

## Calendar No. 730

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2797****[Report No. 106-363]**

To authorize a comprehensive Everglades restoration plan.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 27, 2000

Mr. SMITH of New Hampshire (for himself, Mr. BAUCUS, Mr. VOINOVICH, Mr. GRAHAM, and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 27, 2000

Reported by Mr. SMITH of New Hampshire, with amendments

[Omit the part struck through and insert the part printed in *italic*]

---

**A BILL**

To authorize a comprehensive Everglades restoration plan.

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 “Restoring the Ever-  
5 glades, an American Legacy Act”.

1 **SEC. 2. COMPREHENSIVE EVERGLADES RESTORATION**  
 2 **PLAN.**

3 (a) DEFINITIONS.—In this section:

4 (1) CENTRAL AND SOUTHERN FLORIDA  
 5 PROJECT.—

6 (A) IN GENERAL.—The term “Central and  
 7 Southern Florida Project” means the project  
 8 for Central and Southern Florida authorized  
 9 under the heading “CENTRAL AND SOUTHERN  
 10 FLORIDA” in section 203 of the Flood Control  
 11 Act of 1948 (62 Stat. 1176).

12 (B) INCLUSION.—The term “Central and  
 13 Southern Florida Project” includes any modi-  
 14 fication to the project authorized by this Act or  
 15 any other provision of law.

16 (2) GOVERNOR.—The term “Governor” means  
 17 the Governor of the State.

18 (3) NATURAL SYSTEM.—

19 (A) IN GENERAL.—The term “natural sys-  
 20 tem” means all land and water managed by the  
 21 Federal Government or the State within the  
 22 South Florida ecosystem.

23 (B) INCLUSIONS.—The term “natural sys-  
 24 tem” includes—

- 25 (i) water conservation areas;  
 26 (ii) sovereign submerged land;

- 1 (iii) Everglades National Park;  
 2 (iv) Biscayne National Park;  
 3 (v) Big Cypress National Preserve;  
 4 (vi) other Federal or State (including  
 5 a political subdivision of a State) land that  
 6 is designated and managed for conserva-  
 7 tion purposes; and  
 8 (vii) any tribal land that is designated  
 9 and managed for conservation purposes, as  
 10 approved by the tribe.

11 (4) PLAN.—The term “Plan” means the Com-  
 12 prehensive Everglades Restoration Plan contained in  
 13 the “Final Integrated Feasibility Report and Pro-  
 14 grammatic Environmental Impact Statement”, dated  
 15 April 1, 1999, as modified by this Act.

16 (5) SECRETARY.—*The term “Secretary” means*  
 17 *the Secretary of the Army.*

18 ~~(5)~~(6) SOUTH FLORIDA ECOSYSTEM.—

19 (A) IN GENERAL.—The term “South Flor-  
 20 ida ecosystem” means the area consisting of the  
 21 land and water within the boundary of the  
 22 South Florida Water Management District in  
 23 effect on July 1, 1999.

24 (B) INCLUSIONS.—The term “South Flor-  
 25 ida ecosystem” includes—

- 1 (i) the Everglades;  
 2 (ii) the Florida Keys; and  
 3 (iii) the contiguous near-shore coastal  
 4 water of South Florida.

5 ~~(6)~~(7) STATE.—The term “State” means the  
 6 State of Florida.

7 (b) COMPREHENSIVE EVERGLADES RESTORATION  
 8 PLAN.—

9 (1) APPROVAL.—

10 (A) IN GENERAL.—Except as modified by  
 11 this Act, the Plan is approved as a framework  
 12 for modifications and operational changes to  
 13 the Central and Southern Florida Project that  
 14 are needed to—

15 (i) restore, preserve and protect the  
 16 South Florida ecosystem;

17 (ii) provide for the protection of water  
 18 quality in, and the reduction of the loss of  
 19 fresh water from, the Everglades; and

20 (iii) provide for the water-related  
 21 needs of the region, including—

22 (I) flood control;

23 (II) the enhancement of water  
 24 supplies; and

1 (III) other objectives served by  
2 the Central and Southern Florida  
3 Project.

4 (B) INTEGRATION.—In carrying out the  
5 Plan, the Secretary shall integrate the activities  
6 described in subparagraph (A) with ongoing  
7 Federal and State projects and activities in ac-  
8 cordance with section 528(c) of the Water Re-  
9 sources Development Act of 1996 (110 Stat.  
10 3769).

11 (2) SPECIFIC AUTHORIZATIONS.—

12 (A) IN GENERAL.—

13 (i) PROJECTS.—The Secretary shall  
14 carry out the projects included in the Plan  
15 in accordance with subparagraphs (B),  
16 (C), (D) and (E).

