

FEDERAL FINANCIAL ASSISTANCE
MANAGEMENT IMPROVEMENT
ACT OF 1998—S. 1642

The bill, S. 1642, as passed by the Senate on October 12, 1998, is as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Financial Assistance Management Improvement Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) to simplify Federal financial assistance application and reporting requirements;

(3) to improve the delivery of services to the public; and

(4) to facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term "Director" means the Director of the Office of Management and Budget.

(2) **FEDERAL AGENCY.**—The term "Federal agency" means any agency as defined under section 551(1) of title 5, United States Code.

(3) **FEDERAL FINANCIAL ASSISTANCE.**—The term "Federal financial assistance" has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) **LOCAL GOVERNMENT.**—The term "local government" means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code);

(5) **NON-FEDERAL ENTITY.**—The term "non-Federal entity" means a State, local government, or nonprofit organization.

(6) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) **STATE.**—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of

the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) **TRIBAL GOVERNMENT.**—The term "tribal government" means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) **UNIFORM ADMINISTRATIVE RULE.**—The term "uniform administrative rule" means a government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act.

(b) **EXTENSION.**—If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each noncompliant agency for up to 12 months.

(c) **COMMENT AND CONSULTATION ON AGENCY PLANS.**—

(1) **COMMENT.**—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) **CONSULTATION.**—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) **SUBMISSION OF PLAN.**—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the

general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) **IN GENERAL.**—The Director, in consultation with agency heads, and representatives of non-Federal entities, shall direct, coordinate and assist Federal agencies in establishing:

(1) A common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies.

(2) An interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with the Privacy Act of 1974; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) **LEAD AGENCY AND WORKING GROUPS.**—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) **REVIEW OF PLANS AND REPORTS.**—Agencies shall submit to the Director, upon his request and for his review, information and other reporting regarding their implementation of this Act.

(d) **EXEMPTIONS.**—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which will be available to the public through OMB's Internet site.

SEC. 7. EVALUATION.

(a) **IN GENERAL.**—The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) **CONTENTS.**—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans;

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective five years after such date of enactment.

ORDER FOR SUBMITTAL AND PRINTING OF TRIBUTES

Mr. GORTON. Mr. President, I ask unanimous consent that Members have until October 28, 1998, to submit tributes to Senators COATS, KEMPTHORNE, FORD, GLENN, and BUMPERS, and further that the statements be compiled and printed as Senate documents.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALTON SEA RECLAMATION ACT OF 1998

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3267, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3821

Mr. GORTON. Mr. President, there is an amendment at the desk offered by Senator KYL, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for Mr. KYL, proposes an amendment numbered 3821.

Mr. GORTON. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Salton Sea Reclamation Act of 1998".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—SALTON SEA FEASIBILITY STUDY

- Sec. 101. Feasibility study authorization.
- Sec. 102. Concurrent wildlife resources studies.
- Sec. 103. Salton Sea National Wildlife Refuge renamed as Sonny Bono Salton Sea National Wildlife Refuge.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

- Sec. 201. Alamo River and New River irrigation drainage water.

SEC. 2. DEFINITIONS.

In this Act:

(1) The term "Committees" means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(2) The term "Salton Sea Authority" means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE II—SALTON SEA FEASIBILITY STUDY

SEC. 101. SALTON SEA FEASIBILITY STUDY AUTHORIZATION.

(a) **IN GENERAL.**—No later than January 1, 2000, the Secretary, in accordance with this section, shall complete all feasibility studies and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) **FEASIBILITY STUDY.**—

(1) **IN GENERAL.**—

(A) The Secretary shall complete all studies, including, but not limited to environmental and other reviews, of the feasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and (1) reduce and stabilize the overall salinity of the Salton Sea, (2) stabilize the surface elevation of the Salton Sea, (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats, and (4) enhance the potential for recreational uses and economic development of the Salton Sea.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall (1) identify any options he deems economically feasible and cost effective, (2) identify any additional information necessary to develop construction specifications, and (3) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(B)(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefits and the magnitude and practicability of costs of construction, operation, and maintenance of each options evaluated.

(2) **OPTIONS TO BE CONSIDERED.**—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—
(i) relies on the importation of any new or additional water from the Colorado River; or
(ii) is inconsistent with the provisions of subsection (c).

(3) **ASSUMPTIONS.**—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) **CONSIDERATION OF COSTS.**—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of federal contributions.

(c) **RELATIONSHIP TO OTHER LAW.**—

(1) **RECLAMATION LAWS.**—Activities authorized by this Act shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered non-reimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) **PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.**—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) **IN GENERAL.**—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(b), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) **SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.**—

(1) **IN GENERAL.**—The Secretary shall establish a committee to be known as the "Salton Sea Research Management Committee". The committee shall select the topics of studies under this section and manage those studies.

(2) **MEMBERSHIP.**—The committee shall consist of the following five members:

- (A) The Secretary.
- (B) The Governor of California.
- (C) The Executive Director of the Salton Sea Authority.
- (D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.
- (E) The Director of the California Water Resources Center.