

104TH CONGRESS
1ST SESSION

H. R. 2644

To provide for the transfer of the Missouri River Basin, Pick-Sloan Project facilities in the States of Kansas and Nebraska, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 1995

Mr. ROBERTS (for himself and Mr. BROWNBACK) introduced the following bill;
which was referred to the Committee on Resources

A BILL

To provide for the transfer of the Missouri River Basin, Pick-Sloan Project facilities in the States of Kansas and Nebraska, 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 “Missouri River Basin,
5 Kansas and Nebraska, Pick-Sloan Project Facilities
6 Transfer Act”.

7 **SEC. 2. DEFINITIONS.**

8 As used in this Act:

9 (1) PROJECT BENEFICIARY.—(A) The term
10 “project beneficiary” means one or more of the fol-

1 lowing irrigation districts or reclamation districts or-
2 ganized and operating under the laws of the State
3 of Kansas or the State of Nebraska:

4 (i) In Kansas, Kansas-Bostwick Irrigation
5 District No. 2, Kirwin Irrigation District No. 1,
6 Webster Irrigation District No. 4, and Almena
7 Irrigation District No. 5; and

8 (ii) In Nebraska, Ainsworth Irrigation Dis-
9 trict, Farwell Irrigation District, Sargent Irri-
10 gation District, Loup Basin Reclamation Dis-
11 trict, Frenchman-Cambridge Irrigation District
12 and Nebraska Bostwick Irrigation District.

13 (B) Such term may also include an organization
14 established by one or more of the irrigation districts
15 referred to in subparagraph (A) under laws of the
16 States of Kansas and Nebraska authorizing the cre-
17 ation of interlocal cooperation entities or such term
18 may include another political subdivision of the
19 States of Kansas or Nebraska established by act of
20 their respective State legislatures for the purpose of
21 acquiring title to reclamation project property in ac-
22 cordance with this Act.

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

1 Army, as appropriate, with jurisdiction over project
2 facilities subject to this Act.

3 (3) RECLAMATION PROJECT PROPERTY.—The
4 term “reclamation project property” means the fol-
5 lowing:

6 (A) All contracts which are currently in ef-
7 fect between the United States and the project
8 beneficiaries or other parties and which relate
9 to the projects, project facilities and related
10 programs, including any such contracts, written
11 or not written to provide project use power
12 from Federal power facilities.

13 (B) All reclamation project distribution
14 and drainage facilities, all reservoir and related
15 diversion facilities and all related lands cur-
16 rently held by the United States which are sub-
17 ject to this Act.

18 (C) All acquired lands, both surface and
19 subsurface estate, within the respective rec-
20 lamation projects.

21 (D) All water rights held by the United
22 States relating to the respective project facili-
23 ties.

1 (E) All outstanding leases or contracts on
2 the lands associated with the respective
3 projects.

4 (F) All fund accounts held by the United
5 States for any purposes related to the project.

6 (G) All contracts, other than those listed
7 under subparagraph (E), or other legal obliga-
8 tions in existence which have any impact upon
9 the project facilities or the project operations
10 and which may be required to be assumed or
11 accepted by the project beneficiary.

12 (H) All personal property, including oper-
13 ating equipment, tools and other tangible per-
14 sonal property, held by the United States for
15 the purposes of operating the project or serving
16 the project facilities.

17 (I) All funds held in reserve or otherwise
18 dedicated accounts in which funds have been
19 paid by project beneficiaries or from other
20 nonproject related revenues and which are, as
21 of the date of enactment of this Act, held for
22 project purposes.

1 **SEC. 3. TRANSFER OF MISSOURI RIVER BASIN, PICK-SLOAN**
2 **PROJECTS FACILITIES.**

3 (a) GENERAL AUTHORITY.—Within 180 days after
4 the date of enactment of this Act and upon tender of the
5 specified consideration by the project beneficiary, the Sec-
6 retary shall transfer, in fee title and free of all liens and
7 encumbrances, the project described in section 6, including
8 all right, title, and interest of the United States in and
9 to the reclamation project property, to the project bene-
10 ficiary of each such described project.

