

104TH CONGRESS
2D SESSION

H. R. 3270

To authorize and direct the Secretary of the Army to expeditiously construct a project for flood control on the Sacramento and American Rivers, California, and to authorize and direct the Secretary of the Interior and the Secretary of the Army to enter into agreements that allow the State of California or other non-Federal sponsors to construct, without cost to the United States, a multipurpose dam and related facilities at Auburn on the American River.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1996

Mr. DOOLITTLE (for himself, Mr. MATSUI, Mr. FAZIO of California, Mr. POMBO, Mr. HERGER, Mr. RADANOVICH, Mr. CONDIT, and Mr. DOOLEY of California) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize and direct the Secretary of the Army to expeditiously construct a project for flood control on the Sacramento and American Rivers, California, and to authorize and direct the Secretary of the Interior and the Secretary of the Army to enter into agreements that allow the State of California or other non-Federal sponsors to construct, without cost to the United States, a multipurpose dam and related facilities at Auburn on the American River.

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 “Disaster Prevention
5 and Fiscal Responsibility Act of 1996”.

6 **TITLE I—TRANSFER OF AUBURN**
7 **DAM AND RESERVOIR PROJECT**

8 **SEC. 101. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

9 Administrative jurisdiction over the Auburn Dam and
10 Reservoir project authorized by the Act entitled “An Act
11 to authorize the Secretary of the Interior to construct, op-
12 erate, and maintain the Auburn-Folsom South unit, Amer-
13 ican River division, Central Valley project, California,
14 under Federal reclamation laws”, approved September 2,
15 1965 (43 U.S.C. 616aaa–616fff; Public Law 89–161), is
16 transferred from the Secretary of the Interior to the Sec-
17 retary of the Army.

18 **SEC. 102. PROJECT DESCRIPTION; APPLICABILITY OF**
19 **LAWS.**

20 The project referred to in section 101 shall be carried
21 out in accordance with title II of this Act instead of the
22 Act of September 2, 1965 (43 U.S.C. 616aaa–616fff; Pub-
23 lic Law 89–161). The project shall not be subject to any
24 Federal reclamation law but shall be subject to any Fed-

1 eral law which is generally applicable to water resources
2 projects carried out by the Secretary of the Army.

3 **SEC. 103. REDUCTION AND TRANSFER OF AUTHORIZATION**
4 **OF APPROPRIATIONS.**

5 (a) REDUCTION AND TRANSFER.—On the date of the
6 enactment of this Act, the amount authorized to be appro-
7 priated by the 1st sentence of section 6 of the Act of Sep-
8 tember 2, 1965 (43 U.S.C. 616fff) as adjusted by inflation
9 indexing provisions contained in the Act of September 2,
10 1965, is hereby reduced by 50 percent and transferred to
11 the Secretary of the Army for the purposes of carrying
12 out the provisions of this Act. Such amount shall be ad-
13 justed plus or minus such amounts, if any, as may be re-
14 quired by reason of changes in construction costs as indi-
15 cated by engineering cost indexes applicable to the type
16 of construction involved.

17 (b) ADMINISTRATIVE PROVISION.—All amounts au-
18 thorized to be appropriated by titles II and III of this Act
19 are authorized to be appropriated out of the amount trans-
20 ferred by subsection (a).

1 **TITLE II—SACRAMENTO AND**
2 **AMERICAN RIVERS FLOOD**
3 **CONTROL PROJECT**

4 **SEC. 201. SACRAMENTO AND AMERICAN RIVERS FLOOD**
5 **CONTROL PROJECT.**

6 (a) AUTHORIZATION.—Notwithstanding any other
7 provision of law, the Secretary of the Army shall construct
8 expeditiously the project for flood control and recreation
9 on the Sacramento and American Rivers, California, sub-
10 stantially in accordance with the Detention Dam Alter-
11 native specified in the report of the Chief of Engineers,
12 dated June 30, 1996, at a total estimated cost of
13 \$948,700,000 (1996 prices), plus or minus such amounts,
14 if any, as may be justified by reason of ordinary fluctua-
15 tions in construction costs as indicated by engineering cost
16 indexes applicable to the types of construction involved in
17 the project, with an estimated first Federal cost of
18 \$711,500,000 and an estimated first non-Federal cost of
19 \$237,200,000. The project shall be augmented as follows:

20 (1) INTERIM PUMPING FACILITIES.—

21 (A) IN GENERAL.—The project shall also
22 include the construction of a pumping plant, ac-
23 cess roads, and appurtenant facilities of suffi-
24 cient size to fulfill the United States obligations
25 to the Placer County Water Agency (hereinafter

1 in this title referred to as the “Agency”) under
2 its contract number 14–06–859–308, as amend-
3 ed as of the date of the enactment of this Act.
4 The United States shall furnish to the Agency
5 sufficient electric capacity and energy to enable
6 water to be pumped from the North Fork
7 American River through such facilities into the
8 Agency’s Auburn Tunnel at a continuous rate
9 of not less than 100 cubic feet per second until
10 the completion of the multipurpose dam and
11 reservoir facility at Auburn pursuant to title
12 III. The pumping plant, access roads, electric
13 capacity, and energy shall be furnished by the
14 United States without cost to the Agency.

15 (B) DESIGN.—The pumping plant and fa-
16 cilities shall be designed and constructed for
17 year-round operation and under storm runoff
18 conditions of up to 100-year frequency.

19 (C) ADDITIONAL CAPACITY AT REQUEST
20 OF AGENCY.—At the Agency’s request, the Sec-
21 retary shall construct the pumping plant and
22 appurtenant facilities at a size larger than 100
23 cubic feet per second with all costs for pumping
24 facilities, energy, and capacity above 100 cubic

1 feet per second to be borne by the Agency on
2 an incremental basis.

3 (D) OPPORTUNITY FOR DISTRICT TO RE-
4 QUEST ADDITIONAL CAPACITY.—At the request
5 of the Georgetown Divide Public Utility District
6 (hereinafter in this title referred to as the “Dis-
7 trict”), the Secretary shall construct the pump-
8 ing plant and appurtenant facilities at a size
9 larger than 100 cubic feet per second to provide
10 for delivery of Central Valley Project water by
11 exchange or transfer as authorized under the
12 Energy and Water Development Appropriations
13 Act, 1991 (Public Law 101–514) or the deliv-
14 ery of such nonproject water as may be ac-
15 quired by the District. All costs for pumping fa-
16 cilities, energy, and capacity above 100 cubic
17 feet per second requested by the District shall
18 be borne by the District on an incremental
19 basis. The ownership and operation of the
20 pumping plant and appurtenant facilities shall
21 be subject to an agreement between the Agency
22 and the District. The United States shall fur-
23 nish to the District sufficient electrical energy
24 capacity and energy to enable exchanged or

1 transferred water to be pumped from the North
2 Fork American River to the service area.

3 (E) OPERATION AND MAINTENANCE BY
4 AGENCY.—The Agency shall assume ownership
5 of and responsibility for the operation and
6 maintenance of the pumping plant, access
7 roads, and facilities, except for the furnishing of
8 electric capacity and energy as provided for in
9 this paragraph, once the facilities are completed
10 and transferred to the Agency by the United
11 States.

12 (F) FUNDING.—There is authorized to be
13 appropriated for construction of the interim
14 pumping facilities under this paragraph
15 \$9,100,000 (1996 prices) plus or minus such
16 amounts, if any, as may be justified by reason
17 of ordinary fluctuations in construction costs as
18 indicated by engineering cost indexes applicable
19 to the types of construction involved in con-
20 struction of such facilities. There is also author-
21 ized to be appropriated such additional sums as
22 may be required for the operation and mainte-
23 nance of the pumping plant and appurtenant
24 facilities prior to their transfer to the Agency
25 under subparagraph (E).

1 (2) FUTURE EXPANSION AND POWER GENERA-
2 TION.—

3 (A) IN GENERAL.—The facilities to be con-
4 structed under this title shall be designed and
5 constructed to enable future expansion as de-
6 scribed in title III of this Act.

