

Calendar No. 570107TH CONGRESS
2^D SESSION**S. 1028****[Report No. 107-253]**

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2001

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

SEPTEMBER 9, 2002

Reported by Mr. BINGAMAN, with an amendment

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

A BILL

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of

Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, 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 “Blunt Reservoir and
 5 Pierre Canal Land Conveyance Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) under the Act of December 22, 1944 (com-
 9 monly known as the “Flood Control Act of 1944”)
 10 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
 11 seq.); Congress approved the Pick-Sloan Missouri
 12 River Basin Program—

13 (A) to promote the general economic devel-
 14 opment of the United States;

15 (B) to provide for irrigation above Sioux
 16 City, Iowa;

17 (C) to provide for municipal and industrial
 18 water supply, fish and wildlife, and recreation;

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

21 (E) for other purposes;

1 (2) the purpose of the Oahe Unit, James Divi-
2 sion, of the Oahe Irrigation Project was to meet the
3 requirements of that Act by providing irrigation
4 above Sioux City, Iowa;

5 (3) the principal features of the initial stage of
6 the Oahe Unit, James Division, of the Oahe Irriga-
7 tion Project included—

8 (A) a system of main canals, including the
9 Pierre Canal, running east from the Oahe Res-
10 ervoir; and

11 (B) the establishment of regulating res-
12 ervoirs, including the Blunt Dam and Res-
13 ervoir, located approximately 35 miles east of
14 Pierre, South Dakota;

15 (4) land to establish the Pierre Canal and
16 Blunt Reservoir was purchased between 1972 and
17 1977, when construction on the initial stage of the
18 Oahe Unit, James Division, was halted;

19 (5) since 1978, the Commissioner of Reclama-
20 tion has administered the land—

21 (A) on a preferential lease basis to original
22 landowners or their descendants; and

23 (B) on a nonpreferential lease basis to
24 other persons;

1 (6) the 2 largest reservoirs created by the Pick-
 2 Sloan Missouri River Basin Program, Lake Oahe
 3 and Lake Sharpe, caused the loss of approximately
 4 221,000 acres of fertile, wooded bottomland in
 5 South Dakota that constituted some of the most
 6 productive, unique, and irreplaceable wildlife habitat
 7 in the State;

8 (7) the State has developed a plan to meet the
 9 Federal obligation under the Fish and Wildlife Co-
 10 ordination Act (16 U.S.C. 661 et seq.) to mitigate
 11 the loss of wildlife habitat, the implementation of
 12 which is authorized by section 602 of title VI of
 13 Public Law 105-277 (112 Stat. 2681-660); and

14 (8) it is in the interests of the United States
 15 and the State to—

16 (A) provide original landowners or their
 17 descendants with an opportunity to purchase
 18 back their land; and

19 (B) transfer the remaining land to the
 20 State to allow implementation of its habitat
 21 mitigation plan.

22 **SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL.**

23 (a) DEFINITIONS.—In this section:

24 (1) BLUNT RESERVOIR FEATURE.—The term
 25 “Blunt Reservoir feature” means the Blunt Res-

1 ervoir feature of the Oahe Unit, James Division, au-
2 thorized by the Act of August 3, 1968 (82 Stat.
3 624), as part of the Pick-Sloan Missouri River Basin
4 Program.

5 (2) COMMISSION.—The term “Commission”
6 means the Commission of Schools and Public Lands
7 of the State.

8 (3) NONPREFERENTIAL LEASE PARCEL.—The
9 term “nonpreferential lease parcel” means a parcel
10 of land that—

11 (A) was purchased by the Secretary for use
12 in connection with the Blunt Reservoir feature
13 or the Pierre Canal feature; and

14 (B) was considered to be a nonpreferential
15 lease parcel by the Secretary as of January 1,
16 2001, and is reflected as such on the roster of
17 leases of the Bureau of Reclamation for 2001.

18 (4) PIERRE CANAL FEATURE.—The term
19 “Pierre Canal feature” means the Pierre Canal fea-
20 ture of the Oahe Unit, James Division, authorized
21 by the Act of August 3, 1968 (82 Stat. 624), as
22 part of the Pick-Sloan Missouri River Basin Pro-
23 gram.

