

110TH CONGRESS  
1ST SESSION

# H. R. 487

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IN THE SENATE OF THE UNITED STATES

MAY 8, 2007

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

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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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Cheyenne River Sioux  
3 Tribe Equitable Compensation Amendments Act of 2007”.

4 **SEC. 2. FINDINGS.**

5       (a) FINDINGS.—Congress finds that—

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

12           (2) the Oahe Dam and Reservoir Project—

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

15               (B) contributes to the national economy;

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

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

1           (5) on determining that the compensation paid  
2           to the Cheyenne River Sioux Tribe was inadequate,  
3           Congress enacted the Cheyenne River Sioux Tribe  
4           Equitable Compensation Act (Public Law 106–511;  
5           114 Stat. 2365), which created the Cheyenne River  
6           Sioux Tribal Recovery Trust Fund; and

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

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

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

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

19         **SEC. 3. CHEYENNE RIVER SIOUX TRIBE EQUITABLE COM-**  
20                 **PENSATION.**

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

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

1           “(A) the United States did not justly or  
2           fairly compensate the Tribe and member land-  
3           owners for the Oahe Dam and Reservation  
4           project, under which the United States acquired  
5           104,492 acres of land of the Tribe and member  
6           landowners; and

7           “(B) the Tribe and member landowners  
8           should be adequately compensated for that  
9           land;”; and

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

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

16               (1) by redesignating paragraph (1) as para-  
17               graph (3) and moving the paragraph so as to appear  
18               after paragraph (2); and

19               (2) by inserting before paragraph (2) the fol-  
20               lowing:

21               “(1) MEMBER LANDOWNER.—The term ‘mem-  
22               ber landowner’ means a member of the Tribe (or an  
23               heir of such a member) that owned land (including  
24               land allotted under the Act of February 8, 1887 (24  
25               Stat. 388, chapter 119)) located on the Cheyenne

1 River Sioux Reservation that was acquired by the  
2 United States for the Oahe Dam and Reservoir  
3 Project.”.

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.—On the first day of the fiscal year  
11 beginning after the date of enactment of the Cheyenne  
12 River Sioux Tribe Equitable Compensation Amendments  
13 Act of 2007 and on the first day of each of the following  
14 4 fiscal years (referred to in this section as the ‘capitaliza-  
15 tion dates’), the Secretary of the Treasury shall deposit  
16 into the Fund, from amounts in the general fund of the  
17 Treasury—

18 “(1) \$58,144,591.60; and

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

21 “(A) the amount described in paragraph

22 (1) had been—

23 “(i) credited to the principal account  
24 as described in subsection (c)(2)(B)(i)(I)

1 on the first day of the fiscal year beginning  
 2 October 1, 2001; and

3 “(ii) invested as described in sub-  
 4 section (c)(2)(C) during the period begin-  
 5 ning on the date described in clause (i)  
 6 and ending on the last day of the fiscal  
 7 year before the fiscal year in which that  
 8 amount is deposited into the Fund; and

9 “(B) the interest that would have accrued  
 10 under subparagraph (A) during the period de-  
 11 scribed in subparagraph (A)(ii) had been—

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

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

16 (2) by striking subsection (c) and inserting the  
 17 following:

18 “(c) INVESTMENTS.—

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

24 “(2) INVESTMENT REQUIREMENTS.—

1                   “(A) IN GENERAL.—The Secretary of the  
2                   Treasury shall invest the Fund in accordance  
3                   with this paragraph.

4                   “(B) SEPARATE INVESTMENTS OF PRIN-  
5                   CIPAL AND INTEREST.—

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

9                   “(I) credited to a principal ac-  
10                  count within the Fund (referred to in  
11                  this paragraph as the ‘principal ac-  
12                  count’); and

13                  “(II) invested in accordance with  
14                  subparagraph (C).

15                  “(ii) INTEREST ACCOUNT.—

16                  “(I) IN GENERAL.—The interest  
17                  earned from investing amounts in the  
18                  principal account shall be—

19                  “(aa) transferred to a sepa-  
20                  rate interest account within the  
21                  Fund (referred to in this para-  
22                  graph as the ‘interest account’);  
23                  and

24                  “(bb) invested in accordance  
25                  with subparagraph (D).

1                   “(II) CREDITING.—The interest  
 2                   earned from investing amounts in the  
 3                   interest account, and the amounts de-  
 4                   posited into the Fund under sub-  
 5                   section (b)(2), shall be credited to the  
 6                   interest account.

7                   “(C) INVESTMENT OF PRINCIPAL AC-  
 8                   COUNT.—

9                   “(i) INITIAL INVESTMENT.—Amounts  
 10                  in the principal account shall be initially  
 11                  invested in eligible obligations with the  
 12                  shortest available maturity.

13                  “(ii) SUBSEQUENT INVESTMENTS.—

14                  “(I) IN GENERAL.—On the date  
 15                  on which the amount in the principal  
 16                  account is divisible into 3 substan-  
 17                  tially equal portions, each portion  
 18                  shall be invested in eligible obligations  
 19                  that are identical (except for transfer-  
 20                  ability) to the next-issued publicly-  
 21                  issued Treasury obligations having a  
 22                  2-year maturity, a 5-year maturity,  
 23                  and a 10-year maturity, respectively.

