

105TH CONGRESS
1ST SESSION

H. R. 2398

To amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 1997

Mr. CALVERT introduced the following bill; which was referred to the
Committee on Resources

A BILL

To amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects.

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 1997”.

1 **SEC. 2. AMENDMENT OF SMALL RECLAMATION PROJECTS**

2 **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.”.

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

14 (1) By amending subsection (d) to read as fol-
15 lows:

16 “(d) The term ‘project’ means a project carried out
17 by a non-Federal organization under the Federal reclama-
18 tion laws in 1 or more of the 17 western reclamation
19 States that is one of the following:

20 “(1) A single or multipurpose water resource
21 development project carried out by a non-Federal or-
22 ganization involving water conservation, energy con-
23 servation, fish and wildlife conservation, protection,
24 or enhancement, public safety, public outdoor recre-
25 ation, environmental education, archaeological sur-
26 veys, integrated resource planning, watershed man-

1 agement, water quality improvements, rural water
2 supply, augmentation and management of local
3 water supplies, supplemental water for existing sup-
4 plies, technology transfer, groundwater management
5 or research, nonstructural flood control activities, or
6 total water resources management.

7 “(2) A project for the rehabilitation, better-
8 ment, or retrofit of any existing Federal or non-Fed-
9 eral water infrastructure for purposes of—

10 “(A) significant preservation, protection,
11 enhancement, or extension of water or energy
12 resources, or

13 “(B) those operational measures, habitat,
14 or physical features associated with the protec-
15 tion, preservation, enhancement, or recovery of
16 those fish and wildlife resources that are con-
17 sidered of importance and interest and which
18 shall include, but not be limited to, migratory
19 species, threatened or endangered species as
20 listed, or proposed for listing, under the Endan-
21 gered Species Act, or other species, as deter-
22 mined by the Secretary, to be worthy of consid-
23 eration under these terms.”.

24 (2) By adding the following at the end thereof:

1 “(g) The term ‘water quality improvements’ shall
 2 mean and involve those operational measures and physical
 3 features associated with—

4 “(1) the reclamation and reuse of irrigation
 5 drainage or municipal and industrial return flows,
 6 including wastewater flows;

7 “(2) the reclamation, dilution, or control, of
 8 brackish, toxic, or hazardous waters for beneficial
 9 reuse or protection of other related water, land, or
 10 environmental resources; or

11 “(3) flow augmentation from storage to achieve
 12 national or State water quality goals.”.

13 (c) MODIFICATION OF LOAN AND GRANT PRO-
 14 GRAMS.—Sections 3 through 8 of such Act are amended
 15 to read as follows:

16 **“TITLE I—STATE AND LOCAL**
 17 **PARTICIPATION IN RECLAMA-**
 18 **TION PROJECTS**

19 **“SEC. 101. ESTABLISHMENT OF GRANT AND LOAN PRO-**
 20 **GRAM**

21 “There is hereby established under this title a pro-
 22 gram within the Bureau of Reclamation of the Depart-
 23 ment of the Interior pursuant to which the Secretary of
 24 the Interior may make grants and loans to organizations
 25 to carry out projects as defined in section 2(d).

1 **“SEC. 102. CONTENTS OF PROPOSALS.**

2 “(a) IN GENERAL.—Any organization seeking assist-
3 ance under this title shall submit a proposal to the Sec-
4 retary in such form and manner as the Secretary may pre-
5 scribe. Any proposal for a project submitted under this
6 title shall set forth a plan and estimated cost in detail
7 comparable to those included in preauthorization reports
8 required for a Federal reclamation project.

9 “(b) LANDS AND WATERS.—Each proposal submit-
10 ted under this title shall include a showing that the project
11 sponsor holds or can acquire all lands and interests in land
12 (except public and other lands and interest in land owned
13 by the United States which are within the administrative
14 jurisdiction of the Secretary and subject to disposition by
15 the Secretary) and rights, pursuant to applicable State
16 law, to the use of water necessary for the successful con-
17 struction, operation, and maintenance of the project and
18 that it is ready, able, and willing to finance otherwise than
19 by loan and grant of Federal funds the non-Federal por-
20 tion of the costs of the project (which portion shall include
21 all costs of acquiring lands, interests in land, and rights
22 to the use of water except as provided in section 103(b)(2).

