

106TH CONGRESS  
1ST SESSION

# H. R. 795

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IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 1999

Received; read twice and referred to the Committee on Indian Affairs

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## AN ACT

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, 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 “Chippewa Cree Tribe  
3 of The Rocky Boy’s Reservation Indian Reserved Water  
4 Rights Settlement and Water Supply Enhancement Act of  
5 1999”.

6 **SEC. 2. FINDINGS.**

7       Congress finds that—

8           (1) in fulfillment of its trust responsibility to  
9 Indian tribes and to promote tribal sovereignty and  
10 economic self-sufficiency, it is the policy of the  
11 United States to settle the water rights claims of the  
12 tribes without lengthy and costly litigation;

13           (2) the Rocky Boy’s Reservation was estab-  
14 lished as a homeland for the Chippewa Cree Tribe;

15           (3) adequate water for the Chippewa Cree  
16 Tribe of the Rocky Boy’s Reservation is important  
17 to a permanent, sustainable, and sovereign homeland  
18 for the Tribe and its members;

19           (4) the sovereignty of the Chippewa Cree Tribe  
20 and the economy of the Reservation depend on the  
21 development of the water resources of the Reserva-  
22 tion;

23           (5) the planning, design, and construction of  
24 the facilities needed to utilize water supplies effec-  
25 tively are necessary to the development of a viable

1 Reservation economy and to implementation of the  
2 Chippewa Cree-Montana Water Rights Compact;

3 (6) the Rocky Boy's Reservation is located in a  
4 water-short area of Montana and it is appropriate  
5 that the Act provide funding for the development of  
6 additional water supplies, including domestic water,  
7 to meet the needs of the Chippewa Cree Tribe;

8 (7) proceedings to determine the full extent of  
9 the water rights of the Chippewa Cree Tribe are cur-  
10 rently pending before the Montana Water Court as  
11 a part of the case "In the Matter of the Adjudica-  
12 tion of All Rights to the Use of Water, Both Surface  
13 and Underground, within the State of Montana";

14 (8) recognizing that final resolution of the gen-  
15 eral stream adjudication will take many years and  
16 entail great expense to all parties, prolong uncer-  
17 tainty as to the availability of water supplies, and  
18 seriously impair the long-term economic planning  
19 and development of all parties, the Chippewa Cree  
20 Tribe and the State of Montana entered into the  
21 Compact on April 14, 1997; and

22 (9) the allocation of water resources from the  
23 Tiber Reservoir to the Chippewa Cree Tribe under  
24 this Act is uniquely suited to the geographic, social,

1 and economic characteristics of the area and situa-  
2 tion involved.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are as follows:

5 (1) To achieve a fair, equitable, and final settle-  
6 ment of all claims to water rights in the State of  
7 Montana for—

8 (A) the Chippewa Cree Tribe; and

9 (B) the United States for the benefit of  
10 the Chippewa Cree Tribe.

11 (2) To approve, ratify, and confirm, as modified  
12 in this Act, the Chippewa Cree-Montana Water  
13 Rights Compact entered into by the Chippewa Cree  
14 Tribe of the Rocky Boy's Reservation and the State  
15 of Montana on April 14, 1997, and to provide fund-  
16 ing and other authorization necessary for the imple-  
17 mentation of the Compact.

18 (3) To authorize the Secretary of the Interior  
19 to execute and implement the Compact referred to in  
20 paragraph (2) and to take such other actions as are  
21 necessary to implement the Compact in a manner  
22 consistent with this Act.

23 (4) To authorize Federal feasibility studies de-  
24 signed to identify and analyze potential mechanisms  
25 to enhance, through conservation or otherwise, water

1 supplies in north central Montana, including mecha-  
2 nisms to import domestic water supplies for the fu-  
3 ture growth of the Rocky Boy's Indian Reservation.

4 (5) To authorize certain projects on the Rocky  
5 Boy's Indian Reservation, Montana, in order to im-  
6 plement the Compact.

7 (6) To authorize certain modifications to the  
8 purposes and operation of the Bureau of Reclama-  
9 tion's Tiber Dam and Lake Elwell on the Marias  
10 River in Montana in order to provide the Tribe with  
11 an allocation of water from Tiber Reservoir.

12 (7) To authorize the appropriation of funds  
13 necessary for the implementation of the Compact.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) ACT.—The term “Act” means the “Chippewa  
17 Cree Tribe of The Rocky Boy's Reservation In-  
18 dian Reserved Water Rights Settlement and Water  
19 Supply Enhancement Act of 1999”.

20 (2) COMPACT.—The term “Compact” means  
21 the water rights compact between the Chippewa  
22 Cree Tribe of the Rocky Boy's Reservation and the  
23 State of Montana contained in section 85–20–601 of  
24 the Montana Code Annotated (1997).

1           (3) FINAL.—The term “final” with reference to  
2           approval of the decree in section 101(b) means com-  
3           pletion of any direct appeal to the Montana Supreme  
4           Court of a final decree by the Water Court pursuant  
5           to section 85–2–235 of the Montana Code Anno-  
6           tated (1997), or to the Federal Court of Appeals, in-  
7           cluding the expiration of the time in which a petition  
8           for certiorari may be filed in the United States Su-  
9           preme Court, denial of such a petition, or the  
10          issuance of the Supreme Court’s mandate, whichever  
11          occurs last.

