

117TH CONGRESS
2D SESSION

S. 3539

To authorize the Secretary of the Interior to carry out watershed pilots,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2022

Mr. WYDEN introduced the following bill; which was read twice and referred
to the Committee on Energy and Natural Resources

A BILL

To authorize the Secretary of the Interior to carry out
watershed pilots, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Watershed Results
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADVANCE WATERSHED ANALYTICS.**—The
9 term “advance watershed analytics” means the tech-
10 nical analysis that is—

1 (A) conducted before making funding
2 available for a watershed pilot; and

3 (B) necessary—

4 (i) to identify specific high-impact
5 outcome projects across an entire water-
6 shed;

7 (ii) to identify project costs and imple-
8 mentation feasibility constraints;

9 (iii) to identify how different groups
10 of projects impact overall watershed tar-
11 gets; and

12 (iv) to develop scenarios that—

13 (I) maximize outcomes; and

14 (II) are feasible to quickly imple-
15 ment at scale.

16 (2) FEDERAL FINANCIAL SOURCE.—The term
17 “Federal financial source” means an award, grant,
18 loan, guarantee, incentive, or credit enhancement
19 funding available to Federal agencies participating
20 in watershed pilots.

21 (3) FUND.—The term “Fund” means the Envi-
22 ronmental Outcomes Fund established by the Sec-
23 retary under section 4(c)(1).

1 (4) MANAGEMENT TEAM.—The term “manage-
2 ment team” means the management team for a wa-
3 tershed pilot designated under section 3(b)(2).

4 (5) OUTCOME.—The term “outcome” means—

5 (A) a quantifiable increase in surface water
6 or groundwater;

7 (B) a measurable increase in aquatic habi-
8 tat quality or quantity in a watershed affected
9 by the operation of a Bureau of Reclamation
10 project; or

11 (C) any other quantifiable benefit identi-
12 fied by the management team as being desirable
13 in the applicable watershed.

14 (6) PAY-FOR-PERFORMANCE CONTRACT.—The
15 term “pay-for-performance contract” means a con-
16 tract to purchase successfully implemented outcomes
17 at a negotiated per-unit price.

18 (7) PLAN.—The term “plan” means an action-
19 able implementation and funding plan developed for
20 a watershed pilot under section 3(c)(1).

21 (8) QUALIFYING PROJECT.—The term “quali-
22 fying project” means a project in a Reclamation
23 State that efficiently achieves 1 or more outcomes in
24 pursuit of a plan, as prioritized through advance wa-
25 tershed analytics.

1 (9) RECLAMATION STATE.—The term “Rec-
2 lamation State” means—

3 (A) a State or territory described in the
4 first section of the Act of June 17, 1902 (32
5 Stat. 388, chapter 1093; 43 U.S.C. 391);

6 (B) the State of Hawaii; and

7 (C) the State of Alaska.

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

10 (11) WATERSHED PILOT.—The term “water-
11 shed pilot” means a watershed pilot established
12 under section 3(a).

13 **SEC. 3. WATERSHED PILOTS.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act and subject to subsection
16 (h), the Secretary shall establish a total of not less than
17 2 and not more than 5 watershed pilots in a Reclamation
18 State.

19 (b) MANAGEMENT OF WATERSHED PILOTS.—

20 (1) MANAGEMENT BY SECRETARY.—Manage-
21 ment and responsibility for each watershed pilot
22 shall be led by the Secretary.

23 (2) MANAGEMENT TEAM.—The Secretary shall
24 designate a management team for the watershed

1 pilot, which shall be composed of representatives ap-
2 pointed by the Secretary.

3 (3) CONSULTATION.—In establishing and car-
4 rying out a watershed pilot, the Secretary and the
5 management team shall consult with—

6 (A) State, local, and Tribal representa-
7 tives;

8 (B) nongovernmental organizations, includ-
9 ing water and irrigation districts;

10 (C) private sector representatives; and

11 (D) such other individuals or entities as
12 the Secretary and the management team deter-
13 mine to be appropriate.

14 (c) PLAN.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date on which a watershed pilot is established,
17 the management team for the applicable watershed
18 pilot shall develop and implement a 5-year plan for
19 carrying out the watershed pilot.

