bearing obligations of the United States or in
23 obligations guaranteed as to both principal and interest
24 by the United States. The Secretary of the Treasury shall

1 deposit interest resulting from such investments into the
2 Fund.

3 (d) PAYMENT OF INTEREST TO YANKTON SIOUX
4 TRIBE.—

5 (1) WITHDRAWAL OF INTEREST.—Beginning at
6 the end of the first fiscal year in which interest is
7 deposited into the Fund, the Secretary of the Treas-
8 ury shall withdraw the aggregate amount of interest
9 deposited into the Fund for that fiscal year and
10 transfer that amount to the Secretary of the Interior
11 for use in accordance with paragraph (2). Each
12 amount so transferred shall be available without fis-
13 cal year limitation.

14 (2) PAYMENTS TO YANKTON SIOUX TRIBE.—

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

21 (B) LIMITATION.—Payments may be made
22 by the Secretary of the Interior under subpara-
23 graph (A) only after the Yankton Sioux Tribe
24 has adopted a Tribal Plan.

1 (C) USE OF PAYMENTS BY YANKTON
2 SIOUX TRIBE.—The Yankton Sioux Tribe shall
3 use the payments made under subparagraph
4 (A) only for carrying out projects and programs
5 under the Tribal Plan.

6 (D) PLEDGE OF FUTURE PAYMENTS.—

7 (i) IN GENERAL.—Subject to clause
8 (ii), the Yankton Sioux Tribe may enter
9 into an agreement under which that Indian
10 tribe pledges future payments under this
11 paragraph as security for a loan or other
12 financial transaction.

13 (ii) LIMITATIONS.—The Yankton
14 Sioux 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 **SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOP-**
4 **MENT TRUST FUND.**

5 (a) ESTABLISHMENT.—There is established in the
6 Treasury of the United States a fund to be known as the
7 “Santee Sioux Tribe of Nebraska Development Trust
8 Fund” (referred to in this section as the “Fund”). The
9 Fund shall consist of any amounts deposited in the Fund
10 under this Act.

11 (b) FUNDING.—Out of any money in the Treasury
12 not otherwise appropriated, the Secretary of the Treasury
13 shall deposit \$8,132,838 into the Fund not later than 60
14 days after the date of enactment of this Act.

15 (c) INVESTMENTS.—The Secretary of the Treasury
16 shall invest the amounts deposited under subsection (b)
17 in interest-bearing obligations of the United States or in
18 obligations guaranteed as to both principal and interest
19 by the United States. The Secretary of the Treasury shall
20 deposit interest resulting from such investments into the
21 Fund.

22 (d) PAYMENT OF INTEREST TO SANTEE SIOUX
23 TRIBE.—

24 (1) WITHDRAWAL OF INTEREST.—Beginning at
25 the end of the first fiscal year in which interest is

1 deposited into the Fund, the Secretary of the Treas-
2 ury shall withdraw the aggregate amount of interest
3 deposited into the Fund for that fiscal year and
4 transfer that amount to the Secretary of the Interior
5 for use in accordance with paragraph (2). Each
6 amount so transferred shall be available without fis-
7 cal year limitation.

8 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

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

15 (B) LIMITATION.—Payments may be made
16 by the Secretary of the Interior under subpara-
17 graph (A) only after the Santee Sioux Tribe has
18 adopted a Tribal Plan.

19 (C) USE OF PAYMENTS BY SANTEE SIOUX
20 TRIBE.—The Santee Sioux Tribe shall use the
21 payments made under subparagraph (A) only
22 for carrying out projects and programs under
23 the Tribal Plan.

24 (D) PLEDGE OF FUTURE PAYMENTS.—

1 (i) IN GENERAL.—Subject to clause
2 (ii), the Santee Sioux Tribe may enter into
3 an agreement under which that Indian
4 tribe pledges future payments under this
5 paragraph as security for a loan or other
6 financial transaction.

7 (ii) LIMITATIONS.—The Santee Sioux
8 Tribe—

9 (I) may enter into an agreement
10 under clause (i) only in connection
11 with the purchase of land or other
12 capital assets; and

13 (II) may not pledge, for any year
14 under an agreement referred to in
15 clause (i), an amount greater than 40
16 percent of any payment under this
17 paragraph for that year.

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

22 **SEC. 6. TRIBAL PLANS.**

23 (a) IN GENERAL.—Not later than 24 months after
24 the date of enactment of this Act, the tribal council of
25 each of the Yankton Sioux and Santee Sioux Tribes shall

1 prepare a plan for the use of the payments to the Indian
2 tribe under section 4(d) or 5(d).

3 (b) CONTENTS OF TRIBAL PLAN.—Each Tribal Plan
4 shall provide for the manner in which the Indian tribe cov-
5 ered under the Tribal Plan shall expend payments to the
6 Indian tribe under this Act to promote—

7 (1) economic development;

8 (2) infrastructure development;

9 (3) the educational, health, recreational, and so-
10 cial welfare objectives of the Indian tribe and its
11 members; or

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

14 (c) TRIBAL PLAN REVIEW AND REVISION.—

15 (1) IN GENERAL.—Each tribal council referred
16 to in subsection (a) shall make available for review
17 and comment by the members of the Indian tribe a
18 copy of the Tribal Plan for the Indian tribe before
19 the Tribal Plan becomes final, in accordance with
20 procedures established by the tribal council.

21 (2) UPDATING OF TRIBAL PLAN.—Each tribal
22 council referred to in subsection (a) may, on an an-
23 nual basis, revise the Tribal Plan prepared by that
24 tribal council to update the Tribal Plan. In revising
25 the Tribal Plan under this paragraph, the tribal

1 council shall provide the members of the Indian tribe
2 opportunity to review and comment on any proposed
3 revision to the Tribal Plan.

4 **SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
5 **AND SERVICES.**

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

10 (1) the Yankton Sioux Tribe or Santee Sioux
11 Tribe is otherwise entitled because of the status of
12 the Indian tribe as a federally recognized Indian
13 tribe; or

14 (2) any individual who is a member of a Indian
15 tribe under paragraph (1) is entitled because of the
16 status of the individual as a member of the Indian
17 tribe.

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

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

1 **SEC. 8. STATUTORY CONSTRUCTION.**

2 Nothing in this Act may be construed as diminishing
3 or affecting any water right of an Indian tribe, except as
4 specifically provided in another provision of this Act, any
5 treaty right that is in effect on the date of enactment of
6 this Act, any authority of the Secretary of the Interior
7 or the head of any other Federal agency under a law in
8 effect on the date of enactment of this Act.

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

10 There are authorized to be appropriated such sums
11 as are necessary to carry out this Act, including such sums
12 as may be necessary for the administration of the Yankton
13 Sioux Tribe Development Trust Fund under section 4 and
14 the Santee Sioux Tribe of Nebraska Development Trust
15 Fund under section 5.

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