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S. 1762

[Report No. 106-____]

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 1999

Mr. COVERDELL (for himself, Mrs. LINCOLN, Mr. INHOFE, Mr. CLELAND, Mr. LUGAR, Mr. CONRAD, Mr. ROBB, Mr. BYRD, Mr. ALLARD, Mr. HARKIN, Mr. BINGAMAN, Mr. BREAUX, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. BOND, Mr. HATCH, Mr. KOHL, Mr. REID, Mr. DEWINE, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

_____ (legislative day, _____), 2000

Reported by Mr. LUGAR, without amendment

A BILL

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Small Watershed Re-
3 habilitation Act of 1999”.

4 **SEC. 2. REHABILITATION OF WATER RESOURCE STRUC-
5 TURAL MEASURES CONSTRUCTED UNDER
6 CERTAIN DEPARTMENT OF AGRICULTURE
7 PROGRAMS.**

8 The Watershed Protection and Flood Prevention Act
9 (16 U.S.C. 1001 et seq.) is amended by adding at the end
10 the following new section:

11 **“SEC. 14. REHABILITATION OF STRUCTURAL MEASURES
12 NEAR, AT, OR PAST THEIR EVALUATED LIFE
13 EXPECTANCY.**

14 “(a) DEFINITIONS.—For purposes of this section:

15 “(1) REHABILITATION.—The term ‘rehabilita-
16 tion’, with respect to a structural measure con-
17 structed as part of a covered water resource project,
18 means the completion of all work necessary to ex-
19 tend the service life of the structural measure and
20 meet applicable safety and performance standards.
21 This may include (A) protecting the integrity of the
22 structural measure, or prolonging the useful life of
23 the structural measure, beyond the original evalu-
24 ated life expectancy, (B) correcting damage to the
25 structural measure from a catastrophic event, (C)
26 correcting the deterioration of structural components

1 that are deteriorating at an abnormal rate, (D) up-
2 grading the structural measure to meet changed
3 land use conditions in the watershed served by the
4 structural measure or changed safety criteria appli-
5 cable to the structural measure, or (E) decommis-
6 sioning the structural measure, including removal or
7 breaching.

8 “(2) COVERED WATER RESOURCE PROJECT.—
9 The term ‘covered water resource project’ means a
10 work of improvement carried out under any of the
11 following:

12 “(A) This Act.

13 “(B) Section 13 of the Act of December
14 22, 1944 (Public Law 78–534; 58 Stat. 905).

15 “(C) The pilot watershed program author-
16 ized under the heading ‘FLOOD PREVENTION’
17 of the Department of Agriculture Appropriation
18 Act, 1954 (Public Law 156; 67 Stat. 214).

19 “(D) Subtitle H of title XV of the Agri-
20 culture and Food Act of 1981 (16 U.S.C. 3451
21 et seq.; commonly known as the Resource Con-
22 servation and Development Program).

23 “(3) ELIGIBLE LOCAL ORGANIZATION.—The
24 term ‘eligible local organization’ means a local orga-
25 nization or appropriate State agency responsible for

1 the operation and maintenance of structural meas-
2 ures constructed as part of a covered water resource
3 project.

4 “(4) STRUCTURAL MEASURE.—The term ‘struc-
5 tural measure’ means a physical improvement that
6 impounds water, commonly known as a dam, which
7 was constructed as part of a covered water resource
8 project.

9 “(b) COST SHARE ASSISTANCE FOR REHABILITA-
10 TION.—

11 “(1) ASSISTANCE AUTHORIZED.—The Secretary
12 may provide financial assistance to an eligible local
13 organization to cover a portion of the total costs in-
14 curred for the rehabilitation of structural measures
15 originally constructed as part of a covered water re-
16 source project. The total costs of rehabilitation in-
17 clude the costs associated with all components of the
18 rehabilitation project, including acquisition of land,
19 easements, and rights-of-ways, rehabilitation project
20 administration, the provision of technical assistance,
21 contracting, and construction costs, except that the
22 local organization shall be responsible for securing
23 all land, easements, or rights-of-ways necessary for
24 the project.

1 “(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—

2 The amount of Federal funds that may be made
3 available under this subsection to an eligible local
4 organization for construction of a particular rehabili-
5 tation project shall be equal to 65 percent of the
6 total rehabilitation costs, but not to exceed 100 per-
7 cent of actual construction costs incurred in the re-
8 habilitation. However, the local organization shall be
9 responsible for the costs of water, mineral, and other
10 resource rights and all Federal, State, and local per-
11 mits.

12 “(3) RELATION TO LAND USE AND DEVELOP-
13 MENT REGULATIONS.—As a condition on entering
14 into an agreement to provide financial assistance
15 under this subsection, the Secretary, working in con-
16 cert with the eligible local organization, may require
17 that proper zoning or other developmental regula-
18 tions are in place in the watershed in which the
19 structural measures to be rehabilitated under the
20 agreement are located so that—

21 “(A) the completed rehabilitation project is
22 not quickly rendered inadequate by additional
23 development; and

24 “(B) society can realize the full benefits of
25 the rehabilitation investment.