17 (ii) CONSIDERATIONS.—In carrying  
18 out activities described in the Plan, the  
19 Secretary shall—

20 (I) take into account the protec-  
21 tion of water quality by considering  
22 applicable State water quality stand-  
23 ards; and

24 (II) include such features as the  
25 Secretary determines are necessary to

1 ensure that all ground water and sur-  
2 face water discharges from any  
3 project feature authorized by this sub-  
4 section will meet all applicable water  
5 quality standards and applicable water  
6 quality permitting requirements.

7 (iii) REVIEW AND COMMENT.—In de-  
8 veloping the projects authorized under sub-  
9 paragraph (B), the Secretary shall provide  
10 for public review and comment in accord-  
11 ance with applicable Federal law.

12 (B) PILOT PROJECTS.—The following pilot  
13 projects are authorized for implementation,  
14 after review and approval by the Secretary, sub-  
15 ject to the conditions in subparagraph (D), at  
16 a total cost of \$69,000,000, with an estimated  
17 Federal cost of \$34,500,000 and an estimated  
18 non-Federal cost of \$34,500,000:

19 (i) Caloosahatchee River (C-43)  
20 Basin ASR, at a total cost of \$6,000,000,  
21 with an estimated Federal cost of  
22 \$3,000,000 and an estimated non-Federal  
23 cost of \$3,000,000.

24 (ii) Lake Belt In-Ground Reservoir  
25 Technology, at a total cost of \$23,000,000,

1 with an estimated Federal cost of  
2 \$11,500,000 and an estimated non-Federal  
3 cost of \$11,500,000.

4 (iii) L-31N Seepage Management, at  
5 a total cost of \$10,000,000, with an esti-  
6 mated Federal cost of \$5,000,000 and an  
7 estimated non-Federal cost of \$5,000,000.

8 (iv) Wastewater Reuse Technology, at  
9 a total cost of \$30,000,000, with an esti-  
10 mated Federal cost of \$15,000,000 and an  
11 estimated non-Federal cost of  
12 \$15,000,000.

13 (C) INITIAL PROJECTS.—The following  
14 projects are authorized for implementation,  
15 after review and approval by the Secretary, sub-  
16 ject to the conditions stated in subparagraph  
17 (D), at a total cost of \$1,100,918,000, with an  
18 estimated Federal cost of \$550,459,000 and an  
19 estimated non-Federal cost of \$550,459,000:

20 (i) C-44 Basin Storage Reservoir, at  
21 a total cost of \$112,562,000, with an esti-  
22 mated Federal cost of \$56,281,000 and an  
23 estimated non-Federal cost of  
24 \$56,281,000.

1           (ii) Everglades Agricultural Area  
2 Storage Reservoirs—Phase I, at a total  
3 cost of \$233,408,000, with an estimated  
4 Federal cost of \$116,704,000 and an esti-  
5 mated non-Federal cost of \$116,704,000.

6           (iii) Site 1 Impoundment, at a total  
7 cost of \$38,535,000, with an estimated  
8 Federal cost of \$19,267,500 and an esti-  
9 mated non-Federal cost of \$19,267,500.

10          (iv) Water Conservation Areas 3A/3B  
11 Levee Seepage Management, at a total cost  
12 of \$100,335,000, with an estimated Fed-  
13 eral cost of \$50,167,500 and an estimated  
14 non-Federal cost of \$50,167,500.

15          (v) C-11 Impoundment and  
16 Stormwater Treatment Area, at a total  
17 cost of \$124,837,000, with an estimated  
18 Federal cost of \$62,418,500 and an esti-  
19 mated non-Federal cost of \$62,418,500.

20          (vi) C-9 Impoundment and  
21 Stormwater Treatment Area, at a total  
22 cost of \$89,146,000, with an estimated  
23 Federal cost of \$44,573,000 and an esti-  
24 mated non-Federal cost of \$44,573,000.

1 (vii) Taylor Creek/Nubbin Slough  
2 Storage and Treatment Area, at a total  
3 cost of \$104,027,000, with an estimated  
4 Federal cost of \$52,013,500 and an esti-  
5 mated non-Federal cost of \$52,013,500.

6 (viii) Raise and Bridge East Portion  
7 of Tamiami Trail and Fill Miami Canal  
8 within Water Conservation Area 3, at a  
9 total cost of \$26,946,000, with an esti-  
10 mated Federal cost of \$13,473,000 and an  
11 estimated non-Federal cost of  
12 \$13,473,000.

13 (ix) North New River Improvements,  
14 at a total cost of \$77,087,000, with an es-  
15 timated Federal cost of \$38,543,500 and  
16 an estimated non-Federal cost of  
17 \$38,543,500.

18 (x) C-111 Spreader Canal, at a total  
19 cost of \$94,035,000, with an estimated  
20 Federal cost of \$47,017,500 and an esti-  
21 mated non-Federal cost of \$47,017,500.