12          (4) FUND.—The term “Fund” means the Chip-  
13          pewa Cree Indian Reserved Water Rights Settlement  
14          Fund established under section 104.

15          (5) INDIAN TRIBE.—The term “Indian tribe”  
16          has the meaning given that term in section 101(2)  
17          of the Federally Recognized Indian Tribe List Act of  
18          1994 (25 U.S.C. 479a(2)).

19          (6) MR&I FEASIBILITY STUDY.—The term  
20          “MR&I feasibility study” means a municipal, rural,  
21          and industrial, domestic, and incidental drought re-  
22          lief feasibility study described in section 202.

23          (7) MISSOURI RIVER SYSTEM.—The term “Mis-  
24          souri River System” means the mainstem of the

1 Missouri River and its tributaries, including the  
2 Marias River.

3 (8) RECLAMATION LAW.—The term “Reclama-  
4 tion Law” has the meaning given the term “rec-  
5 lamation law” in section 4 of the Act of December  
6 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

7 (9) ROCKY BOY’S RESERVATION; RESERVA-  
8 TION.—The term “Rocky Boy’s Reservation” or  
9 “Reservation” means the Rocky Boy’s Reservation  
10 of the Chippewa Cree Tribe in Montana.

11 (10) SECRETARY.—The term “Secretary”  
12 means the Secretary of the Interior, or his or her  
13 duly authorized representative.

14 (11) TOWE PONDS.—The term “Towe Ponds”  
15 means the reservoir or reservoirs referred to as  
16 “Stoneman Reservoir” in the Compact.

17 (12) TRIBAL COMPACT ADMINISTRATION.—The  
18 term “Tribal Compact Administration” means the  
19 activities assumed by the Tribe for implementation  
20 of the Compact as set forth in Article IV of the  
21 Compact.

22 (13) TRIBAL WATER CODE.—The term “tribal  
23 water code” means a water code adopted by the  
24 Tribe, as provided in the Compact.

25 (14) TRIBAL WATER RIGHT.—

1 (A) IN GENERAL.—The term “Tribal  
2 Water Right” means the water right set forth  
3 in section 85–20–601 of the Montana Code An-  
4 notated (1997) and includes the water alloca-  
5 tion set forth in title II of this Act.

6 (B) RULE OF CONSTRUCTION.—The defini-  
7 tion of the term “Tribal Water Right” under  
8 this paragraph and the treatment of that right  
9 under this Act shall not be construed or inter-  
10 preted as a precedent for the litigation of re-  
11 served water rights or the interpretation or ad-  
12 ministration of future compacts between the  
13 United States and the State of Montana or any  
14 other State.

15 (15) TRIBE.—The term “Tribe” means the  
16 Chippewa Cree Tribe of the Rocky Boy’s Reserva-  
17 tion and all officers, agents, and departments there-  
18 of.

19 (16) WATER DEVELOPMENT.—The term “water  
20 development” includes all activities that involve the  
21 use of water or modification of water courses or  
22 water bodies in any way.

23 **SEC. 5. MISCELLANEOUS PROVISIONS.**

24 (a) NONEXERCISE OF TRIBE’S RIGHTS.—Pursuant  
25 to Tribal Resolution No. 40–98, and in exchange for bene-



1 fits under this Act, the Tribe shall not exercise the rights  
2 set forth in Article VII.A.3 of the Compact, except that  
3 in the event that the approval, ratification, and confirma-  
4 tion of the Compact by the United States becomes null  
5 and void under section 101(b), the Tribe shall have the  
6 right to exercise the rights set forth in Article VII.A.3 of  
7 the Compact.

8 (b) WAIVER OF SOVEREIGN IMMUNITY.—Except to  
9 the extent provided in subsections (a), (b), and (c) of  
10 section 208 of the Department of Justice Appropriation  
11 Act, 1953 (43 U.S.C. 666), nothing in this Act may be  
12 construed to waive the sovereign immunity of the United  
13 States.

14 (c) TRIBAL RELEASE OF CLAIMS AGAINST THE  
15 UNITED STATES.—

16 (1) IN GENERAL.—Pursuant to Tribal Resolu-  
17 tion No. 40–98, and in exchange for benefits under  
18 this Act, the Tribe shall, on the date of enactment  
19 of this Act, execute a waiver and release of the  
20 claims described in paragraph (2) against the United  
21 States, the validity of which are not recognized by  
22 the United States, except that—

23 (A) the waiver and release of claims shall  
24 not become effective until the appropriation of  
25 the funds authorized in section 105, the water

1 allocation in section 201, and the appropriation  
2 of funds for the MR&I feasibility study author-  
3 ized in section 204 have been completed and the  
4 decree has become final in accordance with the  
5 requirements of section 101(b); and

6 (B) in the event that the approval, ratifica-  
7 tion, and confirmation of the Compact by the  
8 United States becomes null and void under sec-  
9 tion 101(b), the waiver and release of claims  
10 shall become null and void.

11 (2) CLAIMS DESCRIBED.—The claims referred  
12 to in paragraph (1) are as follows:

13 (A) Any and all claims to water rights (in-  
14 cluding water rights in surface water, ground  
15 water, and effluent), claims for injuries to  
16 water rights, claims for loss or deprivation of  
17 use of water rights, and claims for failure to ac-  
18 quire or develop water rights for lands of the  
19 Tribe from time immemorial to the date of rati-  
20 fication of the Compact by Congress.

