

Calendar No. 687

105TH CONGRESS
2D SESSION

S. 1905

[Report No. 105-363]

A BILL

To provide for equitable compensation for the
Cheyenne River Sioux Tribe, and for other pur-
poses.

OCTOBER 2, 1998

Reported with an amendment

Calendar No. 687

105TH CONGRESS
2^D SESSION**S. 1905****[Report No. 105-363]**

To provide for equitable compensation for the Cheyenne River Sioux Tribe,
and for other purposes.

 IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. DASCHLE (for himself and Mr. JOHNSON) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

OCTOBER 2, 1998

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide for equitable compensation for the Cheyenne
River Sioux Tribe, 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 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 “Cheyenne River Sioux Tribe Equitable Compensation
6 Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) Congress approved the Pick-Sloan Missouri
4 River Basin program by passing the Act of Decem-
5 ber 22, 1944, commonly known as the “Flood Con-
6 trol Act of 1944” (58 Stat. 887, chapter 665; 33
7 U.S.C. 701–1 et seq.)—

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

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

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

14 (D) for other purposes;

15 (2) the Oahe Dam and Reservoir project is a
16 major component of the Pick-Sloan program, and
17 contributes to the economy of the United States by
18 generating a substantial amount of hydropower and
19 impounding a substantial quantity of water;

20 (3) notwithstanding the contributions referred
21 to in paragraph (1), the Oahe Dam and Reservoir
22 project has contributed little to the economy of the
23 Tribe;

24 (4) the Oahe Dam and Reservoir project over-
25 lies the eastern boundary of the Crow Creek Indian
26 Reservation;

1 (5) the Oahe Dam and Reservoir project has—

2 (A) inundated the fertile, wooded bottom
3 lands of the Tribe along the Missouri River that
4 constituted the most productive agricultural
5 and pastoral lands of the Tribe and the home-
6 land of the members of the Tribe; and

7 (B) as a result of that inundation, severely
8 damaged the economy of the Tribe and the
9 members of the Tribe;

10 (6) the Secretary appointed a Joint Tribal Ad-
11 visory Committee that examined the Oahe Dam and
12 Reservoir project and that advisory committee cor-
13 rectly concluded that—

14 (A) the Federal Government did not jus-
15 tify, or fairly compensate the Tribe for, the
16 Oahe Dam and Reservoir project when the Fed-
17 eral Government acquired 104,492 acres of land
18 of the Tribe for that project; and

19 (B) the Tribe should be adequately com-
20 pensated for the taking described in subpara-
21 graph (A); and

22 (7) after applying the same method of analysis
23 used for the compensation of similarly situated In-
24 dian tribes, the Comptroller General of the United
25 States determined the amount of compensation for

1 the taking described in paragraph (6) and deter-
2 mined that the appropriate amount of compensation
3 to pay the Tribe for the taking would be
4 \$290,722,958;

5 (8) the Tribe is entitled to receiving additional
6 financial compensation for the taking described in
7 paragraph (6)(A) in a manner consistent with the
8 determination of the Comptroller General under
9 paragraph (7); and

10 (9) the establishment of a dual cash account
11 with the amounts made available to the Tribe under
12 this Act is consistent with the principles of self-gov-
13 ernance and self-determination.

14 (b) PURPOSES.—The purposes of this Act are as fol-
15 lows:

16 (1) To provide for additional financial com-
17 pensation to the Tribe for the taking of 104,402
18 acres of land of the Tribe for the Oahe Dam and
19 Reservoir project in a manner consistent with the
20 determination of the Comptroller General of the
21 United States described in subsection (a)(7).

22 (2) To provide for the establishment of the
23 Cheyenne River Sioux Recovery Account, a dual
24 cash account to be managed by the Office in order

1 to make payments to the Tribe to carry out projects
2 under a plan prepared by the Tribe.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) ACCOUNT.—The term “account” means the
6 Cheyenne River Sioux Recovery Account established
7 under section 4.

8 (2) CHEYENNE RIVER SIOUX TRIBE; TRIBE.—
9 The term “Cheyenne River Sioux Tribe” or “Tribe”
10 means the Itazipco, Siha Sapa, Minnicoujou, and
11 Oohenumpa bands of the Great Sioux Nation that
12 reside on the Cheyenne Reservation, located in cen-
13 tral South Dakota.