22 (xi) Adaptive Assessment and Moni-  
23 toring Program, at a total cost of  
24 \$100,000,000, with an estimated Federal

1 cost of \$50,000,000 and an estimated non-  
2 Federal cost of \$50,000,000.

3 (D) CONDITIONS.—

4 (i) PROJECT IMPLEMENTATION RE-  
5 PORTS.—Before implementation of a  
6 project described in any of clauses (i)  
7 through (x) of subparagraph (C), the Sec-  
8 retary shall review and approve for the  
9 project a project implementation report  
10 prepared in accordance with subsections (f)  
11 and (h).

12 (ii) SUBMISSION OF REPORT.—The  
13 Secretary shall submit to the Committee  
14 on Transportation and Infrastructure of  
15 the House of Representatives and the  
16 Committee on Environment and Public  
17 Works of the Senate the project implemen-  
18 tation report required by subsections (f)  
19 and (h) for each project under this para-  
20 graph (including all relevant data and in-  
21 formation on all costs).

22 (iii) FUNDING CONTINGENT ON AP-  
23 PROVAL.—No appropriation shall be made  
24 to construct any project under this para-  
25 graph if the project implementation report

1 for the project has not been approved by  
2 resolutions adopted by the Committee on  
3 Transportation and Infrastructure of the  
4 House of Representatives and the Com-  
5 mittee on Environment and Public Works  
6 of the Senate.

7 (iv) MODIFIED WATER DELIVERY.—

8 No appropriation shall be made to con-  
9 struct the Water Conservation Area 3  
10 Decpartmentalization and Sheetflow  
11 Enhancement Project or the Central  
12 Lakebelt Storage Project until the comple-  
13 tion of the project to improve water deliv-  
14 eries to Everglades National Park author-  
15 ized by section 104 of the Everglades Na-  
16 tional Park Protection and Expansion Act  
17 of 1989 (16 U.S.C. 410r-8).

18 (E) MAXIMUM COST OF PROJECTS.—Sec-

19 tion 902 of the Water Resources Development  
20 Act of 1986 (33 U.S.C. 2280) shall apply to  
21 each project feature authorized under this sub-  
22 section.

23 (c) ADDITIONAL PROGRAM AUTHORITY.—

24 (1) IN GENERAL.—To expedite implementation  
25 of the Plan, the Secretary may implement modifica-

1 tions to the Central and Southern Florida Project  
2 that—

3 (A) are described in the Plan; and

4 (B) will produce a substantial benefit to  
5 the restoration, preservation and protection of  
6 the South Florida ecosystem.

7 (2) PROJECT IMPLEMENTATION REPORTS.—Be-  
8 fore implementation of any project feature author-  
9 ized under this subsection, the Secretary shall review  
10 and approve for the project feature a project imple-  
11 mentation report prepared in accordance with sub-  
12 sections (f) and (h).

13 (3) FUNDING.—

14 (A) INDIVIDUAL PROJECT FUNDING.—

15 (i) FEDERAL COST.—The total Fed-  
16 eral cost of each project carried out under  
17 this subsection shall not exceed  
18 \$12,500,000.

19 (ii) OVERALL COST.—The total cost of  
20 each project carried out under this sub-  
21 section shall not exceed \$25,000,000.

22 (B) AGGREGATE FEDERAL COST.—The  
23 total Federal cost of all projects carried out  
24 under this subsection shall not exceed  
25 \$206,000,000

1 (d) AUTHORIZATION OF FUTURE PROJECTS.—

2 (1) IN GENERAL.—Except for a project author-  
3 ized by subsection (b) or (c), any project included in  
4 the Plan shall require a specific authorization by  
5 Congress.

6 (2) SUBMISSION OF REPORT.—Before seeking  
7 congressional authorization for a project under para-  
8 graph (1), the Secretary shall submit to Congress—

9 (A) a description of the project; and

10 (B) a project implementation report for  
11 the project prepared in accordance with sub-  
12 sections (f) and (h).

13 (e) COST SHARING.—

14 (1) FEDERAL SHARE.—The Federal share of  
15 the cost of carrying out a project authorized by sub-  
16 section (b), (c), or (d) shall be 50 percent.

17 (2) NON-FEDERAL RESPONSIBILITIES.—The  
18 non-Federal sponsor with respect to a project de-  
19 scribed in subsection (b), (c), or (d), shall be—

20 (A) responsible for all land, easements,  
21 rights-of-way, and relocations necessary to im-  
22 plement the Plan; and

23 (B) afforded credit toward the non-Federal  
24 share of the cost of carrying out the project in  
25 accordance with paragraph (5)(A).