21 (B) Any and all claims arising out of the  
22 negotiation of the Compact and the settlement  
23 authorized by this Act.

1           (3) SETOFFS.—In the event the waiver and re-  
2       lease do not become effective as set forth in para-  
3       graph (1)—

4           (A) the United States shall be entitled to  
5       setoff against any claim for damages asserted  
6       by the Tribe against the United States, any  
7       funds transferred to the Tribe pursuant to sec-  
8       tion 104, and any interest accrued thereon up  
9       to the date of setoff; and

10          (B) the United States shall retain any  
11       other claims or defenses not waived in this Act  
12       or in the Compact as modified by this Act.

13       (d) OTHER TRIBES NOT ADVERSELY AFFECTED.—  
14   Nothing in this Act is intended to quantify or otherwise  
15   adversely affect the land and water rights, or claims or  
16   entitlements to land or water of an Indian tribe other than  
17   the Chippewa Cree Tribe.

18       (e) ENVIRONMENTAL COMPLIANCE.—In imple-  
19   menting the Compact, the Secretary shall comply with all  
20   aspects of the National Environmental Policy Act of 1969  
21   (42 U.S.C. 4321 et seq.), the Endangered Species Act of  
22   1973 (16 U.S.C. 1531 et seq.), and all other applicable  
23   environmental Acts and regulations.

24       (f) EXECUTION OF COMPACT.—The execution of the  
25   Compact by the Secretary as provided for in this Act shall

1 not constitute a major Federal action under the National  
 2 Environmental Policy Act of 1969 (42 U.S.C. 4321 et  
 3 seq.). The Secretary is directed to carry out all necessary  
 4 environmental compliance required by Federal law in im-  
 5 plementing the Compact.

6 (g) CONGRESSIONAL INTENT.—Nothing in this Act  
 7 is intended to prohibit the Tribe from seeking additional  
 8 authorization or appropriation of funds for tribal pro-  
 9 grams or purposes.

10 (h) ACT NOT PRECEDENTIAL.—Nothing in this Act  
 11 shall be construed or interpreted as a precedent for the  
 12 litigation of reserved water rights or the interpretation or  
 13 administration of future water settlement Acts.

14 **TITLE I—CHIPPEWA CREE TRIBE**  
 15 **OF THE ROCKY BOY’S RES-**  
 16 **ERVATION INDIAN RESERVED**  
 17 **WATER RIGHTS SETTLEMENT**

18 **SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DE-**  
 19 **CREE.**

20 (a) WATER RIGHTS COMPACT APPROVED.—Except  
 21 as modified by this Act, and to the extent the Compact  
 22 does not conflict with this Act—

23 (1) the Compact, entered into by the Chippewa  
 24 Cree Tribe of the Rocky Boy’s Reservation and the

1 State of Montana on April 14, 1997, is hereby ap-  
2 proved, ratified, and confirmed; and

3 (2) the Secretary shall—

4 (A) execute and implement the Compact  
5 together with any amendments agreed to by the  
6 parties or necessary to bring the Compact into  
7 conformity with this Act; and

8 (B) take such other actions as are nec-  
9 essary to implement the Compact.

10 (b) APPROVAL OF DECREE.—

11 (1) IN GENERAL.—Not later than 180 days  
12 after the date of enactment of this Act, the United  
13 States, the Tribe, or the State of Montana shall pe-  
14 tition the Montana Water Court, individually or  
15 jointly, to enter and approve the decree agreed to by  
16 the United States, the Tribe, and the State of Mon-  
17 tana attached as Appendix 1 to the Compact, or any  
18 amended version thereof agreed to by the United  
19 States, the Tribe, and the State of Montana.

20 (2) RESORT TO THE FEDERAL DISTRICT  
21 COURT.—Under the circumstances set forth in Arti-  
22 cle VII.B.4 of the Compact, one or more parties may  
23 file an appropriate motion (as provided in that arti-  
24 cle) in the United States district court of appro-  
25 priate jurisdiction.

1           (3) EFFECT OF FAILURE OF APPROVAL TO BE-  
 2           COME FINAL.—In the event the approval by the ap-  
 3           propriate court, including any direct appeal, does  
 4           not become final within 3 years after the filing of  
 5           the decree, or the decree is approved but is subse-  
 6           quently set aside by the appropriate court—

7                     (A) the approval, ratification, and con-  
 8                     firmation of the Compact by the United States  
 9                     shall be null and void; and

10                    (B) except as provided in sections  
 11                    105(e)(1), 5(a), and 5(c)(3), this Act shall be  
 12                    of no further force and effect.

13 **SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER**  
 14 **RIGHT.**

15           (a) ADMINISTRATION AND ENFORCEMENT.—As pro-  
 16           vided in the Compact, until the adoption and approval of  
 17           a tribal water code by the Tribe, the Secretary shall ad-  
 18           minister and enforce the Tribal Water Right.

19           (b) TRIBAL MEMBER ENTITLEMENT.—

20                    (1) IN GENERAL.—Any entitlement to Federal  
 21                    Indian reserved water of any tribal member shall be  
 22                    satisfied solely from the water secured to the Tribe  
 23                    by the Compact and shall be governed by the terms  
 24                    and conditions of the Compact.

