

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To provide for drought preparedness and improved water supply reliability.

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IN THE SENATE OF THE UNITED STATES

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Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill;  
which was read twice and referred to the Committee on

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**A BILL**

To provide for drought preparedness and improved water  
supply reliability.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Water for Conservation and Farming Act”.

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

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

TITLE I—INFRASTRUCTURE DEVELOPMENT

- Sec. 101. Technical amendment to the Water Desalination Act of 1996.  
Sec. 102. Bureau of Reclamation Infrastructure Fund.

Sec. 103. Watersmart extension and expansion.

TITLE II—ECOSYSTEM PROTECTION AND RESTORATION

Sec. 201. Waterbird and shorebird habitat creation program.

Sec. 202. Sustaining biodiversity during droughts.

Sec. 203. Reauthorization of Cooperative Watershed Management Program.

Sec. 204. Multibenefit projects to improve watershed health.

Sec. 205. Drought planning and preparedness for critically important fisheries.

Sec. 206. Reauthorization of the Fisheries Restoration and Irrigation Mitigation Act of 2000.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **FUND.**—The term “Fund” means the Bu-  
 4 reau of Reclamation Infrastructure Fund established  
 5 by section 102(a).

6 (2) **RECLAMATION STATE.**—The term “Rec-  
 7 lamation State” has the meaning given the term in  
 8 section 4014 of the Water Infrastructure Improve-  
 9 ments for the Nation Act (43 U.S.C. 390b note;  
 10 Public Law 114–322).

11 (3) **SECRETARY.**—The term “Secretary” means  
 12 the Secretary of the Interior.

13 **TITLE I—INFRASTRUCTURE**  
 14 **DEVELOPMENT**

15 **SEC. 101. TECHNICAL AMENDMENT TO THE WATER DESALI-**  
 16 **NATION ACT OF 1996.**

17 Section 4(a) of the Water Desalination Act of 1996  
 18 (42 U.S.C. 10301 note; Public Law 104–298) is amended  
 19 by redesignating the second paragraph (1) (relating to eli-  
 20 gible desalination projects) as paragraph (2).

1 **SEC. 102. BUREAU OF RECLAMATION INFRASTRUCTURE**  
2 **FUND.**

3 (a) ESTABLISHMENT.—There is established in the  
4 Treasury of the United States a fund, to be known as the  
5 “Bureau of Reclamation Infrastructure Fund”, consisting  
6 of—

7 (1) such amounts as are deposited in the Fund  
8 under subsection (b)(1); and

9 (2) any interest earned on investment of  
10 amounts in the Fund under subsection (c)(1)(B).

11 (b) DEPOSITS TO FUND.—

12 (1) IN GENERAL.—For each of fiscal years  
13 2031 through 2061, the Secretary of the Treasury  
14 shall deposit in the Fund \$300,000,000 of the reve-  
15 nues that would otherwise be deposited for the fiscal  
16 year in the reclamation fund established by the first  
17 section of the Act of June 17, 1902 (32 Stat. 388,  
18 chapter 1093), of which—

19 (A) \$100,000,000 shall be expended by the  
20 Secretary for water reclamation and reuse  
21 projects authorized under—

22 (i) the Reclamation Wastewater and  
23 Groundwater Study and Facilities Act (43  
24 U.S.C. 390h et seq.); or

1 (ii) section 4(a)(2) of the Water De-  
2 salination Act of 1996 (42 U.S.C. 10301  
3 note; Public Law 104–298);

4 (B) \$100,000,000 shall be expended by the  
5 Secretary for grants authorized under section  
6 9504 of the Omnibus Public Land Management  
7 Act of 2009 (42 U.S.C. 10364); and

8 (C) \$100,000,000 shall be expended by the  
9 Secretary to perform modifications to preserve  
10 the structural safety of Bureau of Reclamation  
11 dams and related facilities to ensure that Bu-  
12 reau of Reclamation facilities do not present  
13 unreasonable risks to public safety, property, or  
14 the environment, if the expenditures—

15 (i) account for not more than 85 per-  
16 cent of the total costs for any dam safety  
17 project; and

18 (ii) are made in accordance with sec-  
19 tion 3 of the Reclamation Safety of Dams  
20 Act of 1978 (43 U.S.C. 507).