1 (3) FEDERAL ASSISTANCE.—

2 (A) IN GENERAL.—The non-Federal spon-  
3 sor with respect to a project authorized by sub-  
4 section (b), (c), or (d) may use Federal funds  
5 for the purchase of any land, easement, rights-  
6 of-way, or relocation that is necessary to carry  
7 out the project if any funds so used are credited  
8 toward the Federal share of the cost of the  
9 project.

10 (B) AGRICULTURE FUNDS.—Funds pro-  
11 vided to the non-Federal sponsor under any  
12 programs such as the Conservation Restoration  
13 and Enhancement Program (CREP) and the  
14 Wetlands Reserve Program (WRP) for projects  
15 in the Plan shall be credited toward the non-  
16 Federal share of the cost of the Plan if the Sec-  
17 retary of Agriculture certifies that the funds  
18 provided may be used for that purpose.

19 (4) OPERATION AND MAINTENANCE.—Notwith-  
20 standing section 528(e)(3) of the Water Resources  
21 Development Act of 1996 (110 Stat. 3770), the non-  
22 Federal sponsor shall be responsible for 50 percent  
23 of the cost of operation, maintenance, repair, re-  
24 placement, and rehabilitation activities authorized  
25 under this section.

1 (5) CREDIT.—

2 (A) IN GENERAL.—Notwithstanding sec-  
3 tion 528(e)(4) of the Water Resources Develop-  
4 ment Act of 1996 (110 Stat. 3770), and re-  
5 gardless of the date of acquisition, the value of  
6 lands or interests in lands and incidental costs  
7 for land acquired by a non-Federal sponsor in  
8 accordance with a project implementation re-  
9 port for any project included in the Plan and  
10 authorized by Congress shall be—

11 (i) included in the total cost of the  
12 project; and

13 (ii) credited toward the non-Federal  
14 share of the cost of the project.

15 (B) WORK.—The Secretary may provide  
16 credit, including in-kind credit, toward the non-  
17 Federal share for the reasonable cost of any  
18 work performed in connection with a study,  
19 preconstruction engineering and design, or con-  
20 struction that is necessary for the implementa-  
21 tion of the Plan, if—

22 (i)(I) the credit is provided for work  
23 completed during the period of design, as  
24 defined in a design agreement between the  
25 Secretary and the non-Federal sponsor; or

1 (II) the credit is provided for work  
2 completed during the period of construc-  
3 tion, as defined in a project cooperation  
4 agreement for an authorized project be-  
5 tween the Secretary and the non-Federal  
6 sponsor;

7 (ii) the design agreement or the  
8 project cooperation agreement prescribes  
9 the terms and conditions of the credit; and

10 (iii) the Secretary determines that the  
11 work performed by the non-Federal spon-  
12 sor is integral to the project.

13 (C) TREATMENT OF CREDIT BETWEEN  
14 PROJECTS.—Any credit provided under this  
15 paragraph may be carried over between author-  
16 ized projects in accordance with subparagraph  
17 (D).

18 (D) PERIODIC MONITORING.—

19 (i) IN GENERAL.—To ensure that the  
20 contributions of the non-Federal sponsor  
21 equal 50 percent proportionate share for  
22 projects in the Plan, during each 5-year  
23 period, beginning with commencement of  
24 design of the Plan, the Secretary shall, for  
25 each project—

1 (I) monitor the non-Federal pro-  
2 vision of cash, in-kind services, and  
3 land; and

4 (II) manage, to the maximum ex-  
5 tent practicable, the requirement of  
6 the non-Federal sponsor to provide  
7 cash, in-kind services, and land.

8 (ii) OTHER MONITORING.—The Sec-  
9 retary shall conduct monitoring under  
10 clause (i) separately for—

11 (I) the preconstruction engineer-  
12 ing and design phase; and

13 (II) the construction phase.

14 (E) AUDITS.—Credit for land (including  
15 land value and incidental costs) or work pro-  
16 vided under this subsection shall be subject to  
17 audit by the Secretary.

18 (f) EVALUATION OF PROJECTS.—

19 (1) IN GENERAL.—Before implementation of a  
20 project authorized by subsection (c) or (d) or any of  
21 clauses (i) through (x) of subsection (b)(2)(C), the  
22 Secretary, in cooperation with the non-Federal spon-  
23 sor, shall, after notice and opportunity for public  
24 comment and in accordance with subsection (h),

1 complete a project implementation report for the  
2 project.

3 (2) PROJECT JUSTIFICATION.—

4 (A) IN GENERAL.—Notwithstanding sec-  
5 tion 209 of the Flood Control Act of 1970 (42  
6 U.S.C. 1962–2) or any other provision of law,  
7 in carrying out any activity authorized under  
8 this section or any other provision of law to re-  
9 store, preserve, or protect the South Florida  
10 ecosystem, the Secretary may determine that—

11 (i) the activity is justified by the envi-  
12 ronmental benefits derived by the South  
13 Florida ecosystem; and

14 (ii) no further economic justification  
15 for the activity is required, if the Secretary  
16 determines that the activity is cost-effec-  
17 tive.

