

had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Klamath Basin Water Supply Enhancement Act of 2000".

SEC. 2. AUTHORIZATION TO CONDUCT FEASIBILITY STUDIES.

In order to help meet the growing water needs in the Klamath River basin, to improve water quality, to facilitate the efforts of the State of Oregon to resolve water rights claims in the Upper Klamath River Basin including facilitation of Klamath tribal water rights claims, and to reduce conflicts over water between the Upper and Lower Klamath Basins, the Secretary of the Interior (hereafter referred to as the "Secretary") is authorized and directed, in consultation with affected state, local and tribal interests, stakeholder groups and the interested public, to engage in feasibility studies of the following proposals related to the Upper Klamath Basin and the Klamath Project, a federal reclamation project in Oregon and California:

(1) Increasing the storage capacity, and/or the yield of the Klamath Project facilities while improving water quality, consistent with the protection of fish and wildlife.

(2) The potential for development of additional Klamath Basin groundwater supplies to improve water quantity and quality, including the effect of such groundwater development on non-project lands, groundwater and surface water supplies, and fish and wildlife.

(3) The potential for further innovations in the use of existing water resources, or market-based approaches, in order to meet growing water needs consistent with state water law.

SEC. 3. ADDITIONAL STUDIES.

(a) NON-PROJECT LANDS.—The Secretary may enter into an agreement with the Oregon Department of Water Resources to fund studies relating to the water supply needs of non-project lands in the Upper Klamath Basin.

(b) SURVEYS.—To further the purposes of this Act, the Secretary is authorized to compile information on native fish species in the Upper Klamath River Basin, upstream of Upper Klamath Lake. Wherever possible, the Secretary should use data already developed by Federal agencies and other stakeholders in the Basin.

(c) HYDROLOGIC STUDIES.—The Secretary is directed to complete ongoing hydrologic surveys in the Klamath River Basin currently being conducted by the U.S. Geological Survey.

(d) REPORTING REQUIREMENTS.—The Secretary shall submit the findings of the studies conducted under section 2 and Section 3(a) of this Act to the Congress within 90 days of each study's completion, together with any recommendations for projects.

SEC. 4. LIMITATION.

Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplementary thereto.

SEC. 5. WATER RIGHTS.

Nothing in this Act shall be construed to—

(1) create, by implication or otherwise, any reserved water right or other right to the use of water;

(2) invalidate, preempt, or create any exception to State water law or an interstate compact governing water;

(3) alter the rights of any State to any appropriated share of the waters of any body or surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(4) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(5) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized such sums as necessary to carry out the purposes of this Act. Activities conducted under this Act shall be non-reimbursable and nonreturnable.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2882), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—S. 623 AND S. 1474

Mr. LOTT. I ask unanimous consent the Senate proceed to the consideration en bloc of Calendar No. 359, S. 623, and Calendar No. 709, S. 1474. I further ask unanimous consent amendment No. 4317 to S. 623 and amendment No. 4318 to S. 1474 be agreed to, the committee amendments be agreed to, the bills be read the third time and passed, with the motion to reconsider laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAKOTA WATER RESOURCES ACT OF 1999

The Senate proceeded to consider the bill (S. 623) to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dakota Water Resources Act of 1999".

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89-108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)—

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

(C) by striking "fish and wildlife conservation" and inserting "fish, wildlife, and other natural resource conservation";

(D) by inserting "augmented stream flows, ground water recharge," after "flood control,"; and

(E) by inserting "(as modified by the Dakota Water Resources Act of 1999)" before the period at the end;

(3) in subsection (e), by striking "terminated" and all that follows and inserting "terminated,"; and

(4) by striking subsections (f) and (g) and inserting the following:

"(f) COSTS.—

"(1) ESTIMATE.—The Secretary shall estimate—

"(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 1999; and

"(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

"(2) REPAYMENT CONTRACT.—An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

"(3) OPERATION AND MAINTENANCE COSTS.—The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share attributable to the capacity of the facilities (including mitigation facilities) that remain unused."

"(3) OPERATION AND MAINTENANCE COSTS.—Except as otherwise provided in this Act or Reclamation Law—

"(A) The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share of unit facilities in existence on the date of enactment of the Dakota Water Resources Act of 1999 attributable to the capacity of the facilities (including mitigation facilities) that remain unused;

"(B) The State of North Dakota shall be responsible for costs of operation and maintenance of the proportionate share of existing unit facilities that are used and shall be responsible for the full costs of operation and maintenance of any facility constructed after the date of enactment of the Dakota Water Resources Act of 1999; and

"(C) The State of North Dakota shall be responsible for the costs of providing energy to authorized unit facilities.

"(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE.—The Secretary shall enter into 1 or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

"(h) BOUNDARY WATERS TREATY OF 1909.—

"(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN.—Water systems constructed under this Act may deliver Missouri River water into the Hudson Bay basin only after the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, determines that adequate treatment has been provided to meet the requirements of the Treaty Between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the 'Boundary Waters Treaty of 1909')."

"(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN.—Prior to construction of any water

systems authorized under this Act to deliver Missouri River water into the Hudson Bay basin, the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment can be provided to meet the requirements of the Treaty between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington, January 11, 1909 (26 Stat. 2448; TS 548) (commonly known as the Boundary Waters Treaty of 1909).

“(2) COSTS.—All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be non-reimbursable.”.

SEC. 3. FISH AND WILDLIFE.

Section 2 of Public Law 89-108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) by striking subsections (b), (c), and (d) and inserting the following:

“(b) FISH AND WILDLIFE COSTS.—All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

“(c) RECREATION AREAS.—

“(1) COSTS.—If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be non-reimbursable.

“(2) APPROVAL.—The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

“(d) NON-FEDERAL SHARE.—The non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

“(1) Services in kind.

“(2) Payment, or provision of lands, interests therein, or facilities for the unit.