1           (2) ADMINISTRATION.—An entitlement de-  
2       scribed in paragraph (1) shall be administered by  
3       the Tribe pursuant to a tribal water code developed  
4       and adopted pursuant to Article IV.A.2 of the Com-  
5       pact, or by the Secretary pending the adoption and  
6       approval of the tribal water code.

7       (c) TEMPORARY TRANSFER OF TRIBAL WATER  
8       RIGHT.—Notwithstanding any other provision of statutory  
9       or common law, the Tribe may, with the approval of the  
10      Secretary and subject to the limitations and conditions set  
11      forth in the Compact, including limitation on transfer of  
12      any portion of the Tribal Water Right to within the Mis-  
13      souri River Basin, enter into a service contract, lease, ex-  
14      change, or other agreement providing for the temporary  
15      delivery, use, or transfer of the water rights confirmed to  
16      the Tribe in the Compact, except that no service contract,  
17      lease, exchange, or other agreement entered into under  
18      this subsection may permanently alienate any portion of  
19      the Tribal Water Right.

20   **SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOP-**  
21                           **MENT.**

22       (a) WATER DEVELOPMENT PROJECTS.—The Sec-  
23      retary, through the Bureau of Reclamation, is authorized  
24      and directed to plan, design, and construct, or to provide,  
25      pursuant to subsection (b), for the planning, design, and

1 construction of the following water development projects  
2 on the Rocky Boy's Reservation:

3 (1) Bonneau Dam and Reservoir Enlargement.

4 (2) East Fork of Beaver Creek Dam Repair  
5 and Enlargement.

6 (3) Brown's Dam Enlargement.

7 (4) Towe Ponds' Enlargement.

8 (5) Such other water development projects as  
9 the Tribe shall from time to time consider appro-  
10 priate.

11 (b) IMPLEMENTATION AGREEMENT.—The Secretary,  
12 at the request of the Tribe, shall enter into an agreement,  
13 or, if appropriate, renegotiate an existing agreement, with  
14 the Tribe to implement the provisions of this Act through  
15 the Tribe's annual funding agreement entered into under  
16 the self-governance program under title IV of the Indian  
17 Self-Determination and Education Assistance Act (25  
18 U.S.C. 458aa et seq.) by which the Tribe shall plan, de-  
19 sign, and construct any or all of the projects authorized  
20 by this section.

21 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-  
22 TRATION.—

23 (1) IN GENERAL.—Congress finds that the Sec-  
24 retary, through the Bureau of Reclamation, has en-  
25 tered into an agreement with the Tribe, pursuant to



1 title IV of the Indian Self-Determination and Edu-  
 2 cation Assistance Act (25 U.S.C. 458aa et seq.)—

3 (A) defining and limiting the role of the  
 4 Bureau of Reclamation in its administration of  
 5 the projects authorized in subsection (a);

6 (B) establishing the standards upon which  
 7 the projects will be constructed; and

8 (C) for other purposes necessary to imple-  
 9 ment this section.

10 (2) AGREEMENT.—The agreement referred to  
 11 in paragraph (1) shall become effective when the  
 12 Tribe exercises its right under subsection (b).

13 **SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER**  
 14 **RIGHTS SETTLEMENT TRUST FUND.**

15 (a) ESTABLISHMENT OF TRUST FUND.—

16 (1) IN GENERAL.—

17 (A) ESTABLISHMENT.—There is hereby es-  
 18 tablished in the Treasury of the United States  
 19 a trust fund for the Chippewa Cree Tribe of the  
 20 Rocky Boy's Reservation to be known as the  
 21 “Chippewa Cree Indian Reserved Water Rights  
 22 Settlement Trust Fund”.

23 (B) AVAILABILITY OF AMOUNTS IN  
 24 FUND.—

1 (i) IN GENERAL.—Amounts in the  
2 Fund shall be available to the Secretary  
3 for management and investment on behalf  
4 of the Tribe and distribution to the Tribe  
5 in accordance with this Act.

6 (ii) AVAILABILITY.—Funds made  
7 available from the Fund under this section  
8 shall be available without fiscal year limita-  
9 tion.

10 (2) MANAGEMENT OF FUND.—The Secretary  
11 shall deposit and manage the principal and interest  
12 in the Fund in a manner consistent with subsection  
13 (b) and other applicable provisions of this Act.

14 (3) CONTENTS OF FUND.—The Fund shall con-  
15 sist of the amounts authorized to be appropriated to  
16 the Fund under section 105(a) and such other  
17 amounts as may be transferred or credited to the  
18 Fund.

19 (4) WITHDRAWAL.—The Tribe, with the ap-  
20 proval of the Secretary, may withdraw the Fund and  
21 deposit it in a mutually agreed upon private finan-  
22 cial institution. That withdrawal shall be made pur-  
23 suant to the American Indian Trust Fund Manage-  
24 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

1           (5) ACCOUNTS.—The Secretary of the Interior  
2       shall establish the following accounts in the Fund  
3       and shall allocate appropriations to the various ac-  
4       counts as required in this Act:

5           (A) The Tribal Compact Administration  
6       Account.