14 (3) FUND ACCOUNT.—The term “Fund Ac-
15 count” means a consolidated account for tribal trust
16 funds in the Treasury of the United States that—

17 (A) is managed by the Secretary, through
18 the Office, in accordance with applicable law;
19 and

20 (B) as of the date of enactment of this
21 Act, is numbered 14X8365.

22 (4) OFFICE.—The term “Office” means the Of-
23 fice of Trust Fund Management within the Depart-
24 ment of the Interior.

1 (5) PROGRAM.—The term “Program” means
2 the power program of the Pick-Sloan Missouri River
3 Basin program, administered by the Western Area
4 Power Administration.

5 (6) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior.

7 **SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY AC-**
8 **COUNT.**

9 (a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY AC-
10 COUNT.—The Secretary of the Treasury shall establish in
11 the Fund Account a dual cash account to be known as
12 the “Cheyenne River Sioux Tribal Recovery Account”.
13 The dual cash account shall have a principal component
14 and an interest component. The interest component of the
15 account shall be used to make payments to the Tribe in
16 accordance with this Act. The principal component of the
17 account may not be expended. The corpus and the income
18 of the account may be invested in accordance with applica-
19 ble law.

20 (b) FUNDING.—

21 (1) IN GENERAL.—Subject to paragraphs (2)
22 and (3), beginning with fiscal year 1999, and for
23 each fiscal year thereafter, until such time as the ag-
24 gregate of the amounts deposited is \$290,722,958,
25 the Secretary of the Treasury shall deposit into the

1 fund an amount equal to 10 percent of the receipts
2 from the deposits to the Treasury of the United
3 States for the preceding fiscal year from the Pro-
4 gram.

5 (2) PERCENTAGE AMOUNT.—Beginning with
6 fiscal year 2004, if no other law provides for the
7 compensation to parties in conjunction with an ap-
8 plicable plan for the Program, the Secretary of the
9 Treasury shall deposit into the fund an amount
10 equal to 25 percent of the receipts from the deposits
11 to the Treasury of the United States for the preced-
12 ing fiscal year from the Program, until such time as
13 the aggregate of the amounts deposited into the
14 fund from such receipts and receipts deposited under
15 paragraph (1) equals the amount specified in para-
16 graph (1).

17 (3) ADDITIONAL INTEREST.—If, by the date
18 that is 60 days after the end of a fiscal year, the
19 Secretary of the Treasury fails to deposit into the
20 fund an amount determined under paragraph (1) or
21 (2), the Secretary of the Treasury shall deposit, in
22 addition the applicable amount required to be depos-
23 ited under paragraph (1) or (2), interest on the
24 amount required to be deposited, determined for the
25 period beginning on the day after the termination of

1 that 60-day period and ending on the date on which
2 the amount determined under paragraph (1) or (2)
3 is deposited, and based on a rate of interest that is
4 commonly referred to as the Treasury overnight
5 rate.

6 (c) WITHDRAWAL.—

7 (1) IN GENERAL.—Subject to paragraph (2), in
8 accordance with section 202 of the American Indian
9 Trust Fund Management Reform Act of 1994 (25
10 U.S.C. 4022), the Tribe may, in accordance with
11 that Act, voluntarily withdraw some or all of the
12 funds held in trust for the Tribe by the United
13 States and managed by the Secretary through the
14 Office.

15 (2) LIMITATION.—No amount of principal with-
16 drawn under this subsection may be expended by the
17 Tribe. The Tribe may withdraw funds under this
18 subsection on the condition that the Tribe may ex-
19 pend only the interest earned on the principal.

20 (c) PAYMENT OF INTEREST TO TRIBE.—In accord-
21 ance with this Act, the Secretary, acting through the Of-
22 fice, and in a manner consistent with the first section of
23 the Act of June 24, 1938 (52 Stat. 1037 et seq., chapter
24 648; 25 U.S.C. 162a) shall make payments to the Tribe
25 from the interest credited to the interest component of the

1 account, beginning at the end of the first fiscal year dur-
 2 ing which interest is credited to the account. The Tribe
 3 shall use the payments made under this subsection only
 4 for carrying out projects and programs pursuant to the
 5 plan prepared under subsection (f).

6 (f) PLAN.—

7 (1) IN GENERAL.—The governing body of the
 8 Tribe shall, not later than 18 months after the date
 9 of enactment of this Act, prepare a plan for the use
 10 of the payments made to the Tribe under subsection
 11 (e).

