

106TH CONGRESS  
2D SESSION

# S. 623

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## AN ACT

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.

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 “Dakota Water Re-  
5        sources Act of 2000”.

1 **SEC. 2. PURPOSES AND AUTHORIZATION.**

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

4 (1) in subsection (a)—

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

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

9 (C) in paragraph (7), by striking “feder-  
10 ally-assisted water resource development project  
11 providing irrigation for 130,940 acres of land”  
12 and inserting “multipurpose federally assisted  
13 water resource project providing irrigation, mu-  
14 nicipal, rural, and industrial water systems,  
15 fish, wildlife, and other natural resource con-  
16 servation and development, recreation, flood  
17 control, ground water recharge, and augmented  
18 stream flows”;

19 (2) in subsection (b)—

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

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

24 (C) by striking “fish and wildlife conserva-  
25 tion” and inserting “fish, wildlife, and other  
26 natural resource conservation”;

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

4 (E) by inserting “(as modified by the Da-  
5 kota Water Resources Act of 2000)” before the  
6 period at the end;

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

9 (4) by striking subsections (f) and (g) and in-  
10 sserting the following:

11 “(f) COSTS.—

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

14 “(A) the actual construction costs of the  
15 facilities (including mitigation facilities) in ex-  
16 istence as of the date of enactment of the Da-  
17 kota Water Resources Act of 2000; and

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

22 “(2) REPAYMENT CONTRACT.—An appropriate  
23 repayment contract shall be negotiated that provides  
24 for the making of a payment for each payment pe-  
25 riod in an amount that is commensurate with the

1 percentage of the total capacity of the project that  
2 is in actual use during the payment period.

3 “(3) OPERATION AND MAINTENANCE COSTS.—  
4 Except as otherwise provided in this Act or Rec-  
5 lamation Law—

6 “(A) The Secretary shall be responsible for  
7 the costs of operation and maintenance of the  
8 proportionate share of unit facilities in exist-  
9 ence on the date of enactment of the Dakota  
10 Water Resources Act of 2000 attributable to  
11 the capacity of the facilities (including mitiga-  
12 tion facilities) that remain unused;

13 “(B) The State of North Dakota shall be  
14 responsible for costs of operation and mainte-  
15 nance of the proportionate share of existing  
16 unit facilities that are used and shall be respon-  
17 sible for the full costs of operation and mainte-  
18 nance of any facility constructed after the date  
19 of enactment of the Dakota Water Resources  
20 Act of 2000; and

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

24 “(g) AGREEMENT BETWEEN THE SECRETARY AND  
25 THE STATE.—The Secretary shall enter into 1 or more

1 agreements with the State of North Dakota to carry out  
2 this Act, including operation and maintenance of the com-  
3 pleted unit facilities and the design and construction of  
4 authorized new unit facilities by the State.

5 “(h) BOUNDARY WATERS TREATY OF 1909.—

6 “(1) DELIVERY OF WATER INTO THE HUDSON  
7 BAY BASIN.—Prior to construction of any water sys-  
8 tems authorized under this Act to deliver Missouri  
9 River water into the Hudson Bay basin, the Sec-  
10 retary, in consultation with the Secretary of State  
11 and the Administrator of the Environmental Protec-  
12 tion Agency, must determine that adequate treat-  
13 ment can be provided to meet the requirements of  
14 the Treaty between the United States and Great  
15 Britain relating to Boundary Waters Between the  
16 United States and Canada, signed at Washington,  
17 January 11, 1909 (26 Stat. 2448; TS 548) (com-  
18 monly known as the Boundary Waters Treaty of  
19 1909).

20 “(2) COSTS.—All costs of construction, oper-  
21 ation, maintenance, and replacement of water treat-  
22 ment and related facilities authorized by this Act  
23 and attributable to meeting the requirements of the  
24 treaty referred to in paragraph (1) shall be non-  
25 reimbursable.”.

1 **SEC. 3. FISH AND WILDLIFE.**

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

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

6 “(b) FISH AND WILDLIFE COSTS.—All fish and wild-  
7 life enhancement costs incurred in connection with water-  
8 fowl refuges, waterfowl production areas, and wildlife con-  
9 servation areas proposed for Federal or State administra-  
10 tion shall be nonreimbursable.