18 (B) APPLICABILITY.—Subparagraph (A)  
19 shall not apply to any separable element in-  
20 tended to produce benefits that are predomi-  
21 nantly unrelated to the restoration, preserva-  
22 tion, and protection of the natural system.

23 (g) EXCLUSIONS AND LIMITATIONS.—The following  
24 Plan components are not approved for implementation:

25 (1) WATER INCLUDED IN THE PLAN.—

1 (A) IN GENERAL.—Any project that is de-  
2 signed to implement the capture and use of the  
3 approximately 245,000 acre-feet of water de-  
4 scribed in section 7.7.2 of the Plan shall not be  
5 implemented until such time as—

6 (i) the project-specific feasibility study  
7 described in subparagraph (B) on the need  
8 for and physical delivery of the approxi-  
9 mately 245,000 acre-feet of water, con-  
10 ducted by the Secretary, in cooperation  
11 with the non-Federal sponsor, is com-  
12 pleted;

13 (ii) the project is favorably rec-  
14 ommended in a final report of the Chief of  
15 Engineers; and

16 (iii) the project is authorized by Act  
17 of Congress.

18 (B) PROJECT-SPECIFIC FEASIBILITY  
19 STUDY.—The project-specific feasibility study  
20 referred to in subparagraph (A) shall include—

21 (i) a comprehensive analysis of the  
22 structural facilities proposed to deliver the  
23 approximately 245,000 acre-feet of water  
24 to the natural system;

- 1 (ii) an assessment of the requirements  
2 to divert and treat the water;
- 3 (iii) an assessment of delivery alter-  
4 natives;
- 5 (iv) an assessment of the feasibility of  
6 delivering the water downstream while  
7 maintaining current levels of flood protec-  
8 tion to affected property; and
- 9 (v) any other assessments that are de-  
10 termined by the Secretary to be necessary  
11 to complete the study.

12 (2) WASTEWATER ~~TREATMENT~~ REUSE.—

13 (A) IN GENERAL.—On completion and  
14 evaluation of the wastewater ~~treatment~~ reuse  
15 pilot project described in subsection  
16 (b)(2)(B)(iv), the Secretary, in an appropriately  
17 timed 5-year report, shall describe the results of  
18 the evaluation of advanced wastewater ~~treat-~~  
19 ~~ment~~ reuse in meeting, in a cost effective man-  
20 ner, the requirements of restoration of the nat-  
21 ural system.

22 (B) SUBMISSION.—The Secretary shall  
23 submit to Congress the report described in sub-  
24 paragraph (A) before congressional authoriza-

1           tion for advanced wastewater ~~treatment~~ *reuse* is  
2           sought.

3           (3) PROJECTS APPROVED WITH LIMITATIONS.—

4           The following projects in the Plan are approved for  
5           implementation with limitations:

6                   (A) LOXAHATCHEE NATIONAL WILDLIFE  
7           REFUGE.—The Federal share for land acquisi-  
8           tion in the project to enhance existing wetland  
9           systems along the Loxahatchee National Wild-  
10          life Refuge, including the Stazzulla tract,  
11          should be funded through the budget of the De-  
12          partment of the Interior.

13                   (B) SOUTHERN CORKSCREW REGIONAL  
14          ECOSYSTEM.—The Southern Corkscrew regional  
15          ecosystem watershed addition should be accom-  
16          plished outside the scope of the Plan.

17          (h) ASSURANCE OF PROJECT BENEFITS.—

18                   (1) IN GENERAL.—The overarching objective of  
19          the Plan is the restoration, preservation, and protec-  
20          tion of the South Florida Ecosystem while providing  
21          for other water-related needs of the region, including  
22          water supply and flood protection. The Plan shall be  
23          implemented to ensure the protection of water qual-  
24          ity in, the reduction of the loss of fresh water from,  
25          the improvement of the environment of the South

1 Florida Ecosystem and to achieve and maintain the  
2 benefits to the natural system and human environ-  
3 ment described in the Plan, and required pursuant  
4 to this Act, for as long as the project is authorized.

5 (2) AGREEMENT.—

6 (A) IN GENERAL.—No appropriation shall  
7 be made for the construction of a project con-  
8 tained in the Plan until the President and the  
9 Governor enter into a binding agreement under  
10 which the State, shall ensure, by regulation or  
11 other appropriate means, that water made  
12 available under the Plan for the restoration of  
13 the natural system is available as specified in  
14 the Plan.