12 (2) CONTENTS OF PLAN.—The plan developed
 13 under this subsection shall provide for the manner
 14 in which the Tribe will expend the payments referred
 15 to in paragraph (1) to promote—

16 (A) economic development;

17 (B) infrastructure development;

18 (C) the educational, health, recreational,
 19 and social welfare objectives of the Tribe and
 20 its members; or

21 (D) any combination of the activities re-
 22 ferred to in subparagraphs (A) through (C).

23 (3) PLAN REVIEW AND REVISION.—The Tribal
 24 Council of the Tribe shall make available for review
 25 and comment by the members of the Tribe a copy

1 of the plan before the plan becomes final, in accord-
2 ance with procedures established by the Tribal
3 Council. The Tribal Council may, on an annual
4 basis, update the plan by revising the plan in a man-
5 ner that provides the members of the Tribe to review
6 and comment on any proposed revision.

7 (4) AUDIT.—The activities of the Tribe in car-
8 rying out the plan under this subsection shall be au-
9 dited as part of an annual audit conducted for the
10 Tribe. The auditors that conduct the audit shall in-
11 clude in the written findings of that audit a deter-
12 mination whether the funds received by the Tribe
13 under this section were expended in a manner con-
14 sistent with this section to carry out the plan under
15 this subsection.

16 (g) TRANSFERS; LIMITATIONS.—

17 (1) WITHDRAWAL AND TRANSFER OF FUNDS.—
18 In a manner consistent with the requirements of this
19 Act, upon request of the Secretary of the Interior,
20 the Secretary of the Treasury shall withdraw
21 amounts in the interest component of the account
22 and transfer such amounts to the Secretary of the
23 Interior for use in accordance with paragraph (2).
24 The Secretary of the Treasury may only withdraw

1 funds from the account for the purpose specified in
2 paragraph (2).

3 (2) PAYMENTS TO TRIBE.—The Secretary of
4 the Interior shall use the amounts transferred under
5 paragraph (1) only for the purpose of making an-
6 nual payments to the Tribe.

7 (4) PROHIBITION ON PER CAPITA PAYMENTS.—
8 No portion of any payment made under this sub-
9 section may be distributed to any member of the
10 Tribe on a per capita basis.

11 **SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
12 **AND SERVICES.**

13 (a) IN GENERAL.—No payment made to the Tribe
14 pursuant to this Act shall result in the reduction or denial
15 of any service or program to which, pursuant to Federal
16 law—

17 (1) the Tribe is otherwise entitled because of
18 the status of the Tribe as a federally recognized In-
19 dian tribe; or

20 (2) any individual who is a member of the Tribe
21 is entitled because of the status of the individual as
22 a member of the Tribe.

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

1 (c) **POWER RATES.**—No payment made pursuant to
 2 this Act shall affect Pick-Sloan Missouri River Basin
 3 power rates.

4 **SEC. 6. SALE OF WESTERN AREA POWER AUTHORITY.**

5 (a) **IN GENERAL.**—If, before the amount specified in
 6 section 4(b)(1) is deposited into the Fund, the United
 7 States sells or otherwise transfers title to the assets and
 8 income of the Western Area Power Authority to an entity
 9 other than the United States—

10 (1) an amount of the proceeds from that sale
 11 equal to the difference between the amount specified
 12 in section 4(b)(1) and the aggregate amount that, as
 13 of the sale of power authority, had been paid into
 14 the Fund, shall be deposited in the Fund; or

15 (2) the purchaser may assume responsibility for
 16 making payments to the Treasury of the United
 17 States for deposit in the Fund in amounts deter-
 18 mined under section 4(b)(1).

19 (b) **SECURITY.**—If a purchaser assumes the respon-
 20 sibility for making the payments and shall provide the
 21 Tribe with appropriate security to secure those payments.

