

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

# S. 1535

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## AN ACT

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 2006”.

1 **SEC. 2. FINDINGS.**

2 (a) FINDINGS.—Congress finds that—

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

9 (2) the Oahe Dam and Reservoir Project—

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

12 (B) contributes to the national economy;

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

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

24 (5) on determining that the compensation paid  
25 to the Cheyenne River Sioux Tribe was inadequate,  
26 Congress enacted the Cheyenne River Sioux Tribe

1 Equitable Compensation Act (Public Law 106–511;  
 2 114 Stat. 2365), which created the Cheyenne River  
 3 Sioux Tribal Recovery Trust Fund; and

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

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

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

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

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

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

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

23 “(A) the United States did not justly or  
 24 fairly compensate the Tribe and member land-  
 25 owners for the Oahe Dam and Reservation

1 project, under which the United States acquired  
2 104,492 acres of land of the Tribe and member  
3 landowners; and

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

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

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

13 (1) by redesignating paragraph (1) as para-  
14 graph (3) and moving the paragraph so as to appear  
15 after paragraph (2); and

16 (2) by inserting before paragraph (2) the fol-  
17 lowing:

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

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

5 (1) by striking subsection (b) and inserting the  
6 following:

7 “(b) FUNDING.—On the first day of the fiscal year  
8 beginning after the date of enactment of the Cheyenne  
9 River Sioux Tribe Equitable Compensation Amendments  
10 Act of 2006 and on the first day of each of the following  
11 4 fiscal years (referred to in this section as the ‘capitaliza-  
12 tion dates’), the Secretary of the Treasury shall deposit  
13 into the Fund, from amounts in the general fund of the  
14 Treasury—

15 “(1) \$58,144,591.60; and

16 “(2) an additional amount equal to the amount  
17 of interest that would have accrued if—

18 “(A) the amount described in paragraph  
19 (1) had been—

20 “(i) credited to the principal account  
21 as described in subsection (c)(2)(B)(i)(I)  
22 on the first day of the fiscal year beginning  
23 October 1, 2001; and

24 “(ii) invested as described in sub-  
25 section (c)(2)(C) during the period begin-

1           ning on the date described in clause (i)  
 2           and ending on the last day of the fiscal  
 3           year before the fiscal year in which that  
 4           amount is deposited into the Fund; and

5           “(B) the interest that would have accrued  
 6           under subparagraph (A) during the period de-  
 7           scribed in subparagraph (A)(ii) had been—

8                   “(i) credited to the interest account  
 9                   under subsection (c)(2)(B)(ii); and

10                   “(ii) invested during that period in ac-  
 11                   cordance with subsection (c)(2)(D)(i).”;

12           (2) by striking subsection (c) and inserting the  
 13           following:

14           “(c) INVESTMENTS.—

15                   “(1) ELIGIBLE OBLIGATIONS.—Notwith-  
 16                   standing any other provision of law, the Secretary of  
 17                   the Treasury shall invest the Fund only in interest-  
 18                   bearing obligations of the United States issued di-  
 19                   rectly to the Fund.

20                   “(2) INVESTMENT REQUIREMENTS.—

21                   “(A) IN GENERAL.—The Secretary of the  
 22                   Treasury shall invest the Fund in accordance  
 23                   with this paragraph.

24                   “(B) SEPARATE INVESTMENTS OF PRIN-  
 25                   CIPAL AND INTEREST.—

1                   “(i) PRINCIPAL ACCOUNT.—The  
2 amounts deposited into the Fund under  
3 subsection (b)(1) shall be—

4                   “(I) credited to a principal ac-  
5 count within the Fund (referred to in  
6 this paragraph as the ‘principal ac-  
7 count’); and

8                   “(II) invested in accordance with  
9 subparagraph (C).

10                   “(ii) INTEREST ACCOUNT.—

11                   “(I) IN GENERAL.—The interest  
12 earned from investing amounts in the  
13 principal account shall be—

14                   “(aa) transferred to a sepa-  
15 rate interest account within the  
16 Fund (referred to in this para-  
17 graph as the ‘interest account’);  
18 and

19                   “(bb) invested in accordance  
20 with subparagraph (D).