23 “(c) FEDERAL SHARE AND PROJECT SPONSOR
24 SHARE OF COSTS.—The Secretary shall require each or-
25 ganization to contribute toward the cost of the project
26 (other than by loan or grant of Federal funds) not less

1 than 25 percent nor more than 40 percent of the allowable
2 estimated costs of the project. In determining the amount
3 of such non-Federal contribution for the proposed project,
4 the Secretary shall credit toward that amount—

5 “(1) the cost of investigations, surveys, engi-
6 neering, and other services necessary to the prepara-
7 tion of proposals and plans for the proposed project
8 as required by the Secretary;

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

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

14 “(4) the filing fee required by this Act. Such
15 proposal shall also include an investigation of soil
16 characteristics which might result in toxic or hazard-
17 ous return flows. The costs of measures to prevent
18 loss of and damage to existing fish and wildlife re-
19 sources shall be considered as non-Federal project
20 costs and allocated as may be appropriate among
21 project functions. The maximum allowable Federal
22 share per project shall be \$30,000,000 plus or minus
23 an adjustment of such amount as may be deter-
24 mined by the Secretary using the Bureau of Rec-

1 lamation composite construction cost index for Janu-
2 ary of the year concerned.

3 “(d) APPROVAL OR DISAPPROVAL.—Not later than
4 one year after the time the initial project proposal is sub-
5 mitted to the Secretary, the Secretary shall make a deter-
6 mination whether the proposal is financially feasible and
7 constitutes a reasonable risk under the provisions of this
8 title and either approve or disapprove the proposal. The
9 Secretary shall promptly transmit any approved proposals
10 to the Congress. Any National Environmental Policy Act
11 documentation for the project shall be completed prior to
12 Secretarial transmittal of the proposal to the Congress.

13 “(e) INCREASE IN AMOUNT.—At any time prior to
14 the completion of construction of the project, the Sec-
15 retary may increase the amount of the requested loan or
16 grant, or both, subject to the limitations allowed by sub-
17 section (c), using the Bureau of Reclamation composite
18 construction cost index to compensate for increases in con-
19 struction costs due to price escalation.

20 **“SEC. 103. CONTRACT TERMS AND CONDITIONS.**

21 “(a) MAXIMUM AMOUNTS.—Upon approval of any
22 project proposal submitted under this title, the Secretary
23 shall negotiate a contract which shall set out—

1 “(1) the maximum amount of any loan to be
2 made to the organization and the time and method
3 of making the same available to the organization; or

4 “(2) the maximum amount of any grant to be
5 accorded the organization.

6 “(b) GRANTS.—A grant under this title shall not ex-
7 ceed the sum of the following:

8 “(1) The costs of investigations, surveys, and
9 engineering and other services necessary to the prep-
10 aration of proposals and plans for the project alloca-
11 ble to fish and wildlife enhancement or public recre-
12 ation.

13 “(2) One-half the costs of acquiring lands or in-
14 terests therein to serve exclusively the purposes of
15 fish and wildlife enhancement or public recreation,
16 plus the costs of acquiring joint use lands and inter-
17 ests therein properly allocable to fish and wildlife en-
18 hancement and public recreation.

19 “(3) One-half the costs of basic public outdoor
20 recreation facilities or facilities serving fish and wild-
21 life enhancement purposes exclusively.

22 “(4) One-half the costs of construction of joint
23 use facilities properly allocable to fish and wildlife
24 enhancement or public recreation.

1 “(5) That portion of the estimated cost of con-
2 structing the project which, if it were constructed as
3 a Federal reclamation project, would be properly al-
4 locable to functions, other than recreation and fish
5 and wildlife enhancement and flood control, which
6 are nonreimbursable under general provisions of law
7 applicable to such projects.

8 “(6) That portion of the estimated cost of con-
9 structing the project which is allocable to flood con-
10 trol and which would be nonreimbursable under gen-
11 eral provisions of law applicable to projects con-
12 structed by the Secretary of the Army.

13 “(c) LOANS.—(1) The contract for each loan under
14 this title shall contain such terms and conditions as the
15 Secretary deems necessary or proper to provide assurance
16 of and security for prompt repayment and to ensure
17 achievement of the purposes for which the loan was made.
18 The contract shall include a plan for repayment by the
19 organization within not less than 15 years nor more than
20 25 years, except that the organization shall have the right
21 to prepay the loan without penalty.

22 “(2) The contract for each loan under this title shall
23 require repayment of the principal of each loan, together
24 with interest at a rate determined by the Secretary of the
25 Treasury as of the beginning of the fiscal year in which

1 the contract is executed on the basis of the average market
 2 yields on outstanding marketable obligations of the United
 3 States with remaining periods to maturity comparable to
 4 the applicable repayment period of the project.