7           (B) The Economic Development Account.

8           (C) The Future Water Supply Facilities  
9       Account.

10       (b) FUND MANAGEMENT.—

11           (1) IN GENERAL.—

12           (A) AMOUNTS IN FUND.—The Fund shall  
13       consist of such amounts as are appropriated to  
14       the Fund and allocated to the accounts of the  
15       Fund by the Secretary as provided in this Act  
16       and in accordance with the authorizations for  
17       appropriations in paragraphs (1), (2), and (3)  
18       of section 105(a), together with all interest that  
19       accrues in the Fund.

20           (B) MANAGEMENT BY SECRETARY.—The  
21       Secretary shall manage the Fund, make invest-  
22       ments from the Fund, and make available funds  
23       from the Fund for distribution to the Tribe in  
24       a manner consistent with the American Indian

1 Trust Fund Management Reform Act of 1994  
2 (25 U.S.C. 4001 et seq.).

3 (2) TRIBAL MANAGEMENT.—

4 (A) IN GENERAL.—If the Tribe exercises  
5 its right pursuant to subsection (a)(4) to with-  
6 draw the Fund and deposit it in a private fi-  
7 nancial institution, except as provided in the  
8 withdrawal plan, neither the Secretary nor the  
9 Secretary of the Treasury shall retain any over-  
10 sight over or liability for the accounting, dis-  
11 bursement, or investment of the funds.

12 (B) WITHDRAWAL PLAN.—The withdrawal  
13 plan shall provide for—

14 (i) the creation of accounts and allo-  
15 cation to accounts in a fund established  
16 under the plan in a manner consistent with  
17 subsection (a); and

18 (ii) the appropriate terms and condi-  
19 tions, if any, on expenditures from the  
20 Fund (in addition to the requirements of  
21 the plans set forth in paragraphs (2) and  
22 (3) of subsection (c)).

23 (c) USE OF FUND.—The Tribe shall use the Fund  
24 to fulfill the purposes of this Act, subject to the following  
25 restrictions on expenditures:

1           (1) Except for \$400,000 necessary for capital  
2           expenditures in connection with Tribal Compact Ad-  
3           ministration, only interest accrued on the Tribal  
4           Compact Administration Account referred to in sub-  
5           section (a)(5)(A) shall be available to satisfy the  
6           Tribe's obligations for Tribal Compact Administra-  
7           tion under the provisions of the Compact.

8           (2) Both principal and accrued interest on the  
9           Economic Development Account referred to in sub-  
10          section (a)(5)(B) shall be available to the Tribe for  
11          expenditure pursuant to an economic development  
12          plan approved by the Secretary.

13          (3) Both principal and accrued interest on the  
14          Future Water Supply Facilities Account referred to  
15          in subsection (a)(5)(C) shall be available to the  
16          Tribe for expenditure pursuant to a water supply  
17          plan approved by the Secretary.

18          (d) INVESTMENT OF FUND.—

19               (1) IN GENERAL.—

20                   (A) APPLICABLE LAWS.—The Secretary  
21                   shall invest amounts in the Fund in accordance  
22                   with—

23                               (i) the Act of April 1, 1880 (21 Stat.  
24                               70, chapter 41; 25 U.S.C. 161);

1 (ii) the first section of the Act entitled  
2 “An Act to authorize the payment of inter-  
3 est of certain funds held in trust by the  
4 United States for Indian tribes”, approved  
5 February 12, 1929 (25 U.S.C. 161a); and  
6 (iii) the first section of the Act enti-  
7 tled “An Act to authorize the deposit and  
8 investment of Indian funds”, approved  
9 June 24, 1938 (25 U.S.C. 162a).

10 (B) CREDITING OF AMOUNTS TO THE  
11 FUND.—The interest on, and the proceeds from  
12 the sale or redemption of, any obligations of the  
13 United States held in the Fund shall be cred-  
14 ited to and form part of the Fund. The Sec-  
15 retary of the Treasury shall credit to each of  
16 the accounts contained in the Fund a propor-  
17 tionate amount of that interest and proceeds.

18 (2) CERTAIN WITHDRAWN FUNDS.—

19 (A) IN GENERAL.—Amounts withdrawn  
20 from the Fund and deposited in a private finan-  
21 cial institution pursuant to a withdrawal plan  
22 approved by the Secretary under the American  
23 Indian Trust Fund Management Reform Act of  
24 1994 (25 U.S.C. 4001 et seq.) shall be invested  
25 by an appropriate official under that plan.

1                   (B) DEPOSIT OF INTEREST AND PRO-  
2                   CEEDS.—The interest on, and the proceeds  
3                   from the sale or redemption of, any obligations  
4                   held under this paragraph shall be deposited in  
5                   the private financial institution referred to in  
6                   subparagraph (A) in the fund established pur-  
7                   suant to the withdrawal plan referred to in that  
8                   subparagraph. The appropriate official shall  
9                   credit to each of the accounts contained in that  
10                  fund a proportionate amount of that interest  
11                  and proceeds.

12               (e) AGREEMENT REGARDING FUND EXPENDI-  
13               TURES.—If the Tribe does not exercise its right under  
14               subsection (a)(4) to withdraw the funds in the Fund and  
15               transfer those funds to a private financial institution, the  
16               Secretary shall enter into an agreement with the Tribe  
17               providing for appropriate terms and conditions, if any, on  
18               expenditures from the Fund in addition to the plans set  
19               forth in paragraphs (2) and (3) of subsection (c).