21                   “(II) CREDITING.—The interest  
22 earned from investing amounts in the  
23 interest account, and the amounts de-  
24 posited into the Fund under sub-

1 section (b)(2), shall be credited to the  
2 interest account.

3 “(C) INVESTMENT OF PRINCIPAL AC-  
4 COUNT.—

5 “(i) INITIAL INVESTMENT.—Amounts  
6 in the principal account shall be initially  
7 invested in eligible obligations with the  
8 shortest available maturity.

9 “(ii) SUBSEQUENT INVESTMENTS.—

10 “(I) IN GENERAL.—On the date  
11 on which the amount in the principal  
12 account is divisible into 3 substan-  
13 tially equal portions, each portion  
14 shall be invested in eligible obligations  
15 that are identical (except for transfer-  
16 ability) to the next-issued publicly-  
17 issued Treasury obligations having a  
18 2-year maturity, a 5-year maturity,  
19 and a 10-year maturity, respectively.

20 “(II) MATURITY OF OBLIGA-  
21 TIONS.—As each 2-year, 5-year, and  
22 10-year eligible obligation under sub-  
23 clause (I) matures, the principal of  
24 the maturing eligible obligation shall  
25 be initially invested in accordance with

1 clause (i) until the date on which the  
2 principal is reinvested substantially  
3 equally in the eligible obligations that  
4 are identical (except for transfer-  
5 ability) to the next-issued publicly-  
6 issued Treasury obligations having 2-  
7 year, 5-year, and 10-year maturities.

8 “(iii) DISCONTINUATION OF ISSUANCE  
9 OF OBLIGATIONS.—If the Department of  
10 the Treasury discontinues issuing to the  
11 public obligations having 2-year, 5-year, or  
12 10-year maturities, the principal of any  
13 maturing eligible obligation shall be rein-  
14 vested substantially equally in available eli-  
15 gible obligations that are identical (except  
16 for transferability) to the next-issued pub-  
17 licly-issued Treasury obligations with ma-  
18 turities of longer than 1 year.

19 “(D) INVESTMENT OF INTEREST AC-  
20 COUNT.—

21 “(i) BEFORE EACH CAPITALIZATION  
22 DATE.—For purposes of subsection  
23 (b)(2)(B), amounts considered as if they  
24 were in the interest account of the Fund  
25 shall be invested in eligible obligations that

1 are identical (except for transferability) to  
2 publicly-issued Treasury obligations that  
3 have maturities that coincide, to the great-  
4 est extent practicable, with the applicable  
5 capitalization date for the Fund.

6 “(ii) ON AND AFTER EACH CAPITAL-  
7 IZATION DATE.—On and after each capital-  
8 ization date, amounts in the interest ac-  
9 count shall be invested and reinvested in  
10 eligible obligations that are identical (ex-  
11 cept for transferability) to publicly-issued  
12 Treasury obligations that have maturities  
13 that coincide, to the greatest extent prac-  
14 ticable, with the date on which the  
15 amounts will be withdrawn by the Sec-  
16 retary of the Treasury and transferred to  
17 the Secretary of the Interior for use in ac-  
18 cordance with subsection (d).

19 “(E) PAR PURCHASE PRICE.—

20 “(i) IN GENERAL.—To preserve in  
21 perpetuity the amount in the principal ac-  
22 count, the purchase price of an eligible ob-  
23 ligation purchased as an investment of the  
24 principal account shall not exceed the par  
25 value of the obligation.

1           “(ii) TREATMENT.—At the maturity  
2           of an eligible obligation described in clause  
3           (i), any discount from par in the purchase  
4           price of the eligible obligation shall be  
5           treated as interest paid at maturity.

6           “(F) HOLDING TO MATURITY.—Eligible  
7           obligations purchased pursuant to this para-  
8           graph shall be held to their maturities.

9           “(3) ANNUAL REVIEW OF INVESTMENT ACTIVI-  
10          TIES.—Not less frequently than once each calendar  
11          year, the Secretary of the Treasury shall review with  
12          the Tribe the results of the investment activities and  
13          financial status of the Fund during the preceding  
14          calendar year.