11 (b) CONSIDERATION AND SATISFACTION OF OUT-
12 STANDING OBLIGATIONS.—The transfer of a project
13 under subsection (a) shall be for the consideration speci-
14 fied for the project. The payment of the specified consider-
15 ation for a project shall be in full and complete satisfaction
16 of all obligations against the project facilities and the
17 project beneficiaries existing before the date of transfer
18 of the project under every contract entered into by and
19 between the United States and the project beneficiaries.
20 The completion of the transfer of all facilities as provided
21 for in this Act and the payment of the consideration speci-
22 fied for each transferred project shall be deemed to con-
23 stitute full and complete satisfaction of any and all obliga-
24 tions for further payments or repayments by the respective
25 project sponsors for irrigation benefits of the project facili-

1 ties and for any other benefits specifically transferred to
2 the respective project sponsors.

3 (c) TRANSFER COSTS.—All costs of transfers carried
4 out under this section shall be the obligation of the United
5 States.

6 (d) TRANSFER DOCUMENTS.—The Secretary with
7 the assistance of the project beneficiaries shall execute all
8 necessary transfer documents and make all such filings
9 or take all such actions as may be needed to consummate
10 the transfers of reclamation project property. Such docu-
11 ments shall include (but not be limited to) land deeds,
12 court proceedings, decrees, bills of sale, certificates of title,
13 lease contract transfers, water rights certificates and
14 amendment documents, and notice filings.

15 (e) PRESENT VESTING OF LEASE BENEFITS AND
16 OBLIGATIONS.—The project beneficiaries to whom any
17 project lands are to be transferred under this section shall
18 be entitled to immediately assume the management of all
19 existing and future leases and shall be entitled to any reve-
20 nues accruing on or after the date of enactment of this
21 Act.

22 (f) LIMITATION.—The further transfer of any facili-
23 ties or parts thereof of any project which are not specifi-
24 cally transferred by this Act shall only be carried out by
25 the United States with the specific advice and consent of

1 the project beneficiaries to which project facilities are to
2 be transferred by this Act.

3 **SEC. 4. LIABILITY.**

4 Upon completion of the transfer of reclamation
5 project property to the project beneficiaries as provided
6 by this Act, the project beneficiaries shall assume sole re-
7 sponsibility and liability for the project and the project
8 beneficiaries shall hold the United States harmless and in-
9 demnify the United States against any and all claims of
10 damage, except that all project facilities transferred under
11 this Act shall, as to the project beneficiaries, be free from
12 liability for latent defects in such facilities unless all such
13 defects were fully disclosed and the defects corrected or
14 accepted in writing as to further future liability by the
15 project beneficiaries.

16 **SEC. 5. PROJECT PURPOSES, OPERATIONS, AND COST AL-**
17 **LOCATIONS.**

18 (a) CONTINUATION.—All facilities transferred in ac-
19 cordance with this Act shall be deemed to be committed
20 to the purposes for which those facilities were authorized
21 and constructed. Operations of all such transferred facili-
22 ties shall be subject to the laws of the States of Kansas
23 and Nebraska as set forth in the establishment and oper-
24 ation of irrigation or reclamation districts under those re-
25 spective State laws. All cost allocations identified as reim-

1 bursable by other beneficiaries provided for as a part of
2 the original authorizing laws for each transferred project
3 shall remain due from those beneficiaries under the same
4 provisions and in the same manner as originally approved
5 from and after the date of enactment of this Act until
6 paid.

7 (b) DEEMED CONSENT OF PROJECT BENE-
8 FICIARY.—The project beneficiary of each transferred
9 project, upon accepting the transfer provided under this
10 Act, shall be deemed to agree to operate, maintain, repair,
11 replace and rehabilitate the project in a manner designed
12 to carry out the intended purposes for which the project
13 was developed and constructed, except that a transferred
14 project or part thereof may be redirected to another al-
15 ready identified use or to another use if the project bene-
16 ficiary determines that the public purpose for which the
17 facilities were constructed is better served.