“(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.”;

(2) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting “(1)” after “(e)”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence—

(I) by striking “within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement” and inserting “to administer for recreation”; and

(II) by striking “which are not included within Federal waterfowl refuges and waterfowl production areas”; and

(ii) in the second sentence, by striking “or fish and wildlife enhancement”; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking “, within ten years after initial operation of the unit,”; and

(ii) by striking “paragraph (1) of this subsection” and inserting “paragraph (2)”;

(3) in subsection (f), by striking “and fish and wildlife enhancement”; and

(4) in subsection (j)—

(A) in paragraph (1), by striking “prior to the completion of construction of Lonetree Dam and Reservoir”; and

(B) by adding at the end the following:

“(4) TAAVER RESERVOIR.—Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

“(5) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary. If the features selected under section 8 include a buried pipeline and appurtenances between the McClusky Canal and New Rockford Canal, the use of the wildlife conservation area and Sheyenne Lake National Wildlife Refuge for such route is hereby authorized.”.

SEC. 4. INTEREST CALCULATION.

Section 4 of Public Law 89-108 (100 Stat. 435) is amended by adding at the end the following: “Interest during construction shall be calculated only until such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.”.

SEC. 5. IRRIGATION FACILITIES.

Section 5 of Public Law 89-108 (100 Stat. 419) is amended—

(1) by striking “SEC. 5. (a)(1)” and all that follows through subsection (c) and inserting the following:

“SEC. 5. IRRIGATION FACILITIES.

“(a) IN GENERAL.—

“(1) AUTHORIZED DEVELOPMENT.—In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 1999, the Secretary may develop irrigation in—

“(A) the Turtle Lake service area (13,700 acres);

“(B) the McClusky Canal service area (10,000 acres); and

“(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

“(2) DEVELOPMENT NOT AUTHORIZED.—None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

“(3) NO EXCESS DEVELOPMENT.—The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

“(4) PUMPING POWER.—Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

“(5) PRINCIPLE SUPPLY WORKS.—The Secretary shall complete and maintain the prin-

ciple supply works as identified in the 1984 Garrison Diversion Unit Commission Final Report dated December 20, 1984 as modified by the Dakota Water Resources Act of 1999.”;

“(5) PRINCIPAL SUPPLY WORKS.—The Secretary shall maintain the Snake Creek Pumping Plant, New Rockford Canal, and McClusky Canal features of the principal supply works. As appropriate, the Secretary shall rehabilitate or complete such features consistent with the purposes of this Act. Subject to the provisions of sections (8)(c) and (8)(d)(1) of this Act, the Secretary shall select a preferred alternative to implement the Dakota Water Resources Act of 1999. In making this section, one of the alternatives the Secretary shall consider is whether to connect the principal supply works in existence on the date of enactment.”;

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking “(a)(1)” and inserting “(a)”;

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking “Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)” and inserting “Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary.”; and

(5) by adding at the end the following:

“(e) IRRIGATION REPORT TO CONGRESS.—

“(1) IN GENERAL.—The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

“(2) FINDING.—The report shall include a finding on the economic, financial and engineering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

“(3) AUTHORIZATION.—If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.

“(4) DOCUMENTATION.—No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.”.

SEC. 6. POWER.

Section 6 of Public Law 89-108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking “Notwithstanding the provisions of” and inserting “Pursuant to the provisions of”; and

(B) by striking “revenues,” and all that follows and inserting “revenues.”; and

(2) by striking subsection (c) and inserting the following:

“(c) NO INCREASE IN RATES OR AFFECT ON REPAYMENT METHODOLOGY.—In accordance with the last sentence of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)), section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers. Nothing in the Dakota Water Resources Act of 1999 alters or affects in any way the repayment methodology in effect as of the date of enactment of that Act for other features of the Pick-Sloan Missouri Basin Program.”.

SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89-108 (100 Stat. 422) is amended—

(1) in subsection (a)(3)—
(A) in the second sentence—
(i) by striking “The non-Federal share” and inserting “Unless otherwise provided in this Act, the non-Federal share”;

(ii) by striking “each water system” and inserting “water systems”;

(iii) by inserting after the second sentence the following: “The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water systems. *Proceeds from loan repayments and any interest thereon shall be treated as Federal funds.*”; and

(iv) by striking the last sentence and inserting the following: “The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under the terms of this section. Funding provided under this section for the Red River Valley Water Supply Project shall be in addition to funding for that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May 12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in municipal, rural, and industrial projects under this section.”; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

“(b) WATER CONSERVATION PROGRAM.—The State of North Dakota may use funds provided under subsections (a) and (b)(1)(A) of section 10 to develop and implement a water conservation program. The Secretary and the State shall jointly establish water conservation goals to meet the purposes of the State program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share for future projects under subsection (a)(3) shall be reduced to 24.5 percent.

“(c) NONREIMBURSABILITY OF COSTS.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 1999 shall be nonreimbursable.

“(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL WATER SUPPLY.—The Secretary shall construct, operate, and maintain such municipal, rural, and industrial water systems as the Secretary determines to be necessary to meet the economic, public health, and environmental needs of the Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas.”.

SEC. 8. SPECIFIC FEATURES.

(a) IN GENERAL.—Public Law 89-108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

“SEC. 8. SPECIFIC FEATURES.

“(a) RED RIVER VALLEY WATER SUPPLY PROJECT.—

“(1) IN GENERAL.—The Secretary shall construct a feature or features to deliver Missouri River water to the Sheyenne River water supply and release facility or such

other feature or features as are selected under subsection (d).

“(2) DESIGN AND CONSTRUCTION.—The feature shall be designed and constructed to meet only the water delivery requirements of the irrigation areas, municipal, rural, and industrial water supply needs, ground water recharge, and streamflow augmentation (as described in subsection (b)(2)) authorized by this Act.

“(3) COMMENCEMENT OF CONSTRUCTION.—The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed.

“(b) REPORT ON RED RIVER VALLEY WATER NEEDS AND DELIVERY OPTIONS.—

“(1) IN GENERAL.—Pursuant to section 1(g), not later than 90 days after the date of enactment of the Dakota Water Resources Act of 1999, the Secretary and the State of North Dakota shall jointly submit to Congress a report on the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

“(2) NEEDS.—The needs addressed in the report shall include such needs as—

“(A) augmenting streamflows;
“(B) ground water recharge; and
“(C) enhancing—

“(i) municipal, rural, and industrial water supplies;

“(ii) water quality;
“(iii) aquatic environment; and
“(iv) recreation.

“(3) STUDIES.—Existing and ongoing studies by the Bureau of Reclamation on Red River Water Supply needs and options shall be deemed to meet the requirements of this section.

