

108TH CONGRESS  
1ST SESSION

# S. 1996

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2003

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

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## A BILL

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

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 “Oglala Sioux Tribe  
5       Angostura Irrigation Project Rehabilitation and Develop-  
6       ment Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds that—

9               (1) Congress approved the Pick-Sloan Missouri  
10       River basin program by passing the Act of Decem-

ber 22, 1944 (commonly known as the “Flood Control Act of 1944”) (33 U.S.C. 701–1 et seq.)—

(A) to promote the economic development of the United States;

(B) to provide for irrigation in regions north of Sioux City, Iowa;

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

(D) for other purposes;

(2) the Angostura Unit—

(A) is a component of the Pick-Sloan program; and

(B) provides for—

(i) irrigation of 12,218 acres of productive farm land in the State; and

(ii) substantial recreation and fish and wildlife benefits;

(3) the Commissioner of Reclamation has determined that—

(A) the national economic development benefits from irrigation at the Angostura Unit total approximately \$3,410,000 annually; and

(B) the national economic development benefits of recreation at Angostura Reservoir total approximately \$7,100,000 annually;

1           (4) the Angostura Unit impounds the Cheyenne  
2       River 20 miles upstream of the Pine Ridge Indian  
3       Reservation in the State;

4           (5)(A) the Reservation experiences extremely  
5       high rates of unemployment and poverty; and

6           (B) there is a need for economic development  
7       on the Reservation;

8           (6) the national economic development benefits  
9       of the Angostura Unit do not extend to the Reserva-  
10      tion;

11          (7) the Angostura Unit may be associated with  
12      negative affects on water quality and riparian vege-  
13      tation in the Cheyenne River on the Reservation;

14          (8) rehabilitation of the irrigation facilities at  
15      the Angostura Unit would—

16           (A) enhance the national economic develop-  
17      ment benefits of the Angostura Unit; and

18           (B) result in improved water efficiency and  
19      environmental restoration benefits on the Res-  
20      ervation; and

21          (9) the establishment of a trust fund for the  
22      Oglala Sioux Tribe would—

23           (A) produce economic development benefits  
24      for the Reservation comparable to the benefits  
25      produced at the Angostura Unit; and

1 (B) provide resources that are necessary  
2 for restoration of the Cheyenne River corridor  
3 on the Reservation.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) ANGOSTURA UNIT.—The term “Angostura  
7 Unit” means the irrigation unit of the Angostura ir-  
8 rigation project developed under the Act of August  
9 11, 1939 (16 U.S.C. 590y et seq.).

10 (2) FUND.—The term “Fund” means the Og-  
11 lala Sioux Tribal Development Trust Fund estab-  
12 lished by section 201(a).

13 (3) PICK-SLOAN PROGRAM.—The term “Pick-  
14 Sloan program” means the Pick-Sloan Missouri  
15 River basin program approved under the Act of De-  
16 cember 22, 1944 (commonly known as the “Flood  
17 Control Act of 1944”) (33 U.S.C. 701–1 et seq.).

18 (4) PLAN.—The term “plan” means the devel-  
19 opment plan developed by the Tribe under section  
20 201(f).

21 (5) RESERVATION.—The term “Reservation”  
22 means the Pine Ridge Indian Reservation in the  
23 State.

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

1 (7) STATE.—The term “State” means the State  
2 of South Dakota.

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

5 (9) TRIBE.—The term “Tribe” means the Og-  
6 lala Sioux Tribe of South Dakota.

## 7 **TITLE I—REHABILITATION**

### 8 **SEC. 101. REHABILITATION OF FACILITIES AT ANGOSTURA** 9 **UNIT.**

10 The Secretary may carry out the rehabilitation and  
11 improvement of the facilities at the Angostura Project de-  
12 scribed in the report entitled “Angostura Unit Contract  
13 Negotiation and Water Management Final Environmental  
14 Impact Statement”, dated August 2002.

### 15 **SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN** 16 **RESERVATION.**

17 The Secretary shall provide for—

18 (1) to the maximum extent practicable, the de-  
19 livery of water saved through the rehabilitation and  
20 improvement of the facilities of the Angostura Unit  
21 to the Pine Ridge Indian Reservation; and

22 (2) the use of that water for purposes of envi-  
23 ronmental restoration on the Pine Ridge Indian Res-  
24 ervation.

1 **SEC. 103. EFFECT ON OTHER LAW.**

2 Nothing in this title affects—

3 (1) any reserved water rights or other rights of  
4 the Tribe;

5 (2) any service or program to which, in accord-  
6 ance with Federal law, the Tribe, or an individual  
7 member of the Tribe, is entitled; or

8 (3) any water rights in existence on the date of  
9 enactment of this Act held by any person or entity.

10 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated such sums as  
12 are necessary to carry out this title, to remain available  
13 until expended.

14 **TITLE II—DEVELOPMENT**

15 **SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST**  
16 **FUND.**

17 (a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST  
18 FUND.—There is established in the Treasury of the  
19 United States a fund to be known as the “Oglala Sioux  
20 Tribal Development Trust Fund”, consisting of any  
21 amounts deposited in the Fund under this title.