21 (2) AVAILABILITY OF AMOUNTS.—Amounts de-  
22 posited in the Fund under paragraph (1) shall—

23 (A) be made available in accordance with  
24 this section, without further appropriation; and

1           (B) be in addition to amounts appropriated  
2           for the purposes described in this section under  
3           any other provision of law.

4       (c) EXPENDITURES FROM FUND.—

5           (1) IN GENERAL.—Subject to paragraph (2),  
6           for each of fiscal years 2031 through 2061, the Sec-  
7           retary may expend from the Fund, in accordance  
8           with this section, not more than an amount equal to  
9           the sum of—

10           (A) the amounts deposited in the Fund for  
11           the applicable fiscal year under subsection  
12           (b)(1); and

13           (B) the amount of interest accrued in the  
14           Fund for the fiscal year in which the expendi-  
15           tures are made.

16       (2) ADDITIONAL EXPENDITURES.—

17           (A) IN GENERAL.—The Secretary may ex-  
18           pend more in any fiscal year than the amounts  
19           described in paragraph (1) if the additional  
20           amounts are available in the Fund as a result  
21           of a failure of the Secretary to expend all of the  
22           amounts available under paragraph (1) in 1 or  
23           more prior fiscal years.

1 (B) RETENTION IN ACCOUNTS.—Any addi-  
2 tional amounts referred to in subparagraph (A)  
3 shall—

4 (i) accrue interest in accordance with  
5 this section; and

6 (ii) only be expended for the purposes  
7 for which expenditures from the Fund are  
8 authorized.

9 **SEC. 103. WATERSMART EXTENSION AND EXPANSION.**

10 (a) WATER MANAGEMENT IMPROVEMENT.—Section  
11 9504(a) of the Omnibus Public Land Management Act of  
12 2009 (42 U.S.C. 10364(a)) is amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (F), by inserting “,  
15 including through temporary, voluntary, and  
16 compensated transactions that decrease con-  
17 sumptive water use at a regional or watershed  
18 scale” after “imbalances”; and

19 (B) in subparagraph (J), by striking clause  
20 (i) and inserting the following:

21 “(i) to increase ecological resilience to  
22 climate change by addressing climate-re-  
23 lated impacts to, or vulnerabilities of, the  
24 water supply of the United States, includ-  
25 ing by enhancing natural water storage

1                   within a floodplain or riparian wetland;”;

2                   and

3                   (2) in paragraph (3)(B)(i), by striking sub-  
4                   clause (II) and inserting the following:

5                                   “(II) to use the assistance pro-  
6                                   vided under a grant or agreement to  
7                                   increase the consumptive use of water  
8                                   for agricultural operations above the  
9                                   pre-project levels, as determined pur-  
10                                  suant to the law of the State in which  
11                                  the operation of the eligible applicant  
12                                  is located.”.

13           (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
14 9504 of the Omnibus Public Land Management Act of  
15 2009 (42 U.S.C. 10364) is amended by striking subsection  
16 (e) and inserting the following:

17           “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
18 is authorized to be appropriated to carry out this section  
19 \$700,000,000, to remain available until expended, subject  
20 to the condition that \$50,000,000 of that amount shall  
21 be used to carry out section 206 of the Energy and Water  
22 Development and Related Agencies Appropriations Act,  
23 2015 (43 U.S.C. 620 note; Public Law 113–235).”.