7 (B) INCLUSION OF EXPANDABILITY FEA-
8 TURES IN DESIGN.—To provide future opportu-
9 nities for municipal, industrial, and agricultural
10 water supply, hydroelectric power generation,
11 recreation, instream requirements for American
12 River flows, and other beneficial uses, the de-
13 sign and construction of facilities under this
14 title shall provide for water flow control and
15 outlet capacity for a 2,300,000 acre foot stor-
16 age facility and shall enable the future addition
17 of features for power generation.

18 (C) COST SHARING OF EXPANDABILITY
19 FEATURES.—To the extent that subparagraph
20 (B) necessitates the design and construction of
21 features not otherwise authorized under sub-
22 section (a), such costs shall be treated as a re-
23 imbursable project cost and shall be paid by the
24 non-Federal interests that will benefit from the
25 expanded project following its completion.

1 (b) PROJECT PURPOSES.—The purposes of the
2 project under this section are to provide for flood control
3 for the Sacramento area, to mitigate adverse effects of the
4 project on fish and wildlife resources, to provide recreation
5 in the canyons of the American River upstream of Folsom
6 Dam and in the Natomas area of Sacramento, and to
7 allow for the future convenient and economic construction
8 of a multipurpose water storage and hydroelectric power
9 generation project as described in title III.

10 (c) CONSULTING BOARD.—

11 (1) ESTABLISHMENT.—To ensure that the
12 project under this section permits expansion to a
13 multipurpose project as described in title III in the
14 most efficient and economical manner practicable,
15 the Secretary of the Army shall cooperate with the
16 State of California to establish an independent con-
17 sulting board composed of recognized dam engineer-
18 ing experts.

19 (2) FUNCTIONS.—The board shall—

20 (A) review the detailed design and con-
21 struction effort under this Act;

22 (B) provide technical confirmation that the
23 project to be constructed under this section will
24 create no significantly greater economic, proce-
25 dural, or other impediments to construction of

1 the multipurpose project under title III than
2 would be the case with the construction of the
3 project and the multipurpose project as a single
4 project; and

5 (C) be impaneled until such time as the
6 multipurpose dam facility under title III is rea-
7 sonably completed.

8 (3) FUNDING.—There is authorized to be ap-
9 propriated to carry out this subsection \$2,000,000.

10 (d) COST SHARING RESPONSIBILITIES.—

11 (1) BUREAU OF RECLAMATION LANDS AND
12 WORK.—The United States shall receive credit as
13 part of the Federal cost of the project under this
14 section for the value for any lands provided and
15 works constructed by the Bureau of Reclamation
16 which are incorporated into the project as specified
17 in the feasibility report of the Chief of Engineers.

18 (2) DEPARTMENTS OF INTERIOR AND AGRI-
19 CULTURE COOPERATION AND LANDS.—The Sec-
20 retary of the Interior and the Secretary of Agri-
21 culture shall cooperate with the Secretary of the
22 Army and transfer to the Secretary of the Army
23 such lands as the Secretary of the Army may re-
24 quest as necessary to carry out the project. Upon
25 completion of construction of any facility under this

1 title, all project lands, rights-of-way, water rights,
2 and facilities associated with the facility shall be
3 transferred to the State of California under the
4 Recreation and Public Purposes Act to be managed
5 consistent with the purposes of the project.

6 (3) JURISDICTION AFTER TRANSFER.—Facility
7 lands shall be subject to State law and jurisdiction
8 and shall be administered exclusively by the State of
9 California or its agents upon transfer of the project
10 to non-Federal entities.

11 (4) DEPARTMENT OF TRANSPORTATION CO-
12 OPERATION AND STUDIES.—Subject to the contribu-
13 tion of the non-Federal interests pursuant to section
14 105 of the Water Resources Development Act of
15 1986, the Secretary of Transportation shall partici-
16 pate in, and provide appropriate Federal financial
17 assistance for, feasibility and environmental studies
18 by the State of California on alternative alignments
19 for the relocation of that portion of California Route
20 49 which will be affected by the project.

21 (e) MITIGATION MEASURES.—

22 (1) SOIL CONSERVATION.—The dam facility
23 under this section shall be designed and operated,
24 consistent with the requirements of this Act, to min-
25 imize, to the greatest practicable extent, adverse ef-

1 fects of the project on soils and vegetation resulting
2 from inundation and release of flood waters as speci-
3 fied in the feasibility report of the Chief of Engi-
4 neers.