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Cheyenne River Sioux*
 24 *Tribe Equitable Compensation Act”.*

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) *FINDINGS.*—*The Congress finds that—*

3 (1) *Congress approved the Pick-Sloan Missouri*
4 *River Basin program by passing the Act of December*
5 *22, 1944, commonly known as the “Flood Control Act*
6 *of 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–*
7 *1 et seq.)—*

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

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

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

14 (D) *for other purposes;*

15 (2) *the Oahe Dam and Reservoir project is a*
16 *major component of the Pick-Sloan program, and*
17 *contributes to the economy of the United States by*
18 *generating a substantial amount of hydropower and*
19 *impounding a substantial quantity of water;*

20 (3) *notwithstanding the contributions referred to*
21 *in paragraph (1), the Oahe Dam and Reservoir*
22 *project has contributed little to the economy of the*
23 *Tribe;*

24 (4) *the Oahe Dam and Reservoir project overlies*
25 *the eastern boundary of the Cheyenne River Sioux In-*
26 *Indian Reservation;*

1 (5) *the Oahe Dam and Reservoir project has—*

2 (A) *inundated the fertile, wooded bottom*
3 *lands of the Tribe along the Missouri River that*
4 *constituted the most productive agricultural and*
5 *pastoral lands of the Tribe and the homeland of*
6 *the members of the Tribe; and*

7 (B) *as a result of that inundation, severely*
8 *damaged the economy of the Tribe and the mem-*
9 *bers of the Tribe;*

10 (6) *the Secretary appointed a Joint Tribal Advi-*
11 *sory Committee that examined the Oahe Dam and*
12 *Reservoir project and that advisory committee con-*
13 *cluded that—*

14 (A) *the Federal Government did not justify,*
15 *or fairly compensate the Tribe for, the Oahe*
16 *Dam and Reservoir project when the Federal*
17 *Government acquired 104,492 acres of land of*
18 *the Tribe for that project; and*

19 (B) *the Tribe should be adequately com-*
20 *pensated for the acquisition described in sub-*
21 *paragraph (A);*

22 (7) *after applying the same method of analysis*
23 *used for the compensation of similarly situated In-*
24 *dian tribes, the Comptroller General of the United*
25 *States determined the amount of compensation for the*

1 *acquisition described in paragraph (6) and deter-*
2 *mined that the appropriate amount of compensation*
3 *to pay the Tribe for the acquisition would be*
4 *\$290,722,958;*

5 *(8) the Tribe is entitled to receiving additional*
6 *financial compensation for the acquisition described*
7 *in paragraph (6)(A) in a manner consistent with the*
8 *determination of the Comptroller General under para-*
9 *graph (7); and*

10 *(9) the establishment of a dual cash account with*
11 *the amounts made available to the Tribe under this*
12 *Act is consistent with the principles of self-governance*
13 *and self-determination.*

14 *(b) PURPOSES.—The purposes of this Act are as fol-*
15 *lows:*

16 *(1) To provide for additional financial com-*
17 *penetration to the Tribe for the acquisition of 104,492*
18 *acres of land of the Tribe for the Oahe Dam and Res-*
19 *ervoir project in a manner consistent with the deter-*
20 *mination of the Comptroller General of the United*
21 *States described in subsection (a)(7).*

22 *(2) To provide for the establishment of the Chey-*
23 *enne River Sioux Tribal Recovery Account, a dual*
24 *cash account to be managed by the Office of Trust*
25 *Fund Management of the Department of the Interior*

1 *in order to make payments to the Tribe to carry out*
2 *projects under a plan prepared by the Tribe.*

3 **SEC. 3. DEFINITIONS.**

4 *In this Act:*

5 (1) *ACCOUNT.*—*The term “account” means the*
6 *Cheyenne River Sioux Tribal Recovery Account estab-*
7 *lished under section 4.*

8 (2) *CHEYENNE RIVER SIOUX TRIBE; TRIBE.*—*The*
9 *term “Cheyenne River Sioux Tribe” or “Tribe”*
10 *means the Itazipco, Siha Sapa, Minniconjou, and*
11 *Oohenumpa bands of the Great Sioux Nation that re-*
12 *side on the Cheyenne Reservation, located in central*
13 *South Dakota.*

14 (3) *FUND.*—*The term “Fund” means a consoli-*
15 *dated account for tribal trust funds in the Treasury*
16 *of the United States that—*

17 (A) *is managed by the Secretary, through*
18 *the Office, in accordance with applicable law;*
19 *and*

20 (B) *as of the date of enactment of this Act,*
21 *is numbered 14X8365.*

22 (4) *OFFICE.*—*The term “Office” means the Office*
23 *of Trust Fund Management within the Department of*
24 *the Interior.*

1 (5) *PROGRAM.*—*The term “Program” means the*
 2 *power program of the Pick-Sloan Missouri River*
 3 *Basin program, administered by the Western Area*
 4 *Power Administration.*

