

106TH CONGRESS
2^D SESSION

S. 2881

To update an existing Bureau of Reclamation program by amending the Small Reclamation Projects Act of 1956, to establish a partnership program in the Bureau of Reclamation for small reclamation projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 17, 2000

Mr. SMITH of Oregon introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To update an existing Bureau of Reclamation program by amending the Small Reclamation Projects Act of 1956, to establish a partnership program in the Bureau of Reclamation for small reclamation projects, 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 Small Reclamation
5 Water Resources Project Act of 2000”.

1 **SEC. 2. AMENDMENTS TO THE SMALL RECLAMATION**
2 **PROJECTS ACT OF 1956.**

3 (a) **PURPOSE.**—The first section of the Small Rec-
4 lamation Projects Act of 1956 (70 Stat. 1044; 43 U.S.C.
5 422a) is amended by striking “under the” and inserting
6 “under this act and other” and by adding the following
7 at the end thereof: “Such projects may include, but shall
8 not be limited to, irrigation projects. Irrigation shall not
9 be a required purpose for projects receiving assistance
10 under this Act. In providing assistance, the Secretary shall
11 give priority to approved proposals which are related to
12 presently authorized Reclamation projects that will benefit
13 from the work carried out under this Act.”.

14 (b) **DEFINITIONS.**—Section 2 of the Small Reclama-
15 tion Projects Act of 1956 (70 Stat. 1044; 43 U.S.C. 422b)
16 is amended as follows:

17 (1) By amending subsection (c) by striking “a
18 State” and inserting “an Indian Tribe, a State”.

19 (2) by amending subsection (d) to read as fol-
20 lows:

21 “(d) The term ‘project’ means one of the following:

22 “(1) A multi-purpose water resource develop-
23 ment carried out by a non-Federal organization in-
24 volving significant conservation of water, energy and
25 the environment.

1 “(2) The rehabilitation, betterment, or retrofit
2 of any existing Federal or non-Federal water infra-
3 structure for purposes of complying with law and
4 regulations.

5 “(3) An activity described in paragraph (1) or
6 (2) that is carried out by a non-Federal organization
7 under the Federal reclamation laws in one or more
8 of the 17 western reclamation States, Hawaii, Alas-
9 ka, the Commonwealth of Puerto Rico, Guam,
10 American Samoa, the Commonwealth of the North-
11 ern Mariana Islands, and the Trust Territory of the
12 Pacific Islands. Where such work is proposed for
13 any existing Reclamation project, such work shall be
14 consistent with the authorized purpose as deter-
15 mined by the Secretary.”.

16 (3) By striking subsection (f) and inserting:

17 “(f) the term ‘water quality improvements’ shall
18 mean and involve those operational measures and physical
19 features associated with—

20 “(1) the reclamation and reuse of irrigation
21 drainage or municipal and industrial return flows,
22 including wastewater flows;

23 “(2) the reclamation, or control, of brackish,
24 toxic, or hazardous waters for beneficial reuse or

1 protection of other related water, land, or environ-
 2 mental resources.”

3 (c) MODIFICATION OF LOAN AND GRANT PRO-
 4 GRAMS.—Strike Sections 3 through 8 of the Small Rec-
 5 lamation Projects Act of 1956 and insert:

6 **“TITLE I—STATE AND LOCAL**
 7 **PARTICIPATION IN RECLAMA-**
 8 **TION PROJECTS**

9 **“SEC. 101. ESTABLISHMENT OF GRANT AND LOAN PRO-**
 10 **GRAM.**

11 “There is hereby established under this title a pro-
 12 gram within the Bureau of Reclamation, an agency of the
 13 Department of the Interior, pursuant to which the Sec-
 14 retary may make grants and loans to organizations to
 15 carry out projects as defined in section 2(d).

16 **“SEC. 102. PROPOSAL CONTENTS AND REQUIREMENTS.**

17 “(a) IN GENERAL.—Any organization seeking assist-
 18 ance under this title shall submit a proposal to the Sec-
 19 retary in such form and manner as the Secretary may pre-
 20 scribe. Any proposal for a project submitted under this
 21 title shall set forth a plan and estimated cost in detail
 22 comparable to those included in preauthorization reports
 23 required for a Federal reclamation project.