15 (B) ENFORCEMENT.—

16 (i) IN GENERAL.—Any person or enti-  
17 ty that is aggrieved by a failure of the  
18 President or the Governor to comply with  
19 any provision of the agreement entered  
20 into under subparagraph (A) may bring a  
21 civil action in United States district court  
22 for an injunction directing the President or  
23 the Governor, as the case may be, to com-  
24 ply with the agreement, or for other appro-  
25 priate relief.

1 (ii) LIMITATIONS ON COMMENCEMENT  
 2 OF CIVIL ACTION.—No civil action may be  
 3 commenced under clause (i)—

4 (I) before the date that is 60  
 5 days after the Secretary receives writ-  
 6 ten notice of a failure to comply with  
 7 the agreement; or

8 (II) if the United States has  
 9 commenced and is diligently pros-  
 10 ecuting an action in a court of the  
 11 United States or a State to redress a  
 12 failure to comply with the agreement.

13 (3) PROGRAMMATIC REGULATIONS.—

14 (A) ISSUANCE.—Not later than 2 years  
 15 after the date of enactment of this Act, the Sec-  
 16 retary shall, after notice and opportunity for  
 17 public comment—

18 (i) with the concurrence of—

19 (I) the Governor; and

20 (II) the Secretary of the Interior;

21 and

22 (ii) in consultation with—

23 (I) the Seminole Tribe of Flor-  
 24 ida;

1 (II) the Miccosukee Tribe of In-  
2 dians of Florida;

3 (III) the Administrator of the  
4 Environmental Protection Agency;

5 (IV) the Secretary of Commerce;

6 and

7 (V) other Federal, State, and  
8 local agencies;

9 promulgate programmatic regulations to ensure  
10 that the goals and purposes of the Plan are  
11 achieved.

12 (B) CONTENT OF REGULATIONS.—Pro-  
13 grammatic regulations promulgated under this  
14 paragraph shall establish a process to—

15 (i) provide guidance for the develop-  
16 ment of project implementation reports,  
17 project cooperation agreements, and oper-  
18 ating manuals that ensure that the goals  
19 and objectives of the Plan are achieved;

20 (ii) ensure that new information re-  
21 sulting from changed or unforeseen cir-  
22 cumstances, new scientific or technical in-  
23 formation or information that is developed  
24 through the principles of adaptive manage-  
25 ment contained in the Plan, or future au-

1           thorized changes to the Plan are integrated  
2           into the implementation of the Plan; *and*

3           (iii) ensure the protection of the nat-  
4           ural system consistent with the goals and  
5           purposes of the Plan; ~~and~~.

6           ~~(iv) include a mechanism for dispute~~  
7           ~~resolution to resolve any conflicts between~~  
8           ~~the Secretary and the non-Federal sponsor.~~

9           (C) SCHEDULE AND TRANSITION RULE.—

10          (i) IN GENERAL.—All project imple-  
11          mentation reports approved before the date  
12          of promulgation of the programmatic regu-  
13          lations shall be consistent with the Plan.

14          (ii) PREAMBLE.—The preamble of the  
15          programmatic regulations shall include a  
16          statement concerning the consistency with  
17          the programmatic regulations of any  
18          project implementation reports that were  
19          approved before the date of promulgation  
20          of the regulations.

21          (D) REVIEW OF PROGRAMMATIC REGULA-  
22          TIONS.—Whenever necessary to attain Plan  
23          goals and purposes, but not less often than  
24          every 5 years, the Secretary, in accordance with  
25          subparagraph (A), shall review the pro-

1           grammatic regulations promulgated under this  
2           paragraph.

3           (4) PROJECT-SPECIFIC ASSURANCES.—

4                 (A) PROJECT IMPLEMENTATION RE-  
5           PORTS.—

6                     (i) IN GENERAL.—The Secretary and  
7                     the non-Federal sponsor shall develop  
8                     project implementation reports in accord-  
9                     ance with section 10.3.1 of the Plan.

10                    (ii) COORDINATION.—In developing a  
11                    project implementation report, the Sec-  
12                    retary and the non-Federal sponsor shall  
13                    coordinate with appropriate Federal, State,  
14                    tribal, and local governments.

15                    (iii) REQUIREMENTS.—A project im-  
16                    plementation report shall—

17                             (I) be consistent with the Plan  
18                             and the programmatic regulations  
19                             promulgated under paragraph (3);

20                             (II) describe how each of the re-  
21                             quirements stated in paragraph  
22                             (3)(B) is satisfied;

23                             (III) comply with the National  
24                             Environmental Policy Act of 1969 (42  
25                             U.S.C. 4321 et seq.);

1 (IV) identify the appropriate  
2 quantity, timing, and distribution of  
3 water dedicated and managed for the  
4 natural system;

5 (V) identify the amount of water  
6 to be reserved or allocated for the nat-  
7 ural system necessary to implement,  
8 under State law, subclauses (IV) and  
9 (VI);

10 (VI) comply with applicable  
11 water quality standards and applicable  
12 water quality permitting requirements  
13 under subsection (b)(2)(A)(ii);

14 (VII) be based on the best avail-  
15 able science; and

16 (VIII) include an analysis con-  
17 cerning the cost-effectiveness and en-  
18 gineering feasibility of the project.