20 (2) REQUIREMENTS.—A plan shall incor-
21 porate—

22 (A) advance watershed analytics to estab-
23 lish milestones, outcome targets, an implemen-
24 tation plan, and a timeline for achieving the
25 milestones, targets, and full implementation;

1 (B) a coordinated cross-agency funding
2 strategy that will—

3 (i) achieve the milestones and outcome
4 targets established under subparagraph
5 (A) in an effective and flexible manner by
6 efficiently and quickly delivering Federal
7 financial sources to qualifying projects;

8 (ii) leverage amounts made available
9 under sections 4(c)(4) and 7 with existing
10 Federal financial sources;

11 (iii) use Federal financial sources and
12 amounts from the Fund to leverage and
13 attract investments from private or philan-
14 thropic sources to accelerate greater out-
15 comes-based results; and

16 (iv) concentrate Federal financial
17 source commitments from multiple agen-
18 cies in a watershed pilot during the period
19 of the watershed pilot;

20 (C) annually updated progress tracking
21 against milestones and targets; and

22 (D) such other information as the Sec-
23 retary determines to be relevant to achieve out-
24 comes on an accelerated timeline.

1 (3) REVIEW.—A plan shall be reviewed annu-
2 ally by the management team.

3 (d) NOTIFICATION.—On adoption of each plan, the
4 Secretary shall submit to the Committee on Appropria-
5 tions of the Senate and the Committee on Appropriations
6 of the House of Representatives a notification that the wa-
7 tershed pilot has been established and the plan has been
8 adopted.

9 (e) DISBURSEMENT OF FUNDS TO QUALIFYING
10 PROJECTS.—Not later than 30 days after the date on
11 which the Secretary and the management team for a wa-
12 tershed pilot verify outcomes from the qualifying project,
13 the Secretary and the management team for the watershed
14 pilot shall disburse amounts from Federal financial
15 sources, including amounts made available under sections
16 4(c)(4) and 7, to a qualifying project, through pay-for-
17 performance contracts, at agreed upon outcome prices.

18 (f) MINIMUM OUTCOME PRICES.—Not later than 1
19 year after the date on which a watershed pilot is estab-
20 lished, the Secretary and the management team for the
21 watershed pilot shall set and publish minimum per-unit
22 outcome prices.

23 (g) USE OF ADVANCE WATERSHED ANALYTICS.—
24 The Secretary and the management team for each water-
25 shed pilot shall use advance watershed analytics through-

1 out the planning, implementation, measuring, and moni-
2 toring of outcomes within the watershed pilot.

3 (h) **AUTHORITY FOR ADDITIONAL PILOTS.**—The Sec-
4 retary, following notification of the Committee on Appro-
5 priations of the Senate and the Committee on Appropria-
6 tions of the House of Representatives, shall approve the
7 establishment of more than 5 watershed pilots under this
8 section.

9 **SEC. 4. FINANCING AND FUNDING OF WATERSHED PILOTS.**

10 (a) **USE OF PAY-FOR-PERFORMANCE CONTRACTS.**—
11 In carrying out a watershed pilot, the Secretary shall enter
12 into a pay-for-performance contract to achieve outcome-
13 based goals described in the plan developed for the water-
14 shed pilot.

15 (b) **FLEXIBILITY UNDER EXISTING PROGRAMS.**—
16 The Secretary shall modify, expand, or streamline eligi-
17 bility and verification criteria for existing Federal finan-
18 cial sources to maximize flexibility, speed, and use of Fed-
19 eral funds in the most effective manner to achieve out-
20 comes under the watershed pilot.

21 (c) **ENVIRONMENTAL OUTCOMES FUND.**—

22 (1) **IN GENERAL.**—The Secretary shall establish
23 an Environmental Outcomes Fund.

1 (2) USE OF FUND.—Amounts in the Fund shall
2 only be expended on pay-for-performance contracts
3 under a watershed pilot.

4 (3) CRITERIA.—Amounts in the Fund shall be
5 expended in accordance with—

6 (A) this Act, including the plan developed
7 for the applicable watershed pilot; and

8 (B) criteria established by the Secretary
9 and the management team for the applicable
10 watershed pilot, which shall include criteria
11 for—

12 (i) eligibility of qualifying projects;

13 (ii) types of qualifying projects;

14 (iii) the timing of the disbursement of
15 funds; and

16 (iv) such other matters as the Sec-
17 retary and the management team deter-
18 mine to be appropriate.

19 (4) MANDATORY FUNDING.—

20 (A) IN GENERAL.—Out of any funds in the
21 Treasury not otherwise appropriated, on Octo-
22 ber 1, 2022, and on each October 1 thereafter
23 through October 1, 2027, the Secretary of the
24 Treasury shall transfer to the Secretary from
25 the reclamation fund established by the first

1 section of the Act of June 17, 1902 (32 Stat.
2 388, chapter 1093; 43 U.S.C. 391),
3 \$15,000,000 to be deposited in the Fund.

