

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1999

OCTOBER 20, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 970]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 970) to authorize the Secretary of the Interior to provide assistance to the Perkins County Rural Water System, Inc., for the construction of water supply facilities in Perkins County, South Dakota, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Perkins County Rural Water System Act of 1999”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(2) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation; and

(3) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project.

SEC. 3. DEFINITIONS.

In this Act:

(1) CORPORATION.—The term “Corporation” means the Perkins County Rural Water System, Inc., a nonprofit corporation established and operated under the laws of the State of South Dakota substantially in accordance with the feasibility study.

(2) **FEASIBILITY STUDY.**—The term “feasibility study” means the study entitled “Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.”, as amended in March 1995.

(3) **PROJECT CONSTRUCTION BUDGET.**—The term “project construction budget” means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(4) **PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.**—The term “pumping and incidental operational requirements” means all power requirements that are incidental to the operation of the water supply system by the Corporation.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(6) **WATER SUPPLY SYSTEM.**—The term “water supply system” means intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines operated by the Perkins County Rural Water System, Inc., to the point of delivery of water to each entity that distributes water at retail to individual users.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) **IN GENERAL.**—The Secretary shall make grants to the Corporation for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) **LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.**—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

For operation during the period beginning May 1 and ending October 31 of each year, portions of the water supply system constructed with assistance under this Act shall be eligible to utilize power from the Pick-Sloan Missouri Basin Program established by section 9 of the Act of December 22, 1944 (Chapter 665; 58 Stat. 887), popularly known as the Flood Control Act of 1944.

SEC. 7. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 8. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 9. CONSTRUCTION OVERSIGHT.

(a) **AUTHORIZATION.**—At the request of the Corporation, the Secretary may provide to the Corporation assistance in overseeing matters relating to construction of the water supply system.

(b) **PROJECT OVERSIGHT ADMINISTRATION.**—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

- (1) \$15,000,000 for the planning and construction of the water supply system under section 4; and
- (2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

PURPOSE OF THE BILL

The purpose of H.R. 970 is to authorize the Secretary of the Interior to provide assistance to the Perkins County Rural Water System, Inc., for the construction of water supply facilities in Perkins County, South Dakota.

BACKGROUND AND NEED FOR LEGISLATION

Perkins County is located in Northwest South Dakota on the border with North Dakota. Like many areas in the High Plains, there are insufficient water supplies and much of what is available does not meet minimum health and safety standards. In 1982, a study was undertaken on the feasibility of building a water supply system that could connect with the Southwest Pipeline Project in North Dakota, which was authorized in connection with the North Dakota Garrison Diversion Unit. Under the North Dakota Century Law (S.L. 1983, ch. 685, § 8), a South Dakota connection was added as a component of the Southwest Water Authority.

In the early 1990s, South Dakota and Perkins County funded a water supply feasibility study which was completed in 1994. The study concluded that obtaining water from the Southwest Water Authority was the most feasible option and that the necessary water supply system would cost approximately \$20 million. Since other projected and authorized North Dakota users have decided they will not connect to the Southwest Pipeline Project, arrangements were made for Perkins County to participate. As part of an agreement with North Dakota, Perkins County would be able to obtain water at the lower operation and maintenance cost if it furnished approximately \$5.5 million to increase the pipe size to provide 400 gallons/minute. Since the Southwest Pipeline Project is an ongoing project, \$440,000 was provided in 1996 and \$550,000 in 1997 to North Dakota. An additional \$4.5 million will need to be provided to North Dakota during construction of the Perkins County connection to reimburse the State for work already completed. H.R. 970 provides for a 75–25 federal-local cost share, with a total authorization of \$15 million, for the water supply project costs.

COMMITTEE ACTION

H.R. 970 was introduced on March 3, 1999, by Congressman John R. Thune (R–SD). H.R. 970 was referred to the Committee on Resources and within the Committee to the Subcommittee on Water and Power. In the 105th Congress, a hearing was held on similar legislation (H.R. 1213) by the Subcommittee on Water and Power. On August 4, 1999, the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the measure by unanimous consent. Congressman Billy Tauzin (R–LA) offered an amendment to clarify how Pick-Sloan power is to be provided for project operation. It was adopted

by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title for the bill, the Perkins County Rural Water System Act of 1999.

Section 2. Findings

In 1977, the North Dakota State Legislature directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to the State of South Dakota, including a portion of Perkins County.

Amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline Project as an eligible project for federal cost share participation. The Perkins County Rural Water System is viewed as an extension of the Southwest Pipeline Project.

Section 3. Definitions

This section defines six terms used in the bill.