“(c) ENVIRONMENTAL IMPACT STATEMENTS.—

“(1) DRAFT.—

“(A) DEADLINE.—Pursuant to an agreement between the Secretary and the State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 1999, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including possible alternatives for delivering Missouri River water to the Red River Valley.

“(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date of enactment of the Dakota Water Resources Act of 1999, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

“(2) FINAL.—

“(A) DEADLINE.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

“(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

“(d) PROCESS FOR SELECTION.—

“(1) IN GENERAL.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select 1 or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley.

“(2) AGREEMENTS.—Not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected.

“(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).”.

SEC. 9. OAKES TEST AREA TITLE TRANSFER.

Public Law 89-108 (100 Stat. 423) is amended by striking section 9 and inserting the following:

“SEC. 9. OAKES TEST AREA TITLE TRANSFER.

“(a) IN GENERAL.—Not later than 2 years after execution of a record of decision under section 8(d) on whether to use the New Rockford Canal as a means of delivering water to the Red River Basin as described in section 8, the Secretary shall enter into an agreement with the State of North Dakota, or its designee, to convey title and all or any rights, interests, and obligations of the United States in and to the Oakes Test Area as constructed and operated under Public Law 99-294 (100 Stat. 418) under such terms and conditions as the Secretary believes would fully protect the public interest.

“(b) TERMS AND CONDITIONS.—The agreement shall define the terms and conditions of the transfer of the facilities, lands, mineral estate, easements, rights-of-way and water rights including the avoidance of costs that the Federal Government would otherwise incur in the case of a failure to agree under subsection (d).

“(c) COMPLIANCE.—The action of the Secretary under this section shall comply with all applicable requirements of Federal, State, and local law.

“(d) FAILURE TO AGREE.—If an agreement is not reached within the time limit specified in subsection (a), the Secretary shall dispose of the Oakes Test Area facilities under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).”.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89-108 (100 Stat. 424; 106 Stat. 4669, [4739]) 4739) is amended—

(1) in subsection (a)—

(A) by striking “(a)(1) There are authorized” and inserting the following:

“(a) WATER DISTRIBUTION FEATURES.—

“(1) IN GENERAL.—

“(A) MAIN STEM SUPPLY WORKS.—There is authorized”;

(B) in paragraph (1)—

(i) in the first sentence, by striking “\$270,395,000 for carrying out the provisions of section 5(a) through 5(c) and section 8(a)(1) of this Act” and inserting “\$164,000,000 to carry out section 5(a)”;

(ii) by inserting after subparagraph (A) (as designated by clause (i)) the following:

“(B) RED RIVER VALLEY WATER SUPPLY PROJECT.—There is authorized to be appropriated to carry out section 8(a)(1) \$200,000,000.”; and

(iii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There is" and inserting the following:

"(2) INDIAN IRRIGATION.—

"(A) IN GENERAL.—There is";

(ii) by striking "for carrying out section 5(e) of this Act" and inserting "to carry out section 5(c)"; and

(iii) by striking "Such sums" and inserting the following:

"(B) AVAILABILITY.—Such sums";

(2) in subsection (b)—

(A) by striking "(b)(1) There is" and inserting the following:

"(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY.—

"(1) STATEWIDE.—

"(A) INITIAL AMOUNT.—There is";

(B) in paragraph (1)—

(i) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(a) [\$300,000,000.] \$200,000,000."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There are authorized to be appropriated \$61,000,000" and all that follows through "Act." and inserting the following:

"(2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY FEATURES.—

"(A) INITIAL AMOUNT.—There is authorized to be appropriated—

"(i) to carry out section 8(a)(1), \$40,500,000; and

"(ii) to carry out section 7(d), \$20,500,000.";

(ii) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—

"(i) IN GENERAL.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(d) \$200,000,000.

"(ii) ALLOCATION.—The amount under clause (i) shall be allocated as follows:

"(I) \$30,000,000 to the Fort Totten Indian Reservation.

"(II) \$70,000,000 to the Fort Berthold Indian Reservation.

"(IV) \$80,000,000 to the Standing Rock Indian Reservation.

"(V) \$20,000,000 to the Turtle Mountain Indian Reservation."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums";

(3) in subsection (c)—

(A) by striking "(c) There is" and inserting the following:

"(c) RESOURCES TRUST AND OTHER PROVISIONS.—

"(1) INITIAL AMOUNT.—There is"; and

(B) by striking the second and third sentences and inserting the following:

"(2) ADDITIONAL AMOUNT.—In addition to amount under paragraph (1), there are authorized to be appropriated—

"(A) \$6,500,000 to carry out recreational projects; and

"(B) an additional \$25,000,000 to carry out section 11;

to remain available until expended.

"(3) RECREATIONAL PROJECTS.—Of the funds authorized under paragraph (2) for recreational projects, up to \$1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.

"(4) OPERATION AND MAINTENANCE.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary for operation and maintenance of the unit

(including the mitigation and enhancement features).

"(B) AUTHORIZATION LIMITS.—Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 1999, including funds expended for such purposes since the date of enactment of Public Law 99-294, shall not be counted against the authorization limits in this section.

"(5) MITIGATION AND ENHANCEMENT LAND.—On or about the date on which the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized by section 11 shall be established for operation and maintenance of the mitigation and enhancement land associated with the unit."; and

(4) by striking subsection (e) and inserting the following:

"(e) INDEXING.—The [\$300,000,000] \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 1999 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.

"(f) FOUR BEARS BRIDGE.—There is authorized to be appropriated, for demolition of the existing structure and construction of the Four Bears Bridge across Lake Sakakawea within the Fort Berthold Indian Reservation, \$40,000,000.".]

SEC. 11. NATURAL RESOURCES TRUST.

Section 11 of Public Law 89-108 (100 Stat. 424) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CONTRIBUTION.—

"(1) INITIAL AUTHORIZATION.—

"(A) IN GENERAL.—From the sums appropriated under section 10 for the Garrison Diversion Unit, the Secretary shall make an annual Federal contribution to a Natural Resources Trust established by non-Federal interests in accordance with subsection (b) and operated in accordance with subsection (c).

"(B) AMOUNT.—The total amount of Federal contributions under subparagraph (A) shall not exceed \$12,000,000.

