

105TH CONGRESS  
2D SESSION

# S. 2117

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 22, 1998

Mr. JOHNSON (for himself and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Perkins County Rural  
5       Water System Act of 1997”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

1           (1) there are insufficient water supplies of rea-  
2           sonable quality available to the members of the Per-  
3           kins County Rural Water System located in Perkins  
4           County, South Dakota, and the water supplies that  
5           are available do not meet minimum health and safe-  
6           ty standards, thereby posing a threat to public  
7           health and safety;

8           (2) in 1977, the North Dakota State Legisla-  
9           ture authorized and directed the State Water Com-  
10          mission to conduct the Southwest Area Water Sup-  
11          ply Study, which included water service to a portion  
12          of Perkins County, South Dakota;

13          (3) amendments made by the Garrison Diver-  
14          sion Unit Reformulation Act of 1986 (Public Law  
15          101–294) authorized the Southwest Pipeline project  
16          as an eligible project for Federal cost share partici-  
17          pation;

18          (4) the Perkins County Rural Water System  
19          has continued to be recognized by the State of North  
20          Dakota, the Southwest Water Authority, the North  
21          Dakota Water Commission, the Department of the  
22          Interior, and Congress as a component of the South-  
23          west Pipeline Project; and

24          (5) the best available, reliable, and safe rural  
25          and municipal water supply to serve the needs of the

1 Perkins County Rural Water System, Inc., members  
2 is the waters of the Missouri River as delivered by  
3 the Southwest Pipeline Project in North Dakota.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to ensure a safe and adequate municipal,  
6 rural, and industrial water supply for the members  
7 of the Perkins County Rural Water Supply System,  
8 Inc., in Perkins County, South Dakota;

9 (2) to assist the members of the Perkins Coun-  
10 ty Rural Water Supply System, Inc., in developing  
11 safe and adequate municipal, rural, and industrial  
12 water supplies; and

13 (3) to promote the implementation of water  
14 conservation programs by the Perkins County Rural  
15 Water System, Inc.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

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

22 (2) PROJECT CONSTRUCTION BUDGET.—The  
23 term “project construction budget” means the de-  
24 scription of the total amount of funds that are need-

1 ed for the construction of the water supply system,  
 2 as described in the feasibility study.

3 (3) PUMPING AND INCIDENTAL OPERATIONAL  
 4 REQUIREMENTS.—The term “pumping and inciden-  
 5 tal operational requirements” means all power re-  
 6 quirements that are incidental to the operation of in-  
 7 take facilities, pumping stations, water treatment fa-  
 8 cilities, cooling facilities, reservoirs, and pipelines to  
 9 the point of delivery of water by the Perkins County  
 10 Rural Water System to each entity that distributes  
 11 water at retail to individual users.

12 (4) SECRETARY.—The term “Secretary” means  
 13 the Secretary of the Interior, acting through the  
 14 Commissioner of the Bureau of Reclamation.

15 (5) WATER SUPPLY SYSTEM.—The term “water  
 16 supply system” means the Perkins County Rural  
 17 Water System, Inc., a nonprofit corporation, estab-  
 18 lished and operated substantially in accordance with  
 19 the feasibility study.

20 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**  
 21 **TEM.**

22 (a) IN GENERAL.—The Secretary shall make grants  
 23 to the water supply system for the Federal share of the  
 24 costs of—

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

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

7       (b) SERVICE AREA.—The water supply system shall  
8       provide for safe and adequate municipal, rural, and indus-  
9       trial water supplies, mitigation of wetlands areas, repairs  
10      to existing public water distribution systems, and water  
11      conservation in Perkins County, South Dakota.

12      (c) AMOUNT OF GRANTS.—Grants made available  
13      under subsection (a) to the water supply system shall not  
14      exceed the Federal share under section 10.

15      (d) LIMITATION ON AVAILABILITY OF CONSTRU-  
16      TION FUNDS.—The Secretary shall not obligate funds for  
17      the construction of the water supply system until—

18           (1) the requirements of the National Environ-  
19      mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
20      are met with respect to the water supply system;

21           (2) a final engineering report has been prepared  
22      and submitted to Congress for a period of not less  
23      than 90 days before the commencement of construc-  
24      tion of the system; and

1           (3) the water supply system has developed and  
2           implemented a water conservation program.

3 **SEC. 5. WATER CONSERVATION PROGRAM.**

4           (a) PURPOSE.—The water conservation program  
5 under section 4(d)(3) shall be designed to ensure that  
6 users of water from the water supply system will use the  
7 best practicable technology and management techniques to  
8 conserve water use.