Section 4. Federal assistance for water supply system

Section 4(a) authorizes grants from the Secretary of the Interior for planning and construction of the system and for repairs to the existing distribution system to promote conservation and efficiency. Subsection 4(b) prohibits any obligation of funds until requirements of the National Environmental Policy Act (NEPA) are met and a final engineering report is submitted to Congress for 90 days. The inclusion of a provision providing that the requirements of NEPA must be met is not intended to suggest that such requirements would not apply in the absence of the provision nor to suggest that a full Environmental Impact Statement or even an Environmental Assessment would be necessary.

Section 5. Mitigation of fish and wildlife losses

This section provides language on mitigation for fish and wildlife losses on an acre-for-acre basis, based on ecological equivalency. The Committee expects that the mitigation acreage will be on a one-for-one basis.

Section 6. Use of Pick-Sloan power

For operation during the period beginning May 1 and ending October 31 of each year, portions of the water supply system shall be eligible to utilize power from the Pick-Sloan Missouri Basin Program established by section 9 of the Act of December 22, 1944 (Chapter 665, 58 Stat. 887). The Committee expects that the rate schedule applicable to the capacity and energy made available shall be the firm power rate schedule of the Pick-Sloan Eastern Division, Western Power Administration, in effect when the power is delivered by the Administration.

Section 7. Federal share

This section provides that the federal share shall be 75 percent of the total project construction budget for planning and construction of the water supply system and shall be indexed as reflected in appropriate engineering cost indices after March 1, 1995.

Section 8. Non-federal share

This section provides that the non-federal share shall be 25 percent of the total project construction budget for planning and construction of the water supply system and shall be indexed as reflected in appropriate engineering cost indices after March 1, 1995.

Section 9. Construction oversight

This section authorizes the Secretary of the Interior to provide construction oversight and limits expenditures by the Secretary under this authority to three percent of the construction budget.

Section 10. Authorization of appropriations

This section authorizes to be appropriated to the Secretary of the Interior \$15 million for the planning and construction of the system plus additional funds to cover increases in project costs during construction.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

CONSTITUTIONAL AUTHORITY STATEMENT

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

COMPLIANCE WITH HOUSE RULE XIII

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

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. *Government Reform Oversight Findings.* Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 970, the Perkins County Rural Water System Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs) and Marjorie Miller (For the state and local impact).

Sincerely,

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

Enclosure.

H.R. 970—Perkins County Rural Water System Act of 1999

Summary: H.R. 970 would authorize the Secretary of the Interior, acting through the Bureau of Reclamation (the bureau), to provide financial assistance to the Perkins County Rural Water System, Inc., for planning and constructing the Perkins County Rural Water System. To carry out these activities, the bill would authorize the appropriation of \$15 million in 1995 dollars plus additional amounts to cover increases in project costs during construction. The system would provide water to members of the Perkins County Rural Water System, Inc., in Perkins County, South Dakota.

CBO estimates that implementing H.R. 970 would require appropriations of \$18 million over the 2000–2004 period. We estimate that outlays would total \$16 million over that period and \$2 million after 2004. Enacting the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 970 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 970 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	1	3	5	5	4
Estimated Outlays	1	2	4	5	4

Basis of estimate: For the purpose of this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 1999 and that the estimated amounts necessary to implement the bill will be appropriated for each year. Based on information provided by the bureau, CBO anticipates that environmental and engineering studies for the project would be completed by the end of fiscal year 2001, that construction would begin in 2002, and that the project would be completed by 2006. (The bureau has indicated that it would take between three and five years to complete the project.) The estimated amounts of annual funding needed to meet this schedule are based on information provided by the bureau.

The total estimated cost of \$18 million over the 2000–2004 period reflects observed inflation from 1995 through 1998 and estimated inflation for 1999 through 2004. CBO estimates that inflation of between 2 percent and 3 percent a year would increase the project's total cost from \$15 million in 1995 dollars to about \$18 million, assuming appropriation of the necessary amounts over the 2000–2004 period. The estimated outlays are based on historical rates of spending for the types of activities authorized by the bill. The Perkins County Rural Water System, Inc., would bear the cost of operating and maintaining the project.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: H.R. 970 contains no intergovernmental mandates as defined in UMRA. The bill would set the nonfederal share of project costs at 25 percent. Any state or local governments choosing to participate in the project would do so on a voluntary basis.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On March 11, 1999, CBO transmitted a cost estimate for S. 243, the Perkins County Rural Water System Act of 1999, as ordered reported by the Senate Committee on Energy and Natural Resources on March 4, 1999. The two bills are nearly identical, and the two cost estimates are identical.

Estimate prepared by: Federal costs: Kim Cawley; impact on state, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

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