20               (f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No  
21               part of the Fund shall be distributed on a per capita basis  
22               to members of the Tribe.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) CHIPPEWA CREE FUND.—There is authorized to  
3 be appropriated for the Fund, \$21,000,000 to be allocated  
4 by the Secretary as follows:

5 (1) TRIBAL COMPACT ADMINISTRATION AC-  
6 COUNT.—For Tribal Compact Administration as-  
7 sumed by the Tribe under the Compact and this Act,  
8 \$3,000,000 is authorized to be appropriated for fis-  
9 cal year 2000.

10 (2) ECONOMIC DEVELOPMENT ACCOUNT.—For  
11 tribal economic development, \$3,000,000 is author-  
12 ized to be appropriated for fiscal year 2000.

13 (3) FUTURE WATER SUPPLY FACILITIES AC-  
14 COUNT.—For the total Federal contribution to the  
15 planning, design, construction, operation, mainte-  
16 nance, and rehabilitation of a future water supply  
17 system for the Reservation, there are authorized to  
18 be appropriated—

19 (A) \$2,000,000 for fiscal year 2000;

20 (B) \$8,000,000 for fiscal year 2001; and

21 (C) \$5,000,000 for fiscal year 2002.

22 (b) ON-RESERVATION WATER DEVELOPMENT.—

23 (1) IN GENERAL.—There are authorized to be  
24 appropriated to the Department of the Interior, for  
25 the Bureau of Reclamation, for the construction of



1 the on-Reservation water development projects au-  
2 thorized by section 103—

3 (A) \$13,000,000 for fiscal year 2000, for  
4 the planning, design, and construction of the  
5 Bonneau Dam Enlargement, for the develop-  
6 ment of additional capacity in Bonneau Res-  
7 ervoir for storage of water secured to the Tribe  
8 under the Compact;

9 (B) \$8,000,000 for fiscal year 2001, for  
10 the planning, design, and construction of the  
11 East Fork Dam and Reservoir enlargement, of  
12 the Brown's Dam and Reservoir enlargement,  
13 and of the Towe Ponds enlargement of which—

14 (i) \$4,000,000 shall be used for the  
15 East Fork Dam and Reservoir enlarge-  
16 ment;

17 (ii) \$2,000,000 shall be used for the  
18 Brown's Dam and Reservoir enlargement;  
19 and

20 (iii) \$2,000,000 shall be used for the  
21 Towe Ponds enlargement; and

22 (C) \$3,000,000 for fiscal year 2002, for  
23 the planning, design, and construction of such  
24 other water resource developments as the Tribe,  
25 with the approval of the Secretary, from time to

1           time may consider appropriate or for the com-  
2           pletion of the four projects enumerated in sub-  
3           paragraphs (A) and (B) of paragraph (1).

4           (2) UNEXPENDED BALANCES.—Any unex-  
5           pended balance in the funds authorized to be appro-  
6           priated under subparagraph (A) or (B) of paragraph  
7           (1), after substantial completion of all of the  
8           projects enumerated in paragraphs (1) through (4)  
9           of section 103(a)—

10                   (A) shall be available to the Tribe first for  
11                   completion of the enumerated projects; and

12                   (B) then for other water resource develop-  
13                   ment projects on the Reservation.

14           (c) ADMINISTRATION COSTS.—There is authorized to  
15           be appropriated to the Department of the Interior, for the  
16           Bureau of Reclamation, \$1,000,000 for fiscal year 2000,  
17           for the costs of administration of the Bureau of Reclama-  
18           tion under this Act, except that—

19                   (1) if those costs exceed \$1,000,000, the Bu-  
20                   reau of Reclamation may use funds authorized for  
21                   appropriation under subsection (b) for costs; and

22                   (2) the Bureau of Reclamation shall exercise its  
23                   best efforts to minimize those costs to avoid expendi-  
24                   tures for the costs of administration under this Act  
25                   that exceed a total of \$1,000,000.

1 (d) AVAILABILITY OF FUNDS.—

2 (1) IN GENERAL.—The amounts authorized to  
3 be appropriated to the Fund and allocated to its ac-  
4 counts pursuant to subsection (a) shall be deposited  
5 into the Fund and allocated immediately on appro-  
6 priation.

7 (2) INVESTMENTS.—Investments may be made  
8 from the Fund pursuant to section 104(d).

9 (3) AVAILABILITY OF CERTAIN MONEYS.—The  
10 amounts authorized to be appropriated in subsection  
11 (a)(1) shall be available for use immediately upon  
12 appropriation in accordance with subsection  
13 104(c)(1).

14 (4) LIMITATION.—Those moneys allocated by  
15 the Secretary to accounts in the Fund or in a fund  
16 established under section 104(a)(4) shall draw inter-  
17 est consistent with section 104(d), but the moneys  
18 authorized to be appropriated under subsection (b)  
19 and paragraphs (2) and (3) of subsection (a) shall  
20 not be available for expenditure until the require-  
21 ments of section 101(b) have been met so that the  
22 decree has become final and the Tribe has executed  
23 the waiver and release required under section 5(c).