24 “(b) LANDS AND WATERS.—Each proposal sub-
 25 mitted under this title shall include a statement of finan-

1 cial capability and legal authority, and a resolution from
 2 the governing board of the organization showing that the
 3 organization seeking assistance—

4 “(1) holds or can acquire all lands and interests
 5 in land (except public and other lands and interest
 6 in land owned by the United States which are within
 7 the administrative jurisdiction of the Secretary and
 8 subject to disposition by the Secretary) to complete
 9 the project;

10 “(2) holds or can acquire all rights, pursuant to
 11 applicable State law, to the use of water necessary
 12 for the successful construction, operation, and main-
 13 tenance of the project; and

14 “(3) is willing to finance, and capable of financ-
 15 ing, the non-Federal portion of the costs of the
 16 project, which portion shall include all costs of ac-
 17 quiring lands, interests in land, and rights to the use
 18 of water, except as provided in section 105(b)(2);
 19 and

20 “(4) has the legal authority and responsibility
 21 under State law to carry out such work.

22 **“SEC. 103. FEDERAL SHARE AND PROJECT SPONSOR SHARE**
 23 **OF COSTS.**

24 “(a) IN GENERAL.—The Secretary shall require each
 25 organization receiving assistance under this title to con-

1 tribute toward the cost of the project (other than by loan
2 or grant of Federal funds) not less than 25 percent of
3 the allowable estimated costs of the project. In deter-
4 mining the amount of such non-Federal contribution for
5 the proposed project, the Secretary shall credit toward
6 that amount:

7 “(1) the cost of investigations, surveys, engi-
8 neering, and other services necessary for the prepa-
9 ration of proposals and plans for the proposed
10 project as required by the Secretary;

11 “(2) the costs of lands and rights-of-way acqui-
12 sition required for the proposed project;

13 “(3) amounts spent by the organization for con-
14 struction or acquisition of facilities for the proposed
15 project prior to project approval; and

16 “(4) the filing fee required by this Act.

17 “(b) PREVENTION OF LOSS AND DAMAGE TO FISH
18 AND WILDLIFE.—The costs of measures to prevent loss
19 of, and damage to, existing fish and wildlife resources
20 shall be considered project costs and allocated as may be
21 appropriate among project functions.

22 “(c) MAXIMUM ALLOWABLE FEDERAL SHARE.—The
23 maximum allowable Federal share per project shall be
24 \$30,000,000, as of January 2000. The Secretary shall ad-

1 just such amount each year using the Bureau of Reclama-
2 tion's composite construction cost trends index.

3 “(d) INCREASE IN AMOUNT.—To compensate for in-
4 creases in construction costs due to price escalation, sub-
5 ject to the limitations allowed by subsection (c), the Sec-
6 retary may increase the amount of the requested loan or
7 grant, or both, at any time prior to the completion of con-
8 struction of the project, using the Bureau of Reclama-
9 tion's composite construction cost trends index.

10 **“SEC. 104. APPROVAL OR DISAPPROVAL OF PROJECTS.**

11 “Not later than one year after the time an initial
12 project proposal is submitted to the Secretary under this
13 title, the Secretary shall make a determination whether
14 the proposal is financially feasible and constitutes a rea-
15 sonable risk under the provisions of this title and either
16 approve or disapprove the proposal. The Secretary shall
17 promptly transmit any approved proposals to the Con-
18 gress. The appropriate National Environmental Policy Act
19 (NEPA) documentation for the project shall be completed
20 prior to Secretarial transmittal of the proposal to Con-
21 gress.

22 **“SEC. 105. CONTRACT TERMS AND CONDITIONS.**

23 “(a) MAXIMUM AMOUNTS AND AVAILABILITY.—
24 Upon approval of any project proposal submitted under
25 this title, the Secretary shall negotiate a contract setting

1 out the maximum amount of any grant, which shall not
2 exceed 50 percent of the maximum allowable Federal
3 share per grant or loan to be made to the organization,
4 and the time and method of making such grant or loan
5 available to the organization.

6 “(b) LOANS.—

7 “(1) The contract for each loan under this title
8 shall contain such terms and conditions as the Sec-
9 retary deems necessary or proper to provide assur-
10 ance of, and security for, prompt repayment and to
11 ensure achievement of the purposes for which the
12 loan was made. The contract shall include a plan for
13 repayment by the organization within 25 years, ex-
14 cept that the organization shall have the right to
15 prepay the loan without penalty.

16 “(2) The contract for each loan under this title
17 shall require payment of interest and the repayment
18 of the principal of each loan. The Secretary shall fix
19 the interest at a rate determined as of the beginning
20 of the fiscal year in which the contract is executed.
21 The rate shall be based on the average market yield
22 on outstanding marketable obligations of the United
23 States with periods of maturity comparable to the
24 applicable repayment period of the loan.