1 **TITLE II—ECOSYSTEM PROTEC-**  
2 **TION AND RESTORATION**

3 **SEC. 201. WATERBIRD AND SHOREBIRD HABITAT CRE-**  
4 **ATION PROGRAM.**

5 (a) AUTHORIZATION OF HABITAT CREATION PRO-  
6 GRAM.—

7 (1) IN GENERAL.—Subject to paragraphs (2)  
8 and (3), the Secretary shall establish a program  
9 under which the Secretary shall provide financial as-  
10 sistance to eligible agricultural producers in Rec-  
11 lamation States, in the form of direct payments or  
12 credits, as applicable, to compensate the eligible ag-  
13 ricultural producers for the creation and mainte-  
14 nance of waterbird and shorebird habitats.

15 (2) LIMITATION ON AMOUNT OF FINANCIAL AS-  
16 SISTANCE.—Not more than a total of \$3,500,000 of  
17 financial assistance may be provided for each fiscal  
18 year under paragraph (1).

19 (3) CONDITIONS.—Financial assistance shall be  
20 provided under paragraph (1) only if the Secretary  
21 determines that the activities receiving the financial  
22 assistance would—

23 (A) create new habitat that would not oth-  
24 erwise be created; or

1 (B) maintain existing habitat that would  
2 not otherwise be maintained.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 authorized to be appropriated to the Secretary \$3,500,000  
5 to carry out this section for each of fiscal years 2022  
6 through 2027, to remain available until expended.

7 (c) REPORT.—Not later than October 1, 2022, and  
8 every 2 years thereafter, the Secretary shall submit to  
9 Congress a report that describes the environmental per-  
10 formance of activities that are receiving, or have received,  
11 financial assistance under the program established under  
12 subsection (a)(1) during the period covered by the report.

13 **SEC. 202. SUSTAINING BIODIVERSITY DURING DROUGHTS.**

14 Section 9503(b) of the Omnibus Public Land Man-  
15 agement Act of 2009 (42 U.S.C. 10363(b)) is amended—

16 (1) in paragraph (3)(D), by inserting “and na-  
17 tive biodiversity” after “wildlife habitat”; and

18 (2) in paragraph (4)(B), by inserting “and  
19 drought biodiversity plans to address sustaining na-  
20 tive biodiversity during periods of drought” after  
21 “restoration plans”.

1 **SEC. 203. REAUTHORIZATION OF COOPERATIVE WATER-**  
2 **SHED MANAGEMENT PROGRAM.**

3 Section 6002 of the Omnibus Public Lands Manage-  
4 ment Act of 1976 (16 U.S.C. 1015a) is amended by strik-  
5 ing subsection (g) and inserting the following:

6 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to carry out this sec-  
8 tion—

9 “(1) \$20,000,000 for each of fiscal years 2012  
10 through 2021; and

11 “(2) \$40,000,000 for each of fiscal years 2022  
12 through 2026.”.

13 **SEC. 204. MULTIBENEFIT PROJECTS TO IMPROVE WATER-**  
14 **SHED HEALTH.**

15 (a) DEFINITION OF ELIGIBLE APPLICANT.—In this  
16 section, the term “eligible applicant” means—

17 (1) any Reclamation State, Indian Tribe, irriga-  
18 tion district, water district, or organization with  
19 water or power delivery authority;

20 (2) any Reclamation State, regional authority,  
21 or local agency or authority; and

22 (3) any nonprofit conservation organization.

23 (b) ESTABLISHMENT OF COMPETITIVE GRANT PRO-  
24 GRAM.—Not later than 1 year after the date of enactment  
25 of this Act, the Secretary, in consultation with the heads  
26 of relevant agencies, shall establish a competitive grant

1 program under which the Secretary shall award grants to  
2 eligible applicants for the design, implementation, and  
3 monitoring of conservation outcomes of habitat restoration  
4 projects that improve watershed health in a Reclamation  
5 State by accomplishing 1 or more of the following:

6 (1) Ecosystem benefits.

7 (2) Restoration of native species beyond exist-  
8 ing or planned measures necessary to comply with  
9 Federal or State laws relating to species recovery.