11 “(c) RECREATION AREAS.—

12 “(1) COSTS.—If non-Federal public bodies con-  
13 tinue to agree to administer land and water areas  
14 approved for recreation and agree to bear not less  
15 than 50 percent of the separable costs of the unit al-  
16 located to recreation and attributable to those areas  
17 and all the costs of operation, maintenance, and re-  
18 placement incurred in connection therewith, the re-  
19 mainder of the separable capital costs so allocated  
20 and attributed shall be nonreimbursable.

21 “(2) APPROVAL.—The recreation areas shall be  
22 approved by the Secretary in consultation and co-  
23 ordination with the State of North Dakota.

24 “(d) NON-FEDERAL SHARE.—The non-Federal share  
25 of the separable capital costs of the unit allocated to recre-  
26 ation shall be borne by non-Federal interests, using the

1 following methods, as the Secretary may determine to be  
2 appropriate:

3 “(1) Services in kind.

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

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

8 (2) in subsection (e)—

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

11 (B) by inserting “(1)” after “(e)”;

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

14 (i) in the first sentence—

15 (I) by striking “within ten years  
16 after initial unit operation to admin-  
17 ister for recreation and fish and wild-  
18 life enhancement” and inserting “to  
19 administer for recreation”; and

20 (II) by striking “which are not  
21 included within Federal waterfowl ref-  
22 uges and waterfowl production areas”;  
23 and

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

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

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

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

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

9 (4) in subsection (j)—

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

13 (B) by adding at the end the following:

14 “(4) TAAAYER RESERVOIR.—Taayer Reservoir is  
15 deauthorized as a project feature. The Secretary,  
16 acting through the Commissioner of Reclamation,  
17 shall acquire (including acquisition through donation  
18 or exchange) up to 5,000 acres in the Kraft and  
19 Pickell Slough areas and to manage the area as a  
20 component of the National Wildlife Refuge System  
21 giving consideration to the unique wildlife values of  
22 the area. In acquiring the lands which comprise the  
23 Kraft and Pickell Slough complex, the Secretary  
24 shall acquire wetlands in the immediate vicinity  
25 which may be hydrologically related and nearby up-



1 lands as may be necessary to provide for proper  
2 management of the complex. The Secretary shall  
3 provide for appropriate visitor access and control at  
4 the refuge.

5 “(5) DEAUTHORIZATION OF LONETREE DAM  
6 AND RESERVOIR.—The Lonetree Dam and Reservoir  
7 is deauthorized, and the Secretary shall designate  
8 the lands acquired for the former reservoir site as a  
9 wildlife conservation area. The Secretary shall enter  
10 into an agreement with the State of North Dakota  
11 providing for the operation and maintenance of the  
12 wildlife conservation area as an enhancement fea-  
13 ture, the costs of which shall be paid by the Sec-  
14 retary.”.

15 **SEC. 4. INTEREST CALCULATION.**

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

22 **SEC. 5. IRRIGATION FACILITIES.**

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

1           (1) by striking “SEC. 5. (a)(1)” and all that  
2 follows through subsection (c) and inserting the fol-  
3 lowing:

4 **“SEC. 5. IRRIGATION FACILITIES.**

5           “(a) IN GENERAL.—

6           “(1) AUTHORIZED DEVELOPMENT.—In addition  
7 to the 5,000-acre Oakes Test Area in existence on  
8 the date of enactment of the Dakota Water Re-  
9 sources Act of 2000, the Secretary may develop irri-  
10 gation in—

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

13                   “(B) the McClusky Canal service area  
14 (10,000 acres); and

15                   “(C) if the investment costs are fully reim-  
16 bursed without aid to irrigation from the Pick-  
17 Sloan Missouri Basin Program, the New Rock-  
18 ford Canal service area (1,200 acres).

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

22           “(3) NO EXCESS DEVELOPMENT.—The Sec-  
23 retary shall not develop irrigation in the service  
24 areas described in paragraph (1) in excess of the  
25 acreage specified in that paragraph, except that the

1 Secretary shall develop up to 28,000 acres of irriga-  
2 tion in other areas of North Dakota (such as the  
3 Elk/Charbonneau, Mon-Dak, Nesson Valley, Horse-  
4 head Flats, and Oliver-Mercer areas) that are not lo-  
5 cated in the Hudson Bay/Devils Lake drainage basin  
6 or James River drainage basin.

7 “(4) PUMPING POWER.—Irrigation development  
8 authorized by this section shall be considered au-  
9 thorized units of the Pick-Sloan Missouri Basin Pro-  
10 gram and eligible to receive project pumping power.