4 (B) RECEIPT AND ACCEPTANCE.—The
5 Secretary shall be entitled to receive, shall ac-
6 cept, and shall deposit into the Fund for use in
7 accordance with this subsection the funds trans-
8 ferred under subparagraph (A), without further
9 appropriation.

10 (5) REPORT TO CONGRESS.—If a watershed
11 pilot is established as a permanent program, the
12 Secretary may submit to Congress recommendations
13 for modifications to funding levels and a permanent
14 authorization of funding for the permanent program.

15 (d) COST-SHARE WAIVER.—Any otherwise applicable
16 cost-share requirements for existing Federal financial
17 sources, including under section 212(a)(1) of the Public
18 Lands Corps Act of 1993 (16 U.S.C. 1729(a)(1)), shall
19 be waived for watershed pilots carried out using amounts
20 made available under this Act.

21 **SEC. 5. REPORTS.**

22 (a) DEFINITION OF APPROPRIATE COMMITTEES OF
23 CONGRESS.—In this section, the term “appropriate com-
24 mittees of Congress” means—

25 (1) of the Senate—

1 (A) the Committee on Appropriations; and

2 (B) the Committee on Energy and Natural

3 Resources; and

4 (2) of the House of Representatives—

5 (A) the Committee on Appropriations; and

6 (B) the Committee on Natural Resources.

7 (b) ANNUAL REPORTS.—The Secretary shall, not
8 later than the date on which the budget of the United
9 States Government is submitted by the President under
10 section 1105 of title 31, United States Code, for each fis-
11 cal year for which the watershed pilot is being carried out,
12 submit to the appropriate committees of Congress a report
13 describing the status of each watershed pilot, including
14 progress towards the milestones described in section
15 3(c)(2)(A).

16 (c) 5-YEAR REPORT.—Not later than October 1 of
17 the fifth fiscal year in which a watershed pilot is carried
18 out under section 3, the Secretary shall submit to the ap-
19 propriate committees of Congress a report describing, in
20 accordance with the plan developed for the applicable wa-
21 tershed pilot—

22 (1) a summary of—

23 (A) the projected results of the watershed

24 pilot in meeting the milestones described in sec-

25 tion 3(c)(2)(A);

1 (B) the projected outcomes of the water-
 2 shed pilot described in that section;

3 (C) the total amount of funds made avail-
 4 able under the watershed pilot;

5 (D) the type of funding expended under
 6 the watershed pilot; and

7 (E) such other information as the Sec-
 8 retary determines to be appropriate; and

9 (2) recommendations for continuing, termi-
 10 nating, or making permanent the watershed pilot.

11 (d) ENVIRONMENTAL OUTCOMES FUNDS.—

12 (1) SECRETARY.—The Secretary, not later than
 13 the date on which the budget of the United States
 14 Government is submitted by the President under
 15 section 1105 of title 31, United States Code, for
 16 each fiscal year for which the watershed pilot is
 17 being carried out, submit to the appropriate commit-
 18 tees of Congress a report describing the outcomes
 19 achieved using amounts made available from, man-
 20 agement of, and expenditures from, the Fund.

21 (2) INSPECTORS GENERAL.—

22 (A) AUDIT.—The Inspector General of the
 23 Department of the Interior shall conduct a bi-
 24 annual audit of the management of, and fund-
 25 ing (including expenditures) relating to, the

1 Fund for the purpose of ensuring proper and
2 effective use of Federal funding by evaluating
3 the effectiveness of the watershed pilot in
4 achieving the plan developed for the watershed
5 pilot, including an evaluation of the outcomes
6 achieved and the Federal financial sources used
7 to achieve those outcomes.

8 (B) REPORTS.—The Inspector General of
9 the Department of the Interior shall, not later
10 than the date on which the budget of the
11 United States Government is submitted by the
12 President under section 1105 of title 31, United
13 States Code, for each fiscal year for which the
14 watershed pilot is being carried out, submit to
15 the appropriate committees of Congress a re-
16 port describing the 2 audits most recently con-
17 ducted under subparagraph (A).

18 **SEC. 6. DURATION.**

19 Each watershed pilot shall terminate on the date that
20 is 5 years after the date on which the notification is sub-
21 mitted under section 3(d) with respect to that watershed
22 pilot.

23 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated—

1 (1) for each watershed pilot, \$15,000,000 for
2 each of fiscal years 2022 through 2027, which shall
3 be in addition to the amounts made available under
4 section 4(c)(4); and

5 (2) to carry out advance watershed analytics for
6 each watershed pilot, \$2,000,000 for each of fiscal
7 years 2022 through 2024.

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