

109TH CONGRESS  
1ST SESSION

# H. R. 3558

To amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir Project, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Ms. HERSETH introduced the following bill; which was referred to the  
Committee on Resources

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## A BILL

To amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Cheyenne River Sioux  
5       Tribe Equitable Compensation Amendments Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       (a) FINDINGS.—Congress finds that—

1           (1) the Pick-Sloan Missouri River Basin pro-  
2           gram, authorized by section 9 of the Act of Decem-  
3           ber 22, 1944 (commonly known as the “Flood Con-  
4           trol Act of 1944”) (58 Stat. 891), was intended to  
5           promote the general economic development of the  
6           United States;

7           (2) the Oahe Dam and Reservoir Project—

8                   (A) is a major component of the Pick-  
9           Sloan Missouri River Basin program; and

10                   (B) contributes to the national economy;

11           (3) the Oahe Dam and Reservoir Project flood-  
12           ed the fertile bottom land of the Cheyenne River  
13           Sioux Reservation, which greatly damaged the econ-  
14           omy and cultural resources of the Cheyenne River  
15           Sioux Tribe and caused the loss of many homes and  
16           communities of members of the Tribe;

17           (4) Congress has provided compensation to sev-  
18           eral Indian tribes, including the Cheyenne River  
19           Sioux Tribe, that border the Missouri River and suf-  
20           fered injury as a result of 1 or more of the Pick-  
21           Sloan projects;

22           (5) on determining that the compensation paid  
23           to the Cheyenne River Sioux Tribe was inadequate,  
24           Congress enacted the Cheyenne River Sioux Tribe  
25           Equitable Compensation Act (Public Law 106–511;

1 114 Stat. 2365), which created the Cheyenne River  
2 Sioux Tribal Recovery Trust Fund; and

3 (6) that Act did not provide for additional com-  
4 pensation to members of the Cheyenne River Sioux  
5 Tribe that lost land as a result of the Oahe Dam  
6 and Reservoir Project.

7 (b) PURPOSES.—The purposes of this Act are—

8 (1) to provide that the Cheyenne River Sioux  
9 Tribal Recovery Trust Fund may be used to provide  
10 compensation to members of the Cheyenne River  
11 Sioux Tribe that lost land as a result of the Oahe  
12 Dam and Reservoir Project; and

13 (2) to provide for the capitalization of the Chey-  
14 enne River Sioux Tribal Recovery Trust Fund.

15 **SEC. 3. CHEYENNE RIVER SIOUX TRIBE EQUITABLE COM-**  
16 **PENSATION.**

17 (a) FINDINGS AND PURPOSES.—Section 102 of the  
18 Cheyenne River Sioux Tribe Equitable Compensation Act  
19 (Public Law 106–511; 114 Stat. 2365) is amended—

20 (1) in subsection (a)(3), by striking subpara-  
21 graphs (A) and (B) and inserting the following:

22 “(A) the United States did not justify, or  
23 fairly compensate the Tribe and member land-  
24 owners for, the Oahe Dam and Reservation  
25 project, under which the United States acquired

1           104,492 acres of land of the Tribe and member  
2           landowners; and

3           “(B) the Tribe and member landowners  
4           should be adequately compensated for that  
5           land;”; and

6           (2) in subsection (b)(1), by inserting “and  
7           member landowners” after “Tribe” each place it ap-  
8           pears.

9           (b) DEFINITIONS.—Section 103 of the Cheyenne  
10          River Sioux Tribe Equitable Compensation Act (Public  
11          Law 106–511; 114 Stat. 2365) is amended—

12           (1) by redesignating paragraphs (1) and (2) as  
13           paragraphs (4) and (3), respectively, and moving the  
14           paragraphs so as to appear in numerical order; and

15           (2) by inserting before paragraph (3) (as redes-  
16           ignated by paragraph (1)) the following:

17           “(1) MEMBER LANDOWNER.—The term ‘mem-  
18           ber landowner’ means a member of the Tribe (or an  
19           heir of such a member) that owned land (including  
20           land allotted under the Act of February 8, 1887 (24  
21           Stat. 388, chapter 119)) located on the Cheyenne  
22           River Sioux Reservation that was acquired by the  
23           United States for the Oahe Dam and Reservoir  
24           Project.

1           “(2) POWER PROGRAM.—The term ‘power pro-  
 2           gram’ means the power program under the Pick-  
 3           Sloan Missouri River Basin program.”.

4           (c) CHEYENNE RIVER SIOUX TRIBAL RECOVERY  
 5 TRUST FUND.—Section 104 of the Cheyenne River Sioux  
 6 Tribe Equitable Compensation Act (Public Law 106–511;  
 7 114 Stat. 2365) is amended—

8           (1) by striking subsection (b) and inserting the  
 9           following:

10          “(b) FUNDING.—

11           “(1) IN GENERAL.—The Secretary of the  
 12           Treasury shall deposit into the Fund an amount  
 13           equal to 25 percent of the amount deposited into the  
 14           Treasury from the power program during the pre-  
 15           ceding fiscal year for the period—

16           “(A) beginning on October 1, 2004; and

17           “(B) ending on the last date of the fiscal  
 18           year during which the total amount deposited  
 19           into the Treasury from the power program  
 20           equals the amount described in paragraph (2).

21          “(2) DESCRIPTION OF AMOUNT.—

22           “(A) IN GENERAL.—The amount referred  
 23           to in paragraph (1)(B) is an amount equal to  
 24           the sum of—

25           “(i) \$290,722,958; and

1 “(ii) an amount equal to the amount  
 2 of interest or earnings that would have ac-  
 3 crued on the amount described in clause (i)  
 4 if that amount had been invested in ac-  
 5 cordance with subsection (c) as of October  
 6 1, 2001.

7 “(B) CALCULATION OF INTEREST.—The  
 8 amount of interest and earnings described in  
 9 subparagraph (A)(ii) shall be determined by ap-  
 10 plying the Lehman Government Bond Index (or  
 11 a similar index, as determined by the Secretary  
 12 of the Treasury, in consultation with the Tribal  
 13 Council).”;

14 (2) in subsection (d)(1), by striking “Beginning  
 15 on the first day of the 11th fiscal year after the date  
 16 of enactment of this Act” and inserting “Beginning  
 17 on October 1, 2005,”; and

18 (3) in subsection (f)—

19 (A) by redesignating paragraphs (3) and  
 20 (4) as paragraphs (4) and (5), respectively; and

21 (B) by inserting after paragraph (2) the  
 22 following:

23 “(3) MEMBER LANDOWNERS.—

24 “(A) IN GENERAL.—The plan may provide  
 25 for the payment of additional compensation to

1 member landowners for acquisition of land by  
2 the United States for use in the Oahe Dam and  
3 Reservoir Project.

4 “(B) PROVISION OF RECORDS.—To assist  
5 the Tribe in processing claims of heirs of mem-  
6 ber landowners for land acquired by the United  
7 States for use in the Oahe Dam and Reservoir  
8 Project, the Secretary of the Interior shall pro-  
9 vide to the Tribe any record requested by the  
10 Tribe to identify the heirs of member land-  
11 owners by the date that is 60 days after the  
12 date of receipt of a request from the Tribe.”.

13 (d) ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS  
14 AND SERVICES.—Section 105 of the Cheyenne River Sioux  
15 Tribe Equitable Compensation Act (Public Law 106–511;  
16 114 Stat. 2365) is amended in the matter preceding para-  
17 graph (1) by inserting “or any member landowner” after  
18 “Tribe”.

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