1 “(c) TECHNICAL ASSISTANCE FOR WATERSHED
2 PROJECT REHABILITATION.—The Secretary, acting
3 through the Natural Resources Conservation Service, may
4 provide technical assistance in planning, designing, and
5 implementing rehabilitation projects should an eligible
6 local organization request such assistance. Such assistance
7 may consist of specialists in such fields as engineering,
8 geology, soils, agronomy, biology, hydraulics, hydrology,
9 economics, water quality, and contract administration.

10 “(d) PROHIBITED USE.—

11 “(1) PERFORMANCE OF OPERATION AND MAIN-
12 TENANCE.—Rehabilitation assistance provided under
13 this section may not be used to perform operation
14 and maintenance activities specified in the agree-
15 ment for the covered water resource project entered
16 into between the Secretary and the eligible local or-
17 ganization responsible for the works of improvement.
18 Such operation and maintenance activities shall re-
19 main the responsibility of the local organization, as
20 provided in the project work plan.

21 “(2) RENEGOTIATION.—Notwithstanding para-
22 graph (1), as part of the provision of financial as-
23 sistance under subsection (b), the Secretary may re-
24 negotiate the original agreement for the covered
25 water resource project entered into between the Sec-

1 retary and the eligible local organization regarding
2 responsibility for the operation and maintenance of
3 the project when the rehabilitation is finished.

4 “(e) APPLICATION FOR REHABILITATION ASSIST-
5 ANCE.—An eligible local organization may apply to the
6 Secretary for technical and financial assistance under this
7 section if the application has also been submitted to and
8 approved by the State agency having supervisory responsi-
9 bility over the covered water resource project at issue or,
10 if there is no State agency having such responsibility, by
11 the Governor of the State. The Secretary shall request the
12 State dam safety officer (or equivalent State official) to
13 be involved in the application process if State permits or
14 approvals are required. The rehabilitation of structural
15 measures shall meet standards established by the Sec-
16 retary and address other dam safety issues. At the request
17 of the eligible local organization, personnel of the Natural
18 Resources Conservation Service of the Department of Ag-
19 riculture may assist in preparing applications for assist-
20 ance.

21 “(f) JUSTIFICATION FOR REHABILITATION ASSIST-
22 ANCE.—In order to qualify for technical or financial as-
23 sistance under this authority, the Secretary shall require
24 the rehabilitation project to be performed in the most cost-
25 effective manner that accomplishes the rehabilitation ob-

1 jective. Since the requirements for accomplishing the reha-
2 bilitation are generally for public health and safety rea-
3 sons, in many instances being mandated by other State
4 or Federal laws, no benefit-cost analysis will be conducted
5 and no benefit-cost ratio greater than one will be required.
6 The benefits of and the requirements for the rehabilitation
7 project shall be documented to ensure the wise and respon-
8 sible use of Federal funds.

9 “(g) RANKING OF REQUESTS FOR REHABILITATION
10 ASSISTANCE.—The Secretary shall establish such system
11 of approving rehabilitation requests, recognizing that such
12 requests will be received throughout the fiscal year and
13 subject to the availability of funds to carry out this sec-
14 tion, as is necessary for proper administration by the De-
15 partment of Agriculture and equitable for all eligible local
16 organizations. The approval process shall be in writing,
17 and made known to all eligible local organizations and ap-
18 propriate State agencies.

19 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary
21 \$60,000,000 for each of the fiscal years 2000 through
22 2009 to provide financial and technical assistance under
23 this section.

24 “(i) ASSESSMENT OF REHABILITATION NEEDS.—Of
25 the amount appropriated pursuant to subsection (h) for

1 fiscal years 2000 and 2001, \$5,000,000 shall be used by
2 the Secretary, in concert with the responsible State agen-
3 cies, to conduct an assessment of the rehabilitation needs
4 of covered water resource projects in all States in which
5 such projects are located.

6 “(j) RECORDKEEPING AND REPORTS.—

7 “(1) SECRETARY.—The Secretary shall main-
8 tain a data base to track the benefits derived from
9 rehabilitation projects supported under this section
10 and the expenditures made under this section. On
11 the basis of such data and the reports submitted
12 under paragraph (2), the Secretary shall prepare
13 and submit to Congress an annual report providing
14 the status of activities conducted under this section.

15 “(2) GRANT RECIPIENTS.—Not later than 90
16 days after the completion of a specific rehabilitation
17 project for which assistance is provided under this
18 section, the eligible local organization that received
19 the assistance shall make a report to the Secretary
20 giving the status of any rehabilitation effort under-
21 taken using financial assistance provided under this
22 section.”.