

107TH CONGRESS
1ST SESSION

S. 1882

To amend the Small Reclamation Projects Act of 1956, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

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 amend the Small Reclamation Projects Act of 1956,
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; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Small Reclamation Water Resources Act of 2001”.

6 (b) **REFERENCES.**—Except as otherwise expressly
7 provided, whenever in this Act an amendment or repeal
8 is expressed in terms of an amendment to, or repeal of,
9 a section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the
2 Small Reclamation Projects Act of 1956 (43422 et seq.).

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

5 (a) PURPOSE.—The first section (43 U.S.C. 422a) is
6 amended—

7 (1) by striking “under the” and inserting
8 “under this Act and other”; and

9 (2) by adding the following at the end: “Such
10 projects may include, but shall not be limited to, ir-
11 rigation projects. Irrigation shall not be a required
12 purpose for projects receiving assistance under this
13 Act. In providing assistance, the Secretary shall give
14 priority to recommended proposals that are related
15 to a project that is otherwise authorized under the
16 Federal reclamation laws and that will benefit from
17 assistance under this Act.”.

18 (b) DEFINITIONS.—Section 2 (43 U.S.C. 442b) is
19 amended—

20 (1) in paragraph (c), by striking “a State” and
21 inserting “an Indian Tribe, a State”;

22 (2) by striking paragraph (d) and inserting the
23 following:

24 “(d) The term ‘project’ means any of the following:

1 “(1) A multipurpose water resource develop-
2 ment carried out by a non-Federal organization in-
3 volving significant conservation of water, energy, and
4 the environment.

5 “(2) The rehabilitation, betterment, or retrofit
6 of any existing Federal or non-Federal water infra-
7 structure for purposes of complying with law and
8 regulations.

9 “(3) An activity described in paragraph (1) or
10 (2) that—

11 “(A) is carried out by a non-Federal orga-
12 nization under the Federal reclamation laws in
13 one or more of the 17 western reclamation
14 States, Hawaii, Alaska, the Commonwealth of
15 Puerto Rico, Guam, American Samoa, the Com-
16 monwealth of the Northern Mariana Islands,
17 the Virgin Islands, and the Trust Territory of
18 the Pacific Islands; and

19 “(B) in the case of an activity proposed for
20 any project that is authorized under the rec-
21 lamation laws immediately before the enactment
22 of the Small Reclamation Water Resources
23 Project Act of 2001, is determined by the Sec-
24 retary to be consistent with the purposes of

1 that project before that date of enactment.”;

2 and

3 (3) by striking paragraph (f) and inserting the

4 following:

5 “(f) The term ‘water qualify improvements’ means

6 operational measures and physical features associated

7 with—

8 “(1) the reclamation and reuse of irrigation

9 drainage or municipal and industrial return flows,

10 including wastewater flows; or

11 “(2) the reclamation, or control, of brackish,

12 toxic, or impaired waters for beneficial reuse or pro-

13 tection of other related water, land, or environmental

14 resources.

15 “(g) The term ‘economically disadvantaged commu-

16 nity’ means the service area of a public district that meets

17 affordability criteria [established under section 2041].”.

18 (c) MODIFICATION OF LOAN AND GRANT PRO-

19 GRAMS.—The Small Reclamation Projects Act of 1956 is

20 amended—

21 (1) by striking sections 3 through 8 (43 U.S.C.

22 422e–422h); and

23 (2) by inserting after section 2 (43 U.S.C.

24 422b) the following:

1 **“TITLE I—STATE AND LOCAL**
2 **PARTICIPATION IN RECLAMA-**
3 **TION PROJECTS**

4 **“SEC. 101. LOAN, GRANT, AND LOAN GUARANTEE PRO-**
5 **GRAM.**

6 “There is hereby established a program within the
7 Bureau of Reclamation, under which the Secretary may
8 make loans, grants, and loan guarantees to any organiza-
9 tion to carry out a project.

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

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

18 “(b) LANDS AND WATERS.—Each proposal sub-
19 mitted under this title shall include a statement of finan-
20 cial capability and legal authority, and a resolution from
21 the governing board of the organization showing that the
22 organization seeking assistance—

23 “(1) holds or can acquire all lands and interests
24 in land (except public and other lands and interest
25 in land owned by the United States that are within

1 the administrative jurisdiction of the Secretary and
2 subject to disposition by the Secretary) to complete
3 the project;

4 “(2) holds or can acquire all rights, pursuant to
5 applicable State law, to the use of water necessary
6 for the successful construction, operation, and main-
7 tenance of the project;

8 “(3) is willing to finance, and capable of financ-
9 ing, the non-Federal portion of the costs of the
10 project, including all costs of acquiring lands, inter-
11 ests in land, and rights to the use of water, except
12 as provided in [section 105(b)(2)]; and

13 “(4) has the legal authority and responsibility
14 under State law to carry out the project.

