

106TH CONGRESS
1ST SESSION

S. 964

AN ACT

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,*

1 **TITLE I—CHEYENNE RIVER**
2 **SIOUX TRIBE EQUITABLE**
3 **COMPENSATION**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Cheyenne River Sioux
6 Tribe Equitable Compensation Act”.

7 **SEC. 102. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

9 (1) by enacting the Act of December 22, 1944,
10 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
11 seq.), commonly known as the “Flood Control Act of
12 1944”, Congress approved the Pick-Sloan Missouri
13 River Basin program (referred to in this section as
14 the “Pick-Sloan program”)—

15 (A) to promote the general economic devel-
16 opment of the United States;

17 (B) to provide for irrigation above Sioux
18 City, Iowa;

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

21 (D) for other purposes;

22 (2) the Oahe Dam and Reservoir project—

23 (A) is a major component of the Pick-
24 Sloan program, and contributes to the economy
25 of the United States by generating a substan-

1 tial amount of hydropower and impounding a
2 substantial quantity of water;

3 (B) overlies the eastern boundary of the
4 Cheyenne River Sioux Indian Reservation; and

5 (C) has not only contributed little to the
6 economy of the Tribe, but has severely damaged
7 the economy of the Tribe and members of the
8 Tribe by inundating the fertile, wooded bottom
9 lands of the Tribe along the Missouri River that
10 constituted the most productive agricultural
11 and pastoral lands of the Tribe and the home-
12 land of the members of the Tribe;

13 (3) the Secretary of the Interior appointed a
14 Joint Tribal Advisory Committee that examined the
15 Oahe Dam and Reservoir project and concluded
16 that—

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

22 (B) the Tribe should be adequately com-
23 pensated for the land acquisition described in
24 subparagraph (A);

1 (4) after applying the same method of analysis
2 as is used for the compensation of similarly situated
3 Indian tribes, the Comptroller General of the United
4 States (referred to in this title as the “Comptroller
5 General”) determined that the appropriate amount
6 of compensation to pay the Tribe for the land acqui-
7 sition described in paragraph (3)(A) would be
8 \$290,723,000;

9 (5) the Tribe is entitled to receive additional fi-
10 nancial compensation for the land acquisition de-
11 scribed in paragraph (3)(A) in a manner consistent
12 with the determination of the Comptroller General
13 described in paragraph (4); and

14 (6) the establishment of a trust fund to make
15 amounts available to the Tribe under this title is
16 consistent with the principles of self-governance and
17 self-determination.

18 (b) PURPOSES.—The purposes of this title are as fol-
19 lows:

20 (1) To provide for additional financial com-
21 pensation to the Tribe for the acquisition by the
22 Federal Government of 104,492 acres of land of the
23 Tribe for the Oahe Dam and Reservoir project in a
24 manner consistent with the determinations of the
25 Comptroller General described in subsection (a)(4).

1 the Secretary of the Treasury shall, from the General
2 Fund of the Treasury, deposit into the Fund established
3 under subsection (a)—

4 (1) \$290,722,958; and

5 (2) an additional amount that equals the
6 amount of interest that would have accrued on the
7 amount described in paragraph (1) if such amount
8 had been invested in interest-bearing obligations of
9 the United States, or in obligations guaranteed as to
10 both principal and interest by the United States, on
11 the first day of the first fiscal year that begins after
12 the date of enactment of this Act and compounded
13 annually thereafter.

14 (c) INVESTMENT OF TRUST FUND.—It shall be the
15 duty of the Secretary of the Treasury to invest such por-
16 tion of the Fund as is not, in the Secretary of Treasury's
17 judgment, required to meet current withdrawals. Such in-
18 vestments may be made only in interest-bearing obliga-
19 tions of the United States or in obligations guaranteed as
20 to both principal and interest by the United States. The
21 Secretary of the Treasury shall deposit interest resulting
22 from such investments into the Fund.