24 (5) PREFERENTIAL LEASEHOLDER.—The term
25 “preferential leaseholder” means a person or de-

1 scendant of a person that held a lease on a pref-
 2 erential lease parcel as of January 1, 2001, and is
 3 reflected as such on the roster of leases of the Bu-
 4 reau of Reclamation for 2001.

5 (6) PREFERENTIAL LEASE PARCEL.—The term
 6 “preferential lease parcel” means a parcel of land
 7 that—

8 (A) was purchased by the Secretary for use
 9 in connection with the Blunt Reservoir feature
 10 or the Pierre Canal feature; and

11 (B) was considered to be a preferential
 12 lease parcel by the Secretary as of January 1,
 13 2001, and is reflected as such on the roster of
 14 leases of the Bureau of Reclamation for 2001.

15 (7) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior, acting through the
 17 Commissioner of Reclamation.

18 (8) STATE.—

19 (A) IN GENERAL.—The term “State”
 20 means the State of South Dakota.

21 (B) INCLUSION.—The term “State” in-
 22 cludes a successor in interest of the State.

23 (9) UNLEASED PARCEL.—The term “unleased
 24 parcel” means a parcel of land that—

1 (A) was purchased by the Secretary for use
2 in connection with the Blunt Reservoir feature
3 or the Pierre Canal feature; and

4 (B) is not under lease as of the date of en-
5 actment of this Act.

6 (b) DEAUTHORIZATION.—The Blunt Reservoir fea-
7 ture is deauthorized.

8 (c) CONVEYANCE.—Not later than 1 year after the
9 date of enactment of this Act, the Secretary shall convey
10 all of the preferential lease parcels to the Commission;
11 without consideration, on the condition that the Commis-
12 sion honor the purchase option provided to preferential
13 leaseholders under subsection (e).

14 (d) ACCEPTANCE OF LAND AND OBLIGATIONS.—

15 (1) IN GENERAL.—As a condition of each con-
16 veyance under subsections (c) and (f), respectively,
17 the State shall agree to accept—

18 (A) in “as is” condition, the Blunt Res-
19 ervoir Feature and the Pierre Canal Feature;
20 and

21 (B) any liability accruing after the date of
22 conveyance as a result of the ownership, oper-
23 ation, or maintenance of the features referred
24 to in subparagraph (A), including liability asso-
25 ciated with certain outstanding obligations asso-

1 ciated with expired easements, or any other
2 right granted in, on, over, or across either fea-
3 ture.

4 (2) RESPONSIBILITIES OF THE STATE.—An
5 outstanding obligation described in paragraph (1)(B)
6 shall inure to the benefit of, and be binding upon,
7 the State.

8 (3) OIL, GAS, MINERAL, AND OTHER OUT-
9 STANDING RIGHTS.—A conveyance under subsection
10 (e) or (f) shall be made subject to—

11 (A) oil, gas, and other mineral rights re-
12 served of record, as of the date of enactment of
13 this Act, by or in favor of a third party; and

14 (B) any permit, license, lease, right-of-use,
15 or right-of-way of record in, on, over, or across
16 a feature referred to in paragraph (1)(A) that
17 is outstanding as to a third party as of the date
18 of enactment of this Act.

19 (e) PURCHASE OPTION.—

20 (1) IN GENERAL.—A preferential leaseholder
21 shall have an option to purchase from the Commis-
22 sion the preferential lease parcel that is the subject
23 of the lease.

24 (2) TERMS.—

1 ~~(A) IN GENERAL.—~~Except as provided in
 2 subparagraph ~~(B)~~, a preferential leaseholder
 3 may elect to purchase a parcel on ~~1~~ of the fol-
 4 lowing terms:

5 (i) Cash purchase for the amount that
 6 is equal to—

7 ~~(I)~~ the value of the parcel deter-
 8 mined under paragraph ~~(4)~~; minus

9 ~~(II)~~ ~~10~~ percent of that value.

10 (ii) Installment purchase, with ~~10~~ per-
 11 cent of the value of the parcel determined
 12 under paragraph ~~(4)~~ to be paid on the date
 13 of purchase and the remainder to be paid
 14 over not more than ~~30~~ years at ~~3~~ percent
 15 annual interest.

16 ~~(B) VALUE UNDER \$10,000.—~~If the value
 17 of the parcel is under \$10,000, the purchase
 18 shall be made on a cash basis in accordance
 19 with subparagraph ~~(A)~~(i).