1 **“TITLE II—PARTNERSHIP**
2 **PROGRAM**

3 **“SEC. 201. ESTABLISHMENT OF PARTNERSHIP PROGRAM.**

4 “(a) PROGRAM.—There is hereby established within
5 the Bureau of Reclamation, an agency of the Department
6 of the Interior, a small grant and loan program to be
7 known as the Small Reclamation Water Resources Man-
8 agement Partnership Program, to be carried out under
9 this title. The purpose of this program shall be to imple-
10 ment projects that can be performed—

11 “(1) by the recipient organization’s workforce
12 or contractors,

13 “(2) with streamlined documentation, and

14 “(3) in a period of 18 months or less.

15 “(b) GRANTS.—Grants under this title shall not ex-
16 ceed \$2,500,000 for any one project under such program,
17 and shall be matched on a 50-percent basis of total eligible
18 cost by the organization.

19 “(c) LOANS.—Loans under this title shall not exceed
20 \$2,500,000 per project, and shall be subject to cost shar-
21 ing in the same manner as provided in title I. The contract
22 for each loan under this title shall require payment of in-
23 terest and repayment of the principal. The Secretary shall
24 fix the interest rate in the same manner as provided in
25 section 105(c)(2) for loans under title I.

1 “(d) LIMITATION.—The Secretary is authorized to
2 use up to \$50,000,000 of the amount available under this
3 Act for the purposes of this title.

4 **“SEC. 202. REPAYMENT OF LOANS.**

5 “Once work is certified complete by the Secretary,
6 each loan made under this title shall be repaid within a
7 5-year period.

8 **“SEC. 203. ACTIVITIES ELIGIBLE UNDER THE SMALL REC-
9 LIMATION WATER RESOURCES PARTNER-
10 SHIP.**

11 “(a) IN GENERAL.—The following types of activities
12 shall be eligible for grants or loans under this title: water
13 conservation; water quality improvement projects; water
14 management for urban landscapes; drought assistance;
15 fish and wildlife improvements; and public safety improve-
16 ments.

17 “(b) ADDITIONAL ACTIVITIES.—The Secretary may
18 add to the list referred to in subsection (a) as he deems
19 appropriate, except that any such addition shall not take
20 effect until 60 days after the Secretary publishes a notice
21 of the proposed addition in the Federal Register, and has
22 notified the Committee on Resources of the House of Rep-
23 resentatives and the Committee on Energy and Natural
24 Resources of the United States Senate in writing of the
25 proposed addition and the reasons therefore.

1 **“SEC. 204. APPLICATION PROCESS.**

2 “(a) NOTICE OF INTENT.—Each organization seek-
3 ing a grant or loan under this title shall submit a Notice
4 of Intent to the Secretary by April 1 of each year outlining
5 the proposed project and the public benefits thereof. With-
6 in two months, the Secretary shall provide a written re-
7 sponse to the applicant, either affirming or rejecting the
8 Bureau of Reclamation’s interest in participating in the
9 project.

10 “(b) NOTICE OF FEDERAL INTEREST.—Upon notifi-
11 cation of the Bureau of Reclamation’s interest, the organi-
12 zation seeking assistance under this title shall have the
13 option of proceeding with an appropriate loan or grant ap-
14 plication giving details of the project and the anticipated
15 public benefits.

16 “(c) CONTENTS.—The contents of any project pro-
17 posal under this title shall include, but need not be limited
18 to, each of the following:

19 “(1) A resolution by the board of directors of
20 the qualifying organization stating—

21 “(A) the total estimated project cost;

22 “(B) the amount of the grant or loan re-
23 quested;

24 “(C) the amount of the non-Federal con-
25 tribution for the grant;

1 “(D) the organization’s ability to finance
2 and construct the project; and

3 “(E) the project objectives.

4 “(2) A summary of the proposal.

5 “(3) A brief description of the anticipated ef-
6 fects of the project on the environment.

7 “(4) Evidence that the organization seeking as-
8 sistance under this title has all lands and water
9 rights needed for the project, or can obtain them
10 and has legal authority and responsibility under
11 state law to carry out such work in the project plan.

12 “(5) A description of the project plan, including
13 a general map showing the location of proposed
14 physical features, conceptual engineering drawings
15 of major and typical structures, and general stand-
16 ards for design.