9           (b) DESCRIPTION.—The water conservation program  
10 shall include—

11           (1) low consumption performance standards for  
12           all newly installed plumbing fixtures;

13           (2) leak detection and repair programs;

14           (3) rate structures that do not include declining  
15           block rate schedules for municipal households or spe-  
16           cial water users (as defined in the feasibility study);

17           (4) public education programs;

18           (5) coordinated operation and maintenance (in-  
19           cluding necessary repairs to ensure minimal water  
20           losses) by and between the water supply system and  
21           any member of the system that is a preexisting  
22           water supply facility within the service area of the  
23           system; and

24           (6) coordinated operation between the South-  
25           west Pipeline Project of North Dakota and the Per-

1       kins County Rural Water System, Inc., of South Da-  
2       kota.

3       (c) REVIEW AND REVISION.—The program described  
4 in subsection (b) shall contain provisions for periodic re-  
5 view and revision, in cooperation with the Secretary.

6       **SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.**

7       Mitigation of fish and wildlife losses incurred as a  
8 result of the construction and operation of the water sup-  
9 ply system shall be on an acre-for-acre basis, based on eco-  
10 logical equivalency, concurrent with project construction,  
11 as provided in the feasibility study.

12       **SEC. 7. USE OF PICK-SLOAN POWER.**

13       (a) IN GENERAL.—From power designated for future  
14 irrigation and drainage pumping for the Pick-Sloan Mis-  
15 souri River Basin Program, the Western Area Power Ad-  
16 ministration shall make available the capacity and energy  
17 required to meet the pumping and incidental operational  
18 requirements of the water supply system during the period  
19 beginning May 1 and ending October 31 of each year.

20       (b) CONDITIONS.—The capacity and energy described  
21 in subsection (a) shall be made available on the following  
22 conditions:

23               (1) The water supply system shall be operated  
24       on a not-for-profit basis.

1           (2) The water supply system shall contract to  
2           purchase its entire electric service requirements, in-  
3           cluding the capacity and energy made available  
4           under subsection (a), from a qualified preference  
5           power supplier that itself purchases power from the  
6           Western Area Power Administration.

7           (3) The rate schedule applicable to the capacity  
8           and energy made available under subsection (a) shall  
9           be the firm power rate schedule of the Pick-Sloan  
10          Eastern Division of the Western Area Power Admin-  
11          istration in effect when the power is delivered by the  
12          Administration.

13          (4) It shall be agreed by contract among—

14                (A) the Western Area Power Administra-  
15                tion;

16                (B) the power supplier with which the  
17                water supply system contracts under paragraph  
18                (2);

19                (C) the power supplier of the entity de-  
20                scribed in subparagraph (B); and

21                (D) the Perkins County Rural Water Sys-  
22                tem, Inc.;

23          that in the case of the capacity and energy made  
24          available under subsection (a), the benefit of the  
25          rate schedule described in paragraph (3) shall be



1       passed through to the water supply system, except  
2       that the power supplier of the water supply system  
3       shall not be precluded from including, in the charges  
4       of the supplier to the water system for the electric  
5       service, the other usual and customary charges of  
6       the supplier.

7   **SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.**

8       This Act does not limit the authorization for water  
9       projects in South Dakota and North Dakota under law  
10      in effect on or after the date of enactment of this Act.

11   **SEC. 9. WATER RIGHTS.**

12      Nothing in this Act—

13           (1) invalidates or preempts State water law or  
14      an interstate compact governing water;

15           (2) alters the rights of any State to any appro-  
16      priated share of the waters of any body of surface  
17      or ground water, whether determined by past or fu-  
18      ture interstate compacts or by past or future legisla-  
19      tive or final judicial allocations;

20           (3) preempts or modifies any Federal or State  
21      law, or interstate compact, dealing with water qual-  
22      ity or disposal; or

23           (4) confers on any non-Federal entity the abil-  
24      ity to exercise any Federal right to the waters of any  
25      stream or to any ground water resource.

1 **SEC. 10. FEDERAL SHARE.**

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

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

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

10 **SEC. 11. NON-FEDERAL SHARE.**

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

13 (1) the amount allocated in the total project  
14 construction budget for the planning and construc-  
15 tion of the water supply system under section 4; and

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

19 **SEC. 12. CONSTRUCTION OVERSIGHT.**

20 (a) AUTHORIZATION.—The Secretary may provide  
21 construction oversight to the water supply system for  
22 areas of the water supply system.

23 (b) PROJECT OVERSIGHT ADMINISTRATION.—The  
24 amount of funds used by the Secretary for planning and  
25 construction of the water supply system may not exceed  
26 an amount equal to 3 percent of the amount provided in

1 the total project construction budget for the portion of the  
2 project to be constructed in Perkins County, South Da-  
3 kota.

4 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated—

6 (1) \$15,000,000 for the planning and construc-  
7 tion of the water system under section 4; and

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

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