

106TH CONGRESS  
1ST SESSION

# S. 964

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

---

IN THE SENATE OF THE UNITED STATES

MAY 5, 1999

Mr. DASCHLE introduced the following bill; which was read twice and referred  
to the Committee on Indian Affairs

---

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

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

8               (1) by enacting the Act of December 22, 1944,  
9       (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et  
10       seq.), commonly known as the “Flood Control Act of

1 1944”, Congress approved the Pick-Sloan Missouri  
2 River Basin program (referred to in this section as  
3 the “Pick-Sloan program”)—

4 (A) to promote the general economic devel-  
5 opment of the United States;

6 (B) to provide for irrigation above Sioux  
7 City, Iowa;

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

10 (D) for other purposes;

11 (2) the Oahe Dam and Reservoir project—

12 (A) is a major component of the Pick-  
13 Sloan program, and contributes to the economy  
14 of the United States by generating a substan-  
15 tial amount of hydropower and impounding a  
16 substantial quantity of water;

17 (B) overlies the eastern boundary of the  
18 Cheyenne River Sioux Indian Reservation; and

19 (C) has not only contributed little to the  
20 economy of the Tribe, but has severely damaged  
21 the economy of the Tribe and members of the  
22 Tribe by inundating the fertile, wooded bottom  
23 lands of the Tribe along the Missouri River that  
24 constituted the most productive agricultural

1           and pastoral lands of the Tribe and the home-  
2           land of the members of the Tribe;

3           (3) the Secretary of the Interior appointed a  
4   Joint Tribal Advisory Committee that examined the  
5   Oahe Dam and Reservoir project and correctly con-  
6   cluded that—

7                 (A) the Federal Government did not jus-  
8                 tify, or fairly compensate the Tribe for, the  
9                 Oahe Dam and Reservoir project when the Fed-  
10                eral Government acquired 104,492 acres of land  
11                of the Tribe for that project; and

12               (B) the Tribe should be adequately com-  
13                pensated for the land acquisition described in  
14                subparagraph (A);

15           (4) after applying the same method of analysis  
16   as is used for the compensation of similarly situated  
17   Indian tribes, the Comptroller General of the United  
18   States (referred to in this Act as the “Comptroller  
19   General”) determined that the appropriate amount  
20   of compensation to pay the Tribe for the land acqui-  
21   sition described in paragraph (3)(A) would be  
22   \$290,722,958;

23           (5) the Tribe is entitled to receive additional fi-  
24   nancial compensation for the land acquisition de-  
25   scribed in paragraph (3)(A) in a manner consistent

1 with the determination of the Comptroller General  
 2 described in paragraph (4); and

3 (6) the establishment of a trust fund to make  
 4 amounts available to the Tribe under this Act is con-  
 5 sistent with the principles of self-governance and  
 6 self-determination.

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

9 (1) To provide for additional financial com-  
 10 pensation to the Tribe for the acquisition by the  
 11 Federal Government of 104,492 acres of land of the  
 12 Tribe for the Oahe Dam and Reservoir project in a  
 13 manner consistent with the determinations of the  
 14 Comptroller General described in subsection (a)(4).

15 (2) To provide for the establishment of the  
 16 Cheyenne River Sioux Tribal Recovery Fund, to be  
 17 managed by the Secretary of the Treasury in order  
 18 to make payments to the Tribe to carry out projects  
 19 under a plan prepared by the Tribe.

### 20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) **TRIBE.**—The term “Tribe” means the  
 23 Cheyenne River Sioux Tribe, which is comprised of  
 24 the Itazipco, Siha Sapa, Minniconjou, and  
 25 Oohenumpa bands of the Great Sioux Nation that

1       reside on the Cheyenne Reservation, located in cen-  
2       tral South Dakota.

3               (2) TRIBAL COUNCIL.—The term “Tribal Coun-  
4       cil” means the governing body of the Tribe.

5       **SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST**  
6               **FUND.**

7       (a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY  
8       TRUST FUND.—There is established in the Treasury of  
9       the United States a fund to be known as the “Cheyenne  
10      River Sioux Tribal Recovery Trust Fund” (referred to in  
11      this Act as the “Fund”). The Fund shall consist of any  
12      amounts deposited into the Fund under this Act.

13      (b) FUNDING.—Out of any money in the Treasury  
14      not otherwise appropriated, the Secretary of the Treasury  
15      shall deposit \$290,722,958 into the Fund not later than  
16      60 days after the date of enactment of this Act.

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

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) IN GENERAL.—

(A) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the applicable percentage amount of the aggregate amount of interest deposited into the Fund for that fiscal year (as determined under subparagraph (B)) and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(B) APPLICABLE PERCENTAGE AMOUNTS.—The applicable percentage amount referred to in subparagraph (A) shall be as follows:

(i) 10 percent for the first fiscal year for which interest is deposited into the Fund.

(ii) 20 percent for the 2d such fiscal year.

(iii) 30 percent for the 3rd such fiscal year.

1 (iv) 40 percent for the 4th such fiscal  
2 year.

3 (v) 50 percent for the 5th such fiscal  
4 year.

5 (vi) 60 percent for the 6th such fiscal  
6 year.

7 (vii) 70 percent for the 7th such fiscal  
8 year.

9 (viii) 80 percent for the 8th such fis-  
10 cal year.

11 (ix) 90 percent for the 9th such fiscal  
12 year.

13 (x) 100 percent for the 10th such fis-  
14 cal year, and for each such fiscal year  
15 thereafter.

16 (2) PAYMENTS TO TRIBE.—

17 (A) IN GENERAL.—The Secretary of the  
18 Interior shall use the amounts transferred  
19 under paragraph (1) only for the purpose of  
20 making payments to the Tribe, as such pay-  
21 ments are requested by the Tribe pursuant to  
22 tribal resolution.

23 (B) LIMITATION.—Payments may be made  
24 by the Secretary of the Interior under subpara-

graph (A) only after the Tribe has adopted a plan under subsection (f).

(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Tribe may enter into an agreement under which the Tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The 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



1 the Treasury may not transfer or withdraw any amount  
 2 deposited under subsection (b).

3 (f) PLAN.—

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

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

13 (A) economic development;

14 (B) infrastructure development;

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

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

20 (3) PLAN REVIEW AND REVISION.—

21 (A) IN GENERAL.—The Tribal Council  
 22 shall make available for review and comment by  
 23 the members of the Tribe a copy of the plan be-  
 24 fore the plan becomes final, in accordance with  
 25 procedures established by the Tribal Council.

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

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

13 (4) AUDIT.—

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

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

23 (i) determine whether funds received  
24 by the Tribe under this section for the pe-  
25 riod covered by the audit were expended to

1 carry out the plan in a manner consistent  
2 with this section; and

3 (ii) include in the written findings of  
4 the audit the determination made under  
5 clause (i).

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

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

16 **SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
17 **AND SERVICES.**

18 No payment made to the Tribe under this Act shall  
19 result in the reduction or denial of any service or program  
20 with respect to which, under Federal law—

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

1           (2) any individual who is a member of the Tribe  
2       is entitled because of the status of the individual as  
3       a member of the Tribe.

4   **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5       There are authorized to be appropriated such funds  
6   as may be necessary to carry out this Act, including such  
7   funds as may be necessary to cover the administrative ex-  
8   penses of the Fund.

○