17 “(6) A construction schedule, with dates and
18 schedule of funding requirements under this title, in
19 sufficient detail to provide an analysis of the pro-
20 posed construction program.

21 “(7) An identification of those portions of the
22 project costs which constitute the Federal grant or
23 loan amounts and the applicant’s local contribution.

24 “(d) COSTS.—The cost of any investigations and
25 preparation of any environmental documentation shall be

1 borne by the project applicant and any such costs shall
2 be credited as part of the local cost share for grant fund-
3 ing.

4 “(e) ANNUAL LISTING.—The Secretary shall include
5 in the annual budget justification for the Bureau of Rec-
6 lamation, a listing of the activities and total funding re-
7 quired for work committed under this title.

8 **“SEC. 205. TERMS AND CONDITIONS OF PROJECT WORK.**

9 “The Secretary shall examine the proposal submitted
10 under this title to determine if the project can reasonably
11 be expected to accomplish its purpose, and approve or dis-
12 approve such proposal by September 1 of each year. Once
13 approved by the Secretary and subject to the availability
14 of appropriations, funding shall be provided within 60
15 days for the schedule of work within that fiscal year.

16 **“SEC. 206. ELIGIBILITY.**

17 “Such proposals shall only be made by organizations
18 that have legal authority and responsibility for such work
19 to be carried out on those projects under state law. Only
20 one proposal per project area shall be allowed per every
21 five year period.

1 **“TITLE III—LOAN GUARANTEES**

2 **“SEC. 301. ESTABLISHMENT OF LOAN GUARANTEE PRO-**
3 **GRAM.**

4 “There is hereby established within Bureau of Rec-
5 lamation a demonstration program under this title to
6 guarantee loans for projects receiving, or eligible to re-
7 ceive, loans or grants under title I or II of this Act.

8 **“SEC. 302. PROGRAM REQUIREMENTS.**

9 “(a) IN GENERAL.—The Secretary may provide sup-
10 port under the demonstration program to organizations
11 through the provision of loan guarantees to such pro-
12 grammatic needs as authorized under titles I and II of
13 this Act, under such terms and conditions specified in this
14 section and under applicable laws. Any proposal for a
15 project submitted under this title shall set forth a plan
16 and estimated costs in detail comparable to those included
17 in preauthorization reports required for a Federal rec-
18 lamation project.

19 “(b) FUNDING LIMIT.—Up to 10 percent of the
20 amounts authorized to be appropriated under this Act
21 shall be set aside for purposes of funding the cost of loan
22 guarantees under this title. The amounts allocated to each
23 loan guarantee shall be the cost of such guarantee cal-
24 culated in accordance with applicable provisions of Federal
25 law.

1 “(c) SELECTION OF RECIPIENTS.—The Secretary
2 shall adopt and use competitive procedures in the selection
3 of organizations to receive loan guarantees under this sec-
4 tion. In selecting the organizations to receive a loan guar-
5 antee under this section, the Secretary shall consider, at
6 a minimum, the following:

7 “(1) The extent to which the loan guarantees
8 would support new water supplies or more efficient
9 use of existing supplies.

10 “(2) The repayment period of the guaranteed
11 loan.

12 “(3) The extent to which the loan guarantee
13 would provide for a project of wide public purpose.

14 “(4) Whether the loan guarantee would help the
15 organization receiving the guarantee meet a Federal
16 or State environmental statute or mandate.

17 “(5) The ability of the loan guarantee to meet
18 the needs of other local water purveyors.

19 “(6) The extent to which the guaranteed loan
20 would support a program that would supplement,
21 rather than duplicate, other available water resource
22 programs.

23 “(7) The fiscal impact of the loan guarantee
24 program as a whole on other reclamation programs.

1 “(d) APPORTIONMENT.—The total amount made
2 available to the Secretary for a fiscal year to cover the
3 costs of loan guarantees under this section shall be divided
4 between projects receiving or eligible to receive loans
5 under titles I and II, with title I projects receiving 75 per-
6 cent and title II projects receiving 25 percent.

7 “(e) MAXIMUM.—The maximum allowable guarantee
8 percentage for loans guaranteed under this section may
9 be up to 75 percent of the total project cost. No loan guar-
10 antee under this title shall be used to cover the organiza-
11 tion’s local cost share for any project assisted under this
12 Act.

13 “(f) REPORTING.—Reporting and documentation re-
14 quirements authorized under amendments contained in ti-
15 tles I and II shall similarly apply to loan guarantee
16 projects.