15 **“SEC. 103. FEDERAL SHARE AND PROJECT SPONSOR SHARE**
16 **OF COSTS.**

17 “(a) IN GENERAL.—The Secretary shall require each
18 organization receiving assistance under this title to con-
19 tribute toward the cost of the project (other than by loan
20 or grant of Federal funds) not less than 25 percent of
21 the costs of the project. The Secretary shall credit toward
22 the non-Federal cost share that amount—

23 “(1) the costs paid by the organization for in-
24 vestigations, surveys, engineering, administration,
25 and other services necessary for the preparation of

1 proposals and plans for the proposed project that
2 are required by the Secretary:

3 “(2) the value of lands, rights-of-way, and
4 water rights acquisition required for the proposed
5 project that are provided by the organization;

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

9 “(4) the fee required by section 403.

10 “(b) PREVENTION OF LOSS AND DAMAGE TO FISH
11 AND WILDLIFE.—The costs of measures to prevent loss
12 of, and damage to, existing fish and wildlife resources as
13 the result of a project for which assistance is provided
14 under this title shall be considered project costs and, for
15 purposes of reimbursement, shall be allocated as may be
16 appropriate among project functions.

17 “(c) MAXIMUM ALLOWABLE FEDERAL SHARE.—The
18 maximum allowable Federal share per project shall be
19 \$50,000,000 (January 2001 dollars).

20 “(d) INCREASE IN AMOUNT.—To compensate for in-
21 crease in construction costs due to price escalation, and
22 subject to subsection (c), the Secretary may increase the
23 amount of a loan or grant, or both, under this title for
24 a project at any time prior to the completion of construc-

1 tion of the project, using the Bureau of Reclamation's
2 composite construction cost trends index.

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

4 “(a) IN GENERAL.—The Secretary shall determine
5 whether a proposal under this title is financially feasible
6 and constitutes a reasonable risk, and either approve or
7 disapprove the proposal, by not later than the later of—

8 “(1) one year after the date the proposal is sub-
9 mitted to the Secretary; or

10 “(2) the date of the completion of the appro-
11 priate documentation under the National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321).

13 “(b) TRANSMITTAL TO CONGRESS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 the Secretary shall promptly transmit any approved
16 proposals to the Congress with a brief statement of
17 the project purposes and funding requirements.

18 “(2) COMPLETION OF DOCUMENTATION.—The
19 documentation required under the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
21 for a proposed project must be completed before the
22 Secretary transmits the proposal to the Congress.

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

24 “(a) IN GENERAL.—Upon approval of any project
25 proposal submitted under this title by an organization, the

1 Secretary shall negotiate with the organization a contract
2 establishing the terms under which assistance shall be pro-
3 vided under this title.

4 “(b) CONTRACT TERMS.—The contract shall include
5 the following:

6 “(1) The maximum amount of any grant, which
7 shall not exceed 50 percent of the maximum allow-
8 able Federal share of the costs of the project under
9 section 103.

10 “(2) The time and method of making any grant
11 or loan available to the organization.

12 “(3) Such terms and conditions as the Sec-
13 retary considers necessary or proper to provide as-
14 surance of, and security for, prompt repayment of
15 any loan and to ensure achievement of the purposes
16 for which the loan was made.

17 “(4) A plan for repayment by the organization
18 of any loan within 25 years, except that the organi-
19 zation shall have the right to prepay the loan or any
20 component thereof without penalty.

21 “(5) For any loan, payment of interest at a
22 rate established by the Secretary of the Treasury at
23 the beginning of the fiscal year in which the contract
24 is executed, that shall be based on the average mar-
25 ket yield on outstanding marketable obligations of

1 the United States with periods of maturity com-
 2 parable to the applicable repayment period of the
 3 loan.