11 “(5) PRINCIPAL SUPPLY WORKS.—The Sec-  
12 retary shall maintain the Snake Creek Pumping  
13 Plant, New Rockford Canal, and McClusky Canal  
14 features of the principal supply works. Subject to  
15 the provisions of section (8) of this Act, the Sec-  
16 retary shall select a preferred alternative to imple-  
17 ment the Dakota Water Resources Act of 2000. In  
18 making this section, one of the alternatives the Sec-  
19 retary shall consider is whether to connect the prin-  
20 cipal supply works in existence on the date of enact-  
21 ment.”;

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

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

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

12           (5) by adding at the end the following:

13           “(e) IRRIGATION REPORT TO CONGRESS.—

14           “(1) IN GENERAL.—The Secretary shall inves-  
15 tigate and prepare a detailed report on the undesig-  
16 nated 28,000 acres in subsection (a)(3) as to costs  
17 and benefits for any irrigation units to be developed  
18 under Reclamation law.

19           “(2) FINDING.—The report shall include a find-  
20 ing on the economic, financial and engineering feasi-  
21 bility of the proposed irrigation unit, but shall be  
22 limited to the undesignated 28,000 acres.

23           “(3) AUTHORIZATION.—If the Secretary finds  
24 that the proposed construction is feasible, such irri-

1 gation units are authorized without further Act of  
2 Congress.

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

12 **SEC. 6. POWER.**

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

15 (1) in subsection (b)—

16 (A) by striking “Notwithstanding the pro-  
17 visions of” and inserting “Pursuant to the pro-  
18 visions of”; and

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

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

23 “(c) NO INCREASE IN RATES OR AFFECT ON REPAY-  
24 MENT METHODOLOGY.—In accordance with the last sen-  
25 tence of section 302(a)(3) of the Department of Energy

1 Organization Act (42 U.S.C. 7152(a)(3)), section 1(e)  
2 shall not result in any reallocation of project costs and  
3 shall not result in increased rates to Pick-Sloan Missouri  
4 Basin Program customers. Nothing in the Dakota Water  
5 Resources Act of 2000 alters or affects in any way the  
6 repayment methodology in effect as of the date of enact-  
7 ment of that Act for other features of the Pick-Sloan Mis-  
8 souri Basin Program.”.

9 **SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER**  
10 **SERVICE.**

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

13 (1) in subsection (a)(3)—

14 (A) in the second sentence—

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

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

21 (iii) by inserting after the second sen-  
22 tence the following: “The State may use  
23 the Federal and non-Federal funds to pro-  
24 vide grants or loans for municipal, rural,  
25 and industrial water systems. The State

1 shall use the proceeds of repaid loans for  
2 municipal, rural, and industrial water sys-  
3 tems. Proceeds from loan repayments and  
4 any interest thereon shall be treated as  
5 Federal funds.”; and

6 (iv) by striking the last sentence and  
7 inserting the following: “The Southwest  
8 Pipeline Project, the Northwest Area  
9 Water Supply Project, the Red River Val-  
10 ley Water Supply Project, and other mu-  
11 nicipal, industrial, and rural water systems  
12 in the State of North Dakota shall be eligi-  
13 ble for funding under the terms of this sec-  
14 tion. Funding provided under this section  
15 for the Red River Valley Water Supply  
16 Project shall be in addition to funding for  
17 that project under section 10(a)(1)(B).  
18 The amount of non-Federal contributions  
19 made after May 12, 1986, that exceeds the  
20 25 percent requirement shall be credited to  
21 the State for future use in municipal,  
22 rural, and industrial projects under this  
23 section.”; and

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

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

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

20       “(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL  
21 WATER SUPPLY.—The Secretary shall construct, operate,  
22 and maintain such municipal, rural, and industrial water  
23 systems as the Secretary determines to be necessary to  
24 meet the economic, public health, and environmental needs  
25 of the Fort Berthold, Standing Rock, Turtle Mountain (in-



1 cluding the Trenton Indian Service Area), and Fort  
2 Totten Indian Reservations and adjacent areas.”.

3 **SEC. 8. SPECIFIC FEATURES.**

4 (a) SYKESTON CANAL.—Sykeston Canal is hereby de-  
5 authorized.