17 “(g) STATE LAW.—For purposes of this Act, when
18 any bonds are issued by an organization to help finance
19 a project for which the organization is also receiving a loan
20 guarantee under this section such bonds shall not be treat-
21 ed as affecting the tax-exempt status of such bonds under
22 applicable State law.

23 “(h) FULL FAITH AND CREDIT.—Any loan guarantee
24 issued pursuant to this section shall constitute an obliga-
25 tion, in accordance with the terms of such guarantee, of

1 the United States Government, and the full faith and cred-
2 it of the United States is hereby pledged to the full per-
3 formance of the obligations.

4 “(i) REPORT.—At the end of the third fiscal year
5 after the enactment of this Act, the Secretary shall submit
6 a report to the Congress on the beneficial use and sug-
7 gested improvements associated with the use of loan guar-
8 antees as a mechanism for project construction.

9 **“SEC. 303. SUNSET.**

10 “No loan guarantee may be issued under this title
11 in any fiscal year after the expiration of 6 full fiscal years
12 after initial funding of projects under ‘The Small Rec-
13 lamation Water Resources Project Act of 2000’.

14 **“TITLE IV—GENERAL**
15 **PROVISIONS**

16 **“SEC. 401. PROPOSAL FEE.**

17 “Each proposal for a loan, grant, or loan guarantee
18 under this Act shall be accompanied by a minimum pay-
19 ment of \$5,000 or one percent of the Federal share,
20 whichever is greater, or portion thereof to defray in part
21 the costs of examining the proposal. Fifty percent of the
22 payment shall accompany the application and the remain-
23 ing 50 percent shall be due upon approval of the project
24 by the Secretary, if approved.

1 **“SEC. 402. MISCELLANEOUS PROVISIONS.**

2 “(a) TITLE.—Title to all project works and facilities
3 constructed with assistance under this Act shall remain
4 in the name of the organization.

5 “(b) COMBINED LOANS, GRANTS, AND LOAN GUAR-
6 ANTEES.—A project sponsor shall be eligible for a loan,
7 grant, loan guarantee, or combination thereof for a project
8 proposal under this Act. No organization shall be eligible
9 for an additional loan, grant, loan guarantee, or any com-
10 bination thereof for the same project that has previously
11 received a loan, grant, or loan guarantee under this Act
12 within the prior five fiscal years.

13 “(c) PLANNING, CONSTRUCTION, OPERATION, AND
14 MAINTENANCE.—The United States shall not be required
15 to provide planning, construction, operation, and mainte-
16 nance of any project receiving a loan, grant or loan guar-
17 antee under this Act.

18 “(d) STATE WATER LAW.—Any project assisted
19 under this Act shall be carried out in accordance with ap-
20 plicable State water law.”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Sections 9 through 13 of the Small Rec-
23 lamation Projects Act of 1956 are redesignated as
24 sections 403 through 407 respectively.

1 (2) Section 404 of such Act, as redesignated by
2 paragraph (1) of this subsection, is amended as fol-
3 lows:

4 (A) By striking “section 3” and inserting
5 “title I”.

6 (B) By striking “effective October 1,
7 1986.” and inserting “for any fiscal year”.

8 (C) By striking “for loans and grants pur-
9 suant to this Act” and inserting “for loans and
10 grants pursuant to title I”.

11 (D) By striking “five years after the date
12 of enactment of this Act” and inserting “five
13 years after the date of enactment of ‘The Small
14 Reclamation Water Resources Project Act of
15 2000’”.

16 (E) By striking “section 4(c)” and insert-
17 ing “title I”.

18 **SEC. 3. GUIDELINES.**

19 Within 180 days after enactment of this Act, the Sec-
20 retary of the Interior shall complete and publish in the
21 Federal Register such administrative guidelines as may be
22 necessary to carry out the amendments made by this Act.

23 **SEC. 4. PURPOSES.**

24 The purpose for fish, wildlife and environmental ac-
25 tivities carried out under this Act are in the form of miti-

1 gation and avoidance of listed species and critical habitat
2 as required by law and regulation as a direct result of con-
3 struction, operation and maintenance activities for new or
4 existing projects.

5 **SEC. 5. EFFECTIVE DATE.**

6 The amendments made by this Act shall take effect
7 on the date of enactment. Nothing in this Act or in any
8 amendment made by this Act shall affect any loan or
9 grant that has been approved before the date of enactment
10 of this Act.

11 **SEC. 6. LIMITATION.**

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

○