24 (e) RETURN OF FUNDS TO THE TREASURY—

1           (1) IN GENERAL.—In the event that the ap-  
2           proval, ratification, and confirmation of the Compact  
3           by the United States becomes null and void under  
4           section 101(b), all unexpended funds appropriated  
5           under the authority of this Act together with all in-  
6           terest earned on such funds, notwithstanding wheth-  
7           er the funds are held by the Tribe, a private institu-  
8           tion, or the Secretary, shall revert to the general  
9           fund of the Treasury 12 months after the expiration  
10          of the deadline established in section 101(b).

11          (2) INCLUSION IN AGREEMENTS AND PLAN.—  
12          The requirements in paragraph (1) shall be included  
13          in all annual funding agreements entered into under  
14          the self-governance program under title IV of the In-  
15          dian Self-Determination and Education Assistance  
16          Act (25 U.S.C. 458aa et seq.), withdrawal plans,  
17          withdrawal agreements, or any other agreements for  
18          withdrawal or transfer of the funds to the Tribe or  
19          a private financial institution under this Act.

20          (f) WITHOUT FISCAL YEAR LIMITATION.—All money  
21          appropriated pursuant to authorizations under this title  
22          shall be available without fiscal year limitation.

1 **SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.**

2 Consistent with Articles VI.C.2 and C.3 of the Com-  
3 pact, the State contribution to settlement shall be as fol-  
4 lows:

5 (1) The contribution of \$150,000 appropriated  
6 by Montana House Bill 6 of the 55th Legislative  
7 Session (1997) shall be used for the following pur-  
8 poses:

9 (A) Water quality discharge monitoring  
10 wells and monitoring program.

11 (B) A diversion structure on Big Sandy  
12 Creek.

13 (C) A conveyance structure on Box Elder  
14 Creek.

15 (D) The purchase of contract water from  
16 Lower Beaver Creek Reservoir.

17 (2) Subject to the availability of funds, the  
18 State shall provide services valued at \$400,000 for  
19 administration required by the Compact and for  
20 water quality sampling required by the Compact.

21 **TITLE II—TIBER RESERVOIR AL-**  
22 **LOCATION AND FEASIBILITY**  
23 **STUDIES AUTHORIZATION**

24 **SEC. 201. TIBER RESERVOIR.**

25 (a) ALLOCATION OF WATER TO THE TRIBE.—

1           (1) IN GENERAL.—The Secretary shall perma-  
2           nently allocate to the Tribe, without cost to the  
3           Tribe, 10,000 acre-feet per year of stored water  
4           from the water right of the Bureau of Reclamation  
5           in Lake Elwell, Lower Marias Unit, Upper Missouri  
6           Division, Pick-Sloan Missouri Basin Program, Mon-  
7           tana, measured at the outlet works of the dam or at  
8           the diversion point from the reservoir. The allocation  
9           shall become effective when the decree referred to in  
10          section 101(b) has become final in accordance with  
11          that section. The allocation shall be part of the Trib-  
12          al Water Right and subject to the terms of this Act.

13          (2) AGREEMENT.—The Secretary shall enter  
14          into an agreement with the Tribe setting forth the  
15          terms of the allocation and providing for the Tribe's  
16          use or temporary transfer of water stored in Lake  
17          Elwell, subject to the terms and conditions of the  
18          Compact and this Act.

19          (3) PRIOR RESERVED WATER RIGHTS.—The al-  
20          location provided in this section shall be subject to  
21          the prior reserved water rights, if any, of any Indian  
22          tribe, or person claiming water through any Indian  
23          tribe.

24          (b) USE AND TEMPORARY TRANSFER OF ALLOCA-  
25          TION.—

1           (1) IN GENERAL.—Subject to the limitations  
2           and conditions set forth in the Compact and this  
3           Act, the Tribe shall have the right to devote the  
4           water allocated by this section to any use, including  
5           agricultural, municipal, commercial, industrial, min-  
6           ing, or recreational uses, within or outside the Rocky  
7           Boy’s Reservation.

8           (2) CONTRACTS AND AGREEMENTS.—Notwith-  
9           standing any other provision of statutory or common  
10          law, the Tribe may, with the approval of the Sec-  
11          retary and subject to the limitations and conditions  
12          set forth in the Compact, enter into a service con-  
13          tract, lease, exchange, or other agreement providing  
14          for the temporary delivery, use, or transfer of the  
15          water allocated by this section, except that no such  
16          service contract, lease, exchange, or other agreement  
17          may permanently alienate any portion of the tribal  
18          allocation.

19          (c) REMAINING STORAGE.—The United States shall  
20          retain the right to use for any authorized purpose, any  
21          and all storage remaining in Lake Elwell after the alloca-  
22          tion made to the Tribe in subsection 201(a).

23          (d) WATER TRANSPORT OBLIGATION; DEVELOP-  
24          MENT AND DELIVERY COSTS.—The United States shall  
25          have no responsibility or obligation to provide any facility

1 for the transport of the water allocated by this section to  
 2 the Rocky Boy's Reservation or to any other location. Ex-  
 3 cept for the contribution set forth in subsection 105(a)(3),  
 4 the cost of developing and delivering the water allocated  
 5 by this title or any other supplemental water to the Rocky  
 6 Boy's Reservation shall not be borne by the United States.

