

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

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SJM24-002

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SENATE JOINT MEMORIAL 24-002

101 **MEMORIALIZING CONGRESS TO FULLY FUND THE AUTHORIZED**
102 **THIRTY-FIVE MILLION DOLLARS TO THE "WATER**
103 **INFRASTRUCTURE IMPROVEMENTS FOR THE NATION ACT"**
104 **ACCORDING TO THE RECOMMENDATIONS OF THE COLORADO**
105 **RIVER DROUGHT TASK FORCE.**

1 WHEREAS, The Ute People were the original inhabitants of what
2 is now the state of Colorado, and the two federally recognized tribes in
3 Colorado are the sovereign nations of the Ute Mountain Ute Tribe and the
4 Southern Ute Indian Tribe; and

5 WHEREAS, The Pine River Indian Irrigation Project, or "PRIIP",
6 is a series of canals and ditches, largely located in southwestern Colorado
7 on Southern Ute Indian tribal land, that is intended to bring water to tribal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Final Reading
March 13, 2024

1 lands for agriculture and that was constructed by the Bureau of Indian
2 Affairs during the late 1800s and early 1900s; and

3 WHEREAS, The PRIIP system should be providing water to
4 approximately 14,495 acres and nearly 400 individual users, including
5 approximately 100 non-Native users and the town of Ignacio, Colorado,
6 but due to extreme deterioration of infrastructure, its actual output falls
7 far below that goal; and

8 WHEREAS, The deteriorated condition of the PRIIP system
9 means that some of its users are unable to access and use water for
10 agricultural irrigation; this neglect has had a devastating effect on many
11 farmers and ranchers; and

12 WHEREAS, Making efforts toward rehabilitation and
13 improvement of the PRIIP system, the Southern Ute Indian Tribe started
14 a multiyear program to rehabilitate portions of the PRIIP system using
15 \$4.88 million of tribal funding in 2018, but funding to finish construction
16 on completed engineering designs is running low; and

17 WHEREAS, In 2023, the Bureau of Indian Affairs, which still
18 operates the PRIIP system, completed a modernization plan for the system
19 that has a rough cost estimate of \$60.7 million, and there are other cost
20 estimates for modernization that range as high as \$109 million; and

21 WHEREAS, PRIIP system water users pay 100% of the system's
22 operations and maintenance annual assessments; however, these fees are
23 simply insufficient to accomplish the necessary annual operations and
24 maintenance work, much less the millions required to address deferred
25 maintenance; and

26 WHEREAS, The growing disrepair of the PRIIP system has still
27 not been adequately catalogued, though the following issues have been
28 highlighted by studies done in 2000 and 2008 by the Bureau of Indian
29 Affairs and illustrate the system's dilapidated condition:

- 30 ● Only an estimated 15% of the PRIIP system's 175 miles of
31 canals can be considered to be in good condition;
- 32 ● Some of the system's major diversion structures date back
33 to the 1930s, with no major rehabilitation or improvements
34 since the early 1960s;
- 35 ● The system's largest canal, the Dr. Morrison canal, which
36 serves over 4,500 irrigable acres of Tribal land and

- 1 non-Tribal land, has breached 3 times;
- 2 ● The Dr. Morrison canal also has multiple large, antiquated
 - 3 flumes in danger of failing;
 - 4 ● Dozens of smaller irrigation structures constructed before
 - 5 the 1920s have collapsed and have simply been abandoned;
 - 6 ● Ditches have also been abandoned, and lands that were
 - 7 previously irrigated have become derelict, requiring costly
 - 8 rehabilitation;
 - 9 ● Erosion has created miles of incised channels and ditches,
 - 10 where elevated headgates no longer allow for the diversion
 - 11 of water to lands that were historically irrigated; and
 - 12 ● Neglect of operation and maintenance roads has made
 - 13 access to many structures and sections of ditch either
 - 14 unsafe or impossible altogether; and

15 WHEREAS, This ongoing lack of efficient water delivery to both
16 Tribal lands and non-Tribal lands presents a significant barrier to
17 agricultural development for the Southern Ute Indian Tribe, as well as the
18 local community; and