4 “(c) LOAN PROJECTS BY INDIAN TRIBES.—

5 “(1) IN GENERAL.—For any project undertaken
 6 by an Indian tribe with assistance under this title,
 7 the Secretary shall—

8 “(A) determine, based on the findings in
 9 the proposal under section 102, the reimburs-
 10 able and nonreimbursable costs for the project
 11 constructed under this Act;

12 “(B) apportion those costs in accordance
 13 with the benefits received; and

14 “(C) allocate the reimbursable costs to the
 15 project beneficiaries.

16 “(2) LEAVITT ACT.—The Act of July 1, 1932
 17 (chapter 369; 25 U.S.C. 386a), popularly known as
 18 the ‘Leavitt Act’, shall not apply to loans made
 19 under this Act.

20 **“TITLE II—PARTNERSHIP**
 21 **PROGRAM**

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

23 “(a) PROGRAM.—There is hereby established within
 24 the Bureau of Reclamation a small grant and loan pro-
 25 gram to be known as the Small Reclamation Water Re-

1 sources Management Partnership Program, to be carried
2 out under this title. The purpose of this program shall
3 be to implement projects that can be performed—

4 “(1) by the recipient organization’s workforce
5 or contractors,

6 “(2) with streamlined documentation, and

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

8 “(b) GRANTS.—Grants under this title shall not ex-
9 ceed \$5,000,000 for any one project under such program.
10 The Secretary shall require the recipient organization to
11 provide matching funds in an amount equal to 50 percent
12 of the amount of the grant.

13 “(c) LOANS.—Loans under this title shall not exceed
14 \$5,000,000 per project, and shall be subject to cost shar-
15 ing in the same manner as provided in title I. The contract
16 for each loan under this title shall require payment of in-
17 terest at a rate established by the Secretary of the Treas-
18 ury in the same manner as provided in section 105(b)(5)
19 for loans under title II.

20 **“SEC. 202. REPAYMENT OF LOANS.**

21 “Each loan made under this title shall be repaid with-
22 in the 5-year period beginning on the date the Secretary
23 certifies that work to be carried out with the loan is com-
24 pleted.

1 **“SEC. 203. ELIGIBLE ACTIVITIES.**

2 “(a) IN GENERAL.—The following types of activities
3 shall be eligible for grants or loans under this title:

4 “(1) Water conservation.

5 “(2) Water quality improvement projects.

6 “(3) Water management for urban landscapes.

7 “(4) Drought assistance.

8 “(5) Fish and wildlife improvements.

9 “(6) Public safety improvements.

10 “(7) Water supply, including water production,
11 conveyance, conservation, and management.

12 “(b) ADDITIONAL ACTIVITIES.—The Secretary may
13 add to the list of eligible activities under subsection (a)
14 as the Secretary considers appropriate, except that any
15 such addition shall not take effect until 60 days after the
16 Secretary publishes a notice of the proposed addition in
17 the Federal Register, and has notified the Committee on
18 Resources of the House of Representatives and the Com-
19 mittee on Energy and Natural Resources of the Senate
20 in writing of the proposed addition and the reasons there-
21 fore.

22 **“SEC. 204. APPLICATION PROCESS.**

23 “(a) NOTICE OF INTENT.—Each organization seek-
24 ing a grant or loan under this title shall submit a notice
25 of intent to the Secretary by April 1 of each year outlining
26 the proposed project and the public benefits thereof. With-

1 in two months, the Secretary shall provide a written re-
2 sponse to the organization, expressing either the Bureau
3 of Reclamation's interest or disinterest in participating in
4 the project.

5 “(b) APPLICATION.—Within 30 days after receipt of
6 a response under subsection (a) expressing the Bureau of
7 Reclamation's interest in participating in a project, the or-
8 ganization may submit to the Secretary an appropriate
9 loan or grant application, giving details of the project and
10 the anticipated public benefits.

11 “(c) CONTENTS.—The application for any project
12 proposal under this title shall include each of the fol-
13 lowing:

14 “(1) A resolution by the board of directors of
15 the organization stating—

16 “(A) the total estimated project cost;

17 “(B) the amount of the grant or loan re-
18 quested;

19 “(C) the amount of non-Federal contribu-
20 tion for any grant;

21 “(D) the organization's ability to finance
22 and construct the project; and

23 “(E) the project objectives.

24 “(2) A summary of the proposal.

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

3 “(4) Evidence that the organization has all
4 lands and water rights needed for the project, or can
5 obtain them and has legal authority and responsi-
6 bility under State law to carry out the proposed
7 project.

