

105TH CONGRESS
1ST SESSION

S. 156

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

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

A BILL

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule 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 “Lower Brule Sioux
5 Tribe Infrastructure Development Trust Fund Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) under the Act of December 22, 1994, com-
9 monly known as the “Flood Control Act of 1994”

1 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
2 seq.) Congress approved the Pick-Sloan Missouri
3 River Basin 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 Fort Randall and Big Bend projects are
12 major components of the Pick-Sloan Missouri River
13 Basin program, and contribute to the national econ-
14 omy by generating a substantial amount of hydro-
15 power and impounding a substantial quantity of
16 water;

17 (3) the Fort Randall and Big Bend projects
18 overlie the western boundary of the Lower Brule In-
19 dian Reservation, having inundated the fertile, wood-
20 ed bottom lands of the Tribe along the Missouri
21 River that constituted the most productive agricul-
22 tural and pastoral lands of the Lower Brule Sioux
23 Tribe and the homeland of the members of the
24 Tribe;

1 (4) Public Law 85–923 (72 Stat. 1773 et seq.)
2 authorized the acquisition of 7,997 acres of Indian
3 land on the Lower Brule Indian Reservation for the
4 Fort Randall project and Public Law 87–734 (76
5 Stat. 698 et seq.) authorized the acquisition of
6 14,299 acres of Indian land on the Lower Brule In-
7 dian Reservation for the Big Bend project;

8 (5) Public Law 87–734 (76 Stat. 698 et seq.)
9 provided for the mitigation of the effects of the Fort
10 Randall and Big Bend projects on the Lower Brule
11 Indian Reservation, by directing the Secretary of the
12 Army to—

13 (A) as necessary, by reason of the Big
14 Bend project, protect, replace, relocate, or re-
15 construct—

16 (i) any essential governmental and
17 agency facilities on the reservation, includ-
18 ing schools, hospitals, offices of the Public
19 Health Service and the Bureau of Indian
20 Affairs, service buildings, and employee
21 quarters existing at the time that the
22 projects were carried out; and

23 (ii) roads, bridges, and incidental mat-
24 ters or facilities in connection with those
25 facilities;

1 (B) provide for a townsite adequate for 50
2 homes, including streets and utilities (including
3 water, sewage, and electricity), taking into ac-
4 count the reasonable future growth of the town-
5 site; and

6 (C) provide for a community center con-
7 taining space and facilities for community gath-
8 erings, tribal offices, tribal council chamber, of-
9 fices of the Bureau of Indian Affairs, offices
10 and quarters of the Public Health Service, and
11 a combination gymnasium and auditorium;

12 (6) the requirements under Public Law 87-734
13 (76 Stat. 698 et seq.) with respect to the mitigation
14 of the effects of the Fort Randall and Big Bend
15 projects on the Lower Brule Indian Reservation have
16 not been fulfilled;

17 (7) although the national economy has benefited
18 from the Fort Randall and Big Bend projects, the
19 economy on the Lower Brule Indian Reservation re-
20 mains underdeveloped, in part as a consequence of
21 the failure of the Federal Government to fulfill the
22 obligations of the Federal Government under the
23 laws referred to in paragraph (4);

24 (8) the economic and social development and
25 cultural preservation of the Lower Brule Sioux Tribe

1 will be enhanced by increased tribal participation in
2 the benefits of the Fort Randall and Big Bend com-
3 ponents of the Pick-Sloan Missouri River Basin pro-
4 gram; and

5 (9) the Lower Brule Sioux Tribe is entitled to
6 additional benefits of the Pick-Sloan Missouri River
7 Basin program.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) **FUND.**—The term “Fund” means the
11 Lower Brule Sioux Tribe Infrastructure Develop-
12 ment Trust Fund established under section 4(a).

13 (2) **PLAN.**—The term “plan” means the plan
14 for socioeconomic recovery and cultural preservation
15 prepared under section 5.

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

20 (4) **SECRETARY.**—The term “Secretary” means
21 the Secretary of the Interior.

22 (5) **TRIBE.**—The term “Tribe” means the
23 Lower Brule Sioux Tribe of Indians, a band of the
24 Great Sioux Nation recognized by the United States
25 of America.

1 **SEC. 4. ESTABLISHMENT OF LOWER BRULE SIOUX TRIBE**
2 **INFRASTRUCTURE DEVELOPMENT TRUST**
3 **FUND.**

4 (a) LOWER BRULE SIOUX TRIBE INFRASTRUCTURE
5 DEVELOPMENT TRUST FUND.—There is established in
6 the Treasury of the United States a fund to be known
7 as the “Lower Brule Sioux Tribe Infrastructure Develop-
8 ment Trust Fund”.

9 (b) FUNDING.—Beginning with fiscal year imme-
10 diately following the fiscal year during which the aggre-
11 gate of the amounts deposited in the Crow Creek Sioux
12 Tribe Infrastructure Development Trust Fund is equal to
13 the amount specified in section 4(b) of the Crow Creek
14 Sioux Tribe Infrastructure Development Trust Fund Act
15 of 1996 (110 Stat. 3026 et seq.), and for each fiscal year
16 thereafter, until such time as the aggregate of the
17 amounts deposited in the Fund is equal to \$39,300,000,
18 the Secretary of the Treasury shall deposit into the Fund
19 an amount equal to 25 percent of the receipts from the
20 deposits to the Treasury of the United States for the pre-
21 ceding fiscal year from the Program.