24                  “(II) MATURITY OF OBLIGA-  
 25                  TIONS.—As each 2-year, 5-year, and



1                   10-year eligible obligation under sub-  
2                   clause (I) matures, the principal of  
3                   the maturing eligible obligation shall  
4                   be initially invested in accordance with  
5                   clause (i) until the date on which the  
6                   principal is reinvested substantially  
7                   equally in the eligible obligations that  
8                   are identical (except for transfer-  
9                   ability) to the next-issued publicly-  
10                  issued Treasury obligations having 2-  
11                  year, 5-year, and 10-year maturities.

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

23               “(D) INVESTMENT OF INTEREST AC-  
24               COUNT.—

1           “(i) BEFORE EACH CAPITALIZATION  
2           DATE.—For purposes of subsection  
3           (b)(2)(B), amounts considered as if they  
4           were in the interest account of the Fund  
5           shall be invested in eligible obligations that  
6           are identical (except for transferability) to  
7           publicly-issued Treasury obligations that  
8           have maturities that coincide, to the great-  
9           est extent practicable, with the applicable  
10          capitalization date for the Fund.

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

24          “(E) PAR PURCHASE PRICE.—

1           “(i) IN GENERAL.—To preserve in  
2           perpetuity the amount in the principal ac-  
3           count, the purchase price of an eligible ob-  
4           ligation purchased as an investment of the  
5           principal account shall not exceed the par  
6           value of the obligation.

7           “(ii) TREATMENT.—At the maturity  
8           of an eligible obligation described in clause  
9           (i), any discount from par in the purchase  
10          price of the eligible obligation shall be  
11          treated as interest paid at maturity.

12          “(F) HOLDING TO MATURITY.—Eligible  
13          obligations purchased pursuant to this para-  
14          graph shall be held to their maturities.

15          “(3) ANNUAL REVIEW OF INVESTMENT ACTIVI-  
16          TIES.—Not less frequently than once each calendar  
17          year, the Secretary of the Treasury shall review with  
18          the Tribe the results of the investment activities and  
19          financial status of the Fund during the preceding  
20          calendar year.

21          “(4) MODIFICATIONS.—

22                 “(A) IN GENERAL.—If the Secretary of the  
23          Treasury determines that investing the Fund in  
24          accordance with paragraph (2) is not prac-  
25          ticable or would result in adverse consequences

1 to the Fund, the Secretary of the Treasury  
2 shall modify the requirements to the least ex-  
3 tent necessary, as determined by the Secretary  
4 of the Treasury.

5 “(B) CONSULTATION.—Before making a  
6 modification under subparagraph (A), the Sec-  
7 retary of the Treasury shall consult with the  
8 Tribe with respect to the modification.”;

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

11 “(1) WITHDRAWAL OF INTEREST.—Beginning  
12 on the first day of the fiscal year beginning after the  
13 date of enactment of the Cheyenne River Sioux  
14 Tribe Equitable Compensation Amendments Act of  
15 2007, and on the first day of each fiscal year there-  
16 after, the Secretary of the Treasury shall withdraw  
17 and transfer all funds in the interest account of the  
18 Fund to the Secretary of the Interior for use in ac-  
19 cordance with paragraph (2), to be available without  
20 fiscal year limitation.”; and

21 (4) in subsection (f)—

22 (A) by redesignating paragraphs (3) and  
23 (4) as paragraphs (4) and (5), respectively; and

24 (B) by inserting after paragraph (2) the  
25 following:

1 “(3) MEMBER LANDOWNERS.—

2 “(A) ADDITIONAL COMPENSATION.—

3 “(i) IN GENERAL.—Except as pro-  
4 vided in clause (iii), the plan may provide  
5 for the payment of additional compensa-  
6 tion to member landowners for acquisition  
7 of land by the United States for use in the  
8 Oahe Dam and Reservoir Project.

9 “(ii) DETERMINATION OF HEIRS.—An  
10 heir of a member land owner shall be de-  
11 termined pursuant to the applicable pro-  
12 bate code of the Tribe.

13 “(iii) EXCEPTION.—During any fiscal  
14 year, payments of additional compensation  
15 to a member landowner under clause (i)  
16 shall not—

17 “(I) be deposited or transferred  
18 into—

19 “(aa) the Individual Indian  
20 Money account of the member  
21 landowner; or

22 “(bb) any other fund held by  
23 the United States on behalf of  
24 the member landowner; or

1 “(II) exceed an amount equal to  
2 44.3 percent of the amount trans-  
3 ferred by the Secretary of the Interior  
4 to the Tribe under paragraph (2).

5 “(B) PROVISION OF RECORDS.—To assist  
6 the Tribe in processing claims of heirs of mem-  
7 ber landowners for land acquired by the United  
8 States for use in the Oahe Dam and Reservoir  
9 Project, the Secretary of the Interior shall pro-  
10 vide to the Tribe, in accordance with applicable  
11 laws (including regulations), any record re-  
12 quested by the Tribe to identify the heirs of  
13 member landowners by the date that is 90 days  
14 after the date of receipt of a request from the  
15 Tribe.”.

16 (d) ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS  
17 AND SERVICES.—Section 105 of the Cheyenne River Sioux  
18 Tribe Equitable Compensation Act (Public Law 106–511;  
19 114 Stat. 2365) is amended in the matter preceding para-  
20 graph (1) by inserting “or any member landowner” after  
21 “Tribe”.

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

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

Attest: LORRAINE C. MILLER,  
*Clerk.*