8 “(5) A project plan, including a general map
9 showing the location of proposed physical features,
10 conceptual engineering drawings of major and typi-
11 cal structures, and general standards for design.

12 “(6) A construction schedule, with dates and a
13 schedule of funding requirements under this title, in
14 sufficient detail to provide an analysis of the pro-
15 posed construction program.

16 “(7) A description of the proposed Federal
17 funding for the project and of the non-Federal fund-
18 ing for the project.

19 “(d) COSTS.—The cost of any investigations and
20 preparation of any environmental documentation for a
21 project carried out with assistance under this title shall
22 be borne by the project applicant, and shall be credited
23 against the non-Federal cost share.

24 “(e) ANNUAL LISTING.—The Secretary shall include
25 in the annual budget justification for the Bureau of Rec-

1 lamation a listing of the activities and total funding re-
2 quired for work committed to under this title.

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

4 “The Secretary shall examine each project proposal
5 submitted under this title to determine if the project can
6 reasonably be expected to accomplish its purpose, and ap-
7 prove or disapprove such proposal by September 1 of the
8 year in which the application for assistance under this title
9 is submitted. If the Secretary approves the proposal, and
10 subject to the availability of appropriations, the Secretary
11 shall provide funding within 60 days after such approval
12 for work scheduled for the next fiscal year.

13 **“SEC. 206. LIMITATION ON PROJECT PROPOSALS.**

14 “Only one proposal may be submitted under this title
15 by an applicant in any 5-year period.

16 **“TITLE III—LOAN GUARANTEES**

17 **“SEC. 301. ESTABLISHMENT OF LOAN GUARANTEE PRO-**
18 **GRAM.**

19 “There is hereby established within the Bureau of
20 Reclamation a demonstration program to guarantee loans
21 for projects receiving, or eligible to receive, loans or grants
22 under title I or II of this Act.

23 **“SEC. 302. PROGRAM REQUIREMENTS.**

24 “(a) IN GENERAL.—The Secretary may provide sup-
25 port under the demonstration program to organizations

1 through the provision of loan guarantees for the purposes
2 for which assistance is authorized under titles I and II,
3 under such terms and conditions as are specified in this
4 section. Any proposal for a project submitted under this
5 title shall set forth a plan and estimated costs, in detail,
6 comparable to those required to be included in
7 preauthorization reports required for a project under the
8 Federal reclamation laws.

9 “(b) SELECTION OF RECIPIENTS.—The Secretary
10 shall adopt and use competitive procedures in the selection
11 of organizations to receive loan guarantees under this sec-
12 tion. In selecting any organization to receive a loan guar-
13 antee under this section, the Secretary shall consider, at
14 a minimum, the following:

15 “(1) The extent to which the loan guarantee
16 would support new water supplies or more efficient
17 use of existing supplies.

18 “(2) The repayment period of the guaranteed
19 loan.

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

22 “(4) Whether the loan guarantee would help the
23 organization comply with a Federal or State environ-
24 mental statute or regulation.

1 “(5) The extent to which the loan guarantee
2 would enable the organization to meet the needs of
3 other local water purveyors.

4 “(6) The extent to which the guaranteed loan
5 would support a program that would supplement,
6 rather than duplicate, other available water resource
7 programs.

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

10 “(c) APPORTIONMENT.—The total amount made
11 available to the Secretary for a fiscal year to cover the
12 costs of loan guarantees under this section shall be divided
13 between projects receiving or eligible to receive loans
14 under titles I and II, with title I projects receiving 75 per-
15 cent and title II projects receiving 25 percent.

16 “(d) MAXIMUM.—The maximum amount of a loan
17 guaranteed under this section may not exceed 75 percent
18 of the total cost of the project carried out with the loan.

19 “(e) LIMITATION ON USE OF LOAN.—No loan guar-
20 anteed under this title shall be used to cover the organiza-
21 tion’s local cost share for any project assisted under this
22 Act.

23 “(f) REPORTING.—Reporting and documentation re-
24 quirement under titles I and II shall similarly apply to
25 loan guarantees under this title.

1 “(g) STATE LAW.—For purposes of this Act, when
2 any bonds are issued by an organization to help finance
3 a project for which the organization is also receiving a loan
4 guarantee under this section, such bonds shall not be
5 treated as affecting the tax-exempt status of such bonds
6 under applicable State law.

