

109TH CONGRESS
2D SESSION

S. 2561

To authorize the Secretary of the Interior to make available cost-shared grants and enter into cooperative agreements to further the goals of the Water 2025 Program by improving water conservation, efficiency, and management in the Reclamation States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2006

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

A BILL

To authorize the Secretary of the Interior to make available cost-shared grants and enter into cooperative agreements to further the goals of the Water 2025 Program by improving water conservation, efficiency, and management in the Reclamation States, 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 “Bureau of Reclamation
5 Water Conservation, Efficiency, and Management Im-
6 provement Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) NON-FEDERAL ENTITY.—The term “non-
4 Federal entity” means a State, Indian tribe, irriga-
5 tion district, water district, or any other organiza-
6 tion with water delivery authority.

7 (2) RECLAMATION STATE.—The term “Rec-
8 lamation State” means each of the States of Ari-
9 zona, California, Colorado, Idaho, Kansas, Montana,
10 Nebraska, Nevada, New Mexico, North Dakota,
11 Oklahoma, Oregon, South Dakota, Texas, Utah,
12 Washington, and Wyoming.

13 (3) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior, acting through the
15 Commissioner of Reclamation.

16 **SEC. 3. AUTHORIZATION OF GRANTS AND COOPERATIVE**
17 **AGREEMENTS.**

18 (a) IN GENERAL.—The Secretary may, in accordance
19 with the criteria published under subsection (b), provide
20 grants to, and enter into cooperative agreements with non-
21 Federal entities to pay the Federal share of the cost of
22 a project to plan, design, construct, or otherwise imple-
23 ment improvements to conserve water, increase water use
24 efficiency, facilitate water markets, enhance water man-
25 agement, or implement other actions to prevent water-re-

1 lated crises or conflicts in watersheds that have a nexus
2 to Federal water projects within the Reclamation States.

3 (b) ELIGIBILITY CRITERIA.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, the Secretary
6 shall, consistent with this Act, publish in the Federal
7 Register criteria developed by the Secretary for—

8 (A) determining the eligibility of a non-
9 Federal entity for assistance under subsection
10 (a); and

11 (B) prioritizing requests for assistance
12 under subsection (a).

13 (2) FACTORS.—The criteria developed under
14 paragraph (1) shall take into account such factors
15 as—

16 (A) the extent to which a project under
17 subsection (a) would reduce conflict over water;

18 (B) the extent to which a project under
19 subsection (a) would—

20 (i) increase water use efficiency; or

21 (ii) enhance water management;

22 (C) the extent to which unallocated water
23 is available in the area in which a project under
24 subsection (a) is proposed to be conducted;

1 (D) the extent to which a project under
2 subsection (a) involves water marketing;

3 (E) the likelihood that the benefit of a
4 project under subsection (a) would be attained;

5 (F) whether the non-Federal entity has
6 demonstrated the ability of the non-Federal en-
7 tity to pay the non-Federal share;

8 (G) the extent to which the assistance pro-
9 vided under subsection (a) is reasonable for the
10 work proposed under the project;

11 (H) the involvement of the non-Federal en-
12 tity and stakeholders in a project under sub-
13 section (a);

14 (I) whether a project under subsection (a)
15 is related to a Bureau of Reclamation project or
16 facility; and

17 (J) the extent to which a project under
18 subsection (a) would conserve water.

19 (c) FEDERAL FACILITIES.—If a grant or cooperative
20 agreement under subsection (a) provides for improvements
21 to a Federal facility—

22 (1) the Federal funds provided under the grant
23 or cooperative agreement may be—

1 (A) provided on a nonreimbursable basis to
 2 an entity operating affected transferred works;
 3 or

4 (B) determined to be nonreimbursable for
 5 non-transferred works; and

6 (2) title to the improvements to the Federal fa-
 7 cility shall be held by the United States.

8 (d) COST-SHARING REQUIREMENT.—

9 (1) FEDERAL SHARE.—The Federal share of
 10 the cost of carrying out a project assisted under sub-
 11 section (a) shall be not more than 50 percent.

12 (2) NON-FEDERAL SHARE.—In calculating the
 13 non-Federal share of the cost of carrying out a
 14 project under subsection (a), the Secretary—

15 (A) may include any in-kind contributions
 16 that the Secretary determines would materially
 17 contribute to the completion of proposed
 18 project; and

19 (B) shall exclude any funds received from
 20 other Federal agencies.

21 (e) OPERATION AND MAINTENANCE COSTS.—The
 22 non-Federal share of the cost of operating and maintain-
 23 ing improvements assisted under subsection (a) shall be
 24 100 percent.

1 (f) MUTUAL BENEFIT.—Grants or cooperative agree-
 2 ments made under this section or section 4 may be for
 3 the mutual benefit of the United States and the entity that
 4 is provided the grant or enters into the cooperative agree-
 5 ment.

6 (g) LIABILITY.—

7 (1) IN GENERAL.—Except as provided in para-
 8 graph (2), the United States shall not be liable
 9 under Federal or State law for monetary damages of
 10 any kind arising out of any act, omission, or occur-
 11 rence relating to any non-Federal facility con-
 12 structed or improved under this title.

13 (2) EXCEPTION.—Notwithstanding paragraph
 14 (1), the United States may be held liable for dam-
 15 ages to non-Federal facilities caused by acts of neg-
 16 ligence committed by the United States or by an em-
 17 ployee or agent of the United States.

18 (3) NO ADDITIONAL LIABILITY.—Nothing in
 19 this section increases the liability of the United
 20 States beyond that provided in chapter 171 of title
 21 28, United States Code (commonly known as the
 22 “Federal Torts Claim Act”).

23 **SEC. 4. RESEARCH AGREEMENTS.**

24 The Secretary may enter into cooperative agreements
 25 with institutions of higher education, nonprofit research

1 institutions, or organizations with water or power delivery
2 authority to fund research to conserve water, increase
3 water use efficiency, or enhance water management under
4 such terms and conditions as the Secretary determines to
5 be appropriate.

6 **SEC. 5. EFFECT.**

7 Nothing in this title affects any existing project-spe-
8 cific funding authority.

9 **SEC. 6. EFFECT ON STATE WATER LAW.**

10 Nothing in this Act invalidates, preempts, or creates
11 any exception to State water law, State water rights, or
12 any interstate compact governing water.

13 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to carry out
15 this Act \$25,000,000 for each of fiscal years 2007 through
16 2016.

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