"(2) ADDITIONAL AUTHORIZATION.—

"(A) IN GENERAL.—In addition to the amount authorized in paragraph (1), the Secretary shall make annual Federal contributions to the Natural Resources Trust until the amount authorized by section 10(c)(2)(B) is reached, in the manner stated in subparagraph (B).

"(B) ANNUAL AMOUNT.—The amount of the contribution under subparagraph (A) for each fiscal year shall be the amount that is equal to 5 percent of the total amount that is appropriated for the fiscal year under subsections (a)(1)(B) and (b)(1)(B) of section 10.

"(C) LIMITATION ON AVAILABILITY OF FUNDS.—Of the amount authorized by section 10(c)(2)(B), not more than \$10,000,000 shall be made available until the date on which the features authorized by section 8(a) are operational and meet the objectives of section 8(a), as determined by the Secretary and the State of North Dakota.".]

(2) in subsection (b), by striking "Wetlands Trust" and inserting "Natural Resources Trust"; and

(3) in subsection (c)—

(A) by striking "Wetland Trust" and inserting "Natural Resources Trust";

(B) by striking "are met" and inserting "is met";

(C) in paragraph (1), by inserting "grassland conservation and riparian areas" after "habitat"; and

(D) in paragraph (2), by adding at the end the following:

"(C) The power to fund incentives for conservation practices by landowners."

The committee amendments were agreed to.

The amendment (No. 4317) was agreed to, as follows:

On page 10, beginning on line 14, strike the sentence that begins "If the features selected under section 8".

On page 13, line 2, strike the sentence that begins "As appropriate, the Secretary shall rehabilitate or complete".

On page 13, line 5, strike "Sections 8(c) and 8(d)(1)" and insert "section 8".

Beginning on Page 18, strike line 17 and all that follows through Page 23, line 4, and insert the following:

SEC. 8. SPECIFIC FEATURES.

(a) SYKESTON CANAL.—Sykeston Canal is hereby deauthorized.

(b) IN GENERAL.—Public Law 89-108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

"SEC. 8. SPECIFIC FEATURES.

"(a) RED RIVER VALLEY WATER SUPPLY PROTECT.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary shall construct a feature or features to provide water to the Shenyenne River water supply and release facility or such other feature or features as are selected under subsection (d).

"(2) DESIGN AND CONSTRUCTION.—The feature or features shall be designed and constructed to meet only the following water supply requirements as identified in the report prepared pursuant to subsection (b) of this section: municipal, rural, and industrial water supply needs; ground water recharge; and streamflow augmentation.

"(3) COMMENCEMENT OF CONSTRUCTION.—

"(A) If the Secretary selects a project feature under this section that would provide water from the Missouri River or its tributaries to the Shenyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section, no later than 90 days after the completion of the final environmental impact statement, the Secretary shall transmit to Congress a comprehensive report which provides—

"(i) a detailed description of the proposed project feature;

"(ii) a summary of major issues addressed in the environmental impact statement;

"(iii) likely effects, if any, on other States bordering the Missouri River and on the State of Minnesota; and

"(iv) a description of how the project feature complies with the requirements of section 1(h)(1) of this Act (relating to the Boundary Waters Treaty of 1909).

"(B) No project feature or features that would provide water from the Missouri River or its tributaries to the Shenyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section shall be constructed unless such feature is specifically authorized by an Act of Congress approved subsequent to the Secretary's transmittal of the report required in paragraph (A). If, after complying with subsections (b) through (d) of this section, the Secretary selects a feature or features using only in-basin sources of water to meet the water needs of the Red River Valley identified in subsection (b), such features are authorized without further

Act of Congress. The Act of Congress referred to in this subparagraph must be an authorization bill, and shall not be a bill making appropriations.

(C) The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed."

(b) REPORT ON RED RIVER VALLEY WATER NEEDS AND OPTIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall conduct a comprehensive study of the water quality and quantity needs of the Red River Valley in North Dakota and possible options for meeting those needs.

(2) NEEDS.—The needs addressed in the report shall include such needs as—

(A) municipal, rural, and industrial water supplies;

(B) water quality;

(C) aquatic environment;

(D) recreation; and

(E) water conservation measures.

(3) PROCESS.—In conducting the study, the Secretary through an open and public process shall solicit input from gubernatorial designees from states that may be affected by possible options to meet such needs as well as designees from other federal agencies with relevant expertise. For any option that includes an out-of-basin solution, the Secretary shall consider the effect of the option on other states that may be affected by such option, as well as other appropriate considerations. Upon completion, a draft of the study shall be provided by the Secretary to such states and federal agencies. Such states and agencies shall be given not less than 120 days to review and comment on the study method, findings and conclusions leading to any alternative that may have an impact on such states or on resources subject to such federal agencies' jurisdiction. The Secretary shall receive and take into consideration any such comments and produce a final report and transmit the final report to Congress.

(4) LIMITATION.—No design or construction of any feature or features that facilitate an out-of-basin transfer from the Missouri River drainage basin shall be authorized under the provisions of this subsection.

(c) ENVIRONMENTAL IMPACT STATEMENT.—

(1) IN GENERAL.—Nothing in this section shall be construed to supersede any requirements under the National Environmental Policy Act or the Administrative Procedures Act.

(2) DRAFT.—

(A) DEADLINE.—Pursuant to an agreement between the Secretary and State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

(3) FINAL.—

(A) DEADLINE.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

(d) PROCESS FOR SELECTION.—

(1) IN GENERAL.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select 1 or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley. The Secretary's selection of an alternative shall be subject to judicial review.

(2) AGREEMENTS.—If the Secretary selects an option under subparagraph (1) that uses only in-basin sources of water, not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected. If the Secretary selects an option under subparagraph (1) that would require a further act of Congress under the provisions of subsection (a), not later than 180 days after the date of enactment of legislation required under subsection (a) the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features authorized by that legislation.

(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).

(f) DEVILS LAKE.—No funds authorized under this Act may be used to carry out the portion of the feasibility study of the Devils Lake basin, North Dakota, authorized under the Energy and Water Development Appropriations Act of 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River drainage basin into Devils Lake, North Dakota.

Make the following technical amendments:

Page 2, line 5, strike "1999" and insert "2000".

Page 3, line 13, strike "1999" and insert "2000".

Page 3, line 25, strike "1999" and insert "2000".

Page 4, line 23, strike "1999" and insert "2000".

Page 5, line 7, strike "1999" and insert "2000".