5 (2) FISH AND WILDLIFE MITIGATION MEAS-
6 URES.—The dam facility shall include such measures
7 to mitigate adverse effects of the facility on aquatic,
8 riparian, and upland habitat of fish and wildlife re-
9 sources as are specified in the feasibility report of
10 the Chief of Engineers. Such mitigation measures
11 shall be accomplished, to the extent practicable, on
12 lands in Federal ownership on the date of the enact-
13 ment of this Act.

14 (f) ADDITIONAL PROJECT AUTHORIZATIONS.—

15 (1) LEVEE IMPROVEMENTS.—The Secretary of
16 the Army may (A) construct, (B) credit against the
17 non-Federal share of the project under subsection
18 (a) the cost of, or (C) reimburse the non-Federal
19 sponsors for constructing, levee improvements speci-
20 fied in the draft supplemental information report re-
21 ferred to in subsection (a), including the insertion of
22 a slurry wall in the center of existing lower Amer-
23 ican River levees and stabilizing and raising portions
24 of approximately 12 miles of existing levees along
25 the East bank of the Sacramento River downstream

1 from the Natomas Cross Canal. Such construction
2 shall be carried out immediately and independent of
3 and concurrent with construction of facilities under
4 subsection (a). The Secretary shall construct an
5 emergency flood warning system for the American
6 River, California, including telemeter upstream flow
7 gauges, at a total estimated cost of \$250,000.

8 (2) FLOOD CONTROL CAPACITY AT FOLSOM
9 RESERVOIR.—

10 (A) INTERIM FLOOD PROTECTION.—Upon
11 completion of the term of the operating agree-
12 ment for Folsom Dam and Reservoir between
13 the Secretary of the Interior and the Sac-
14 ramento Area Flood Control Agency, dated
15 March 22, 1995, and until the detention dam
16 authorized by this section is providing adequate
17 protection against a flood event of 150-year fre-
18 quency to residents of the American River
19 Floodplain, California, the Secretary of the In-
20 terior shall take such actions as may be nec-
21 essary to continue providing such area with a
22 100-year level of flood protection (as deter-
23 mined by the Federal Emergency Management
24 Agency) by such means as the Secretary of the
25 Interior determines appropriate.

1 (B) STANDARD.—In making a determina-
2 tion of appropriate interim flood protection
3 under this paragraph, the Secretary of the Inte-
4 rior shall not diminish the protection provided
5 by means of the operating criteria for Folsom
6 Dam and Reservoir specified in the March 22,
7 1995, agreement between the Secretary of the
8 Interior and the Sacramento Area Flood Con-
9 trol Agency unless such a reduction is made
10 possible by actions other than—

11 (i) those authorized by paragraph (1),

12 or

13 (ii) other flood control improvements
14 made by non-Federal interests at their own
15 expense.

16 (C) COST SHARING FOR INTERIM FLOOD
17 PROTECTION.—The United States shall bear 75
18 percent of the cost of the means determined to
19 provide interim flood protection under this
20 paragraph.

21 (D) MODIFICATION OF AGREEMENT.—The
22 Secretary of the Interior shall modify the allo-
23 cation of costs specified in the agreement re-
24 ferred to in subparagraph (A) so that the Unit-
25 ed States shall be responsible for providing re-

1 placement water and power to Central Valley
2 Project water and power contractors under the
3 agreement and shall pay 75 percent of the cost
4 of providing such replacement water and power.
5 The Sacramento Area Flood Control Agency
6 shall be responsible for paying the remaining 25
7 percent of such costs.

8 (3) RISK ASSESSMENT.—

9 (A) IN GENERAL.—In consultation with
10 the Sacramento Area Flood Control Agency and
11 the California Department of Water Resources,
12 the Secretary of the Interior and the Secretary
13 of the Army shall complete, not later than 2
14 years after the date of the enactment of this
15 Act, a comprehensive risk assessment of Folsom
16 Dam and its ancillary facilities to evaluate their
17 performance when they are operated in conjunc-
18 tion with the facilities to be constructed under
19 this title, during periods of normal operation
20 and extreme loading, so as to determine the
21 risk that the dam may fail to perform the func-
22 tions for which it was intended.

