107TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
107–706

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

OCTOBER 1, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

R E P O R T

[To accompany S. 434]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 434 is to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

BACKGROUND AND NEED FOR LEGISLATION

The 1944 Flood Control Act authorized the Pick-Sloan Missouri River Basin program to protect urban and rural areas from devastating floods of the Missouri River and to provide for irrigation above Sioux City, Iowa. The Fort Randall and Gavins Point projects overlay the western boundary of the Yankton Sioux Indian Reservation and the eastern boundary of the Santee Sioux Indian Reservation respectively. The projects, which are major components of the Pick-Sloan program, impound a large quantity of water and generate a substantial amount of hydropower.

The U.S. Army Corps of Engineers condemned the Indian lands used for the Fort Randall and Gavins Point projects. The Yankton Sioux and Santee Sioux tribes claim they did not receive just compensation for the taking of productive agricultural Indian lands,

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while the United States gave five other Indian reservations upstream compensation for direct damages from the Pick-Sloan program. The Yankton Sioux and Santee Sioux tribes claim that their previous settlement agreement with the United States to provide compensation for the past takings by condemnation did not account for the increase in property values between the date of taking and the date of settlement.

In addition to the financial compensation provided under the previous settlement agreement, S. 434 authorizes additional compensation in an aggregate amount equal to $23,023,743 plus interest for the loss of value of 2,851.40 acres to the Yankton Sioux Tribe, and an aggregate amount equal to $4,789,010 plus interest for the loss of value of 593.10 acres to the Santee Sioux Tribe.

COMMITTEE ACTION

S. 434 was introduced on March 1, 2001, by Senator Tom Daschle (D–SD). On July 24, 2002, S. 434 passed the Senate by unanimous consent. S. 434 was referred to the House Committee on Resources on July 25, 2002. On September 12, 2002, the Full Committee met to mark up the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would increase direct spending by $49 million in 2013, but it would have no significant impact on the federal budget for the 2003–2012 time period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide equitable compensation to the Yankton

Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 19, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 434, the Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 434—Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act

Summary: S. 434 would compensate the Yankton Sioux Tribe and the Santee Sioux Tribe for the taking of certain tribal lands by the federal government. CBO estimates that enacting this act would have no significant impact on the federal budget over the 2003–2012 period. Enacting S. 434 would increase direct spending by an estimated $49 million, but pay-as-you-go procedures would not apply because the spending would not occur until fiscal year 2013.

S. 434 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Tribal governments might incur some costs as a result of this act, but those costs would be voluntary.

Estimated cost to the Federal Government: CBO estimates that enacting S. 434 would result in direct spending of $49 million in 2013, but would have no significant impact on the federal budget before then. For this estimate, CBO assumes that S. 434 will be enacted near the beginning of fiscal year 2003.

S. 434 would provide compensation to the two tribes for the taking of 3,445 acres of land by the federal government for various water projects. The act would establish the Yankton Sioux Tribe Development Trust Fund and the Santee Sioux Tribe Development Trust Fund and would direct the Secretary of the Treasury to deposit a total of $28 million into interest-bearing accounts to benefit the tribes on the first day of the 11th fiscal year that begins after the date of enactment. An additional deposit equal to the amount of interest that the fund would have earned if the fund had been capitalized and invested in 2003 would be made at the same time. CBO estimates that this additional payment would be $21 million, for a total deposit of $49 million in 2013. Once the Secretary pays

for a total deposit of $49 million in 2013. Once the Secretary pays these amounts, any monetary claims the tribes may have against the United States regarding the affected lands would be extinguished. Starting in 2013, the act would allow the tribes to spend amounts equivalent to the annual interest earned on the fund pursuant to a tribal spending plan.

Payments to certain trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as payments to a nonfederal entity. As a result, CBO expects that the entire amount deposited to the fund in 2013 would be recorded as budget authority and outlays in that year. Because the trust funds would be nonbudgetary, the subsequent use of such funds by the tribe would not affect federal outlays.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2007 are counted. CBO estimates that enacting S. 434 would not affect direct spending or receipts in any of those years.

Intergovernmental and private-sector impact: S. 434 contains no intergovernmental or private-sector mandates as defined in UMRA, but it would impose some conditions on the affected tribes for receipt of federal funds. The act would require the tribes to prepare and adopt plans for using payments from the trust fund and to obtain audits of their expenditures. The tribes would receive significant benefits from enactment of this legislation.

Previous CBO estimate: On April 16, 2002, CBO transmitted a cost estimate for S. 434 as ordered reported by the Senate Committee on Indian Affairs on March 21, 2002. On September 19, 2002, CBO transmitted a cost estimate for H.R. 2408, an identically titled bill, as ordered reported by the House Committee on Resources on September 12, 2002. These different versions of the legislation are very similar, and our cost estimates are the same.

Estimate prepared by: Federal Costs: Lanette J. Walker; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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