

106TH CONGRESS
1ST SESSION

S. 1148

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

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

A BILL

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan 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 “Yankton Sioux Tribe
5 and Santee Sioux Tribe of Nebraska Development Trust
6 Fund Act”.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (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)—

23 (A) overlies the western boundary of the
24 Yankton Sioux Tribe Indian Reservation; and

1 (B) has caused the erosion of more than
2 400 acres of prime land on the Yankton Sioux
3 Reservation adjoining the east bank of the Mis-
4 souri River;

5 (4) the Gavins Point project (including the Gav-
6 ins Point Dam and Reservoir) overlies the eastern
7 boundary of the Santee Sioux Tribe;

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

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

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

1 (8) the Yankton Sioux Tribe and the Santee
 2 Sioux Tribe did not receive just compensation for
 3 the taking of productive agricultural Indian lands
 4 through the condemnation referred to in paragraph
 5 (6);

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

13 (10) in addition to the financial compensation
 14 provided under the settlement agreements referred
 15 to in paragraph (9)—

16 (A) the Yankton Sioux Tribe should re-
 17 ceive an aggregate amount equal to
 18 \$34,323,743 for—

19 (i) the loss value of 2,851.40 acres of
 20 Indian land taken for the Fort Randall
 21 Dam and Reservoir of the Pick-Sloan pro-
 22 gram; and

23 (ii) the use value of 408.40 acres of
 24 Indian land on the reservation of that In-
 25 dian tribe that was lost as a result of

1 stream bank erosion that has occurred
 2 since 1953; and

3 (B) the Santee Sioux Tribe should receive
 4 an aggregate amount equal to \$8,132,838 for
 5 the loss value of—

6 (i) 593.10 acres of Indian land lo-
 7 cated near the Santee village; and

8 (ii) 414.12 acres on Niobrara Island
 9 of the Santee Sioux Tribe Indian Reserva-
 10 tion used for the Gavins Point Dam and
 11 Reservoir.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

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

18 (2) PROGRAM.—The term “Program” means
 19 the power program of the Pick-Sloan Missouri River
 20 Basin program, administered by the Western Area
 21 Power Administration.

22 (3) SANTEE SIOUX TRIBE.—The term “Santee
 23 Sioux Tribe” means the Santee Sioux Tribe of Ne-
 24 braska.

1 **SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**
2 **FUND.**

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

9 (b) **FUNDING.**—Out of any money in the Treasury
10 not otherwise appropriated, the Secretary of the Treasury
11 shall deposit \$34,323,743 into the Fund not later than
12 60 days after the date of enactment of this Act.

13 (c) **INVESTMENTS.**—The Secretary of the Treasury
14 shall invest the amounts deposited under subsection (b)
15 in interest-bearing obligations of the United States or in
16 obligations guaranteed as to both principal and interest
17 by the United States. The Secretary of the Treasury shall
18 deposit interest resulting from such investments into the
19 Fund.

20 (d) **PAYMENT OF INTEREST TO YANKTON SIOUX**
21 **TRIBE.**—

22 (1) **WITHDRAWAL OF INTEREST.**—Beginning at
23 the end of the first fiscal year in which interest is
24 deposited into the Fund, the Secretary of the Treas-
25 ury shall withdraw the aggregate amount of interest
26 deposited into the Fund for that fiscal year and

1 transfer that amount to the Secretary of the Interior
2 for use in accordance with paragraph (2). Each
3 amount so transferred shall be available without fis-
4 cal 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 (D) PLEDGE OF FUTURE PAYMENTS.—

22 (i) IN GENERAL.—Subject to clause
23 (ii), the Yankton Sioux Tribe may enter
24 into an agreement under which that Indian
25 tribe pledges future payments under this

paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Yankton Sioux Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase of land or other capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

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

SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND.

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

1 (b) FUNDING.—Out of any money in the Treasury
2 not otherwise appropriated, the Secretary of the Treasury
3 shall deposit \$8,132,838 into the Fund not later than 60
4 days after the date of enactment of this Act.

5 (c) INVESTMENTS.—The Secretary of the Treasury
6 shall invest the amounts deposited under subsection (b)
7 in interest-bearing obligations of the United States or in
8 obligations guaranteed as to both principal and interest
9 by the United States. The Secretary of the Treasury shall
10 deposit interest resulting from such investments into the
11 Fund.

12 (d) PAYMENT OF INTEREST TO SANTEE SIOUX
13 TRIBE.—

14 (1) WITHDRAWAL OF INTEREST.—Beginning at
15 the end of the first fiscal year in which interest is
16 deposited into the Fund, the Secretary of the Treas-
17 ury shall withdraw the aggregate amount of interest
18 deposited into the Fund for that fiscal year and
19 transfer that amount to the Secretary of the Interior
20 for use in accordance with paragraph (2). Each
21 amount so transferred shall be available without fis-
22 cal year limitation.

23 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

24 (A) IN GENERAL.—The Secretary of the
25 Interior shall use the amounts transferred

1 under paragraph (1) only for the purpose of
2 making payments to the Santee Sioux Tribe, as
3 such payments are requested by that Indian
4 tribe pursuant to tribal resolution.

5 (B) LIMITATION.—Payments may be made
6 by the Secretary of the Interior under subpara-
7 graph (A) only after the Santee Sioux Tribe has
8 adopted a tribal plan under section 6.

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

14 (D) PLEDGE OF FUTURE PAYMENTS.—

15 (i) IN GENERAL.—Subject to clause
16 (ii), the Santee Sioux Tribe may enter into
17 an agreement under which that Indian
18 tribe pledges future payments under this
19 paragraph as security for a loan or other
20 financial transaction.

21 (ii) LIMITATIONS.—The Santee Sioux
22 Tribe—

23 (I) may enter into an agreement
24 under clause (i) only in connection

1 with the purchase of land or other
2 capital assets; and

3 (II) may not pledge, for any year
4 under an agreement referred to in
5 clause (i), an amount greater than 40
6 percent of any payment under this
7 paragraph for that year.

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 subsection (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 **SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
 22 **AND SERVICES.**

23 (a) IN GENERAL.—No payment made to the Yankton
 24 Sioux Tribe or Santee Sioux Tribe pursuant to this Act

1 shall result in the reduction or denial of any service or
2 program to which, pursuant to Federal law—

3 (1) the Yankton Sioux Tribe or Santee Sioux
4 Tribe is otherwise entitled because of the status of
5 the tribe as a federally recognized Indian tribe; or

6 (2) any individual who is a member of a tribe
7 under paragraph (1) is entitled because of the status
8 of the individual as a member of the tribe.

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

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

15 **SEC. 8. STATUTORY CONSTRUCTION.**

16 Nothing in this Act may be construed as diminishing
17 or affecting any water right of an Indian tribe, except as
18 specifically provided in another provision of this Act, any
19 treaty right that is in effect on the date of enactment of
20 this Act, any authority of the Secretary of the Interior
21 or the head of any other Federal agency under a law in
22 effect on the date of enactment of this Act.

23 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as are necessary to carry out this Act, including such sums

1 as may be necessary for the administration of the Yankton
2 Sioux Tribe Development Trust Fund under section 4 and
3 the Santee Sioux Tribe of Nebraska Development Trust
4 Fund under section 5.