5 “(3) The Secretary, at his discretion, may reduce the
 6 interest on any loan under this title to not less than one-
 7 half the average market rate as so determined, or to the
 8 extent that he determines that the organization is unable
 9 to secure financing from other sources under reasonable
 10 terms and conditions, and shall include letters from lend-
 11 ers or other written evidence in support of any finding
 12 of an applicant’s inability to secure such financing in any
 13 project proposal transmitted to the Congress.

14 “(4) Loans under these terms may be made for all
 15 costs allocated to commercial irrigation; however, the Sec-
 16 retary shall reduce the interest to not less than $\frac{1}{3}$ the
 17 average based on the applicant’s average ability to pay cal-
 18 culations, or further reduce the loan rate if he finds at
 19 his discretion that there are sufficient benefits to approve
 20 a reduced loan rate.

21 **“TITLE II—PARTNERSHIP** 22 **PROGRAM**

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

24 “There is hereby established within the Department
 25 of the Interior’s Bureau of Reclamation the Small Rec-

1 lamation Water Resources Management Partnership Pro-
 2 gram for a small grant and loan program to be carried
 3 out under this title. Grants under this title shall not ex-
 4 ceed \$5,000,000 for any one project under such program
 5 and shall be matched on a 50–50 basis. Loans under this
 6 title shall not exceed \$1,500,000 per project. The Sec-
 7 retary is authorized to use up to \$50,000,000 of the
 8 amounts available under this Act for the purposes of this
 9 title.

10 **“SEC. 202. REPAYMENT OF LOANS.**

11 “Once work is certified complete by the Secretary,
 12 each loan made under this title shall be repaid within a
 13 5-year period and deposited in a revolving loan fund that
 14 shall be established in the Department of the Treasury.
 15 Money from the repayment of the loans shall be available
 16 from the revolving loan program fund without further ap-
 17 propriation to carry out the purposes of this title.

18 **“SEC. 203. ACTIVITIES ELIGIBLE UNDER THE SMALL REC-**
 19 **LAMATION WATER RESOURCES PARTNER-**
 20 **SHIP.**

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

23 “(1) WATER CONSERVATION.—

24 “(A) Rehabilitation of existing structures;

25 “(B) wastewater reuse systems;

1 “(C) groundwater recharge and develop-
2 ment systems;

3 “(D) watershed management programs;

4 “(E) water quality improvement projects;

5 “(F) conjunctive use projects;

6 “(G) metering of systems; and

7 “(H) public environmental education.

8 “(2) FISH AND WILDLIFE ENHANCEMENT.—

9 “(A) Fish and wildlife habitat improve-
10 ment and protection programs;

11 “(B) grassland/water/wetland areas;

12 “(C) stabilization of instream flows; and

13 “(D) Federal or State endangered species
14 habitat protection and enhancement where im-
15 provement or enhancement activities are within
16 normal operating criteria.

17 “(3) PUBLIC SAFETY.—

18 “(A) Downstream warning system projects;

19 “(B) canal fencing or canal modification
20 for public safety; and

21 “(C) public access facilities.

22 “(4) PUBLIC OUTDOOR RECREATION.—

23 “(A) Replacement, repair, or improvement
24 of boat ramps, hiking and biking trails, bench-

1 es, picnic areas, parking facilities associated
2 with Federal reclamation projects; and

3 “(B) addition of public access facilities.

4 “(5) ARCHAEOLOGICAL SURVEYS.—Site clear-
5 ances.

6 “(b) ADDITIONAL ACTIVITIES.—The Secretary may
7 add to the list referred to in subsection (a) as he deems
8 appropriate, except that any such addition shall not take
9 effect until 60 days after the Secretary publishes a notice
10 of the proposed addition in the Federal Register and has
11 notified the Committee on Resources of the House of Rep-
12 resentatives and the Committee on Energy and Natural
13 Resources of the United States Senate in writing of the
14 proposed addition and the reasons therefor.

15 **“SEC. 204. APPLICATION PROCESS.**

16 “(a) NOTICE OF INTENT.—Each applicant for a
17 grant or loan under this title shall submit a Notice of In-
18 tent to the Secretary outlining the proposed project and
19 the public benefits thereof. The Secretary shall provide a
20 written response to the applicant within 30 days of receiv-
21 ing the application either affirming or rejecting Bureau
22 of Reclamation interest in participating in the project.

23 “(b) NOTICE OF FEDERAL INTEREST.—Upon notifi-
24 cation of a Bureau of Reclamation interest, the applicant
25 shall have the option of proceeding with an appropriate

1 loan or grant application giving details of the project and
2 the associated public benefits.