20 ~~(3) OPTION EXERCISE PERIOD.—~~

21 ~~(A) IN GENERAL.—~~A preferential lease-
 22 holder shall have until the date that is ~~5~~ years
 23 after the date of the conveyance under sub-
 24 section ~~(c)~~ to exercise the option under para-
 25 graph ~~(1)~~.

1 (B) CONTINUATION OF LEASES.—Until the
 2 date specified in subparagraph (A), a pref-
 3 erential leaseholder shall be entitled to continue
 4 to lease from the Commission the parcel leased
 5 by the preferential leaseholder under the same
 6 terms and conditions as under the lease, as in
 7 effect as of the date of conveyance.

8 (4) VALUATION.—

9 (A) IN GENERAL.—The value of a pref-
 10 erential lease parcel shall be determined to be,
 11 at the election of the preferential leaseholder—

12 (i) the amount that is equal to—

13 (I) the number of acres of the
 14 preferential lease parcel, multiplied by

15 (II) the amount of the per-acre
 16 assessment of adjacent parcels made
 17 by the Director of Equalization of the
 18 county in which the preferential lease
 19 parcel is situated; or

20 (ii) the amount of a valuation of the
 21 preferential lease parcel for agricultural
 22 use made by an independent appraiser.

23 (B) COST OF APPRAISAL.—If a preferential
 24 leaseholder elects to use the method of valu-
 25 ation described in subparagraph (A)(ii), the

1 cost of the valuation shall be paid by the pref-
2 erential leaseholder.

3 ~~(5) CONVEYANCE TO THE STATE.—~~

4 ~~(A) IN GENERAL.—~~If a preferential lease-
5 holder fails to purchase a parcel within the pe-
6 riod specified in paragraph ~~(3)~~(A), the Commis-
7 sion shall convey the parcel to the State of
8 South Dakota Department of Game, Fish, and
9 Parks.

10 ~~(B) WILDLIFE HABITAT MITIGATION.—~~

11 Land conveyed under subparagraph (A) shall be
12 used by the South Dakota Department of
13 Game, Fish, and Parks for the purpose of miti-
14 gating the wildlife habitat that was lost as a re-
15 sult of the development of the Pick-Sloan
16 project.

17 ~~(6) USE OF PROCEEDS.—~~Of the proceeds of
18 sales of land under this subsection—

19 ~~(A)~~ not more than \$750,000 shall be used
20 to reimburse the Secretary for expenses in-
21 curred in implementing this Act;

22 ~~(B)~~ an amount not exceeding 10 percent of
23 the cost of each transaction conducted under
24 this Act shall be used to reimburse the Commis-

1 sion for expenses incurred implementing this
2 Act;

3 (C) \$3,095,000 shall be deposited in the
4 South Dakota Wildlife Habitat Mitigation
5 Trust Fund established by section 603 of the
6 Water Resources Development Act of 1999
7 (113 Stat. 389) for the purpose of paying prop-
8 erty taxes on land transferred to the State;

9 (D) \$185,400 shall be transferred to Sully
10 County, South Dakota;

11 (E) \$14,600 shall be transferred to
12 Hughes County, South Dakota; and

13 (F) the remainder shall be used by the
14 Commission to support public schools in the
15 State.

16 (f) CONVEYANCE OF NONPREFERENTIAL LEASE
17 PARCELS AND UNLEASED PARCELS.—

18 (1) CONVEYANCE BY SECRETARY TO STATE.—

19 (A) IN GENERAL.—Not later than 1 year
20 after the date of enactment of this Act, the Sec-
21 retary shall convey to the South Dakota De-
22 partment of Game, Fish, and Parks the non-
23 preferential lease parcels and unleased parcels
24 of the Blunt Reservoir and Pierre Canal.

1 (B) WILDLIFE HABITAT MITIGATION.—
 2 Land conveyed under subparagraph (A) shall be
 3 used by the South Dakota Department of
 4 Game, Fish, and Parks for the purpose of miti-
 5 gating the wildlife habitat that was lost as a re-
 6 sult of the development of the Pick-Sloan
 7 project.

