

117TH CONGRESS
1ST SESSION

S. 2334

To direct the Secretary of the Interior to establish a grant program to provide grants on a competitive basis to eligible entities for large-scale water recycling and reuse projects, to amend the Omnibus Public Land Management Act of 2009 to make certain modifications to the Cooperative Watershed Management Program, to provide emergency drought funding, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2021

Ms. CORTEZ MASTO (for herself, Mr. PADILLA, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to establish a grant program to provide grants on a competitive basis to eligible entities for large-scale water recycling and reuse projects, to amend the Omnibus Public Land Management Act of 2009 to make certain modifications to the Cooperative Watershed Management Program, to provide emergency drought funding, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Large Scale Water
3 Recycling Project and Drought Resiliency Investment
4 Act”.

5 **SEC. 2. LARGE-SCALE WATER RECYCLING PROJECT IN-**
6 **VESTMENT.**

7 (a) DEFINITIONS.—In this section:

8 (1) ELIGIBLE ENTITY.—The term “eligible enti-
9 ty” means—

10 (A) a State, Indian Tribe, municipality, ir-
11 rigation district, water district, wastewater dis-
12 trict, or other organization with water or power
13 delivery authority;

14 (B) a State, regional, or local authority,
15 the members of which include 1 or more organi-
16 zations with water or power delivery authority;
17 and

18 (C) an agency established under State law
19 for the joint exercise of powers or a combina-
20 tion of entities described in subparagraphs (A)
21 and (B).

22 (2) ELIGIBLE PROJECT.—The term “eligible
23 project” means a project described in subsection (c).

24 (3) INDIAN TRIBE.—The term “Indian Tribe”
25 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 5304).

3 (4) PROGRAM.—The term “program” means
4 the grant program established under subsection (b).

5 (5) RECLAMATION STATE.—The term “Rec-
6 lamation State” means a State or territory described
7 in the first section of the Act of June 17, 1902 (43
8 U.S.C. 391; 32 Stat. 388, chapter 1093).

9 (6) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (b) ESTABLISHMENT.—The Secretary shall establish
12 a program to provide grants to eligible entities on a com-
13 petitive basis for the planning, design, and construction
14 of large-scale water recycling and reclamation projects
15 that provide substantial water supply and other benefits
16 to drought-stricken regions in the Reclamation States.

17 (c) ELIGIBLE PROJECT.—A project shall be eligible
18 for a grant under the program if the project—

19 (1) reclaims and reuses—

20 (A) municipal, industrial, domestic, or ag-
21 ricultural wastewater; or

22 (B) impaired groundwater or surface
23 water;

24 (2) has a total estimated cost of \$500,000,000
25 or more;

1 (3) is located in a Reclamation State;

2 (4) is constructed, operated, and maintained by
3 an eligible entity; and

4 (5) provides a Federal benefit in accordance
5 with the reclamation laws.

6 (d) PROJECT EVALUATION.—The Secretary may pro-
7 vide a grant to an eligible entity for an eligible project
8 under the program if—

9 (1) the eligible entity determines through the
10 preparation of a feasibility study or equivalent
11 study, and the Secretary concurs, that the eligible
12 project—

13 (A) is technically and financially feasible;

14 (B) provides a Federal benefit in accord-
15 ance with the reclamation laws; and

16 (C) is consistent with applicable Federal
17 and State laws;

18 (2) the eligible entity has sufficient non-Federal
19 funding available to complete the eligible project, as
20 determined by the Secretary;

21 (3) the eligible entity is financially solvent, as
22 determined by the Secretary; and

23 (4) not later than 30 days after the date on
24 which the Secretary concurs with the determinations
25 under paragraph (1) with respect to the eligible

1 project, the Secretary submits to Congress written
2 notice of the determinations.

3 (e) PRIORITY.—In funding eligible projects under the
4 program, the Secretary shall give funding priority for eli-
5 gible projects that meet 1 or more of the following criteria:

6 (1) The eligible project provides multiple bene-
7 fits, including—

8 (A) water supply reliability benefits for
9 drought-stricken States and communities;

10 (B) fish and wildlife benefits; and

11 (C) water quality improvements.

12 (2) The eligible project is likely to reduce im-
13 pacts on environmental resources from water
14 projects owned or operated by Federal and State
15 agencies, including through measurable reductions in
16 water diversions from imperiled ecosystems.

17 (3) The eligible project would advance water
18 management plans across a multi-State area, such
19 as drought contingency plans in the Colorado River
20 Basin.

21 (4) The eligible project is regional in nature.

22 (5) The eligible project is collaboratively devel-
23 oped or supported by multiple stakeholders.

24 (f) FEDERAL ASSISTANCE.—

1 (1) FEDERAL COST SHARE.—Except as pro-
2 vided in paragraph (2), the Federal share of the cost
3 of any eligible project provided a grant under the
4 program shall not exceed 25 percent of the total cost
5 of the eligible project.