Page 11, line 14, strike "1999" and insert "2000".

Page 13, line 7, strike "1999" and insert "2000".

Page 15, line 19, strike "1999" and insert "2000".

Page 18, line 8, strike "1999" and insert "2000".

Page 29, line 5, strike "1999" and insert "2000".

Page 29, line 25, strike "1999" and insert "2000".

Mr. DORGAN. Mr. President, I am pleased that today the Senate has

passed S. 623, the Dakota Water Resources Act. My colleague from North Dakota, Senator KENT CONRAD, and I have worked on this legislation for quite some time. We have worked closely with others who have an interest in this bill and passage of S. 623 today is a result of tireless negotiation between our delegation and the downstream states, especially Missouri and Minnesota. The compromise that the Senate adopted today strikes an important balance between meeting the water needs of North Dakota and protecting the needs of other states.

This bill is essential to meeting the water needs of North Dakota. The bill, as amended, will provide authorization for the development of municipal, rural, and industrial water projects across the State of North Dakota. The bill would also help to meet the water needs of the four Indian Reservations in the state.

The Dakota Water Resources Act authorizes \$631.5 million. This includes a \$200 million authorization for municipal, rural and industrial water development and another \$200 million authorization to meet the critical water needs of the four Indian reservations in the state. The Red River Valley water supply needs will also receive a \$200 millions authorization. The bill includes \$25 million for a natural resources trust and \$6.5 million for recreation projects in North Dakota. Mr. President, the Dakota Water Resources Act represents a responsible way for the federal government to fulfill their role in the state. It also represents a serious compromise on the part of North Dakota, while still meeting our highest priority water supply needs.

The bill clearly lays out the process for meeting the water needs for the Red River Valley in eastern North Dakota. First, the Secretary of the Interior will identify these water needs and evaluate options for meeting them. The Department must submit a report on the needs and suggest possible solutions to the Congress. The Secretary is also required to complete an environmental impact statement, EIS, on the Red River Valley project and select the best option.

In the event that the Secretary of the Interior determines that the best option includes a transfer of Missouri River water to meet the Red River Valley needs, then a further act of Congress authorizing that option must occur before construction of that feature or features could begin. This is a key provision that will allow all of our colleagues downstream to have input on such a proposal. However, if an in-basin source of water is chosen, then no further action is needed from Congress.

This is a good bill that reflects hard work and compromise of many stakeholders all along the Missouri River. I am pleased that we were able to develop a win-win solution, that allows us to move forward in meeting the needs of North Dakotans while protecting the interests of those who are

downstream. I am confident that this bill can be signed into law this year, and look forward to working with our friends in the other body to pass this bill and send it to the President for his signature.

• **Mr. WELLSTONE.** Mr. President, I rise to speak about S. 623, the Dakota Water Resources Act of 2000, as amended by this critical amendment currently pending before the Senate.

Over the last two years, I have worked to preserve and protect Minnesota's precious water rights and resources, in consultation with a number of my Republican and Democratic colleagues, and to ensure that the concerns expressed about the original bill by those in my state were taken into account as this legislation was developed. While it does not resolve the roughest underlying issues—indeed it does not even attempt to resolve them—I believe this amendment takes into account those concerns, and I appreciate the willingness of my distinguished colleagues from North Dakota to accommodate their neighbors to the east.

It is clear this legislation, as amended by Senators BOND, CONRAD, and DORGAN, is a very different bill than the one which was originally introduced. While I, along with the State of Minnesota, had serious reservations about the original version, in the past year my office has conducted extensive consultations and discussions with Minnesota Department of Natural Resources water officials, who have indicated that the amended version of this legislation—at least the sections which apply to Minnesota interests—is a reasonable measure which meets their concerns. I agree that the key elements of this legislation, in which I have been most interested, will now simply provide for a comprehensive and unbiased review of the water quality and quantity needs of the Red River Valley, and of the environmental implications of any proposed water transfers—either within the basin or on an inter-basin basis—and thus I have not objected, as I did to earlier requests, to bringing it to the Senate floor for consideration. There are other parts of the bill, as amended, which primarily affect existing or planned facilities in North Dakota, which have not raised concerns in my state.

The amended bill does not pose the same concerns about biota transfer, inter-basin transfer, and water quality that I, and the State of Minnesota, had raised in forceful objection to the original legislation. In fact, it explicitly requires prior Congressional action and approval before any inter-basin transfer can be made. Under the bill, only after careful, reasoned study by the Secretary of the Interior—including extensive consultation with all of the interested stakeholders on the water quality and quantity needs of the Red River Valley, the various portions for meeting those needs, and the environmental implications of any fur-

ther steps to address them—would Congress even consider an inter-basin transfer of water, which I and others would continue to oppose. Let me restate that, because it's important: this legislation would preclude any transfer of water from the Missouri River or its tributaries to the Red River Valley, unless specifically authorized by a future Act of Congress, thus allowing concerns of biota transfer, inter-basin transfers and water quality to be discussed and fairly resolved by all the parties involved beforehand.

As many of my colleagues know, I have long opposed the original version of this legislation. I would continue to oppose any attempts to transfer water into the basin without adequate safeguards—if such safeguards can be devised, which is not at all clear. Many of my original concerns, and those of the state of Minnesota, including especially the Department of Natural Resources, remain about the detrimental environmental effects and potential adverse precedents of an inter-basin transfer. Even so, I recognize the real needs of our neighbors in North Dakota to resolve their continuing water problems, and I believe that the study provided for in this bill may help to further that effort. I believe this legislation represents a reasonable effort to move the process forward, while protecting the rights and resources of those in my state and elsewhere in the Upper Midwest. I commend my colleagues for their hard work and determination over these many years. •

The bill (S. 623), as amended, was read the third time and passed, as follows:

S. 623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Dakota Water Resources Act of 2000”.

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89-108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “of” and inserting “within”;

(B) in paragraph (5), by striking “more timely” and inserting “appropriate”; and

(C) in paragraph (7), by striking “federally-assisted water resource development project providing irrigation for 130,940 acres of land” and inserting “multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows”;

(2) in subsection (b)—

(A) by inserting “, jointly with the State of North Dakota,” after “construct”;

(B) by striking “the irrigation of 130,940 acres” and inserting “irrigation”;