18 (c) TERMINATION OF MANDATES.—All mandates im-
19 posed by the Reclamation Act of 1902 (and all Acts sup-
20 plementary thereto or amendatory thereof, including the
21 Reclamation Reform Act of 1982, or by Department of
22 the Interior or Army regulations, upon the project facili-
23 ties, the project beneficiaries, or the individual water users
24 for whom the respective projects are operated shall be ter-
25 minated upon the completion of the transfers as provided

1 by this Act. Any other Federal laws and regulations shall
2 be administered upon the projects as they might be over
3 any other non-Federal project.

4 (d) CERTAIN ACTS NOT APPLICABLE.—The trans-
5 fers directed by this Act are subject to the requirement
6 that all transferred reclamation project property be used
7 in accordance with this section. A transfer under this Act
8 shall not—

9 (1) be deemed to constitute a major Federal ac-
10 tion within the meaning of the National Environ-
11 mental Policy Act of 1969 and shall therefore be
12 deemed to satisfy all requirements of the National
13 Environmental Policy Act of 1969 without further
14 action;

15 (2) constitute or be deemed a basis for invoking
16 any provisions of the Endangered Species Act of
17 1973;

18 (3) require certification under the provisions of
19 the Federal Water Pollution Control Act;

20 (4) be subject to the provisions of chapter 5 of
21 title 5, United States Code (commonly known as the
22 “Administrative Procedures Act”); or

23 (5) be considered a disposal of Federal surplus
24 property under the provisions of the Federal Prop-
25 erty and Administrative Services Act of 1949.

1 **SEC. 6. FACILITIES AFFECTED.**

2 (a) AINSWORTH UNIT.—The Ainsworth Unit, Mis-
3 souri River Basin Project, shall consist of the project con-
4 structed and operated pursuant to the Act of December
5 22, 1944 (58 Stat. 887, Public Law 78–534), and the Act
6 of August 21, 1954 (68 Stat. 757), and the Act of May
7 18, 1956 (Public Law 84–531), and which is situated in
8 Cherry, Brown, and Rock Counties in Nebraska. The
9 Ainsworth Unit shall be transferred to the Ainsworth Irri-
10 gation District as the project beneficiary upon the pay-
11 ment of \$1,747,097 as consideration therefore.

12 (b) FARWELL UNIT.—The Farwell Unit, Missouri
13 River Basin Project, shall consist of the project con-
14 structed and operated pursuant to the Act of December
15 22, 1944 (58 Stat. 887, Public Law 78–534), and the Act
16 of August 3, 1956 (70 Stat. 975), and which is situated
17 in Howard, Sherman, Custer and Valley Counties in Ne-
18 braska. The Farwell Unit shall be transferred to the
19 Farwell Irrigation District and to the Loup Basin Rec-
20 lamation District as the project beneficiaries in such man-
21 ner as elected by the beneficiaries upon the payment of
22 \$2,399,874 as consideration therefore.

23 (c) SARGENT UNIT.—The Sargent Unit, Missouri
24 River Basin Project, shall consist of the project con-
25 structed and operated pursuant to the Act of December
26 22, 1944 (58 Stat. 887, Public Law 78–534), and the Act

1 of August 3, 1956 (70 Stat. 975), and which is situated
2 in Blaine, Custer, and Valley Counties in Nebraska. The
3 Sargent Unit shall be transferred to the Sargent Irrigation
4 District and to the Loup Basin Reclamation District as
5 the project beneficiaries in such manner as elected by the
6 beneficiaries upon the payment of \$565,862 as consider-
7 ation therefore.

8 (d) FRENCHMAN-CAMBRIDGE UNIT.—The French-
9 man-Cambridge Unit, Missouri River Basin Project, shall
10 consist of the project constructed and operated pursuant
11 to the Act of December 22, 1944 (58 Stat. 887), by Act
12 of Congress (Public Law 78–534), as a component of the
13 Pick-Sloan Missouri Basin Program, and which is situated
14 in Red Willow, Frontier, Hitchcock, Furnas and Harlan
15 Counties in Nebraska. The Frenchman-Cambridge Unit
16 shall be transferred to the Frenchman-Cambridge Irriga-
17 tion District or to another project beneficiary designated
18 by the Irrigation District as the project beneficiaries upon
19 the payment of \$1,478,291 as consideration therefore.

