

106TH CONGRESS  
2D SESSION

# S. 1762

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## AN ACT

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Watershed Re-  
5 habilitation Act of 2000”.

1 **SEC. 2. REHABILITATION OF WATER RESOURCE STRUC-**  
2 **TURAL MEASURES CONSTRUCTED UNDER**  
3 **CERTAIN DEPARTMENT OF AGRICULTURE**  
4 **PROGRAMS.**

5 The Watershed Protection and Flood Prevention Act  
6 (16 U.S.C. 1001 et seq.) is amended by adding at the end  
7 the following new section:

8 **“SEC. 14. REHABILITATION OF STRUCTURAL MEASURES**  
9 **NEAR, AT, OR PAST THEIR EVALUATED LIFE**  
10 **EXPECTANCY.**

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

12 “(1) REHABILITATION.—The term ‘rehabilita-  
13 tion’, with respect to a structural measure con-  
14 structed as part of a covered water resource project,  
15 means the completion of all work necessary to ex-  
16 tend the service life of the structural measure and  
17 meet applicable safety and performance standards.  
18 This may include (A) protecting the integrity of the  
19 structural measure, or prolonging the useful life of  
20 the structural measure, beyond the original evalu-  
21 ated life expectancy, (B) correcting damage to the  
22 structural measure from a catastrophic event, (C)  
23 correcting the deterioration of structural components  
24 that are deteriorating at an abnormal rate, (D) up-  
25 grading the structural measure to meet changed  
26 land use conditions in the watershed served by the

1 structural measure or changed safety criteria appli-  
2 cable to the structural measure, or (E) decommis-  
3 sioning the structural measure, including removal or  
4 breaching.

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

9 “(A) This Act.

10 “(B) Section 13 of the Act of December  
11 22, 1944 (Public Law 78–534; 58 Stat. 905).

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

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

20 “(3) ELIGIBLE LOCAL ORGANIZATION.—The  
21 term ‘eligible local organization’ means a local orga-  
22 nization or appropriate State agency responsible for  
23 the operation and maintenance of structural meas-  
24 ures constructed as part of a covered water resource  
25 project.

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

6           “(b) COST SHARE ASSISTANCE FOR REHABILITA-  
7           TION.—

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

22          “(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—  
23          The amount of Federal funds that may be made  
24          available under this subsection to an eligible local or-  
25          ganization for construction of a particular rehabilita-

1       tion project shall be equal to 65 percent of the total  
2       rehabilitation costs, but not to exceed 100 percent of  
3       actual construction costs incurred in the rehabilita-  
4       tion. However, the local organization shall be respon-  
5       sible for the costs of water, mineral, and other re-  
6       source rights and all Federal, State, and local per-  
7       mits.

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

17               “(A) the completed rehabilitation project is  
18               not quickly rendered inadequate by additional  
19               development; and

20               “(B) society can realize the full benefits of  
21               the rehabilitation investment.

22               “(c) TECHNICAL ASSISTANCE FOR WATERSHED  
23       PROJECT REHABILITATION.—The Secretary, acting  
24       through the Natural Resources Conservation Service, may  
25       provide technical assistance in planning, designing, and

1 implementing rehabilitation projects should an eligible  
2 local organization request such assistance. Such assistance  
3 may consist of specialists in such fields as engineering,  
4 geology, soils, agronomy, biology, hydraulics, hydrology,  
5 economics, water quality, and contract administration.

6 “(d) PROHIBITED USE.—

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

17 “(2) RENEGOTIATION.—Notwithstanding para-  
18 graph (1), as part of the provision of financial as-  
19 sistance under subsection (b), the Secretary may re-  
20 negotiate the original agreement for the covered  
21 water resource project entered into between the Sec-  
22 retary and the eligible local organization regarding  
23 responsibility for the operation and maintenance of  
24 the project when the rehabilitation is finished.

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

18           “(f) JUSTIFICATION FOR REHABILITATION ASSIST-  
19 ANCE.—In order to qualify for technical or financial as-  
20 sistance under this authority, the Secretary shall require  
21 the rehabilitation project to be performed in the most cost-  
22 effective manner that accomplishes the rehabilitation ob-  
23 jective. Since the requirements for accomplishing the reha-  
24 bilitation are generally for public health and safety rea-  
25 sons, in many instances being mandated by other State

1 or Federal laws, a benefit-cost ratio greater than 1 shall  
2 not be required. The benefits of and the requirements for  
3 the rehabilitation project shall be documented to ensure  
4 the wise and responsible use of Federal funds.

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

20 “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Secretary to pro-  
22 vide financial and technical assistance under this  
23 section—

24 “(1) \$10,000,000 for fiscal year 2001;

25 “(2) \$10,000,000 for fiscal year 2002;



1           “(3) \$15,000,000 for fiscal year 2003;

2           “(4) \$25,000,000 for fiscal year 2004; and

3           “(5) \$35,000,000 for fiscal year 2005.

4           “(i) ASSESSMENT OF REHABILITATION NEEDS.—Of  
5 the amount appropriated pursuant to subsection (h) for  
6 fiscal years 2001 and 2002, \$5,000,000 shall be used by  
7 the Secretary, in concert with the responsible State agen-  
8 cies, to conduct an assessment of the rehabilitation needs  
9 of covered water resource projects in all States in which  
10 such projects are located.

11          “(j) RECORDKEEPING AND REPORTS.—

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

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

1 taken using financial assistance provided under this  
2 section.”.

Passed the Senate October 24 (legislative day, September 22), 2000.

Attest:

*Secretary.*

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