23 (B) RESULTING ACTIONS.—Based on the
24 findings of the risk assessment, the Secretary of
25 the Interior shall take such actions as may be

1 necessary to ensure that Folsom Dam meets
2 minimum Federal dam safety standards. Any
3 actions taken beyond those necessary to meet
4 minimum Federal dam safety standards must
5 be authorized by law. Except as provided in
6 subparagraph (C), any costs associated with the
7 project which are ineligible for Federal cost-
8 sharing and which are necessary to ensure that
9 Folsom Dam meets minimum Federal dam
10 safety standards shall be Federal costs.

11 (C) COST SHARING.—The assessment shall
12 be subject to cost-sharing on a 75 percent Fed-
13 eral, 25 percent non-Federal basis.

14 (D) REPORT.—In consultation with the
15 Sacramento Area Flood Control Agency and the
16 California Department of Water Resources, the
17 Secretary of the Interior and the Secretary of
18 the Army shall prepare a joint report on the re-
19 sults of the assessment for the purpose of pro-
20 viding Federal and local authorities and the
21 Consulting Board established under subsection
22 (c) with recommendations on the steps needed
23 to ensure the safety of Folsom Dam and its an-
24 cillary facilities.

1 (E) FUNDING.—There is authorized to be
2 appropriated to the Secretary of the Interior for
3 the Federal share of the risk assessment of the
4 Folsom Dam facilities under this paragraph
5 \$500,000 (1996 prices).

6 (4) ADDITIONAL ACTIONS TO EXTEND FLOOD
7 PROTECTION.—The Secretary of the Army shall take
8 such actions as may be necessary to ensure the fol-
9 lowing:

10 (A) Construction of the flood control
11 project for Magpie Creek, California, under sec-
12 tion 205 of the Flood Control Act of 1948 (33
13 U.S.C. 701s; 62 Stat. 1182).

14 (B) Entry into an agreement to provide
15 payment by the United States, or to credit
16 against the non-Federal share of the project au-
17 thorized by subsection (a), for elements of the
18 Sacramento Area Flood Control Agency's North
19 Area Local Development project that are reim-
20 bursable under section 9159 of the Department
21 of Defense Appropriations Act, 1993 (106 Stat.
22 1944).

23 (C) Completion of feasibility studies to re-
24 duce the risk of flooding from the South Sac-
25 ramento Stream group, Sacramento, California.

1 (D) Construction of elements of the Sac-
2 ramento River bank protection project that will
3 contribute to the safety and integrity of levees
4 on the lower American River, California.

5 **SEC. 202. NATOMAS LEVEE AND RELATED CONSTRUCTION.**

6 (a) CONSTRUCTION.—The Secretary of the Army
7 shall construct each of the following features of the North
8 Area Local Project of the American River Watershed In-
9 vestigation as described in the draft supplemental infor-
10 mation report referred to in section 201(a), subject to en-
11 tering into appropriate local cost-sharing agreements with
12 the non-Federal sponsors of each of such features:

13 (1) Natomas Cross Canal and Pleasant Grove
14 Creek Canal.

15 (2) Sankey Road and Pleasant Grove Hydraulic
16 Mitigation.

17 (b) CREDIT FOR CERTAIN NON-FEDERAL WORK.—
18 The Secretary of the Army shall credit against the non-
19 Federal share of the cost of construction authorized by
20 subsection (a), or reimburse the non-Federal sponsors for,
21 the cost of any planning (including environmental compli-
22 ance), engineering, design, and construction performed by
23 or for the non-Federal sponsors with respect to any of the
24 facilities the construction of which is authorized under
25 subsection (a) if such cost is incurred before the Secretary

1 receives appropriations to initiate such construction and
2 is consistent with draft supplemental information report
3 referred to in section 201(a).

4 (c) FUNDING.—There is authorized to be appro-
5 priated for the planning, engineering, design, and con-
6 struction of the facilities under subsection (a),
7 \$17,000,000 plus or minus such amounts, if any, as may
8 be justified by reason of ordinary fluctuations in construc-
9 tion costs as indicated by engineering cost indexes applica-
10 ble to the types of construction under subsection (a).

