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# RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

DECEMBER 8, 2005.—Ordered to be printed

Filed under authority of the order of the Senate of November 18, 2005

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

## R E P O R T

[To accompany S. 648]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 648) to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE OF MEASURE

The purpose of S. 648 is to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance.

### BACKGROUND AND NEED

The Reclamation States Emergency Drought Relief Act of 1991 (Public Law 102–250), as amended (Drought Act), authorizes the Bureau of Reclamation (Bureau or Reclamation) to undertake drought relief measures through emergency assistance (Title I) and planning activities (Title II). Title I is a temporary authority that expired September 30, 2005. S. 648 amends the Drought Act to extend the Title I authority until September 30, 2010.

Title I of the Drought Act provides authority for construction, management, and conservation measures to address drought impacts, including the mitigation of fish and wildlife impacts. With the exception of permanent well construction, only temporary construction activities are authorized. Title I also authorizes tem-

porary contracts to make project and non-project water available and to allow Reclamation facilities to be used for storage and conveyance purposes. The Drought Act provides for both reimbursable and non-reimbursable activities although all activities to date have been non-reimbursable. Pursuant to the Drought Act, the Bureau is authorized to make loans to water users for mitigating damages caused by drought. The 17 Reclamation States and Hawaii, as well as tribes within those states, are eligible for this assistance.

## LEGISLATIVE HISTORY

S. 648 was introduced by Senator Smith on March 17, 2005, and referred to the Committee on Energy and Natural Resources. The Water and Power Subcommittee held a hearing on S. 648 on July 12, 2005 (S.Hrg. 109–138). At the business meeting on November 16, 2005, the Committee on Energy and Natural Resources ordered S. 648 favorably reported without amendment.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 16, 2005, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 648.

## SECTION-BY-SECTION ANALYSIS

*Section 1* extends the authorization of the Reclamation States Emergency Drought Relief Act of 1991 through September 30, 2010.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

DECEMBER 1, 2005.

Hon. PETE V. DOMENICI,
*Chairman, Committee on Energy and Natural Resources,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 648, a bill to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
*Director.*

Enclosure.

*S. 648—A bill to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance*

Summary: The Bureau of Reclamation undertakes construction, water management, and water conservation activities to alleviate damages caused by drought in certain states. Under current law, the authority to provide such assistance ended on September 30,

2005. S. 648 would extend that authority through September 30, 2010.

Assuming appropriation of amounts necessary to provide the drought assistance authorized by S. 648, CBO estimates that implementing the bill would cost $18 million over the 2006–2010 period and another $2 million after 2010. Enacting S. 648 would not affect direct spending or revenues.

S. 648 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit states and local and tribal governments that qualify for reclamation assistance by extending the legislative authority that provides them such drought aid. Any costs incurred by governmental entities would result from complying with conditions for receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 648 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By fiscal year, in millions of dollars— | | | | |
|---|---|---|---|---|---|
| | 2006 | 2007 | 2008 | 2009 | 2010 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Estimated authorization level | 4 | 4 | 4 | 4 | 4 |
| Estimated outlays | 3 | 3 | 4 | 4 | 4 |

Basis of estimate: For this estimate, CBO assumes S. 648 will be enacted in fiscal year 2006 and that the necessary amounts will be appropriated for each year. Estimates of outlays are based on historical spending patterns for this activity.

The Reclamation States Emergency Drought Relief Act of 1991 provided the Bureau of Reclamation the authority to mitigate damages caused by drought in certain states by undertaking construction, water management, and water conservation activities. Since that time, the Congress has provided almost $70 million for those activities (an average of about $4 million per year over the past 16 years).

S. 648 would extend the authority provided under the 1991 act over the 2006–2010 period. Because we cannot predict the timing or severity of droughts, CBO assumes for this estimate, that the need to undertake drought relief over the next five years will continue at the same rate as the average need over the past 16 years. CBO estimates, therefore, that implementing S. 648 would cost about $4 million each year over the 2006–2010 period.

Intergovernmental and private-sector impact: S. 648 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit certain states and local and tribal governments within those states by extending the legislative authority that provides them drought aid. Any costs incurred by governmental entities would result from complying with conditions for receiving federal assistance.

Estimate prepared by: Federal costs: Rachel Milberg; impact on state, local, and tribal governments: Lisa Ramirez-Branum; impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 648.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 648.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 648 follows:

### STATEMENT OF JOHN W. KEYS III, COMMISSIONER, U.S. BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman, I am John W. Keys, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to appear for the Department in support of S. 648 which extends Title I of the Reclamation States Emergency Drought Relief Act of 1991 until the year 2010.

Title I provides authority for construction, management, and conservation measures to alleviate the adverse impacts of drought, including mitigation of fish and wildlife impacts. However, wells are the only permanent construction authorized under the Act. All other Title I work must be of a temporary nature. No new Reclamation projects are authorized under Title I; Reclamation does not own, operate, or maintain projects funded under it. S. 648 would simply extend the expiration date. The $90 million ceiling in the law, initially authorized in 1991, is adequate for the foreseeable future.

Title I also provides Reclamation with the flexibility to meet contractual water deliveries by allowing acquisition of water to meet requirements under the Endangered Species Act, benefiting contractors at a time when they are financially challenged. Additionally, Title I authorizes Reclamation to participate in water banks established under state law; facilitate water acquisitions between willing buyers and willing sellers; acquire conserved water for use under temporary contracts; make facilities available for storage and conveyance of project and non-project water; make project and non-project water available for non-project uses; and, acquire water for fish and wildlife purposes on a non-reimbursable basis.

Title I often helps smaller, financially-strapped entities (towns, counties, tribes) that do not have the financial capability to deal with the impacts of drought. In many cases, Reclamation is the "last resort" for these communities.

The Bureau of Reclamation has a long history of effective and responsive water management in good times and bad. While we consider ideas to make drought relief even more effective through improved interagency cooperation and other changes, we recognize that the reauthorization of Title I is necessary. S. 648 allows Reclamation the flexibility to continue delivering water to meet authorized project purposes, meet environmental requirements, respect state water rights, work with all stakeholders, and to provide leadership, innovation, and assistance. This is why Reclamation supports S. 648.

This concludes my statement. I am pleased to answer any questions.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 648, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### Reclamation States Emergency Drought Relief Act of 1991

(43 U.S.C. 2214, as amended)

* * * * * * *

**SEC. 2214. APPLICABLE PERIOD OF DROUGHT PROGRAM.**

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(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate on **[**September 30, 2005**]** *September 30, 2010*.

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