(C) by striking “fish and wildlife conservation” and inserting “fish, wildlife, and other natural resource conservation”;

(D) by inserting “augmented stream flows, ground water recharge,” after “flood control,”; and

(E) by inserting “(as modified by the Dakota Water Resources Act of 2000)” before the period at the end;

(3) in subsection (e), by striking “terminated” and all that follows and inserting “terminated.”; and

(4) by striking subsections (f) and (g) and inserting the following:

“(f) COSTS.—

“(1) ESTIMATE.—The Secretary shall estimate—

“(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 2000; and

“(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

“(2) REPAYMENT CONTRACT.—An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

“(3) OPERATION AND MAINTENANCE COSTS.—Except as otherwise provided in this Act or Reclamation Law—

“(A) The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share of unit facilities in existence on the date of enactment of the Dakota Water Resources Act of 2000 attributable to the capacity of the facilities (including mitigation facilities) that remain unused;

“(B) The State of North Dakota shall be responsible for costs of operation and maintenance of the proportionate share of existing unit facilities that are used and shall be responsible for the full costs of operation and maintenance of any facility constructed after the date of enactment of the Dakota Water Resources Act of 2000; and

“(C) The State of North Dakota shall be responsible for the costs of providing energy to authorized unit facilities.

“(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE.—The Secretary shall enter into 1 or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

“(h) BOUNDARY WATERS TREATY OF 1909.—

“(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN.—Prior to construction of any water systems authorized under this Act to deliver Missouri River water into the Hudson Bay basin, the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment can be provided to meet the requirements of the Treaty between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington, January 11, 1909 (26 Stat. 2448; TS 548) (commonly known as the Boundary Waters Treaty of 1909).

“(2) COSTS.—All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be non-reimbursable.”.

SEC. 3. FISH AND WILDLIFE.

Section 2 of Public Law 89-108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) by striking subsections (b), (c), and (d) and inserting the following:

“(b) FISH AND WILDLIFE COSTS.—All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

“(c) RECREATION AREAS.—

“(1) COSTS.—If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be non-reimbursable.

“(2) APPROVAL.—The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

“(d) NON-FEDERAL SHARE.—The non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

“(1) Services in kind.

“(2) Payment, or provision of lands, interests therein, or facilities for the unit.

“(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.”;

(2) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting “(1)” after “(e)”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence—

(I) by striking “within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement” and inserting “to administer for recreation”; and

(II) by striking “which are not included within Federal waterfowl refuges and waterfowl production areas”; and

(ii) in the second sentence, by striking “or fish and wildlife enhancement”; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking “, within ten years after initial operation of the unit,”; and

(ii) by striking “paragraph (1) of this subsection” and inserting “paragraph (2)”;

(3) in subsection (f), by striking “and fish and wildlife enhancement”; and

(4) in subsection (j)—

(A) in paragraph (1), by striking “prior to the completion of construction of Lonetree Dam and Reservoir”; and

(B) by adding at the end the following:

“(4) TAAYER RESERVOIR.—Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

“(5) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary.”.

SEC. 4. INTEREST CALCULATION.

Section 4 of Public Law 89-108 (100 Stat. 435) is amended by adding at the end the following: “Interest during construction shall be calculated only until such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.”.

SEC. 5. IRRIGATION FACILITIES.

Section 5 of Public Law 89-108 (100 Stat. 419) is amended—

(1) by striking “SEC. 5. (a)(1)” and all that follows through subsection (c) and inserting the following:

“SEC. 5. IRRIGATION FACILITIES.

“(a) IN GENERAL.—

“(1) AUTHORIZED DEVELOPMENT.—In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 2000, the Secretary may develop irrigation in—

“(A) the Turtle Lake service area (13,700 acres);

“(B) the McClusky Canal service area (10,000 acres); and

“(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

“(2) DEVELOPMENT NOT AUTHORIZED.—None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

“(3) NO EXCESS DEVELOPMENT.—The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

“(4) PUMPING POWER.—Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

“(5) PRINCIPAL SUPPLY WORKS.—The Secretary shall maintain the Snake Creek Pumping Plant, New Rockford Canal, and McClusky Canal features of the principal supply works. Subject to the provisions of section (8) of this Act, the Secretary shall select a preferred alternative to implement the Dakota Water Resources Act of 2000. In making this section, one of the alternatives the Secretary shall consider is whether to connect the principal supply works in existence on the date of enactment.”;

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking “(a)(1)” and inserting “(a)”;

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking “Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)” and inserting “Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary.”; and

(5) by adding at the end the following:

“(e) IRRIGATION REPORT TO CONGRESS.—

“(1) IN GENERAL.—The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

“(2) FINDING.—The report shall include a finding on the economic, financial and engi-

neering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

“(3) AUTHORIZATION.—If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.

“(4) DOCUMENTATION.—No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.”.

SEC. 6. POWER.

Section 6 of Public Law 89-108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking “Notwithstanding the provisions of” and inserting “Pursuant to the provisions of”; and

(B) by striking “revenues,” and all that follows and inserting “revenues.”; and

(2) by striking subsection (c) and inserting the following:

“(c) NO INCREASE IN RATES OR AFFECT ON REPAYMENT METHODOLOGY.—In accordance with the last sentence of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)), section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers. Nothing in the Dakota Water Resources Act of 2000 alters or affects in any way the repayment methodology in effect as of the date of enactment of that Act for other features of the Pick-Sloan Missouri Basin Program.”.

SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89-108 (100 Stat. 422) is amended—

(1) in subsection (a)(3)—

(A) in the second sentence—

(i) by striking “The non-Federal share” and inserting “Unless otherwise provided in this Act, the non-Federal share”;

(ii) by striking “each water system” and inserting “water systems”;

(iii) by inserting after the second sentence the following: “The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water systems. Proceeds from loan repayments and any interest thereon shall be treated as Federal funds.”; and

(iv) by striking the last sentence and inserting the following: “The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under the terms of this section. Funding provided under this section for the Red River Valley Water Supply Project shall be in addition to funding for that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May 12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in municipal, rural, and industrial projects under this section.”; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

“(b) WATER CONSERVATION PROGRAM.—The State of North Dakota may use funds provided under subsections (a) and (b)(1)(A) of section 10 to develop and implement a water conservation program. The Secretary and the State shall jointly establish water conservation goals to meet the purposes of the

State program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share for future projects under subsection (a)(3) shall be reduced to 24.5 percent.