23 (d) PAYMENT OF INTEREST TO TRIBE.—

24 (1) WITHDRAWAL OF INTEREST.—Beginning on
25 the first day of the 11th fiscal year after the date

1 of enactment of this Act and, on the first day of
2 each fiscal year thereafter, the Secretary of the
3 Treasury shall withdraw the aggregate amount of in-
4 terest deposited into the Fund for that fiscal year
5 and transfer that amount to the Secretary of the In-
6 terior for use in accordance with paragraph (2).
7 Each amount so transferred shall be available with-
8 out fiscal year limitation.

9 (2) PAYMENTS TO TRIBE.—

10 (A) IN GENERAL.—The Secretary of the
11 Interior shall use the amounts transferred
12 under paragraph (1) only for the purpose of
13 making payments to the Tribe, as such pay-
14 ments are requested by the Tribe pursuant to
15 tribal resolution.

16 (B) LIMITATION.—Payments may be made
17 by the Secretary of the Interior under subpara-
18 graph (A) only after the Tribe has adopted a
19 plan under subsection (f).

20 (C) USE OF PAYMENTS BY TRIBE.—The
21 Tribe shall use the payments made under sub-
22 paragraph (B) only for carrying out projects
23 and programs under the plan prepared under
24 subsection (f).

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

5 (f) PLAN.—

6 (1) IN GENERAL.—Not later than 18 months
7 after the date of enactment of this Act, the gov-
8 erning body of the Tribe shall prepare a plan for the
9 use of the payments to the Tribe under subsection
10 (d) (referred to in this subsection as the “plan”).

11 (2) CONTENTS OF PLAN.—The plan shall pro-
12 vide for the manner in which the Tribe shall expend
13 payments to the Tribe under subsection (d) to
14 promote—

15 (A) economic development;

16 (B) infrastructure development;

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

20 (D) any combination of the activities de-
21 scribed in subparagraphs (A) through (C).

22 (3) PLAN REVIEW AND REVISION.—

23 (A) IN GENERAL.—The Tribal Council
24 shall make available for review and comment by
25 the members of the Tribe a copy of the plan be-

1 fore the plan becomes final, in accordance with
2 procedures established by the Tribal Council.

3 (B) UPDATING OF PLAN.—The Tribal
4 Council may, on an annual basis, revise the
5 plan to update the plan. In revising the plan
6 under this subparagraph, the Tribal Council
7 shall provide the members of the Tribe oppor-
8 tunity to review and comment on any proposed
9 revision to the plan.

10 (C) CONSULTATION.—In preparing the
11 plan and any revisions to update the plan, the
12 Tribal Council shall consult with the Secretary
13 of the Interior and the Secretary of Health and
14 Human Services.

15 (4) AUDIT.—

16 (A) IN GENERAL.—The activities of the
17 Tribe in carrying out the plan shall be audited
18 as part of the annual single-agency audit that
19 the Tribe is required to prepare pursuant to the
20 Office of Management and Budget circular
21 numbered A-133.

22 (B) DETERMINATION BY AUDITORS.—The
23 auditors that conduct the audit described in
24 subparagraph (A) shall—

1 (i) determine whether funds received
 2 by the Tribe under this section for the pe-
 3 riod covered by the audit were expended to
 4 carry out the plan in a manner consistent
 5 with this section; and

6 (ii) include in the written findings of
 7 the audit the determination made under
 8 clause (i).

9 (C) INCLUSION OF FINDINGS WITH PUBLI-
 10 CATION OF PROCEEDINGS OF TRIBAL COUN-
 11 CIL.—A copy of the written findings of the
 12 audit described in subparagraph (A) shall be in-
 13 serted in the published minutes of the Tribal
 14 Council proceedings for the session at which the
 15 audit is presented to the Tribal Council.

16 (g) PROHIBITION ON PER CAPITA PAYMENTS.—No
 17 portion of any payment made under this title may be dis-
 18 tributed to any member of the Tribe on a per capita basis.

19 **SEC. 105. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
 20 **AND SERVICES.**

21 No payment made to the Tribe under this title shall
 22 result in the reduction or denial of any service or program
 23 with respect to which, under Federal law—

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

4 (2) any individual who is a member of the Tribe
5 is entitled because of the status of the individual as
6 a member of the Tribe.