19 WHEREAS, Recently, the Bureau of Indian Affairs received \$466
20 million from the Bipartisan Infrastructure Law, as enacted in 2021 by the
21 federal "Infrastructure Investment and Jobs Act", to be used over the next
22 5 years; however, of that funding, only \$35 million, \$7 million annually,
23 is allocated to the 16 Indian Irrigation Projects in the western United
24 States; and

25 WHEREAS, The Bureau of Indian Affairs' report for the fourth
26 quarter of the 2021 fiscal year outlines an initial spending plan for the
27 Bipartisan Infrastructure Law funding and recognizes that, altogether,
28 there is \$788 million in deferred maintenance for all 16 Indian Irrigation
29 Projects; and

30 WHEREAS, Funding to address some of the PRIIP system's needs
31 was authorized in the federal "Water Infrastructure Improvements for the
32 Nation Act", or the "WIIN Act", which was enacted in 2016; and

33 WHEREAS, The "WIIN Act" established the Indian Irrigation
34 Fund in the United States Department of the Treasury to address the
35 deferred maintenance, repair, and replacement needs of Indian Irrigation
36 Projects in the western United States; and

1 WHEREAS, The "WIIN Act" came as a great relief to the
2 Southern Ute Indian Tribe and many other tribes who had been requesting
3 help with decaying federal irrigation projects for decades, but repairs
4 under the "WIIN Act" met an unexpected delay; while the "WIIN Act"
5 authorized funding for this critical purpose, the actual appropriations have
6 not come close to the authorized amounts; and

7 WHEREAS, In 2020, the Bureau of Indian Affairs Southern Ute
8 Agency received "WIIN Act" funding, and the amount awarded was
9 approximately \$135,000; this money was spent by the Bureau of Indian
10 Affairs to purchase much-needed heavy equipment, but the needs for the
11 PRIIP system go well beyond what heavy equipment can do; and

12 WHEREAS, The "WIIN Act" directs the United States Secretary
13 of the Treasury to deposit \$35 million annually through the 2028 fiscal
14 year into the Indian Irrigation Fund, with such sums plus accrued interest
15 to be transferred to the United States Secretary of the Interior for
16 distribution by the Bureau of Indian Affairs; however, since its inception,
17 Congress has only appropriated \$10 million per year to the fund, less than
18 one-third of the \$35 million authorized; and

19 WHEREAS, Not only does this level of appropriation fail to even
20 begin to address the demonstrated need, continued delay simply adds to
21 future costs as deterioration of the PRIIP system continues; and

22 WHEREAS, In light of this demonstrated need, the Colorado
23 River Drought Task Force's Sub-task Force on Tribal Matters, in the final
24 report of the task force dated December 15, 2023, unanimously
25 recommended legislative support from the Colorado General Assembly;
26 now, therefore,

27 *Be It Resolved by the Senate of the Seventy-fourth General*
28 *Assembly of the State of Colorado, the House of Representatives*
29 *concurring herein:*

30 (1) That the Colorado River Drought Task Force considers the
31 deterioration of the Pine River Indian Irrigation Project an urgent matter
32 of the state of Colorado, as reflected by the Sub-task Force's unanimous
33 recommendation for legislative support; and

34 (2) That the Congress of the United States is hereby memorialized
35 to fully fund the authorized \$35 million to the "Water Infrastructure

1 Improvements for the Nation Act" for necessary improvements to the
2 Pine River Indian Irrigation Project.

3 *Be It Further Resolved*, That copies of this Memorial be sent to
4 President Joseph Biden; Governor Jared Polis; the Speaker of the United
5 States House of Representatives; the President of the United States
6 Senate; each member of Colorado's congressional delegation; the Tribal
7 Council of the Ute Mountain Ute Tribe and the chairman of the Tribe,
8 Manuel Heart; the Tribal Council of the Southern Ute Indian Tribe and
9 the chairman of the Tribe, Melvin J. Baker; and the United States House
10 of Representatives and Senate Appropriations Subcommittees on Interior,
11 Environment, and Related Agencies.