8 (2) LAND EXCHANGES FOR NONPREFERENTIAL
 9 LEASE PARCELS AND UNLEASED PARCELS.—

10 (A) IN GENERAL.—With the concurrence
 11 of the South Dakota Department of Game,
 12 Fish, and Parks, the South Dakota Commission
 13 of Schools and Public Lands may allow a per-
 14 son to exchange land that the person owns else-
 15 where in the State for a nonpreferential lease
 16 parcel or unleased parcel at Blunt Reservoir or
 17 Pierre Canal, as the case may be.

18 (B) PRIORITY.—The right to exchange
 19 nonpreferential lease parcels or unleased parcels
 20 shall be granted in the following order of pri-
 21 ority:

22 (i) Exchanges with current lessees for
 23 nonpreferential lease parcels.

24 (ii) Exchanges with adjoining and ad-
 25 jacent landowners for unleased parcels and

1 nonpreferential lease parcels not exchanged
2 by current lessees.

3 ~~(C) EASEMENT FOR WATER CONVEYANCE~~
4 ~~STRUCTURE.—As a condition of the exchange of~~
5 ~~land of the Pierre Canal Feature under this~~
6 ~~paragraph, the United States reserves a per-~~
7 ~~petual easement to the land to allow for the~~
8 ~~right to design, construct, operate, maintain,~~
9 ~~repair, and replace a pipeline or other water~~
10 ~~conveyance structure over, under, across, or~~
11 ~~through the Pierre Canal Feature.~~

12 ~~(g) RELEASE FROM LIABILITY.—~~

13 ~~(1) IN GENERAL.—Effective on the date of con-~~
14 ~~veyance of any parcel under this Act, the United~~
15 ~~States shall not be held liable by any court for dam-~~
16 ~~ages of any kind arising out of any act, omission, or~~
17 ~~occurrence relating to the parcel, except for damages~~
18 ~~for acts of negligence committed by the United~~
19 ~~States or by an employee, agent, or contractor of the~~
20 ~~United States, before the date of conveyance.~~

21 ~~(2) NO ADDITIONAL LIABILITY.—Nothing in~~
22 ~~this section adds to any liability that the United~~
23 ~~States may have under chapter 171 of title 28,~~
24 ~~United States Code (commonly known as the “Fed-~~
25 ~~eral Tort Claims Act”).~~

1 (h) REQUIREMENTS CONCERNING CONVEYANCE OF
2 LEASE PARCELS.—

3 (1) INTERIM REQUIREMENTS.—During the pe-
4 riod beginning on the date of enactment of this Act
5 and ending on the date of conveyance of the parcel,
6 the Secretary shall continue to lease each pref-
7 erential lease parcel or nonpreferential lease parcel
8 to be conveyed under this section under the terms
9 and conditions applicable to the parcel on the date
10 of enactment of this Act.

11 (2) PROVISION OF PARCEL DESCRIPTIONS.—
12 Not later than 180 days after the date of enactment
13 of this Act, the Secretary shall provide the State a
14 full legal description of all preferential lease parcels
15 and nonpreferential lease parcels that may be con-
16 veyed under this section.

17 (i) FUNDING OF THE SOUTH DAKOTA TERRESTRIAL
18 WILDLIFE HABITAT RESTORATION TRUST FUND.—Sec-
19 tion 603(b) of the Water Resources Development Act of
20 1999 (113 Stat. 388) is amended by striking
21 “\$108,000,000” and inserting “\$111,095,000”.

22 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this Act
24 \$750,000.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Blunt Reservoir and*
 3 *Pierre Canal Land Conveyance Act of 2002”.*

4 **SEC. 2. BLUNT RESERVOIR AND PIERRE CANAL.**

5 (a) *DEFINITIONS.—In this section:*

6 (1) *BLUNT RESERVOIR FEATURE.—The term*
 7 *“Blunt Reservoir feature” means the Blunt Reservoir*
 8 *feature of the Oahe Unit, James Division, authorized*
 9 *by the Act of August 3, 1968 (82 Stat. 624), as part*
 10 *of the Pick-Sloan Missouri River Basin Program.*

11 (2) *COMMISSION.—The term “Commission”*
 12 *means the Commission of Schools and Public Lands*
 13 *of the State.*

14 (3) *NONPREFERENTIAL LEASE PARCEL.—The*
 15 *term “nonpreferential lease parcel” means a parcel of*
 16 *land that—*