22 (c) INVESTMENTS.—The Secretary of the Treasury
23 shall invest the amounts deposited under subsection (b)
24 only in interest-bearing obligations of the United States
25 or in obligations guaranteed as to both principal and inter-
26 est by the United States.

1 (d) PAYMENT OF INTEREST TO TRIBE.—

2 (1) ESTABLISHMENT OF ACCOUNT AND TRANS-
3 FER OF INTEREST.—The Secretary of the Treasury
4 shall, in accordance with this subsection, transfer
5 any interest that accrues on amounts deposited
6 under subsection (b) into a separate account estab-
7 lished by the Secretary of the Treasury in the Treas-
8 ury of the United States.

9 (2) PAYMENTS.—

10 (A) IN GENERAL.—Beginning with the fis-
11 cal year immediately following the fiscal year
12 during which the aggregate of the amounts de-
13 posited in the Fund is equal to the amount
14 specified in subsection (b), and for each fiscal
15 year thereafter, all amounts transferred under
16 paragraph (1) shall be available, without fiscal
17 year limitation, to the Secretary of the Interior
18 for use in accordance with subparagraph (C).

19 (B) WITHDRAWAL AND TRANSFER OF
20 FUNDS.—For each fiscal year specified in sub-
21 subparagraph (A), the Secretary of the Treasury
22 shall withdraw amounts from the account estab-
23 lished under paragraph (1) and transfer such
24 amounts to the Secretary of the Interior for use

1 in accordance with subparagraph (C). The Sec-
2 retary of the Treasury may only withdraw
3 funds from the account for the purpose speci-
4 fied in this paragraph.

5 (C) PAYMENTS TO TRIBE.—The Secretary
6 of the Interior shall use the amounts trans-
7 ferred under subparagraph (B) only for the
8 purpose of making payments to the Tribe.

9 (D) USE OF PAYMENTS BY TRIBE.—The
10 Tribe shall use the payments made under sub-
11 subparagraph (C) only for carrying out projects
12 and programs pursuant to the plan prepared
13 under section 5.

14 (3) PROHIBITION ON PER CAPITA PAYMENTS.—
15 No portion of any payment made under this sub-
16 section may be distributed to any member of the
17 Tribe on a per capita basis.

18 (e) TRANSFERS AND WITHDRAWALS.—Except as
19 provided in subsection (d)(1), the Secretary of the Treas-
20 ury may not transfer or withdraw any amount deposited
21 under subsection (b).

22 **SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CUL-**
23 **TURAL PRESERVATION.**

24 (a) PLAN.—

1 (1) IN GENERAL.—The Tribe shall, not later
2 than 2 years after the date of enactment of this Act,
3 prepare a plan for the use of the payments made to
4 the Tribe under section 4(d)(2). In developing the
5 plan, the Tribe shall consult with the Secretary of
6 the Interior and the Secretary of Health and Human
7 Services.

8 (2) REQUIREMENTS FOR PLAN COMPONENTS.—
9 The plan shall, with respect to each component of
10 the plan—

11 (A) identify the costs and benefits of that
12 component; and

13 (B) provide plans for that component.

14 (b) CONTENT OF PLAN.—The plan shall include the
15 following programs and components:

16 (1) EDUCATIONAL FACILITY.—The plan shall
17 provide for an educational facility to be located on
18 the Lower Brule Indian Reservation.

19 (2) COMPREHENSIVE INPATIENT AND OUT-
20 PATIENT HEALTH CARE FACILITY.—The plan shall
21 provide for a comprehensive inpatient and outpatient
22 health care facility to provide essential services that
23 the Secretary of Health and Human Services, in
24 consultation with the individuals and entities re-
25 ferred to in subsection (a)(1), determines to be—

1 (A) needed; and

2 (B) unavailable through facilities of the In-
3 dian Health Service on the Lower Brule Indian
4 Reservation in existence at the time of the de-
5 termination.

6 (3) WATER SYSTEM.—The plan shall provide
7 for the construction, operation, and maintenance of
8 a municipal, rural, and industrial water system for
9 the Lower Brule Indian Reservation.

10 (4) RECREATIONAL FACILITIES.—The plan
11 shall provide for recreational facilities suitable for
12 high-density recreation at Lake Sharpe at Big Bend
13 Dam and at other locations on the Lower Brule In-
14 dian Reservation in South Dakota.

15 (5) OTHER PROJECTS AND PROGRAMS.—The
16 plan shall provide for such other projects and pro-
17 grams for the educational, social welfare, economic
18 development, and cultural preservation of the Tribe
19 as the Tribe considers to be appropriate.

20 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated such funds
22 as may be necessary to carry out this Act, including such
23 funds as may be necessary to cover the administrative ex-
24 penses of the Fund.

1 **SEC. 7. EFFECT OF PAYMENTS TO TRIBE.**

2 (a) IN GENERAL.—No payment made to the Tribe
3 pursuant to this Act shall result in the reduction or denial
4 of any service or program to which, pursuant to Federal
5 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 (b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

13 (1) POWER RATES.—No payment made pursu-
14 ant to this Act shall affect Pick-Sloan Missouri
15 River Basin power rates.

16 (2) STATUTORY CONSTRUCTION.—Nothing in
17 this Act may be construed as diminishing or affect-
18 ing—

19 (A) any right of the Tribe that is not oth-
20 erwise addressed in this Act; or

21 (B) any treaty obligation of the United
22 States.

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