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

6 “(1) A resolution by the board of directors of
7 the qualifying organization stating—

8 “(A) the total estimated cost;

9 “(B) the amount of the grant or loan re-
10 quested;

11 “(C) the amount of the local contribution
12 for the grant;

13 “(D) the sponsor’s ability to finance and
14 construct the project; and

15 “(E) the project objectives.

16 “(2) A summary of the proposal.

17 “(3) A brief description of the anticipated ef-
18 fects of the project on the natural, as well as man-
19 made environment.

20 “(4) Evidence that the applicant has all lands
21 and water rights needed for the project, or can ob-
22 tain them.

23 “(5) A description of the project plan, including
24 a general map showing the location of proposed
25 physical features, sufficient engineering drawings of

1 major and typical structures, and general standards
2 for design.

3 “(6) A construction schedule, if applicable, with
4 dates and schedule of funding requirements under
5 this title, in sufficient detail to permit analysis of
6 the proposed construction program.

7 “(7) A determination of those portions of the
8 project costs which constitute the Federal grant/loan
9 amounts and the applicant’s local contribution.

10 “(d) COSTS.—The cost of any investigations and
11 preparation of any environmental documentation shall be
12 borne by the project applicant and any such costs shall
13 be credited as part of the local cost share for grant fund-
14 ing.

15 “(e) QUARTERLY LISTING.—The Secretary shall pub-
16 lish on a quarterly basis in the Federal Register a listing
17 of the activities and total funding required for work com-
18 mitted under this title.

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

20 “The Secretary shall examine the proposal submitted
21 under this title to determine if the project can reasonably
22 be expected to accomplish its purpose. Once approved by
23 the Secretary, funding, subject to the availability of appro-
24 priations or funds from repayments, shall be provided

1 within 60 days for the schedule of work within that fiscal
2 year.

3 **“TITLE III—LOAN GUARANTEES**

4 **“SEC. 301. ESTABLISHMENT OF LOAN GUARANTEE PRO-** 5 **GRAM.**

6 “There is hereby established within the Department
7 of the Interior’s Bureau of Reclamation a demonstration
8 program under this title to guarantee loans for projects
9 receiving, or eligible to receive, loans or grants under title
10 I or II of this Act.

11 **“SEC. 302. PROGRAM REQUIREMENTS.**

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

22 “(b) FUNDING LIMIT.—The Secretary is authorized
23 to use up to 10 percent of the amounts available under
24 this Act for the loan guarantee demonstration program

1 under this title over the 6 fiscal years commencing after
2 the enactment of this title.

3 “(c) SELECTION OF RECIPIENTS.—The Secretary
4 shall use competitive procedures in the selection of entities
5 to receive loan guarantees under this section. The criteria
6 used for the selection of the entities to receive the loan
7 guarantee under this section shall include, at a minimum,
8 the following:

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

12 “(2) The extent to which the loan guarantees
13 are necessary as a result of no other financing mech-
14 anism being available to the requesting entity.

15 “(3) The extent to which the loan guarantee
16 can be repaid in the shortest period possible.

17 “(4) The extent to which the loan guarantee
18 would provide for a project of wide public purpose.

19 “(5) The extent to which the loan guarantee
20 would alleviate a problem with a Federal or State
21 environmental statute or mandate.

22 “(6) The ability of the program to assist other
23 local water purveyors.

1 “(7) The extent to which the program would
2 supplement, rather than duplicate, other available
3 water resource programs.

4 “(8) The likelihood that, within 10 years after
5 the commencement of assistance for a program
6 under this section that assistance from the Bureau
7 of Reclamation will not be necessary to sustain the
8 program.

9 “(9) The extent to which the annual use of loan
10 guarantee ceiling authority has not created an undue
11 fiscal burden on the reclamation program.

12 “(d) APPORTIONMENT.—The total amount available
13 for request by the Administration for a fiscal year to cover
14 the costs of loan guarantees under this section shall be
15 divided between projects receiving or eligible to receive
16 loans under titles I and II with title I projects receiving
17 75 percent and title II projects receiving 25 percent.

18 “(e) MAXIMUM.—The maximum allowable guarantee
19 percentage for loans guaranteed under this section may
20 not exceed 75 percent of the total project cost.

21 “(f) REPAYMENT.—As the project sponsor repays
22 such guaranteed loan, the ceiling authority used under
23 this section for such guarantee shall revert back to the
24 10 percent ceiling authorized under this section to serve
25 as the basis for future loan guarantees. Applicable report

1 and document requirements authorized under amend-
2 ments contained in titles I and II shall similarly apply to
3 loan guarantee projects.