17 (A) *was purchased by the Secretary for use*
 18 *in connection with the Blunt Reservoir feature or*
 19 *the Pierre Canal feature; and*

20 (B) *was considered to be a nonpreferential*
 21 *lease parcel by the Secretary as of January 1,*
 22 *2001, and is reflected as such on the roster of*
 23 *leases of the Bureau of Reclamation for 2001.*

24 (4) *PIERRE CANAL FEATURE.—The term “Pierre*
 25 *Canal feature” means the Pierre Canal feature of the*
 26 *Oahe Unit, James Division, authorized by the Act of*

1 *August 3, 1968 (82 Stat. 624), as part of the Pick-*
2 *Sloan Missouri River Basin Program.*

3 (5) *PREFERENTIAL LEASEHOLDER.*—*The term*
4 *“preferential leaseholder” means a person or descend-*
5 *ant of a person that held a lease on a preferential*
6 *lease parcel as of January 1, 2001, and is reflected*
7 *as such on the roster of leases of the Bureau of Rec-*
8 *lamation for 2001.*

9 (6) *PREFERENTIAL LEASE PARCEL.*—*The term*
10 *“preferential lease parcel” means a parcel of land*
11 *that—*

12 (A) *was purchased by the Secretary for use*
13 *in connection with the Blunt Reservoir feature or*
14 *the Pierre Canal feature; and*

15 (B) *was considered to be a preferential lease*
16 *parcel by the Secretary as of January 1, 2001,*
17 *and is reflected as such on the roster of leases of*
18 *the Bureau of Reclamation for 2001.*

19 (7) *SECRETARY.*—*The term “Secretary” means*
20 *the Secretary of the Interior, acting through the Com-*
21 *missioner of Reclamation.*

22 (8) *STATE.*—*The term “State” means the State*
23 *of South Dakota, including a successor in interest of*
24 *the State.*

1 (9) *UNLEASED PARCEL.*—*The term “unleased*
2 *parcel” means a parcel of land that—*

3 (A) *was purchased by the Secretary for use*
4 *in connection with the Blunt Reservoir feature or*
5 *the Pierre Canal feature; and*

6 (B) *is not under lease as of the date of en-*
7 *actment of this Act.*

8 (b) *DEAUTHORIZATION.*—*The Blunt Reservoir feature*
9 *is deauthorized.*

10 (c) *ACCEPTANCE OF LAND AND OBLIGATIONS.*—

11 (1) *IN GENERAL.*—*As a condition of each convey-*
12 *ance under subsections (d)(5) and (e), respectively, the*
13 *State shall agree to accept—*

14 (A) *in “as is” condition, the portions of the*
15 *Blunt Reservoir Feature and the Pierre Canal*
16 *Feature that pass into State ownership;*

17 (B) *any liability accruing after the date of*
18 *conveyance as a result of the ownership, oper-*
19 *ation, or maintenance of the features referred to*
20 *in subparagraph (A), including liability associ-*
21 *ated with certain outstanding obligations associ-*
22 *ated with expired easements, or any other right*
23 *granted in, on, over, or across either feature; and*

24 (C) *the responsibility that the Commission*
25 *will act as the agent for the Secretary in admin-*

1 *istering the purchase option extended to pref-*
 2 *erential leaseholders under subsection (d).*

3 (2) *RESPONSIBILITIES OF THE STATE.*—*An out-*
 4 *standing obligation described in paragraph (1)(B)*
 5 *shall inure to the benefit of, and be binding upon, the*
 6 *State.*

7 (3) *OIL, GAS, MINERAL AND OTHER OUT-*
 8 *STANDING RIGHTS.*—*A conveyance to the State under*
 9 *subsection (d)(5) or (e) or a sale to a preferential*
 10 *leaseholder under subsection (d) shall be made subject*
 11 *to—*

12 (A) *oil, gas, and other mineral rights re-*
 13 *served of record, as of the date of enactment of*
 14 *this Act, by or in favor of a third party; and*

15 (B) *any permit, license, lease, right-of-use,*
 16 *or right-of-way of record in, on, over, or across*
 17 *a feature referred to in paragraph (1)(A) that is*
 18 *outstanding as to a third party as of the date of*
 19 *enactment of this Act.*