5 (6) *SECRETARY.*—*The term “Secretary” means*
 6 *the Secretary of the Interior.*

7 (7) *TRIBAL COUNCIL.*—*The term “Tribal Coun-*
 8 *cil” means the governing body of the Tribe.*

9 **SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY AC-**
 10 **COUNT.**

11 (a) *CHEYENNE RIVER SIOUX TRIBAL RECOVERY AC-*
 12 *COUNT.*—*The Secretary of the Treasury shall establish in*
 13 *the Fund a dual cash account to be known as the “Cheyenne*
 14 *River Sioux Tribal Recovery Account”.* *The dual cash ac-*
 15 *count shall have a principal component and an interest*
 16 *component. The interest component of the account shall be*
 17 *used to make payments to the Tribe in accordance with this*
 18 *Act. The principal component of the account may not be*
 19 *expended. The corpus and the income of the account may*
 20 *be invested in accordance with applicable law.*

21 (b) *FUNDING.*—

22 (1) *IN GENERAL.*—*Subject to paragraphs (2) and*
 23 *(3), beginning with fiscal year 1999, and for each fis-*
 24 *cal year thereafter, until such time as the aggregate*
 25 *of the amounts deposited is \$290,722,958, the Sec-*

1 *retary of the Treasury shall deposit into the Fund, to*
2 *be credited to the Cheyenne River Sioux Tribal Recov-*
3 *ery Account, an amount equal to 10 percent of the re-*
4 *ceipts from the deposits to the Treasury of the United*
5 *States for the preceding fiscal year from the Program.*

6 (2) *PERCENTAGE AMOUNT.—Beginning with fis-*
7 *cal year 2004, if no other law provides for the com-*
8 *ensation to parties in conjunction with an applica-*
9 *ble plan for the Program, the Secretary of the Treas-*
10 *ury shall deposit into the Fund an amount equal to*
11 *25 percent of the receipts from the deposits to the*
12 *Treasury of the United States for the preceding fiscal*
13 *year from the Program, until such time as the aggre-*
14 *gate of the amounts deposited into the Fund from*
15 *such receipts and receipts deposited under paragraph*
16 *(1) equals the amount specified in paragraph (1).*

17 (3) *ADDITIONAL INTEREST.—If, by the date that*
18 *is 60 days after the end of a fiscal year, the Secretary*
19 *of the Treasury fails to deposit into the Fund an*
20 *amount determined under paragraph (1) or (2), the*
21 *Secretary of the Treasury shall deposit, in addition to*
22 *the applicable amount required to be deposited under*
23 *paragraph (1) or (2), interest on the amount required*
24 *to be deposited, determined for the period beginning*
25 *on the day after the termination of that 60-day pe-*

1 *riod and ending on the date on which the amount de-*
2 *termined under paragraph (1) or (2) is deposited,*
3 *and based on a rate of interest that is commonly re-*
4 *ferred to as the Treasury overnight rate.*

5 *(c) PAYMENT OF INTEREST TO TRIBE.—*

6 *(1) IN GENERAL.—In accordance with this Act,*
7 *the Secretary, acting through the Office, and in a*
8 *manner consistent with the first section of the Act of*
9 *June 24, 1938 (52 Stat. 1037 et seq., chapter 648; 25*
10 *U.S.C. 162a) and upon request of the Tribe, shall*
11 *make payments to the Tribe from the interest credited*
12 *to the interest component of the account, beginning at*
13 *the end of the first fiscal year during which interest*
14 *is credited to the account.*

15 *(2) USE OF PAYMENTS.—The Tribe shall use the*
16 *payments made under this subsection only for carry-*
17 *ing out projects and programs pursuant to the plan*
18 *prepared under subsection (d).*

19 *(3) TRIBAL RESOLUTION.—Each request made*
20 *by the Tribe under paragraph (1) to withdraw funds*
21 *shall be accompanied by a resolution from the Tribal*
22 *Council authorizing the withdrawal of funds in a*
23 *manner that complies with the terms of this Act.*

24 *(d) PLAN.—*

1 (1) *IN GENERAL.*—*The Tribal Council shall, not*
2 *later than 18 months after the date of enactment of*
3 *this Act, prepare a plan for the use of the payments*
4 *made to the Tribe under subsection (c).*

5 (2) *CONTENTS OF PLAN.*—*The plan developed*
6 *under this subsection shall provide for the manner in*
7 *which the Tribe will expend the payments referred to*
8 *in paragraph (1) to promote—*