6 (2) INCREASED FEDERAL COST SHARE FOR ELI-
7 GIBLE PROJECTS WITH ADDITIONAL MEASURABLE
8 BENEFITS.—The Secretary may increase the Federal
9 share of the cost of an eligible project under para-
10 graph (1) to not more than 75 percent of the total
11 costs of the eligible project, if the eligible project ad-
12 vances at least a proportionate share of nonreim-
13 bursable benefits authorized under the reclamation
14 laws, including fish and wildlife benefits provided
15 through measurable reductions in water diversions
16 from imperiled ecosystems.

17 (3) TOTAL CAP.—The Secretary shall not im-
18 pose a total dollar cap on Federal contributions that
19 applies to all individual eligible projects provided a
20 grant under the program.

21 (4) NONREIMBURSABLE FUNDS.—Funds pro-
22 vided by the Secretary to an eligible entity under the
23 program shall be considered nonreimbursable.

24 (5) FUNDING ELIGIBILITY.—An eligible project
25 shall not be considered ineligible for assistance

1 under this section because the eligible project has re-
2 ceived assistance authorized under—

3 (A) the Reclamation Wastewater and
4 Groundwater Study and Facilities Act (43
5 U.S.C. 390h et seq.);

6 (B) section 4(a) of the Water Desalination
7 Act of 1996 (42 U.S.C. 10301 note; Public Law
8 104–298) for eligible desalination projects; or

9 (C) section 1602(e) of the Reclamation
10 Wastewater and Groundwater Study and Facili-
11 ties Act (43 U.S.C. 390h(e)).

12 (g) ENVIRONMENTAL LAWS.—In providing a grant
13 for an eligible project under the program, the Secretary
14 shall comply with all applicable environmental laws, in-
15 cluding the National Environmental Policy Act of 1969
16 (42 U.S.C. 4321 et seq.).

17 (h) GUIDANCE.—Not later than 1 year after the date
18 of enactment of this Act, the Secretary shall issue guid-
19 ance on the implementation of this section, including
20 guidelines for the preparation of feasibility studies or
21 equivalent studies by eligible entities.

22 (i) CONGRESSIONAL APPROVAL.—

23 (1) IN GENERAL.—Not later than 60 days be-
24 fore the date on which a grant is provided for an eli-
25 gible project under this section, the Secretary shall

1 notify the Committee on Energy and Natural Re-
2 sources of the Senate and the Committee on Natural
3 Resources of the House of Representatives, in writ-
4 ing, of the proposed grant.

5 (2) REQUIREMENTS.—A notification under
6 paragraph (1) shall include—

7 (A) an evaluation and justification for the
8 eligible project; and

9 (B) a description of the amount of the pro-
10 posed grant award.

11 (3) CONGRESSIONAL DISAPPROVAL.—The Sec-
12 retary shall not make a grant or any other obliga-
13 tion or commitment to fund an eligible project under
14 this section that exceeds \$100,000,000, if, by not
15 later than the end of the 60-day period described in
16 paragraph (1), a joint resolution is enacted dis-
17 approving the funding for the eligible project.

18 (j) REPORTS.—

19 (1) ANNUAL REPORT.—At the end of each fis-
20 cal year, the Secretary shall make available on the
21 website of the Department of the Interior an annual
22 report that lists each eligible project for which a
23 grant has been provided under this section during
24 the fiscal year.

25 (2) COMPTROLLER GENERAL.—

1 (A) ASSESSMENT.—The Comptroller Gen-
2 eral of the United States shall conduct an as-
3 sessment of the administrative establishment,
4 solicitation, selection, and justification process
5 with respect to the funding of grants under this
6 section.

7 (B) REPORT.—Not later than 1 year after
8 the date of the initial award of grants under the
9 program, the Comptroller General of the United
10 States shall submit to the Committee on En-
11 ergy and Natural Resources of the Senate and
12 the Committee on Natural Resources of the
13 House of Representatives a report that de-
14 scribes—

15 (i) the adequacy and effectiveness of
16 the process by which each eligible project
17 was selected, if applicable; and

18 (ii) the justification and criteria used
19 for the selection of each eligible project, if
20 applicable.

21 (k) TREATMENT OF CONVEYANCE.—The Secretary
22 shall consider the planning, design, and construction of
23 a conveyance system for an eligible project to be eligible
24 for grant funding under the program.

1 (l) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$750,000,000 for the period of fiscal years 2023 through
4 2027.