19 (B) PROJECT COOPERATION AGREE-  
20 MENTS.—

21 (i) IN GENERAL.—The Secretary and  
22 the non-Federal sponsor shall execute  
23 project cooperation agreements in accord-  
24 ance with section 10 of the Plan.

1           (ii) CONDITION.—The Secretary shall  
2           not execute a project cooperation agree-  
3           ment until any reservation or allocation of  
4           water for the natural system identified in  
5           the project implementation report is exe-  
6           cuted under State law.

7           (C) OPERATING MANUALS.—

8           (i) IN GENERAL.—The Secretary and  
9           the non-Federal sponsor shall develop and  
10          issue, for each project or group of projects,  
11          an operating manual that is consistent  
12          with the water reservation or allocation for  
13          the natural system described in the project  
14          implementation report and the project co-  
15          operation agreement for the project or  
16          group of projects.

17          (ii) MODIFICATIONS.—Any significant  
18          modification by the Secretary and the non-  
19          Federal sponsor to an operating manual  
20          after the operating manual is issued shall  
21          only be carried out subject to notice and  
22          opportunity for public comment.

23          (5) SAVINGS CLAUSE.—

24          (A) EXISTING WATER USERS.—The Sec-  
25          retary shall ensure that the implementation of

1 the Plan, including physical or operational  
2 modifications to the Central and Southern Flor-  
3 ida Project, does not cause significant adverse  
4 impact on existing legal water users,  
5 including—

6 (i) water legally allocated or provided  
7 through entitlements to the Seminole Tribe  
8 of Florida under section 7 of the Seminole  
9 Indian Land Claims Settlement Act of  
10 1987 (25 U.S.C. 1772e);

11 (ii) the Miccosukee Tribe of Indians  
12 of Florida;

13 (iii) annual water deliveries to Ever-  
14 glades National Park;

15 (iv) water for the preservation of fish  
16 and wildlife in the natural system; and

17 (v) any other legal user, as provided  
18 under Federal or State law in existence on  
19 the date of enactment of this Act.

20 (B) NO ELIMINATION.—Until a new source  
21 of water supply of comparable quantity and  
22 quality is available to replace the water to be  
23 lost as a result of implementation of the Plan,  
24 the Secretary shall not eliminate existing legal  
25 sources of water, including those for—

1 (i) an agricultural or urban water  
2 supply;

3 (ii) allocation or entitlement to the  
4 Seminole Indian Tribe of Florida under  
5 section 7 of the Seminole Indian Land  
6 Claims Settlement Act of 1987 (25 U.S.C.  
7 1772e);

8 (iii) the Miccosukee Tribe of Indians  
9 of Florida;

10 (iv) Everglades National Park; or

11 (v) the preservation of fish and wild-  
12 life.

13 (C) MAINTENANCE OF FLOOD PROTEC-  
14 TION.—The Secretary shall maintain authorized  
15 levels of flood protection in existence on the  
16 date of enactment of this Act, in accordance  
17 with ~~current~~ *applicable* law.

18 (D) NO EFFECT ON STATE LAW.—Nothing  
19 in this Act prevents the State from allocating or  
20 reserving water, as provided under State law, to  
21 the extent consistent with this Act.

22 (E) NO EFFECT ON TRIBAL COMPACT.—  
23 Nothing in this Act amends, alters, prevents, or  
24 otherwise abrogates rights of the Seminole In-  
25 dian Tribe of Florida under the compact among

1 the Seminole Tribe of Florida, the State, and  
2 the South Florida Water Management District,  
3 defining the scope and use of water rights of  
4 the Seminole Tribe of Florida, as codified by  
5 section 7 of the Seminole Indian Land Claims  
6 Settlement Act of 1987 (25 U.S.C. 1772e).

