

## Union Calendar No. 437

107<sup>TH</sup> CONGRESS  
2D SESSION**S. 434****[Report No. 107-706]**

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IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2002

Referred to the Committee on Resources

OCTOBER 1, 2002

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

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**AN ACT**

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—

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

7           (A) to promote the general economic devel-  
8       opment of the United States;

9           (B) to provide for irrigation above Sioux  
10      City, Iowa;

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

13          (D) for other purposes;

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

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

1           (4) the Gavins Point project (including the Gav-  
2           ins Point Dam and Reservoir) overlies the eastern  
3           boundary of the Santee Sioux Tribe;

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

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

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

22          (8) the Yankton Sioux Tribe and the Santee  
23          Sioux Tribe did not receive just compensation for  
24          the taking of productive agricultural Indian lands

1 through the condemnation referred to in paragraph  
2 (6);

3 (9) the settlement agreement that the United  
4 States entered into with the Yankton Sioux Tribe  
5 and the Santee Sioux Tribe to provide compensation  
6 for the taking by condemnation referred to in para-  
7 graph (6) did not take into account the increase in  
8 property values over the years between the date of  
9 taking and the date of settlement; and

10 (10) in addition to the financial compensation  
11 provided under the settlement agreements referred  
12 to in paragraph (9)—

13 (A) the Yankton Sioux Tribe should re-  
14 ceive an aggregate amount equal to  
15 \$23,023,743 for the loss value of 2,851.40  
16 acres of Indian land taken for the Fort Randall  
17 Dam and Reservoir of the Pick-Sloan program;  
18 and

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

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

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

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

8           (3) YANKTON SIOUX TRIBE.—The term  
 9           “Yankton Sioux Tribe” means the Yankton Sioux  
 10          Tribe of South Dakota.

11 **SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**  
 12 **FUND.**

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

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

24               (1) \$23,023,743; and

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

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

19          (d) PAYMENT OF INTEREST TO TRIBE.—

20               (1) WITHDRAWAL OF INTEREST.—Beginning on  
21       the first day of the 11th fiscal year after the date  
22       of enactment of this Act and, on the first day of  
23       each fiscal year thereafter, the Secretary of the  
24       Treasury shall withdraw the aggregate amount of in-  
25       terest deposited into the Fund for that fiscal year

1 and transfer that amount to the Secretary of the In-  
2 terior for use in accordance with paragraph (2).  
3 Each amount so transferred shall be available with-  
4 out fiscal year limitation.

5 (2) PAYMENTS TO YANKTON SIOUX TRIBE.—

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

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

16 (C) USE OF PAYMENTS BY YANKTON  
17 SIOUX TRIBE.—The Yankton Sioux Tribe shall  
18 use the payments made under subparagraph  
19 (A) only for carrying out projects and programs  
20 under the tribal plan prepared under section 6.

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

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

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

7 (b) FUNDING.—On the first day of the 11th fiscal  
8 year that begins after the date of enactment of this Act,  
9 the Secretary of the Treasury shall, from the General  
10 Fund of the Treasury, deposit into the Fund established  
11 under subsection (a)—

12 (1) \$4,789,010; and

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

22 (c) INVESTMENT OF TRUST FUND.—It shall be the  
23 duty of the Secretary of the Treasury to invest such por-  
24 tion of the Fund as is not, in the Secretary of Treasury’s  
25 judgment, required to meet current withdrawals. Such in-  
26 vestments may be made only in interest-bearing obliga-



1 tions of the United States or in obligations guaranteed as  
2 to both principal and interest by the United States. The  
3 Secretary of the Treasury shall deposit interest resulting  
4 from such investments into the Fund.

5 (d) PAYMENT OF INTEREST TO TRIBE.—

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

16 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

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

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

1 graph (A) only after the Santee Sioux Tribe has  
 2 adopted a tribal plan under section 6.

3 (C) USE OF PAYMENTS BY SANTEE SIOUX  
 4 TRIBE.—The Santee Sioux Tribe shall use the  
 5 payments made under subparagraph (A) only  
 6 for carrying out projects and programs under  
 7 the tribal plan prepared under section 6.

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

12 **SEC. 6. TRIBAL PLANS.**

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

19 (b) CONTENTS OF TRIBAL PLAN.—Each tribal plan  
 20 shall provide for the manner in which the tribe covered  
 21 under the tribal plan shall expend payments to the tribe  
 22 under section 4(d) or 5(d) to promote—

- 23 (1) economic development;
- 24 (2) infrastructure development;

1           (3) the educational, health, recreational, and so-  
2       cial welfare objectives of the tribe and its members;  
3       or

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

6       (c) TRIBAL PLAN REVIEW AND REVISION.—

7           (1) IN GENERAL.—Each tribal council referred  
8       to in subsection (a) shall make available for review  
9       and comment by the members of the tribe a copy of  
10      the tribal plan for the Indian tribe before the tribal  
11      plan becomes final, in accordance with procedures  
12      established by the tribal council.

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

21          (3) CONSULTATION.—In preparing the tribal  
22      plan and any revisions to update the plan, each trib-  
23      al council shall consult with the Secretary of the In-  
24      terior and the Secretary of Health and Human Serv-  
25      ices.

1 (4) AUDIT.—

2 (A) IN GENERAL.—The activities of the  
3 tribes in carrying out the tribal plans shall be  
4 audited as part of the annual single-agency  
5 audit that the tribes are required to prepare  
6 pursuant to the Office of Management and  
7 Budget circular numbered A-133.

8 (B) DETERMINATION BY AUDITORS.—The  
9 auditors that conduct the audit described in  
10 subparagraph (A) shall—

11 (i) determine whether funds received  
12 by each tribe under this section for the pe-  
13 riod covered by the audits were expended  
14 to carry out the respective tribal plans in  
15 a manner consistent with this section; and

16 (ii) include in the written findings of  
17 the audits the determinations made under  
18 clause (i).

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

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

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

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

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

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

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

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

23 **SEC. 8. STATUTORY CONSTRUCTION.**

24 Nothing in this Act may be construed as diminishing  
 25 or affecting any water right of an Indian tribe, except as

1 specifically provided in another provision of this Act, any  
2 treaty right that is in effect on the date of enactment of  
3 this Act, or any authority of the Secretary of the Interior  
4 or the head of any other Federal agency under a law in  
5 effect on the date of enactment of this Act.

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

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

13 **SEC. 10. EXTINGUISHMENT OF CLAIMS.**

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

Passed the Senate July 24, 2002.

Attest:

JERI THOMSON,

*Secretary.*



**Union Calendar No. 437**

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 434**

**[Report No. 107-706]**

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**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.

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