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

9 **“SEC. 8. SPECIFIC FEATURES.**

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

12 “(1) IN GENERAL.—Subject to the require-  
13 ments of this section, the Secretary shall construct  
14 a feature or features to provide water to the  
15 Sheyenne River water supply and release facility or  
16 such other feature or features as are selected under  
17 subsection (d).

18 “(2) DESIGN AND CONSTRUCTION.—The fea-  
19 ture or features shall be designed and constructed to  
20 meet only the following water supply requirements  
21 as identified in the report prepared pursuant to sub-  
22 section (b) of this section: Municipal, rural, and in-  
23 dustrial water supply needs; ground water recharge;  
24 and streamflow augmentation.

1           “(3) COMMENCEMENT OF CONSTRUCTION.—(A)

2           If the Secretary selects a project feature under this  
3           section that would provide water from the Missouri  
4           River or its tributaries to the Sheyenne River water  
5           supply and release facility or from the Missouri  
6           River or its tributaries to such other conveyance fa-  
7           cility as the Secretary selects under this section, no  
8           later than 90 days after the completion of the final  
9           environmental impact statement, the Secretary shall  
10          transmit to Congress a comprehensive report which  
11          provides—

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

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

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

19                       “(iv) a description of how the project fea-  
20                       ture complies with the requirements of section  
21                       1(h)(1) of this Act (relating to the Boundary  
22                       Waters Treaty of 1909).

23           “(B) No project feature or features that would  
24           provide water from the Missouri River or its tribu-  
25           taries to the Sheyenne River water supply and re-

1 lease facility or from the Missouri River or its tribu-  
2 taries to such other conveyance facility as the Sec-  
3 retary selects under this section shall be constructed  
4 unless such feature is specifically authorized by an  
5 Act of Congress approved subsequent to the Sec-  
6 retary's transmittal of the report required in sub-  
7 paragraph (A). If, after complying with subsections  
8 (b) through (d) of this section, the Secretary selects  
9 a feature or features using only in-basin sources of  
10 water to meet the water needs of the Red River Val-  
11 ley identified in subsection (b), such features are au-  
12 thorized without further Act of Congress. The Act of  
13 Congress referred to in this subparagraph must be  
14 an authorization bill, and shall not be a bill making  
15 appropriations.

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

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

23 “(1) IN GENERAL.—The Secretary of the Inte-  
24 rior shall conduct a comprehensive study of the  
25 water quality and quantity needs of the Red River

1 Valley in North Dakota and possible options for  
2 meeting those needs.

3 “(2) NEEDS.—The needs addressed in the re-  
4 port shall include such needs as—

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

7 “(B) water quality;

8 “(C) aquatic environment;

9 “(D) recreation; and

10 “(E) water conservation measures.

11 “(3) PROCESS.—In conducting the study, the  
12 Secretary through an open and public process shall  
13 solicit input from gubernatorial designees from  
14 states that may be affected by possible options to  
15 meet such needs as well as designees from other fed-  
16 eral agencies with relevant expertise. For any option  
17 that includes an out-of-basin solution, the Secretary  
18 shall consider the effect of the option on other states  
19 that may be affected by such option, as well as other  
20 appropriate considerations. Upon completion, a draft  
21 of the study shall be provided by the Secretary to  
22 such states and federal agencies. Such states and  
23 agencies shall be given not less than 120 days to re-  
24 view and comment on the study method, findings  
25 and conclusions leading to any alternative that may

1 have an impact on such states or on resources sub-  
2 ject to such federal agencies' jurisdiction. The Sec-  
3 retary shall receive and take into consideration any  
4 such comments and produce a final report and  
5 transmit the final report to Congress.

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

11 “(c) ENVIRONMENTAL IMPACT STATEMENT.—

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

16 “(2) DRAFT.—

17 “(A) DEADLINE.—Pursuant to an agree-  
18 ment between the Secretary and State of North  
19 Dakota as authorized under section 1(g), not  
20 later than 1 year after the date of enactment of  
21 the Dakota Water Resources Act of 2000, the  
22 Secretary and the State of North Dakota shall  
23 jointly prepare and complete a draft environ-  
24 mental impact statement concerning all feasible  
25 options to meet the comprehensive water quality

1 and quantity needs of the Red River Valley and  
2 the options for meeting those needs, including  
3 the delivery of Missouri River water to the Red  
4 River Valley.