10 (3) Mitigation against the impacts of climate  
11 change to fish and wildlife habitats.

12 (4) Protection against invasive species.

13 (5) Restoration of aspects of the natural eco-  
14 system.

15 (6) Enhancement of commercial or recreational  
16 fishing.

17 (7) Enhancement of river-based recreation,  
18 such as kayaking, rafting, and canoeing.

19 (c) REQUIREMENTS.—

20 (1) IN GENERAL.—In awarding a grant to an  
21 eligible applicant under subsection (b), the Sec-  
22 retary—

23 (A) shall give priority to an eligible appli-  
24 cant that would carry out a habitat restoration

1 project that achieves more than 1 of the bene-  
2 fits described in that subsection; and

3 (B) may not provide a grant to carry out  
4 a habitat restoration project, the purpose of  
5 which is to meet existing environmental mitiga-  
6 tion or compliance obligations under Federal or  
7 State law.

8 (2) COMPLIANCE.—A habitat restoration  
9 project awarded a grant under subsection (a) shall  
10 comply with all applicable Federal and State laws.

11 (d) COST-SHARING REQUIREMENT.—The Federal  
12 share of the cost of any habitat restoration project that  
13 is awarded a grant under subsection (b)—

14 (1) shall not exceed 50 percent of the cost of  
15 the habitat restoration project; or

16 (2) in the case of a habitat restoration project  
17 that provides benefits to ecological or recreational  
18 values in which the nonconsumptive water conserva-  
19 tion benefit or habitat restoration benefit accounts  
20 for at least 75 percent of the cost of the habitat res-  
21 toration project, as determined by the Secretary,  
22 shall not exceed 75 percent of the cost of the habitat  
23 restoration project.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$150,000,000 for each of fiscal years 2022 through 2025.

4 **SEC. 205. DROUGHT PLANNING AND PREPAREDNESS FOR**  
5 **CRITICALLY IMPORTANT FISHERIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) CRITICALLY IMPORTANT FISHERY.—The  
8 term “critically important fishery” means—

9 (A) a fishery located in a Reclamation  
10 State that is commercially, culturally, or  
11 recreationally important;

12 (B) a fishery located in a Reclamation  
13 State that contains fish species that are listed  
14 as threatened or endangered pursuant to the  
15 Endangered Species Act of 1973 (16 U.S.C.  
16 1531 et seq.); and

17 (C) a fishery located in a Reclamation  
18 State that is used by 1 or more Indian Tribes  
19 in the Reclamation State for ceremonial subsist-  
20 ence or commercial purposes.

21 (2) INDIAN TRIBE.—The term “Indian Tribe”  
22 has the meaning given the term “Indian tribe” in  
23 section 4 of the Indian Self-Determination and Edu-  
24 cation Assistance Act (25 U.S.C. 5304).

1           (3) QUALIFIED TRIBAL GOVERNMENT.—The  
2 term “qualified Tribal Government” means any gov-  
3 ernment of an Indian Tribe that the Secretary deter-  
4 mines—

5           (A) is involved in fishery management and  
6 recovery activities, including activities under the  
7 Endangered Species Act of 1973 (16 U.S.C.  
8 1531 et seq.); and

9           (B) has the management and organiza-  
10 tional capability to maximize the benefits of as-  
11 sistance provided under subsection (c).

12           (4) SECRETARY.—The term “Secretary” means  
13 the Secretary, acting through the Director of the  
14 United States Fish and Wildlife Service.

15           (b) DROUGHT PLAN FOR CRITICALLY IMPORTANT  
16 FISHERIES.—

17           (1) IN GENERAL.—Not later than January 1,  
18 2022, and every 3 years thereafter, the Secretary, in  
19 consultation with the Director of the National Ma-  
20 rine Fisheries Service, the Commissioner of Rec-  
21 lamation, the Chief of Engineers, applicable State  
22 fish and wildlife agencies, and qualified Tribal Gov-  
23 ernments, shall prepare a plan to sustain the sur-  
24 vival of critically important fisheries during future  
25 periods of extended drought through—

1 (A) voluntary, compensated actions by pri-  
2 vate landowners and water right holders; or

3 (B) other investments in drought prepared-  
4 ness made by the Secretary.