7 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such funds
9 as may be necessary to cover the administrative expenses
10 of the Fund.

11 **SEC. 107. EXTINGUISHMENT OF CLAIMS.**

12 Upon the deposit of funds (together with interest)
13 into the Fund under section 104(b), all monetary claims
14 that the Tribe has or may have against the United States
15 for the taking, by the United States, of the land and prop-
16 erty of the Tribe for the Oahe Dam and Reservoir Project
17 of the Pick-Sloan Missouri River Basin program shall be
18 extinguished.

19 **TITLE II—BOSQUE REDONDO**
20 **MEMORIAL**

21 **SEC. 201. SHORT TITLE.**

22 This title may be cited as the “Bosque Redondo Me-
23 morial Act”.

24 **SEC. 202. FINDINGS AND PURPOSES.**

25 (a) FINDINGS.—Congress finds that—

1 (1) in 1863, the United States detained nearly
2 9,000 Navajo and forced their migration across
3 nearly 350 miles of land to Bosque Redondo, a jour-
4 ney known as the “Long Walk”;

5 (2) Mescalero Apache people were also incarcer-
6 ated at Bosque Redondo;

7 (3) the Navajo and Mescalero Apache people la-
8 bored to plant crops, dig irrigation ditches and build
9 housing, but drought, cutworms, hail, and alkaline
10 Pecos River water created severe living conditions
11 for nearly 9,000 captives;

12 (4) suffering and hardships endured by the
13 Navajo and Mescalero Apache people forged a new
14 understanding of their strengths as Americans;

15 (5) the Treaty of 1868 was signed by the
16 United States and the Navajo tribes, recognizing the
17 Navajo Nation as it exists today;

18 (6) the State of New Mexico has appropriated
19 a total of \$123,000 for a planning study and for the
20 design of the Bosque Redondo Memorial;

21 (7) individuals and businesses in DeBaca Coun-
22 ty donated \$6,000 toward the production of a bro-
23 chure relating to the Bosque Redondo Memorial;

24 (8) the Village of Fort Sumner donated 70
25 acres of land to the State of New Mexico contiguous

1 to the existing 50 acres comprising Fort Sumner
2 State Monument, contingent on the funding of the
3 Bosque Redondo Memorial;

4 (9) full architectural plans and the exhibit de-
5 sign for the Bosque Redondo Memorial have been
6 completed;

7 (10) the Bosque Redondo Memorial project has
8 the encouragement of the President of the Navajo
9 Nation and the President of the Mescalero Apache
10 Tribe, who have each appointed tribal members to
11 serve as project advisors;

12 (11) the Navajo Nation, the Mescalero Tribe
13 and the National Park Service are collaborating to
14 develop a symposium on the Bosque Redondo Long
15 Walk and a curriculum for inclusion in the New
16 Mexico school curricula;

17 (12) an interpretive center would provide im-
18 portant educational and enrichment opportunities
19 for all Americans; and

20 (13) Federal financial assistance is needed for
21 the construction of a Bosque Redondo Memorial.

22 (b) PURPOSES.—The purposes of this title are as fol-
23 lows:

24 (1) To commemorate the people who were in-
25 terned at Bosque Redondo.

1 (2) To pay tribute to the native populations’
 2 ability to rebound from suffering, and establish the
 3 strong, living communities that have long been a
 4 major influence in the State of New Mexico and in
 5 the United States.

6 (3) To provide Americans of all ages a place to
 7 learn about the Bosque Redondo experience and how
 8 it resulted in the establishment of strong American
 9 Indian Nations from once divergent bands.

10 (4) To support the construction of the Bosque
 11 Redondo Memorial commemorating the detention of
 12 the Navajo and Mescalero Apache people at Bosque
 13 Redondo from 1863 to 1868.

14 **SEC. 203. DEFINITIONS.**

15 In this title:

16 (1) **MEMORIAL.**—The term “Memorial” means
 17 the building and grounds known as the Bosque Re-
 18 dondo Memorial.

19 (2) **SECRETARY.**—The term “Secretary” means
 20 the Secretary of Defense.