20 (4) *ADDITIONAL CONDITIONS OF CONVEYANCE TO*
 21 *STATE.*—*A conveyance to the state under subsection*
 22 *(d)(5) or (e) shall be subject to the reservations by the*
 23 *United States and the conditions specified in section*
 24 *1 of the Act of May 19, 1948 (chapter 310; 62 Stat.*
 25 *240), as amended (16 U.S.C. 667b), for the transfer*

1 *of property to state agencies for wildlife conservation*
2 *purposes.*

3 *(d) PURCHASE OPTION.—*

4 *(1) IN GENERAL.—A preferential leaseholder*
5 *shall have an option to purchase from the Commis-*
6 *sion, acting as an agent for the Secretary, the pref-*
7 *erential lease parcel that is the subject of the lease.*

8 *(2) TERMS.—*

9 *(A) IN GENERAL.—Except as provided in*
10 *subparagraph (B), a preferential leaseholder may*
11 *elect to purchase a parcel on 1 of the following*
12 *terms:*

13 *(i) Cash purchase for the amount that*
14 *is equal to—*

15 *(I) the value of the parcel deter-*
16 *mined under paragraph (4); minus*

17 *(II) 10 percent of that value.*

18 *(ii) Installment purchase, with 10 per-*
19 *cent of the value of the parcel determined*
20 *under paragraph (4) to be paid on the date*
21 *of purchase and the remainder to be paid*
22 *over not more than 30 years at 3 percent*
23 *annual interest.*

24 *(B) VALUE UNDER \$10,000.—If the value of*
25 *the parcel is under \$10,000, the purchase shall be*

1 *made on a cash basis in accordance with sub-*
2 *paragraph (A)(i).*

3 (3) *OPTION EXERCISE PERIOD.—*

4 (A) *IN GENERAL.—A preferential lease-*
5 *holder shall have until the date that is 5 years*
6 *after enactment of this Act to exercise the option*
7 *under paragraph (1).*

8 (B) *CONTINUATION OF LEASES.—Until the*
9 *date specified in subparagraph (A), a pref-*
10 *erential leaseholder shall be entitled to continue*
11 *to lease from the Secretary the parcel leased by*
12 *the preferential leaseholder under the same terms*
13 *and conditions as under the lease, as in effect as*
14 *of the date of enactment of this Act.*

15 (4) *VALUATION.—*

16 (A) *IN GENERAL.—The value of a pref-*
17 *erential lease parcel shall be its fair market*
18 *value for agricultural purposes determined by an*
19 *independent appraisal, exclusive of the value of*
20 *private improvements made by the leaseholders*
21 *while the land was federally owned before the*
22 *date of the enactment of this Act, in conformance*
23 *with the Uniform Appraisal Standards for Fed-*
24 *eral Land Acquisition.*

1 (B) *FAIR MARKET VALUE.*—Any dispute
2 over the fair market value of a property under
3 subparagraph (A) shall be resolved in accordance
4 with section 2201.4 of title 43, Code of Federal
5 Regulations.

6 (5) *CONVEYANCE TO THE STATE.*—

7 (A) *IN GENERAL.*—If a preferential lease-
8 holder fails to purchase a parcel within the pe-
9 riod specified in paragraph (3)(A), the Secretary
10 shall convey the parcel to the State of South Da-
11 kota Department of Game, Fish, and Parks.

12 (B) *WILDLIFE HABITAT MITIGATION.*—Land
13 conveyed under subparagraph (A) shall be used
14 by the South Dakota Department of Game, Fish,
15 and Parks for the purpose of mitigating the
16 wildlife habitat that was lost as a result of the
17 development of the Pick-Sloan project.

18 (6) *USE OF PROCEEDS.*—Proceeds of sales of
19 land under this Act shall be deposited as miscella-
20 neous funds in the Treasury and such funds shall be
21 made available, subject to appropriations, to the State
22 for the establishment of a trust fund to pay the coun-
23 ty taxes on the lands received by the State Depart-
24 ment of Game, Fish, and Parks under the bill.