5 **SEC. 3. DROUGHT RESILIENCY.**

6 (a) COOPERATIVE WATERSHED MANAGEMENT PRO-
7 GRAM.—

8 (1) DEFINITIONS.—Section 6001(7) of the Om-
9 nibus Public Land Management Act of 2009 (16
10 U.S.C. 1015(7)) is amended—

11 (A) in subparagraph (D), by striking “or”
12 at the end;

13 (B) by redesignating subparagraph (E) as
14 subparagraph (F); and

15 (C) by inserting after subparagraph (D)
16 the following:

17 “(E) provides for the conduct of emergency
18 drought planning; or”.

19 (2) FUNDING PROCEDURE.—Section
20 6002(c)(2)(A) of the Omnibus Public Land Manage-
21 ment Act of 2009 (16 U.S.C. 1015a(c)(2)(A)) is
22 amended by inserting “or emergency drought plan”
23 after “restoration plan” each place it appears.

24 (b) EMERGENCY DROUGHT FUNDING.—

25 (1) FINANCIAL ASSISTANCE.—

1 (A) IN GENERAL.—Financial assistance
2 may be made available under the Reclamation
3 States Emergency Drought Relief Act of 1991
4 (43 U.S.C. 2201 et seq.) for eligible water
5 projects to assist Western States and Tribal
6 governments to address drought-related impacts
7 to water supplies or any other immediate water-
8 related crisis or conflict, including through vol-
9 untary, temporary, and compensated programs
10 to reduce water demands for the purpose of in-
11 creasing water available in a system or reducing
12 water supply-demand imbalances.

13 (B) ADDITIONAL AVAILABILITY.—Finan-
14 cial assistance may be made available under
15 this paragraph to organizations and entities
16 that are—

17 (i) engaged in collaborative processes
18 to restore the environment; or

19 (ii) part of a basin-wide solution for
20 restoration.

21 (C) TYPES OF ASSISTANCE.—Assistance
22 under subparagraph (A) may include a range of
23 projects, including—

- 1 (i) the installation of pumps, tem-
2 porary barriers, or operable gates for water
3 diversion and fish protection;
- 4 (ii) the installation of drought-relief
5 groundwater wells for Indian Tribes and in
6 wildlife refuges and other environmentally
7 sensitive areas requiring emergency surface
8 water flow augmentation;
- 9 (iii) the acquisition or assistance in
10 the acquisition of water from willing sell-
11 ers, including on a voluntary, temporary,
12 and compensated basis, to enhance stream
13 flow for the benefit of fish and wildlife (in-
14 cluding endangered species), water quality,
15 river ecosystem restoration, and other ben-
16 efcial purposes;
- 17 (iv) agricultural and urban conserva-
18 tion and efficiency projects;
- 19 (v) exchanges with any water district
20 willing to provide water to meet the emer-
21 gency water needs of other water districts
22 in return for the delivery of equivalent
23 quantities of water later that year or in fu-
24 ture years;

1 (vi) emergency pumping projects for
2 critical health and safety purposes;

3 (vii) activities to reduce water demand
4 consistent with a comprehensive program
5 for environmental restoration and settle-
6 ment of water rights claims; and

7 (viii) activities that protect, restore, or
8 enhance fish and wildlife habitat or other-
9 wise improve environmental conditions, in-
10 cluding water quantity or quality concerns
11 and improved fish passage.

12 (D) AUTHORIZATION OF APPROPRIA-
13 TIONS.—There is authorized to be appropriated
14 to provide financial assistance under this para-
15 graph not more than \$50,000,000 for the pe-
16 riod of fiscal years 2022 through 2026, of
17 which not more than \$20,000,000 shall be
18 made available during that period for the con-
19 duct of actions authorized under title I of the
20 Reclamation States Emergency Drought Relief
21 Act of 1991 (43 U.S.C. 2211 et seq.) to benefit
22 imperiled fish and wildlife.

23 (2) APPLICABLE PERIOD OF DROUGHT PRO-
24 GRAM.—Section 104 of the Reclamation States
25 Emergency Drought Relief Act of 1991 (43 U.S.C.

1 2214) is amended by striking subsection (a) and in-
2 serting the following:

3 “(a) IN GENERAL.—The programs and authorities
4 established under this title shall become operative in any
5 Reclamation State and in the State of Hawaii only—

6 “(1) after the Governor or Governors of the af-
7 fected State or States, or the governing body of an
8 affected Indian Tribe with respect to a reservation,
9 has made a request for temporary drought assist-
10 ance and the Secretary has determined that the tem-
11 porary assistance is merited;

12 “(2) after a drought emergency has been de-
13 clared by the Governor or Governors of the affected
14 State or States; or

15 “(3) on approval of a drought contingency plan
16 as provided in title II.”.

17 (3) REAUTHORIZATION.—Section 104(c) of the
18 Reclamation States Emergency Drought Relief Act
19 of 1991 (43 U.S.C. 2214(c)) is amended by striking
20 “2021” and inserting “2031”.

○