21 **SEC. 204. BOSQUE REDONDO MEMORIAL**

22 (a) **ESTABLISHMENT.**— Upon the request of the
 23 State of New Mexico, the Secretary is authorized to estab-
 24 lish a Bosque Redondo Memorial within the boundaries
 25 of Fort Sumner State Monument in New Mexico. No me-

1 memorial shall be established without the consent of the Nav-
2 ajo Nation and the Mescalero Tribe.

3 (b) COMPONENTS OF THE MEMORIAL.—The memo-
4 rial shall include—

5 (1) exhibit space, a lobby area that represents
6 design elements from traditional Mescalero and Nav-
7 ajo dwellings, administrative areas that include a re-
8 source room, library, workrooms and offices, rest-
9 rooms, parking areas, sidewalks, utilities, and other
10 visitor facilities;

11 (2) a venue for public education programs; and

12 (3) a location to commemorate the Long Walk
13 of the Navajo people and the healing that has taken
14 place since that event

15 **SEC. 205. CONSTRUCTION OF MEMORIAL.**

16 (a) GRANT.—

17 (1) IN GENERAL.—The Secretary may award a
18 grant to the State of New Mexico to provide up to
19 50 percent of the total cost of construction of the
20 Memorial.

21 (2) NON-FEDERAL SHARE.—The non-Federal
22 share of construction costs for the Memorial shall in-
23 clude funds previously expended by the State for the
24 planning and design of the Memorial, and funds pre-

1 viously expended by non-Federal entities for the pro-
2 duction of a brochure relating to the Memorial.

3 (b) REQUIREMENTS.—To be eligible to receive a
4 grant under this section, the State shall—

5 (1) submit to the Secretary a proposal that—

6 (A) provides assurances that the Memorial
7 will comply with all applicable laws, including
8 building codes and regulations; and

9 (B) includes such other information and
10 assurances as the Secretary may require; and

11 (2) enter into a Memorandum of Understanding
12 with the Secretary that shall include—

13 (A) a timetable for the completion of con-
14 struction and the opening of the Memorial;

15 (B) assurances that construction contracts
16 will be competitively awarded;

17 (C) assurances that the State or Village of
18 Fort Sumner will make sufficient land available
19 for the Memorial;

20 (D) the specifications of the Memorial
21 which shall comply with all applicable Federal,
22 State, and local building codes and laws;

23 (E) arrangements for the operation and
24 maintenance of the Memorial upon completion
25 of construction;

1 (F) a description of Memorial collections
2 and educational programming;

3 (G) a plan for the design of exhibits in-
4 cluding the collections to be exhibited, security,
5 preservation, protection, environmental controls,
6 and presentations in accordance with profes-
7 sional standards;

8 (H) an agreement with the Navajo Nation
9 and the Mescalero Tribe relative to the design
10 and location of the Memorial; and

11 (I) a financing plan developed by the State
12 that outlines the long-term management of the
13 Memorial, including—

14 (i) the acceptance and use of funds
15 derived from public and private sources to
16 minimize the use of appropriated or bor-
17 rowed funds;

18 (ii) the payment of the operating costs
19 of the Memorial through the assessment of
20 fees or other income generated by the Me-
21 morial;

22 (iii) a strategy for achieving financial
23 self-sufficiency with respect to the Memo-
24 rial by not later than 5 years after the
25 date of enactment of this Act; and

1 (iv) a description of the business ac-
2 tivities that would be permitted at the Me-
3 morial and appropriate vendor standards
4 that would apply.

5 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) IN GENERAL.—There are authorized to be appro-
7 priated to carry out this title—

8 (1) \$1,000,000 for fiscal year 2000; and

9 (2) \$500,000 for each of fiscal years 2001 and
10 2002.

11 (b) CARRYOVER.—Any funds made available under
12 this section that are unexpended at the end of the fiscal
13 year for which those funds are appropriated, shall remain
14 available for use by the Secretary through September 30,
15 2002 for the purposes for which those funds were made
16 available.

Passed the Senate November 19, 1999.

Attest:

Secretary.

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