9 (A) *economic development;*

10 (B) *infrastructure development;*

11 (C) *the educational, health, recreational,*
12 *and social welfare objectives of the Tribe and its*
13 *members; or*

14 (D) *any combination of the activities re-*
15 *ferred to in subparagraphs (A) through (C).*

16 (3) *PLAN REVIEW AND REVISION.*—*The Tribal*
17 *Council shall make available for review and comment*
18 *by the members of the Tribe a copy of the plan before*
19 *the plan becomes final, in accordance with procedures*
20 *established by the Tribal Council. The Tribal Council*
21 *may, on an annual basis, update the plan by revising*
22 *the plan in a manner that provides the members of*
23 *the Tribe to review and comment on any proposed re-*
24 *vision. In preparing the Plan and any revisions to*
25 *update the Plan, the Tribal Council shall consult with*

1 *the Secretary of the Interior and the Secretary of*
2 *Health and Human Services.*

3 (4) *AUDIT.—*

4 (A) *IN GENERAL.—The activities of the*
5 *Tribe in carrying out the plan under this sub-*
6 *section shall be audited as part of the annual*
7 *single-agency audit the Tribe is required to pre-*
8 *pare pursuant to the Office of Management and*
9 *Budget circular numbered A-133.*

10 (B) *WRITTEN FINDINGS.—The auditors that*
11 *conduct the audit shall include in the written*
12 *findings of that audit a determination whether*
13 *the funds received by the Tribe under this section*
14 *were expended in a manner consistent with this*
15 *section to carry out the plan under this sub-*
16 *section. A copy of the written findings of the*
17 *audit shall be inserted in the published minutes*
18 *of the Tribal Council proceedings for the session*
19 *at which the audit is presented to the Tribal*
20 *Council.*

21 (e) *PROHIBITION ON PER CAPITA PAYMENTS.—No*
22 *portion of any payment made under this section may be*
23 *distributed to any member of the Tribe on a per capita*
24 *basis.*

25 (f) *PLEDGE OF FUTURE INTEREST INCOME.—*

1 (1) *IN GENERAL.*—Subject to paragraph (2), the
2 Tribe may enter into an agreement under which the
3 Tribe pledges future interest from the account as secu-
4 rity for a loan or other financial transaction.

5 (2) *LIMITATIONS.*—The Tribe—

6 (A) may enter into an agreement under
7 paragraph (1) only in connection with the pur-
8 chase of land or other capital assets; and

9 (B) may not pledge, for any year under an
10 agreement referred to in paragraph (1), an
11 amount greater than 40 percent of the income
12 from interest from the account.

13 **SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
14 **AND SERVICES.**

15 (a) *IN GENERAL.*—No payment made to the Tribe pur-
16 suant to this Act shall result in the reduction or denial of
17 any service or program to which, pursuant to Federal
18 law—

19 (1) the Tribe is otherwise entitled because of the
20 status of the Tribe as a federally recognized Indian
21 tribe; or

22 (2) any individual who is a member of the Tribe
23 is entitled because of the status of the individual as
24 a member of the Tribe.

1 (b) *EXEMPTIONS FROM TAXATION.*—No payment
2 made pursuant to this Act shall be subject to any Federal
3 or State income tax.

4 (c) *POWER RATES.*—No payment made pursuant to
5 this Act shall affect Pick-Sloan Missouri River Basin power
6 rates.

7 **SEC. 6. SALE OF WESTERN AREA POWER AUTHORITY.**

8 (a) *IN GENERAL.*—If, before the amount specified in
9 section 4(b)(1) is deposited into the Fund, the United States
10 sells or otherwise transfers title to the assets and income
11 of the Western Area Power Authority to an entity other
12 than the United States—

13 (1) an amount of the proceeds from that sale
14 equal to the difference between the amount specified
15 in section 4(b)(1) and the aggregate amount that, as
16 of the sale of power authority, had been paid into the
17 Fund, shall be deposited in the Fund; or

18 (2) the purchaser may assume responsibility for
19 making payments to the Treasury of the United
20 States for deposit in the Fund in amounts determined
21 under section 4(b)(1).

22 (b) *SECURITY.*—If a purchaser assumes the respon-
23 sibility for making the payments described in subsection
24 (a)(2), the purchaser shall provide the Tribe with appro-
25 priate security to secure those payments.