5 “(B) REPORT ON STATUS.—If the Sec-  
6 retary and State of North Dakota cannot pre-  
7 pare and complete the draft environmental im-  
8 pact statement within 1 year after the date of  
9 enactment of the Dakota Water Resources Act  
10 of 2000, the Secretary, in consultation and co-  
11 ordination with the State of North Dakota,  
12 shall report to Congress on the status of this  
13 activity, including an estimate of the date of  
14 completion.

15 “(3) FINAL.—

16 “(A) DEADLINE.—Not later than 1 year  
17 after filing the draft environmental impact  
18 statement, a final environmental impact state-  
19 ment shall be prepared and published.

20 “(B) REPORT ON STATUS.—If the Sec-  
21 retary and State of North Dakota cannot pre-  
22 pare and complete a final environmental impact  
23 statement within 1 year of the completion of  
24 the draft environmental impact statement, the  
25 Secretary, in consultation and coordination with

1           the State of North Dakota, shall report to Con-  
2           gress on the status of this activity, including an  
3           estimate of the date of completion.

4           “(d) PROCESS FOR SELECTION.—

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

15          “(2) AGREEMENTS.—If the Secretary selects an  
16          option under paragraph (1) that uses only in-basin  
17          sources of water, not later than 180 days after the  
18          record of decision has been executed, the Secretary  
19          shall enter into a cooperative agreement with the  
20          State of North Dakota to construct the feature or  
21          features selected. If the Secretary selects an option  
22          under paragraph (1) that would require a further  
23          act of Congress under the provisions of subsection  
24          (a), not later than 180 days after the date of enact-  
25          ment of legislation required under subsection (a) the

1 Secretary shall enter into a cooperative agreement  
2 with the State of North Dakota to construct the fea-  
3 ture or features authorized by that legislation.

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

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

23 **SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

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



1 **“SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

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

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

19       “(c) COMPLIANCE.—The action of the Secretary  
20 under this section shall comply with all applicable require-  
21 ments of Federal, State, and local law.

22       “(d) FAILURE TO AGREE.—If an agreement is not  
23 reached within the time limit specified in subsection (a),  
24 the Secretary shall dispose of the Oakes Test Area facili-  
25 ties under the Federal Property and Administrative Serv-  
26 ices Act of 1949 (40 U.S.C. 471 et seq.).”.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 10 of Public Law 89–108 (100 Stat. 424;  
3 106 Stat. 4669, 4739) is amended—

4 (1) in subsection (a)—

5 (A) by striking “(a)(1) There are author-  
6 ized” and inserting the following:

7 “(a) WATER DISTRIBUTION FEATURES.—

8 “(1) IN GENERAL.—

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

11 (B) in paragraph (1)—

12 (i) in the first sentence, by striking  
13 “\$270,395,000 for carrying out the provi-  
14 sions of section 5(a) through 5(c) and sec-  
15 tion 8(a)(1) of this Act” and inserting  
16 “\$164,000,000 to carry out section 5(a)”;

17 (ii) by inserting after subparagraph  
18 (A) (as designated by clause (i)) the fol-  
19 lowing:

20 “(B) RED RIVER VALLEY WATER SUPPLY  
21 PROJECT.—There is authorized to be appro-  
22 priated to carry out section 8(a)(1)  
23 \$200,000,000.”; and

24 (iii) by striking “Such sums” and in-  
25 serting the following:

26 “(C) AVAILABILITY.—Such sums”; and

1 (C) in paragraph (2)—

2 (i) by striking “(2) There is” and in-  
3 serting the following:

4 “(2) INDIAN IRRIGATION.—

5 “(A) IN GENERAL.—There is”;

6 (ii) by striking “for carrying out sec-  
7 tion 5(e) of this Act” and inserting “to  
8 carry out section 5(c)”;

9 (iii) by striking “Such sums” and in-  
10 serting the following:

11 “(B) AVAILABILITY.—Such sums”;

12 (2) in subsection (b)—

13 (A) by striking “(b)(1) There is” and in-  
14 serting the following:

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

17 “(1) STATEWIDE.—

18 “(A) INITIAL AMOUNT.—There is”;

19 (B) in paragraph (1)—

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

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

1 (ii) by striking “Such sums” and in-  
2 serting the following:

3 “(C) AVAILABILITY.—Such sums”; and  
4 (C) in paragraph (2)—

5 (i) by striking “(2) There are author-  
6 ized to be appropriated \$61,000,000” and  
7 all that follows through “Act.” and insert-  
8 ing the following:

9 “(2) INDIAN MUNICIPAL, RURAL, AND INDUS-  
10 TRIAL AND OTHER DELIVERY FEATURES.—

11 “(A) INITIAL AMOUNT.—There is author-  
12 ized to be appropriated—

13 “(i) to carry out section 8(a)(1),  
14 \$40,500,000; and

15 “(ii) to carry out section 7(d),  
16 \$20,500,000.”;

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

19 “(B) ADDITIONAL AMOUNT.—

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

1                   “(ii) ALLOCATION.—The amount  
2                   under clause (i) shall be allocated as fol-  
3                   lows:

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

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

8                               “(IV) \$80,000,000 to the Stand-  
9                               ing Rock Indian Reservation.

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

12                              (ii) by striking “Such sums” and in-  
13                              serting the following:

14                              “(C) AVAILABILITY.—Such sums”;

15                              (3) in subsection (c)—

16                                   (A) by striking “(c) There is” and insert-  
17                                   ing the following:

18                              “(c) RESOURCES TRUST AND OTHER PROVISIONS.—

19                                   “(1) INITIAL AMOUNT.—There is”; and

20                                   (B) by striking the second and third sen-  
21                                   tences and inserting the following:

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

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

3           “(B) an additional \$25,000,000 to carry  
4 out section 11;  
5 to remain available until expended.

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

11           “(4) OPERATION AND MAINTENANCE.—

12           “(A) IN GENERAL.— There are authorized  
13 to be appropriated such sums as are necessary  
14 for operation and maintenance of the unit (in-  
15 cluding the mitigation and enhancement fea-  
16 tures).

17           “(B) AUTHORIZATION LIMITS.—Expendi-  
18 tures for operation and maintenance of features  
19 substantially completed and features con-  
20 structed before the date of enactment of the  
21 Dakota Water Resources Act of 2000, including  
22 funds expended for such purposes since the  
23 date of enactment of Public Law 99–294, shall  
24 not be counted against the authorization limits  
25 in this section.

1           “(5) MITIGATION AND ENHANCEMENT LAND.—  
 2           On or about the date on which the features author-  
 3           ized by section 8(a) are operational, a separate ac-  
 4           count in the Natural Resources Trust authorized by  
 5           section 11 shall be established for operation and  
 6           maintenance of the mitigation and enhancement  
 7           land associated with the unit.”; and

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

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

19          **SEC. 11. NATURAL RESOURCES TRUST.**

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

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

24                 “(a) CONTRIBUTION.—

25                         “(1) INITIAL AUTHORIZATION.—

1           “(A) IN GENERAL.—From the sums appro-  
2           priated under section 10 for the Garrison Di-  
3           version Unit, the Secretary shall make an an-  
4           nual Federal contribution to a Natural Re-  
5           sources Trust established by non-Federal inter-  
6           ests in accordance with subsection (b) and oper-  
7           ated in accordance with subsection (c).

8           “(B) AMOUNT.—The total amount of Fed-  
9           eral contributions under subparagraph (A) shall  
10          not exceed \$12,000,000.

11          “(2) ADDITIONAL AUTHORIZATION.—

12           “(A) IN GENERAL.—In addition to the  
13           amount authorized in paragraph (1), the Sec-  
14           retary shall make annual Federal contributions  
15           to the Natural Resources Trust until the  
16           amount authorized by section 10(c)(2)(B) is  
17           reached, in the manner stated in subparagraph  
18           (B).

19           “(B) ANNUAL AMOUNT.—The amount of  
20           the contribution under subparagraph (A) for  
21           each fiscal year shall be the amount that is  
22           equal to 5 percent of the total amount that is  
23           appropriated for the fiscal year under sub-  
24           sections (a)(1)(B) and (b)(1)(B) of section  
25           10.”.



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

4           (3) in subsection (c)—

5                 (A) by striking “Wetland Trust” and in-  
6                 serting “Natural Resources Trust”;

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

9                 (C) in paragraph (1), by inserting “, grass-  
10                 land conservation and riparian areas” after  
11                 “habitat”; and

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

14                         “(C) The power to fund incentives for con-  
15                         servation practices by landowners.”

          Passed the Senate October 13 (legislative day, Sep-  
tember 22), 2000.

Attest:

*Secretary.*



106TH CONGRESS  
2T4dSession

# **S. 623**

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## **AN ACT**

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.

S 623 ES—2

S 623 ES—3

S 623 ES—4

S 623 ES—5