20 (e) BOSTWICK UNIT.—The Bostwick Unit, Missouri
21 River Basin Project, shall consist of the projects con-
22 structed and operated pursuant to the Act of December
23 22, 1944 (58 Stat. 887), by Act of Congress (Public Law
24 78–534) as a component of the Pick-Sloan Missouri Basin
25 Program, and which are situated in Harlan, Franklin,

1 Webster and Nuckolls Counties in Nebraska, and Repub-
2 lic, Jewell and Cloud Counties in Kansas. The reclamation
3 project property of the Bostwick Unit shall include all con-
4 structed facilities deemed to be a part of the irrigation
5 operations for the Unit and shall include only that part
6 of the Harlan County Dam and Reservoir required for irri-
7 gation storage and irrigation use. For purposes of this
8 transfer such irrigation storage shall include water storage
9 capacity between elevation 1925.0 and 1946.0 M.S.L. In
10 accordance with the conditions set forth herein the irri-
11 gation storage and operations agreements now in effect be-
12 tween the United States Army Corps of Engineers, and
13 the United States Department of Interior, Bureau of Rec-
14 lamation, shall be the basis for future operations between
15 the United States Army Corps of Engineers, and the
16 project sponsors. The parts of the Bostwick Unit nec-
17 essary to the operations of the Nebraska portion of the
18 project shall be transferred to the Nebraska Bostwick Irri-
19 gation District or to another project beneficiary des-
20 igned by the Irrigation District as the project bene-
21 ficiaries. The parts of the Bostwick Unit necessary to the
22 operations of the Kansas portion of the project shall be
23 transferred to the Kansas-Bostwick Irrigation District No.
24 2 or to another project beneficiary designated by the Irri-
25 gation District as the project beneficiaries. The payment

1 of \$4,333,804 shall constitute consideration for the
2 Bostwick Unit.

3 (f) ALMENA UNIT.—The Almena Unit, Missouri
4 River Basin Project, shall consist of the project con-
5 structed and operated pursuant to the Act of December
6 22, 1944 (58 Stat. 887, Public Law 78–534), and the
7 Flood Control Act of 1946 (Public Law 78–526), and
8 which is situated in Norton and Phillips Counties in Kan-
9 sas. The Almena Unit shall be transferred to the Almena
10 Irrigation District No. 5 or to another project beneficiary
11 designated by the Irrigation District as the project bene-
12 ficiaries upon the payment of \$112,631 as consideration
13 therefore.

14 (g) KIRWIN UNIT.—The Kirwin Unit, Missouri River
15 Basin Project, shall consist of the project constructed and
16 operated pursuant to the Act of December 22, 1944 (58
17 Stat. 887, Public Law 78–534), and the Flood Control
18 Act of 1946 (Public Law 78–526), and which is situated
19 in Phillips, Smith, and Osborn Counties in Kansas. The
20 Kirwin Unit shall be transferred to the Kirwin Irrigation
21 District No. 1 or to another project beneficiary designated
22 by the Irrigation District as the project beneficiaries upon
23 the payment of \$253,967 as consideration therefore.

24 (h) WEBSTER UNIT.—The Webster Unit, Missouri
25 River Basin Project, shall consist of the project con-

1 structed and operated pursuant to the Act of December
2 22, 1944 (58 Stat. 887, Public Law 78-534), and the
3 Flood Control Act of 1946 (Public Law 78-526), and
4 which is situated in Rooks and Osborn Counties in Kan-
5 sas. The Webster Unit shall be transferred to the Webster
6 Irrigation District No. 4 or to another project beneficiary
7 designated by the Irrigation District as the project bene-
8 ficiaries upon the payment of \$232,012 as consideration
9 therefore.

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