7 *(i) DISPUTE RESOLUTION.—*

8 *(1) IN GENERAL.—The Secretary and the Gov-*  
9 *ernor shall within 180 days from the date of enact-*  
10 *ment of this Act develop an agreement for resolving*  
11 *disputes between the Corps of Engineers and the State*  
12 *associated with the implementation of the Plan. Such*  
13 *agreement shall establish a mechanism for the timely*  
14 *and efficient resolution of disputes, including—*

15 *(A) a preference for the resolution of dis-*  
16 *putes between the Jacksonville District of the*  
17 *Corps of Engineers and the South Florida Water*  
18 *Management District;*

19 *(B) a mechanism for the Jacksonville Dis-*  
20 *trict of the Corps of Engineers or the South Flor-*  
21 *ida Water Management District to initiate the*  
22 *dispute resolution process for unresolved issues;*

23 *(C) the establishment of appropriate time-*  
24 *frames and intermediate steps for the elevation of*  
25 *disputes to the Governor and the Secretary; and*

1                   (D) a mechanism for the final resolution of  
2                   disputes, within 180 days from the date that the  
3                   dispute resolution process is initiated under sub-  
4                   paragraph (B).

5                   (2) *CONDITION FOR REPORT APPROVAL.*—The  
6                   Secretary shall not approve a project implementation  
7                   report under this Act until the agreement established  
8                   under this subsection has been executed.

9                   (3) *NO EFFECT ON LAW.*—Nothing in the agree-  
10                  ment established under this subsection shall alter or  
11                  amend any existing Federal or State law.

12                ~~(i)~~(j) *INDEPENDENT SCIENTIFIC REVIEW.*—

13                (1) *IN GENERAL.*—The Secretary, the Secretary  
14                of the Interior, and the State, in consultation with  
15                the South Florida Ecosystem Restoration Task  
16                Force, shall establish an independent scientific re-  
17                view panel convened by a body, such as the National  
18                Academy of Sciences, to review the Plan’s progress  
19                toward achieving the natural system restoration  
20                goals of the Plan.

21                (2) *REPORT.*—The panel described in para-  
22                graph (1) shall produce a biennial report to Con-  
23                gress, the Secretary, the Secretary of the Interior,  
24                and the State of Florida that includes an assessment  
25                of ecological indicators and other measures of

1 progress in restoring the ecology of the natural sys-  
2 tem, based on the Plan.

3 ~~(j)~~(k) OUTREACH AND ASSISTANCE.—

4 (1) SMALL BUSINESS CONCERNS OWNED AND  
5 OPERATED BY SOCIALLY AND ECONOMICALLY DIS-  
6 ADVANTAGED INDIVIDUALS.—In executing the Plan,  
7 the Secretary shall ensure that small business con-  
8 cerns owned and controlled by socially and economi-  
9 cally disadvantaged individuals are provided oppor-  
10 tunities to participate under section 15(g) of the  
11 Small Business Act (15 U.S.C. 644(g)).

12 (2) COMMUNITY OUTREACH AND EDUCATION.—

13 (A) IN GENERAL.—The Secretary shall en-  
14 sure that impacts on socially and economically  
15 disadvantaged individuals, including individuals  
16 with limited English proficiency, and commu-  
17 nities are considered during implementation of  
18 the Plan, and that such individuals have oppor-  
19 tunities to review and comment on its imple-  
20 mentation.

21 (B) PROVISION OF OPPORTUNITIES.—The  
22 Secretary shall ensure, to the maximum extent  
23 practicable, that public outreach and edu-  
24 cational opportunities are provided to the indi-  
25 viduals of South Florida, including individuals

1 with limited English proficiency, and in par-  
2 ticular for socially and economically disadvan-  
3 taged communities.

4 ~~(k)~~(l) REPORT TO CONGRESS.—Beginning on Octo-  
5 ber 1, 2005, and periodically thereafter until October 1,  
6 2036, the Secretary and the Secretary of the Interior, in  
7 consultation with the Environmental Protection Agency,  
8 the Department of Commerce, and the State of Florida,  
9 shall jointly submit to Congress a report on the implemen-  
10 tation of the Plan. Such reports shall be completed not  
11 less often than every 5 years. Such reports shall include  
12 a description of planning, design, and construction work  
13 completed, the amount of funds expended during the pe-  
14 riod covered by the report (including a detailed analysis  
15 of the funds expended for adaptive assessment under sub-  
16 section (b)(2)(C)(xi)), and the work anticipated over the  
17 next 5-year period. In addition, each report shall include—

18 (1) the determination of each Secretary, and  
19 the Administrator of the Environmental Protection  
20 Agency, concerning the benefits to the natural sys-  
21 tem and the human environment achieved as of the  
22 date of the report and whether the completed  
23 projects of the Plan are being operated in a manner  
24 that is consistent with the requirements of sub-  
25 section (h); and

1           (2) a review of the activities performed by the  
2       Secretary under subsection ~~(j)~~(k) as they relate to  
3       socially and economically disadvantaged individuals  
4       and individuals with limited English proficiency.

Calendar No. 730

106TH CONGRESS  
2D SESSION

**S. 2797**

[Report No. 106-363]

---

---

**A BILL**

To authorize a comprehensive Everglades  
restoration plan.

---

---

JULY 27, 2000

Reported with amendments