“(c) NONREIMBURSABILITY OF COSTS.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 2000 shall be nonreimbursable.

“(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL WATER SUPPLY.—The Secretary shall construct, operate, and maintain such municipal, rural, and industrial water systems as the Secretary determines to be necessary to meet the economic, public health, and environmental needs of the Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas.”

SEC. 8. SPECIFIC FEATURES.

(a) SYKESTON CANAL.—Sykeston Canal is hereby deauthorized.

(b) IN GENERAL.—Public Law 89-108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

“SEC. 8. SPECIFIC FEATURES.

“(a) RED RIVER VALLEY WATER SUPPLY PROJECT.—

“(1) IN GENERAL.—Subject to the requirements of this section, the Secretary shall construct a feature or features to provide water to the Sheyenne River water supply and release facility or such other feature or features as are selected under subsection (d).

“(2) DESIGN AND CONSTRUCTION.—The feature or features shall be designed and constructed to meet only the following water supply requirements as identified in the report prepared pursuant to subsection (b) of this section: Municipal, rural, and industrial water supply needs; ground water recharge; and streamflow augmentation.

“(3) COMMENCEMENT OF CONSTRUCTION.—(A) If the Secretary selects a project feature under this section that would provide water from the Missouri River or its tributaries to the Sheyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section, no later than 90 days after the completion of the final environmental impact statement, the Secretary shall transmit to Congress a comprehensive report which provides—

“(i) a detailed description of the proposed project feature;

“(ii) a summary of major issues addressed in the environmental impact statement;

“(iii) likely effects, if any, on other States bordering the Missouri River and on the State of Minnesota; and

“(iv) a description of how the project feature complies with the requirements of section 1(h)(1) of this Act (relating to the Boundary Waters Treaty of 1909).

“(B) No project feature or features that would provide water from the Missouri River or its tributaries to the Sheyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section shall be constructed unless such feature is specifically authorized by an Act of Congress approved subsequent to the Secretary's transmittal of the report required in subparagraph (A). If, after complying with subsections (b) through

(d) of this section, the Secretary selects a feature or features using only in-basin sources of water to meet the water needs of the Red River Valley identified in subsection (b), such features are authorized without further Act of Congress. The Act of Congress referred to in this subparagraph must be an authorization bill, and shall not be a bill making appropriations.

“(C) The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed.

“(b) REPORT ON RED RIVER VALLEY WATER NEEDS AND OPTIONS.—

“(1) IN GENERAL.—The Secretary of the Interior shall conduct a comprehensive study of the water quality and quantity needs of the Red River Valley in North Dakota and possible options for meeting those needs.

“(2) NEEDS.—The needs addressed in the report shall include such needs as—

“(A) municipal, rural, and industrial water supplies;

“(B) water quality;

“(C) aquatic environment;

“(D) recreation; and

“(E) water conservation measures.

“(3) PROCESS.—In conducting the study, the Secretary through an open and public process shall solicit input from gubernatorial designees from states that may be affected by possible options to meet such needs as well as designees from other federal agencies with relevant expertise. For any option that includes an out-of-basin solution, the Secretary shall consider the effect of the option on other states that may be affected by such option, as well as other appropriate considerations. Upon completion, a draft of the study shall be provided by the Secretary to such states and federal agencies. Such states and agencies shall be given not less than 120 days to review and comment on the study method, findings and conclusions leading to any alternative that may have an impact on such states or on resources subject to such federal agencies' jurisdiction. The Secretary shall receive and take into consideration any such comments and produce a final report and transmit the final report to Congress.

“(4) LIMITATION.—No design or construction of any feature or features that facilitate an out-of-basin transfer from the Missouri River drainage basin shall be authorized under the provisions of this subsection.

“(c) ENVIRONMENTAL IMPACT STATEMENT.—

“(1) IN GENERAL.—Nothing in this section shall be construed to supersede any requirements under the National Environmental Policy Act or the Administrative Procedures Act.

“(2) DRAFT.—

“(A) DEADLINE.—Pursuant to an agreement between the Secretary and State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

“(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status

of this activity, including an estimate of the date of completion.

“(3) FINAL.—

“(A) DEADLINE.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

“(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

“(d) PROCESS FOR SELECTION.—

“(1) IN GENERAL.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select 1 or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley. The Secretary's selection of an alternative shall be subject to judicial review.

“(2) AGREEMENTS.—If the Secretary selects an option under paragraph (1) that uses only in-basin sources of water, not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected. If the Secretary selects an option under paragraph (1) that would require a further act of Congress under the provisions of subsection (a), not later than 180 days after the date of enactment of legislation required under subsection (a) the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features authorized by that legislation.

“(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).

“(f) DEVILS LAKE.—No funds authorized under this Act may be used to carry out the portion of the feasibility study of the Devils Lake basin, North Dakota, authorized under the Energy and Water Development Appropriations Act of 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River drainage basin into Devils Lake, North Dakota.”

SEC. 9. OAKES TEST AREA TITLE TRANSFER.

Public Law 89-108 (100 Stat. 423) is amended by striking section 9 and inserting the following:

“SEC. 9. OAKES TEST AREA TITLE TRANSFER.

“(a) IN GENERAL.—Not later than 2 years after execution of a record of decision under section 8(d) on whether to use the New Rockford Canal as a means of delivering water to the Red River Basin as described in section 8, the Secretary shall enter into an agreement with the State of North Dakota, or its designee, to convey title and all or any rights, interests, and obligations of the United States in and to the Oakes Test Area as constructed and operated under Public Law 99-

294 (100 Stat. 418) under such terms and conditions as the Secretary believes would fully protect the public interest.

“(b) TERMS AND CONDITIONS.—The agreement shall define the terms and conditions of the transfer of the facilities, lands, mineral estate, easements, rights-of-way and water rights including the avoidance of costs that the Federal Government would otherwise incur in the case of a failure to agree under subsection (d).

“(c) COMPLIANCE.—The action of the Secretary under this section shall comply with all applicable requirements of Federal, State, and local law.

“(d) FAILURE TO AGREE.—If an agreement is not reached within the time limit specified in subsection (a), the Secretary shall dispose of the Oakes Test Area facilities under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).”