1 (e) *CONVEYANCE OF NONPREFERENTIAL LEASE PAR-*
2 *CELS AND UNLEASED PARCELS.—*

3 (1) *CONVEYANCE BY SECRETARY TO STATE.—*

4 (A) *IN GENERAL.—Not later than 1 year*
5 *after the date of enactment of this Act, the Sec-*
6 *retary shall convey to the South Dakota Depart-*
7 *ment of Game, Fish, and Parks the nonpref-*
8 *erential lease parcels and unleased parcels of the*
9 *Blunt Reservoir and Pierre Canal.*

10 (B) *WILDLIFE HABITAT MITIGATION.—Land*
11 *conveyed under subparagraph (A) shall be used*
12 *by the South Dakota Department of Game, Fish,*
13 *and Parks for the purpose of mitigating the*
14 *wildlife habitat that was lost as a result of the*
15 *development of the Pick-Sloan project.*

16 (2) *LAND EXCHANGES FOR NONPREFERENTIAL*
17 *LEASE PARCELS AND UNLEASED PARCELS.—*

18 (A) *IN GENERAL.—With the concurrence of*
19 *the South Dakota Department of Game, Fish,*
20 *and Parks, the South Dakota Commission of*
21 *Schools and Public Lands may allow a person to*
22 *exchange land that the person owns elsewhere in*
23 *the State for a nonpreferential lease parcel or*
24 *unleased parcel at Blunt Reservoir or Pierre*
25 *Canal, as the case may be.*

1 (B) *PRIORITY.*—*The right to exchange non-*
2 *preferential lease parcels or unleased parcels*
3 *shall be granted in the following order or pri-*
4 *ority:*

5 (i) *Exchanges with current lessees for*
6 *nonpreferential lease parcels.*

7 (ii) *Exchanges with adjoining and ad-*
8 *jacent landowners for unleased parcels and*
9 *nonpreferential lease parcels not exchanged*
10 *by current lessees.*

11 (C) *EASEMENT FOR WATER CONVEYANCE*
12 *STRUCTURE.*—*As a condition of the exchange of*
13 *land of the Pierre Canal Feature under this*
14 *paragraph, the United States reserves a per-*
15 *petual easement to the land to allow for the right*
16 *to design, construct, operate, maintain, repair,*
17 *and replace a pipeline or other water conveyance*
18 *structure over, under, across, or through the*
19 *Pierre Canal Feature.*

20 (f) *RELEASE FROM LIABILITY.*—

21 (1) *IN GENERAL.*—*Effective on the date of con-*
22 *veyance of any parcel under this Act, the United*
23 *States shall not be held liable by any court for dam-*
24 *ages of any kind arising out of any act, omission, or*
25 *occurrence relating to the parcel, except for damages*

1 *for acts of negligence committed by the United States*
2 *or by an employee, agent, or contractor of the United*
3 *States, before the date of conveyance.*

4 (2) *NO ADDITIONAL LIABILITY.*—*Nothing in this*
5 *section adds to any liability that the United States*
6 *may have under chapter 171 of title 28, United States*
7 *Code (commonly known as the “Federal Tort Claims*
8 *Act”).*

9 (g) *REQUIREMENTS CONCERNING CONVEYANCE OF*
10 *LEASE PARCELS.*—

11 (1) *INTERIM REQUIREMENTS.*—*During the pe-*
12 *riod beginning on the date of enactment of this Act*
13 *and ending on the date of conveyance of the parcel,*
14 *the Secretary shall continue to lease each preferential*
15 *lease parcel or nonpreferential lease parcel to be con-*
16 *veyed under this section under the terms and condi-*
17 *tions applicable to the parcel on the date of enactment*
18 *of this Act.*

19 (2) *PROVISION OF PARCEL DESCRIPTIONS.*—*Not*
20 *later than 180 days after the date of enactment of this*
21 *Act, the Secretary shall provide the State a full legal*
22 *description of all preferential lease parcels and non-*
23 *preferential lease parcels that may be conveyed under*
24 *this section.*

1 *(h) AUTHORIZATION OF APPROPRIATIONS.—There is*
2 *authorized to be appropriated to carry out this Act*
3 *\$750,000 to reimburse the Secretary for expenses incurred*
4 *in implementing this Act, and such sums as are necessary*
5 *to reimburse the Commission for expenses incurred imple-*
6 *menting this Act, not to exceed 10 percent of the cost of*
7 *each transaction conducted under this Act.*

Calendar No. 570

107TH CONGRESS
2^D SESSION

S. 1028

[Report No. 107-253]

A BILL

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

SEPTEMBER 9, 2002

Reported with an amendment