4 “(g) STATE LAW.—For purposes of this Act, any
5 bonds issued under this section by an entity receiving loan
6 guarantees under this section shall be considered federally
7 guaranteed tax-exempt bonds under applicable State law.

8 “(h) FULL FAITH AND CREDIT.—Any loan guarantee
9 issued pursuant to this section shall constitute an obliga-
10 tion, in accordance with the terms of such guarantee, of
11 the United States Government, and the full faith and cred-
12 it of the United States is hereby pledged to the full per-
13 formance of the obligations.

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

19 “TITLE IV—GENERAL 20 PROVISIONS

21 “SEC. 401. PROPOSAL FEE.

22 “Each proposal for a loan, grant, or loan guarantee
23 under this Act shall be accompanied by a payment of
24 \$5,000 plus \$1,000 for each \$1,000,000 of the estimated
25 Federal share of project costs, or portion thereof to defray

1 in part the costs of examining the proposal. Fifty percent
2 of the payment shall accompany the application and the
3 remaining 50 percent shall be due upon approval of the
4 project by the Secretary, if approved.

5 **“SEC. 402. MISCELLANEOUS PROVISIONS.**

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

9 “(b) COMBINED LOANS AND GRANTS.—Nothing con-
10 tained in this Act shall preclude the making of more than
11 one loan or grant, or combined loan and grant, to an orga-
12 nization so long as no two such loans or grants, or com-
13 binations thereof, are for the same project, as herein de-
14 fined.

15 “(c) PLANNING, CONSTRUCTION, OPERATION, AND
16 MAINTENANCE.—The recipient of each loan, grant, or
17 loan guarantee under this Act shall be solely responsible
18 for planning, constructing, operating, and maintaining
19 any project receiving a loan or grant under this title.

20 **“SEC. 403. INFORMATION AVAILABILITY.**

21 “Upon request of an organization which has made or
22 intends to make a proposal under this Act, the head of
23 any Federal department or agency may make available to
24 the organization any existing engineering, economic, hy-
25 drologic, or other appropriate information and printed ma-

1 terial that it may have and that will be useful in connec-
2 tion with the planning, design, construction, or operation
3 and maintenance of the project concerned. The reasonable
4 cost of any plans, specifications, and other unpublished
5 material furnished by the Secretary pursuant to this sec-
6 tion and the cost of making and administering any provi-
7 sion under this Act shall, to the extent that they would
8 not be nonreimbursable in the case of a project con-
9 structed under the Federal Reclamation Laws, be treated
10 as a loan and covered in the provisions of the contract
11 entered into under section 105 unless they are otherwise
12 paid for by the organization.

13 **“SEC. 404. COMPLIANCE WITH FISH AND WILDLIFE COORDI-**
14 **NATION ACT.**

15 “For those projects where the planning and construc-
16 tion of projects undertaken pursuant to this Act is subject
17 to the provisions of the Fish and Wildlife Coordination
18 Act, the cost of such provisions shall be a Federal expense
19 and the Secretary is authorized, as may be provided in
20 Appropriation Acts, to transfer to the Fish and Wildlife
21 Service or to the National Marine Fisheries Service, such
22 funds as may be necessary to conduct the investigations
23 required to carry out the purposes of this Act, except that
24 the Secretary may not use any funds appropriated for the

1 purposes of projects or programs under the Bureau of
2 Reclamation.”.

3 (d) CONFORMING AMENDMENTS.—(1) Sections 9
4 through 13 of such Act are redesignated as sections 405
5 through 409 respectively.

6 (2) Section 406 of such Act, as redesignated by para-
7 graph (1) of this subsection, is amended by striking “sec-
8 tion 3” and inserting “title I”.

9 (3) Section 402 of such Act, as redesignated by para-
10 graph (1) of this subsection, is amended by striking “sec-
11 tion 4(c)” and inserting “title I”.

12 **SEC. 3. REGULATIONS.**

13 Within 120 days after the enactment of this Act, the
14 Secretary of the Interior shall promulgate such regulations
15 as may be necessary to carry out the amendments made
16 by this Act.

17 **SEC. 4. EFFECTIVE DATE.**

18 The amendments made by this Act shall take effect
19 on the date of the enactment of this Act. Nothing in this
20 Act or in any amendment made by this Act shall affect
21 any loan or grant that has been approved before the date
22 of the enactment of this Act.

○