5 (2) CONSIDERATIONS.—In preparing the plan  
6 under paragraph (1), the Secretary shall consider—

7 (A) habitat restoration efforts designed to  
8 provide drought refugia and increased fishery  
9 resilience during droughts;

10 (B) relocating the release location and tim-  
11 ing of hatchery fish to avoid predation and tem-  
12 perature impacts;

13 (C) barging of hatchery release fish to im-  
14 prove survival and reduce straying;

15 (D) coordination with water users, the  
16 Commissioner of Reclamation, State fish and  
17 wildlife agencies, qualified Tribal Governments,  
18 and interested public water agencies regarding  
19 voluntary water transfers, including through  
20 groundwater substitution activities, to deter-  
21 mine if water releases can be collaboratively  
22 managed in a way that provides additional ben-  
23 efits for critically important fisheries without  
24 negatively impacting wildlife habitat;

1           (E) hatchery management modifications,  
2           such as expanding hatchery production of fish  
3           during periods of extended drought, if appro-  
4           priate for a particular river basin;

5           (F) hatchery retrofit projects, such as the  
6           installation and operation of filtration equip-  
7           ment and chillers, to reduce disease outbreak,  
8           egg mortality, and other impacts of droughts in  
9           high water temperatures;

10          (G) increasing rescue operations of up-  
11          stream migrating fish;

12          (H) improving temperature modeling and  
13          related forecasted information to predict water  
14          management impacts to the habitat of critically  
15          important fisheries with a higher degree of ac-  
16          curacy than current models;

17          (I) programs to reduce predation losses at  
18          artificially created predation hot spots;

19          (J) habitat restoration efforts designed to  
20          provide drought refugia and increased fisheries  
21          resilience during droughts; and

22          (K) retrofitting existing water facilities to  
23          provide improved temperature conditions for  
24          fish.

1 (c) PUBLIC COMMENT.—Before finalizing a plan  
2 under subsection (b), the Secretary shall provide for a  
3 public comment period of not less than 90 days.

4 (d) AUTHORIZATION OF APPROPRIATIONS FOR FISH  
5 RECOVERY EFFORTS.—There is authorized to be appro-  
6 priated to the Secretary to carry out fish, stream, and  
7 hatchery activities relating to fish recovery efforts, includ-  
8 ing activities carried out in coordination with the Director  
9 of the National Marine Fisheries Service, the Commis-  
10 sioner of Reclamation, the Chief of Engineers, applicable  
11 State fish and wildlife agencies, or a qualified Tribal Gov-  
12 ernment, \$25,000,000 for fiscal year 2022.

13 (e) EFFECT.—Nothing in this section affects any ob-  
14 ligation under any Federal environmental law.

15 **SEC. 206. REAUTHORIZATION OF THE FISHERIES RESTORA-**  
16 **TION AND IRRIGATION MITIGATION ACT OF**  
17 **2000.**

18 (a) DEFINITION OF PACIFIC DRAINAGE AREA.—Sec-  
19 tion 2(1) of the Fisheries Restoration and Irrigation Miti-  
20 gation Act of 2000 (16 U.S.C. 777 note; Public Law 106–  
21 502) is amended by inserting “or a terminal lake” before  
22 the period at the end.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
24 10(a) of the Fisheries Restoration and Irrigation Mitiga-  
25 tion Act of 2000 (16 U.S.C. 777 note; Public Law 106–

1 502) is amended by striking “\$15 million through 2021”  
2 and inserting “\$25,000,000 for each of fiscal years 2022  
3 through 2028”.