22 (b) FUNDING.—On the first day of the 11th fiscal  
23 year that begins after the date of enactment of this Act,  
24 the Secretary of the Treasury shall, from the General  
25 Fund of the Treasury, deposit in the Fund—

1           (1) such sums as the Secretary of the Treasury,  
2           in consultation with the Secretary, the Secretary of  
3           Health and Human Services, and the Tribal Council,  
4           are necessary to carry out development under this  
5           title; and

6           (2) the amount that equals the amount of inter-  
7           est that would have accrued on the amount de-  
8           scribed in paragraph (1) if that amount had been in-  
9           vested in interest-bearing obligations of the United  
10          States, or in obligations guaranteed as to both prin-  
11          cipal and interest by the United States, on the first  
12          day of the first fiscal year that begins after the date  
13          of enactment of this Act and compounded annually  
14          thereafter.

15       (c) INVESTMENT OF TRUST FUND.—

16           (1) IN GENERAL.—The Secretary of the Treas-  
17          ury shall invest such portion of the Fund as is not,  
18          in the judgment of the Secretary of the Treasury,  
19          required to meet current withdrawals.

20           (2) ACQUISITION OF OBLIGATIONS.—Such in-  
21          vestments may be made only in interest-bearing obli-  
22          gations of the United States or in obligations guar-  
23          anteed as to both principal and interest by the  
24          United States.

1           (3) INTEREST.—The Secretary of the Treasury  
2       shall deposit interest resulting from such invest-  
3       ments into the Fund.

4       (d) PAYMENT OF INTEREST TO TRIBE.—

5           (1) WITHDRAWAL OF INTEREST.—Beginning on  
6       the first day of the 11th fiscal year after the date  
7       of enactment of this Act and, on the first day of  
8       each fiscal year thereafter, the Secretary of the  
9       Treasury shall transfer the aggregate amount of in-  
10      terest deposited into the Fund for the fiscal year to  
11      the Secretary for use in accordance with paragraph  
12      (3).

13          (2) AVAILABILITY.—Each amount transferred  
14      under paragraph (1) shall be available without fiscal  
15      year limitation.

16          (3) PAYMENTS TO TRIBE.—

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

22              (B) LIMITATION.—Payments may be made  
23      by the Secretary of the Interior under subpara-  
24      graph (A) only after the Tribe has adopted a  
25      plan under subsection (f).



1 (C) USE OF PAYMENTS BY TRIBE.—The  
 2 Tribe shall use the payments made under sub-  
 3 paragraph (B) only for carrying out projects  
 4 and programs under the plan prepared under  
 5 subsection (f).

6 (e) LIMITATION ON TRANSFERS AND WITH-  
 7 DRAWALS.—Except as provided in subsections (c) and  
 8 (d)(1), the Secretary of the Treasury shall not transfer  
 9 or withdraw any amount deposited under subsection (b).

10 (f) DEVELOPMENT PLAN.—

11 (1) IN GENERAL.—Not later than 18 months  
 12 after the date of enactment of this Act, the gov-  
 13 erning body of the Tribe shall prepare a plan for the  
 14 use of the payments to the Tribe under subsection  
 15 (d).

16 (2) CONTENTS.—The plan shall provide for the  
 17 manner in which the Tribe shall expend payments to  
 18 the Tribe under subsection (d) to promote—

19 (A) economic development;

20 (B) infrastructure development;

21 (C) the educational, health, recreational,  
 22 and social welfare objectives of the Tribe and  
 23 members of the Tribe; or

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

1 (3) PLAN REVIEW AND REVISION.—

2 (A) IN GENERAL.—The Tribal Council  
3 shall make available for review and comment by  
4 the members of the Tribe a copy of the plan be-  
5 fore the plan becomes final, in accordance with  
6 procedures established by the Tribal Council.

7 (B) UPDATING OF PLAN.—

8 (i) IN GENERAL.—The Tribal Council  
9 may, on an annual basis, revise the plan to  
10 update the plan.

11 (ii) REVIEW AND COMMENT.—In re-  
12 vising the plan, the Tribal Council shall  
13 provide the members of the Tribe oppor-  
14 tunity to review and comment on any pro-  
15 posed revision to the plan.

16 (C) CONSULTATION.—In preparing the  
17 plan and any revisions to update the plan, the  
18 Tribal Council shall consult with the Secretary  
19 and the Secretary of Health and Human Serv-  
20 ices.

21 (4) AUDIT.—

22 (A) IN GENERAL.—The activities of the  
23 Tribe in carrying out the plan shall be audited  
24 as part of the annual single-agency audit that  
25 the Tribe is required to prepare pursuant to the

1 Office of Management and Budget circular  
2 numbered A-133.

3 (B) DETERMINATION BY AUDITORS.—The  
4 auditors that conduct the audit under subpara-  
5 graph (A) shall—

6 (i) determine whether funds received  
7 by the Tribe under this section for the pe-  
8 riod covered by the audit were expended to  
9 carry out the plan in a manner consistent  
10 with this section; and

11 (ii) include in the written findings of  
12 the audit the determination made under  
13 clause (i).

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

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

1 **SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
2 **AND SERVICES.**

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

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

9 (2) any individual who is a member of the Tribe  
10 is entitled because of the status of the individual as  
11 a member of the Tribe.

12 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums  
14 as are necessary to pay the administrative expenses of the  
15 Fund.

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