7 (e) SECTION NOT PRECEDENTIAL.—The provisions  
 8 of this section regarding the allocation of water resources  
 9 from the Tiber Reservoir to the Tribe shall not be con-  
 10 strued as precedent in the litigation or settlement of any  
 11 other Indian water right claims.

12 **SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASI-**  
 13 **BILITY STUDY.**

14 (a) AUTHORIZATION.—

15 (1) IN GENERAL.—

16 (A) STUDY.—The Secretary, through the  
 17 Bureau of Reclamation, shall perform an MR&I  
 18 feasibility study of water and related resources  
 19 in north central Montana to evaluate alter-  
 20 natives for a municipal, rural, and industrial  
 21 supply for the Rocky Boy's Reservation.

22 (B) USE OF FUNDS MADE AVAILABLE FOR  
 23 FISCAL YEAR 1999.—The authority under sub-  
 24 paragraph (A) shall be deemed to apply to  
 25 MR&I feasibility study activities for which



1 funds were made available by appropriations for  
2 fiscal year 1999.

3 (2) CONTENTS OF STUDY.—The MR&I feasi-  
4 bility study shall include the feasibility of releasing  
5 the Tribe’s Tiber allocation as provided in section  
6 201 into the Missouri River System for later diver-  
7 sion to a treatment and delivery system for the  
8 Rocky Boy’s Reservation.

9 (3) UTILIZATION OF EXISTING STUDIES.—The  
10 MR&I feasibility study shall include utilization of ex-  
11 isting Federal and non-Federal studies and shall be  
12 planned and conducted in consultation with other  
13 Federal agencies, the State of Montana, and the  
14 Chippewa Cree Tribe.

15 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED  
16 OFF-RESERVATION SYSTEM.—The United States, the  
17 Chippewa Cree Tribe of the Rocky Boy’s Reservation, and  
18 the State of Montana shall not be obligated to accept or  
19 participate in any potential off-Reservation water supply  
20 system identified in the MR&I feasibility study authorized  
21 in subsection (a).

22 **SEC. 203. REGIONAL FEASIBILITY STUDY.**

23 (a) IN GENERAL.—

24 (1) STUDY.—The Secretary, through the Bu-  
25 reau of Reclamation, shall conduct, pursuant to Rec-

1       lamation Law, a regional feasibility study (referred  
2       to in this subsection as the “regional feasibility  
3       study”) to evaluate water and related resources in  
4       north central Montana in order to determine the  
5       limitations of those resources and how those re-  
6       sources can best be managed and developed to serve  
7       the needs of the citizens of Montana.

8               (2) USE OF FUNDS MADE AVAILABLE FOR FIS-  
9       CAL YEAR 1999.—The authority under paragraph (1)  
10       shall be deemed to apply to regional feasibility study  
11       activities for which funds were made available by ap-  
12       propriations for fiscal year 1999.

13       (b) CONTENTS OF STUDY.—The regional feasibility  
14       study shall—

15               (1) evaluate existing and potential water sup-  
16       plies, uses, and management;

17               (2) identify major water-related issues, includ-  
18       ing environmental, water supply, and economic  
19       issues;

20               (3) evaluate opportunities to resolve the issues  
21       referred to in paragraph (2); and

22               (4) evaluate options for implementation of reso-  
23       lutions to the issues.

1 (c) REQUIREMENTS.—Because of the regional and  
2 international impact of the regional feasibility study, the  
3 study may not be segmented. The regional study shall—

4 (1) utilize, to the maximum extent possible, ex-  
5 isting information; and

6 (2) be planned and conducted in consultation  
7 with all affected interests, including interests in  
8 Canada.

9 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEA-**  
10 **SIBILITY STUDIES.**

11 (a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the  
12 amounts made available by appropriations for fiscal year  
13 1999 for the Bureau of Reclamation, \$1,000,000 shall be  
14 used for the purpose of commencing the MR&I feasibility  
15 study under section 202 and the regional study under sec-  
16 tion 203, of which—

17 (1) \$500,000 shall be used for the MR&I study  
18 under section 202; and

19 (2) \$500,000 shall be used for the regional  
20 study under section 203.

21 (b) FEASIBILITY STUDIES.—There is authorized to  
22 be appropriated to the Department of the Interior, for the  
23 Bureau of Reclamation, for the purpose of conducting the  
24 MR&I feasibility study under section 202 and the regional

1 study under section 203, \$3,000,000 for fiscal year 2000,  
2 of which—

3 (1) \$500,000 shall be used for the MR&I feasi-  
4 bility study under section 202; and

5 (2) \$2,500,000 shall be used for the regional  
6 study under section 203.

7 (c) WITHOUT FISCAL YEAR LIMITATION.—All money  
8 appropriated pursuant to authorizations under this title  
9 shall be available without fiscal year limitation.

10 (d) AVAILABILITY OF CERTAIN MONEYS.—The  
11 amounts made available for use under subsection (a) shall  
12 be deemed to have been available for use as of the date  
13 on which those funds were appropriated. The amounts au-  
14 thorized to be appropriated in subsection (b) shall be avail-  
15 able for use immediately upon appropriation.

Passed the House of Representatives October 18,  
1999.

Attest:

JEFF TRANDAHL,

*Clerk.*