11 **SEC. 203. CIRBY, LINDA, AND DRY CREEKS FLOOD CON-**
12 **TROL PROJECTS, CALIFORNIA.**

13 The Secretary of the Army shall carry out a flood
14 control project to make improvements to the channels and
15 associated flood walls and levees on Cirby, Linda, and Dry
16 Creeks, Placer and Sacramento Counties, California, and
17 to construct bypass channels and bridges for such creeks,
18 at a total cost of \$14,800,000, with an estimated Federal
19 cost of \$11,100,000, and an estimated non-Federal cost
20 of \$3,700,000.

21 **TITLE III—AUBURN DAM WATER**
22 **CONSERVATION PROJECT**

23 **SEC. 301. AUBURN DAM WATER CONSERVATION PROJECT.**

24 (a) AUTHORIZATION.—Notwithstanding any other
25 provision of law, the Secretary of the Army and the Sec-

1 retary of the Interior shall enter into agreements with the
2 State of California for the transfer, without compensation
3 to the United States (other than any non-Federal cost
4 sharing provided under title II), of all interest in and title
5 to lands, rights-of-way, water rights, and facilities con-
6 stituting and adjacent to the Auburn Dam portion of the
7 Auburn-Folsom South Unit, Central Valley Project, and
8 the project authorized by title II of this Act under author-
9 ity of the Recreation and Public Purposes Act. The trans-
10 fer under this subsection shall be made upon completion
11 of the dam facility under title II, but not later than 15
12 years after the date of the enactment of this Act. If no
13 agreement is reached by the end of such 15-year period
14 and the Governor of the State of California so requests,
15 the Secretary of the Interior shall make such transfer to
16 the State without restriction.

17 (b) COMPENSATION.—

18 (1) NATIONAL INTEREST.—Congress recognizes
19 the existence of substantial national interest in the
20 earliest feasible development of a multipurpose Au-
21 burn Dam to provide flood protection, conserve
22 water for local public entities within Sacramento, El
23 Dorado, Placer, Sutter, and San Joaquin Counties,
24 California, recreation at Folsom Reservoir and else-

1 where, and instream requirements for American
2 River flows and for other beneficial uses.

3 (2) ADDITIONAL TRANSFERS.—Any and all in-
4 terests in lands, easements, rights-of-way, and facili-
5 ties required for the multipurpose project under this
6 section by agencies and departments of the United
7 States, other than the Department of the Army,
8 shall be transferred in the manner provided in this
9 title.

10 (3) PURCHASE OF WATER.—The transfer agree-
11 ment under this section may also allow Federal
12 agencies to enter into agreements with State or non-
13 Federal entities for the purchase of water and hy-
14 droelectric energy available from the multipurpose
15 project under this section to meet Federal needs.

16 (4) LIMITATION ON RECOVERY OF FLOOD CON-
17 TROL CONSTRUCTION COSTS.—Federal contributions
18 provided for flood control facility construction under
19 this section shall not now, or at any time in the fu-
20 ture, be recoverable, and the agreements providing
21 for the transfer under subsection (a) shall provide
22 for the nonrecoverability of such Federal contribu-
23 tions.

24 (c) CONDITIONS FOR FUTURE EXPANSION.—Expan-
25 sion of facilities under this title is authorized to take place

1 at any time in the future, including during project design,
2 construction, or any time thereafter without further Fed-
3 eral authorization—

4 (1) if 1 or more non-Federal interests, includ-
5 ing local public bodies within Sacramento, El Do-
6 rado, Placer, Sutter, and San Joaquin Counties,
7 California, and the State of California, are prepared
8 to finance and develop the multipurpose features of
9 the Auburn Dam consistent with this Act; and

10 (2) if the State of California, in consultation
11 with the Secretary of the Army, the Sacramento
12 Area Flood Control Agency, and other local bodies
13 referred to in paragraph (1), certifies that such ex-
14 pansion will not materially impair or diminish the
15 level of flood protection designed to be provided by
16 the project authorized by title II.

17 The agreements providing for the transfer under sub-
18 section (a) shall also require the certification referred to
19 in subparagraph (2).

○