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89-108 (100 Stat. 424; 106 Stat. 4669, 4739) is amended—

(1) in subsection (a)—

(A) by striking “(a)(1) There are authorized” and inserting the following:

“(a) WATER DISTRIBUTION FEATURES.—

“(1) IN GENERAL.—

“(A) MAIN STEM SUPPLY WORKS.—There is authorized”;

(B) in paragraph (1)—

(i) in the first sentence, by striking “\$270,395,000 for carrying out the provisions of section 5(a) through 5(c) and section 8(a)(1) of this Act” and inserting “\$164,000,000 to carry out section 5(a)”;

(ii) by inserting after subparagraph (A) (as designated by clause (i)) the following:

“(B) RED RIVER VALLEY WATER SUPPLY PROJECT.—There is authorized to be appropriated to carry out section 8(a)(1) \$200,000,000.”; and

(iii) by striking “Such sums” and inserting the following:

“(C) AVAILABILITY.—Such sums”;

(C) in paragraph (2)—

(i) by striking “(2) There is” and inserting the following:

“(2) INDIAN IRRIGATION.—

“(A) IN GENERAL.—There is”;

(ii) by striking “for carrying out section 5(e) of this Act” and inserting “to carry out section 5(c)”; and

(iii) by striking “Such sums” and inserting the following:

“(B) AVAILABILITY.—Such sums”;

(2) in subsection (b)—

(A) by striking “(b)(1) There is” and inserting the following:

“(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY.—

“(1) STATEWIDE.—

“(A) INITIAL AMOUNT.—There is”;

(B) in paragraph (1)—

(i) by inserting before “Such sums” the following:

“(B) ADDITIONAL AMOUNT.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(a) \$200,000,000.”; and

(ii) by striking “Such sums” and inserting the following:

“(C) AVAILABILITY.—Such sums”;

(C) in paragraph (2)—

(i) by striking “(2) There are authorized to be appropriated \$61,000,000” and all that follows through “Act.” and inserting the following:

“(2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY FEATURES.—

“(A) INITIAL AMOUNT.—There is authorized to be appropriated—

“(i) to carry out section 8(a)(1), \$40,500,000; and

“(ii) to carry out section 7(d), \$20,500,000.”;

(ii) by inserting before “Such sums” the following:

“(B) ADDITIONAL AMOUNT.—

“(i) IN GENERAL.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(d) \$200,000,000.

“(ii) ALLOCATION.—The amount under clause (i) shall be allocated as follows:

“(I) \$30,000,000 to the Fort Totten Indian Reservation.

“(II) \$70,000,000 to the Fort Berthold Indian Reservation.

“(IV) \$80,000,000 to the Standing Rock Indian Reservation.

“(V) \$20,000,000 to the Turtle Mountain Indian Reservation.”; and

(ii) by striking “Such sums” and inserting the following:

“(C) AVAILABILITY.—Such sums”;

(3) in subsection (c)—

(A) by striking “(c) There is” and inserting the following:

“(c) RESOURCES TRUST AND OTHER PROVISIONS.—

“(1) INITIAL AMOUNT.—There is”;

(B) by striking the second and third sentences and inserting the following:

“(2) ADDITIONAL AMOUNT.—In addition to amount under paragraph (1), there are authorized to be appropriated—

“(A) \$6,500,000 to carry out recreational projects; and

“(B) an additional \$25,000,000 to carry out section 11;

“(3) RECREATIONAL PROJECTS.—Of the funds authorized under paragraph (2) for recreational projects, up to \$1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.

“(4) OPERATION AND MAINTENANCE.—

“(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary for operation and maintenance of the unit (including the mitigation and enhancement features).

“(B) AUTHORIZATION LIMITS.—Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 2000, including funds expended for such purposes since the date of enactment of Public Law 99-294, shall not be counted against the authorization limits in this section.

“(5) MITIGATION AND ENHANCEMENT LAND.—

On or about the date on which the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized by section 11 shall be established for operation and maintenance of the mitigation and enhancement land associated with the unit.”; and

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

(4) by striking subsection (e) and inserting the following:

“(e) INDEXING.—The \$200,000,000 amount under subsection (b)(1)(B), the \$200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.”.

version Unit, the Secretary shall make an annual Federal contribution to a Natural Resources Trust established by non-Federal interests in accordance with subsection (b) and operated in accordance with subsection (c).

“(B) AMOUNT.—The total amount of Federal contributions under subparagraph (A) shall not exceed \$12,000,000.

“(2) ADDITIONAL AUTHORIZATION.—

“(A) IN GENERAL.—In addition to the amount authorized in paragraph (1), the Secretary shall make annual Federal contributions to the Natural Resources Trust until the amount authorized by section 10(c)(2)(B) is reached, in the manner stated in subparagraph (B).

“(B) ANNUAL AMOUNT.—The amount of the contribution under subparagraph (A) for each fiscal year shall be the amount that is equal to 5 percent of the total amount that is appropriated for the fiscal year under subsections (a)(1)(B) and (b)(1)(B) of section 10.”.

(2) in subsection (b), by striking “Wetlands Trust” and inserting “Natural Resources Trust”; and

(3) in subsection (c)—

(A) by striking “Wetland Trust” and inserting “Natural Resources Trust”;

(B) by striking “are met” and inserting “is met”;

(C) in paragraph (1), by inserting “, grassland conservation and riparian areas” after “habitat”; and

(D) in paragraph (2), by adding at the end the following:

“(C) The power to fund incentives for conservation practices by landowners.”

PALMETTO BEND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 1474) providing for conveyance of the Palmetto Bend project to the State of Texas, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the “Palmetto Bend Conveyance Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) PROJECT.—the term “Project” means the Palmetto Bend Reclamation Project in the State of Texas authorized under Public Law 90-562 (82 Stat. 999).

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) STATE.—The term “State” means the State of Texas, acting through the Texas Water Development Board or the Lavaca-Navidad River Authority or both.

SEC. 3. CONVEYANCE.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law, and subject to the conditions set forth in sections 4 and 5, convey to the State all right, title and interest (excluding the mineral estate) in and to the Project held by the United States.

(b) REPORT.—If the conveyance under Section 3 has not been completed within 1 year and 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the status of the conveyance;

(2) any obstacles to completion of the conveyance; and

(3) the anticipated date for completion of the conveyance.