15          “(4) MODIFICATIONS.—

16               “(A) IN GENERAL.—If the Secretary of the  
17               Treasury determines that investing the Fund in  
18               accordance with paragraph (2) is not prac-  
19               ticable or would result in adverse consequences  
20               to the Fund, the Secretary of the Treasury  
21               shall modify the requirements to the least ex-  
22               tent necessary, as determined by the Secretary  
23               of the Treasury.

24               “(B) CONSULTATION.—Before making a  
25               modification under subparagraph (A), the Sec-

1           retary of the Treasury shall consult with the  
2           Tribe with respect to the modification.”;

3           (3) in subsection (d), by striking paragraph (1)  
4           and inserting the following:

5           “(1) WITHDRAWAL OF INTEREST.—Beginning  
6           on the first day of the fiscal year beginning after the  
7           date of enactment of the Cheyenne River Sioux  
8           Tribe Equitable Compensation Amendments Act of  
9           2006, and on the first day of each fiscal year there-  
10          after, the Secretary of the Treasury shall withdraw  
11          and transfer all funds in the interest account of the  
12          Fund to the Secretary of the Interior for use in ac-  
13          cordance with paragraph (2), to be available without  
14          fiscal year limitation.”; and

15          (4) in subsection (f)—

16                (A) by redesignating paragraphs (3) and  
17                (4) as paragraphs (4) and (5), respectively; and

18                (B) by inserting after paragraph (2) the  
19                following:

20          “(3) MEMBER LANDOWNERS.—

21                “(A) ADDITIONAL COMPENSATION.—

22                        “(i) IN GENERAL.—Except as pro-  
23                        vided in clause (iii), the plan may provide  
24                        for the payment of additional compensa-  
25                        tion to member landowners for acquisition

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

3 “(ii) DETERMINATION OF HEIRS.—An  
4 heir of a member landowner shall be deter-  
5 mined in accordance with the probate code  
6 governing the estate of the member land-  
7 owner.

8 “(iii) EXCEPTION.—During any fiscal  
9 year, payments of additional compensation  
10 to a member landowner under clause (i)  
11 shall not—

12 “(I) be deposited or transferred  
13 into—

14 “(aa) the Individual Indian  
15 Money account of the member  
16 landowner; or

17 “(bb) any other fund held by  
18 the United States on behalf of  
19 the member landowner; or

20 “(II) exceed an amount equal to  
21 44.3 percent of the amount trans-  
22 ferred by the Secretary of the Interior  
23 to the Tribe under paragraph (2).

24 “(B) PROVISION OF RECORDS.—To assist  
25 the Tribe in processing claims of heirs of mem-

1           ber landowners for land acquired by the United  
2           States for use in the Oahe Dam and Reservoir  
3           Project, the Secretary of the Interior shall pro-  
4           vide to the Tribe, in accordance with applicable  
5           laws (including regulations), any record re-  
6           quested by the Tribe to identify the heirs of  
7           member landowners by the date that is 90 days  
8           after the date of receipt of a request from the  
9           Tribe.”.

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

16       (e) EXTINGUISHMENT OF CLAIMS.—Section 107 of  
17 the Cheyenne River Sioux Tribe Equitable Compensation  
18 Act (Public Law 106–511; 114 Stat. 2368) is amended  
19 to read as follows:

20 **“SEC. 107. EXTINGUISHMENT OF CLAIMS.**

21       “(a) IN GENERAL.—On the date on which the final  
22 payment is deposited into the Fund under section 104(b),  
23 all monetary claims that the Tribe has or may have  
24 against the United States for the taking by the United  
25 States of land and property of the Tribe for the Oahe Dam

1 and Reservoir Project of the Pick-Sloan Missouri River  
2 Basin program shall be extinguished.

3 “(b) EFFECT OF ACCEPTANCE OF PAYMENT.—On  
4 acceptance by a member landowner or an heir of a member  
5 landowner of any payment by the Tribe for damages re-  
6 sulting from the taking by the United States of land or  
7 property of the Tribe for the Oahe Dam and Reservoir  
8 Project of the Pick-Sloan Missouri River Basin program,  
9 all monetary claims that the member landowner or heir  
10 has or may have against the United States for the taking  
11 shall be extinguished.”.

Passed the Senate December 7, 2006.

Attest:

*Secretary.*

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