7 “(h) FULL FAITH AND CREDIT.— Any loan guar-
8 antee issued pursuant to this section shall constitute an
9 obligation, in accordance with the terms of such guar-
10 antee, of the United States Government, and the full faith
11 and credit of the United States is hereby pledged to the
12 full performance of the obligations.

13 “(i) REPORT.—At the end of the third fiscal year
14 after the enactment of this subsection, the Secretary shall
15 submit a report to the Congress on the beneficial use and
16 suggested improvements for use of loan guarantees under
17 this title as a mechanism for project construction.

18 **“SEC. 303. SUNSET.**

19 “No loan guarantee may be issued under this title
20 in any fiscal year after the expiration of 10 full fiscal years
21 after initial funding of projects under the amendments
22 made by the Small Reclamation Water Resources Project
23 Act of 2001.

1 **“TITLE IV—GENERAL**
2 **PROVISIONS**

3 **“SEC. 401. PROPOSAL FEE.**

4 “The Secretary shall assess and collect a fee to defray
5 the cost of examining each proposal for a loan, grant, or
6 loan guarantee under this Act. The amount of the fee shall
7 be equal to \$5,000 or 1/10 of 1 percent of the Federal
8 share of the costs of the proposed project, whichever is
9 greater. The Secretary shall require that 50 percent of the
10 fee shall accompany the application and the remainder
11 shall be due only upon approval of the project by the Sec-
12 retary.

13 **“SEC. 402. MISCELLANEOUS PROVISIONS.**

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

17 “(b) COMBINED LOANS, GRANTS, AND LOAN GUAR-
18 ANTEES.—A project sponsor shall be eligible for a loan,
19 grant, loan guarantee, or combination thereof for a project
20 proposal under this Act. An applicant may submit one pro-
21 posal to be carried out with assistance under more than
22 one title under this Act. No organization shall be eligible
23 for an additional loan, grant, loan guarantee, or any com-
24 bination thereof for the same project that has previously

1 received approval for a loan, grant, or loan guarantee
2 under this Act within the prior five fiscal years.

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

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

11 (d) CONFORMING AMENDMENTS.—

12 (1) Sections 9 through 13 of the Small Rec-
13 lamation Projects Act of 1956 (43 U.S.C. 422i—
14 422k–1) are redesignated as sections 403 through
15 407, respectively.

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

19 (A) By striking “section 3” and inserting
20 “title I”.

21 (B) By striking “effective October 1,
22 1986.” and inserting “for any fiscal year”.

23 (C) By striking “for loans and grants pur-
24 suant to this Act” and inserting “for loans and
25 grants pursuant to title I”.

1 (D) By striking “five years after the date
2 of enactment of this Act” and inserting “ten
3 years after the date of enactment of the Small
4 Reclamation Water Resources Project Act of
5 2001”.

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

8 **SEC. 3. ADDITIONAL APPROPRIATIONS.**

9 Section 404 of the Small Reclamation Projects Act
10 of 1956 (43 U.S.C. 422j), as redesignated by section
11 2(d)(1) of this Act, is further amended—

12 (1) by striking “such sums” and all that follows
13 through “That the Secretary” and inserting “to
14 carry out this Act \$1,300,000,000 for fiscal years
15 after fiscal year 2001, of which \$900,000,000 may
16 be appropriated to carry out title I and to complete
17 ongoing projects under Public Law 84–984,
18 \$300,000,000 may be appropriated to carry out title
19 II, and \$100,000,000 may be appropriated to carry
20 out title III. Of funds authorized under this Act, not
21 more than 20 percent shall be used for projects to
22 be carried out by Indian tribes or in economically
23 disadvantaged communities. The Secretary”; and

24 (2) by striking “any single State” and all that
25 follows through “the Secretary is authorized to

1 waive” and inserting “in any single State. Funds ob-
2 ligated or expended for projects by Indian tribes
3 shall not be considered for purposes of the preceding
4 sentence. The Secretary may waive”.

5 **SEC. 4. GUIDELINES.**

6 Within 180 days after the date of enactment of this
7 Act, the Secretary of the Interior shall complete and pub-
8 lish such administrative guidelines as may be necessary
9 to carry out the amendments made by this title.

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

11 The amendments made by this title shall take effect
12 on the date of enactment of this Act. Nothing in this title
13 or in any amendment made by this title shall affect any
14 loan or grant that has been approved before the date of
15 enactment of this Act.

16 **SEC. 6. LIMITATION.**

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

○