

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 2169

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. WYDEN

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

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—

11 (A) is conducted before providing funding

12 for a watershed outcomes project;

1 (B) identifies and quantifies the outcomes
2 and costs of all potential qualifying activities
3 across the watershed outcomes project; and

4 (C) assesses how different groups of quali-
5 fying activities in the watershed outcomes
6 project could efficiently maximize outcomes for
7 the least cost.

8 (2) APPROPRIATE COMMITTEES OF CON-
9 GRESS.—The term “appropriate committees of Con-
10 gress” means—

11 (A) the Committee on Energy and Natural
12 Resources of the Senate; and

13 (B) the Committee on Natural Resources
14 of the House of Representatives.

15 (3) ELIGIBLE ENTITY.—The term “eligible enti-
16 ty” includes—

17 (A) a State, Indian Tribe, Tribal organiza-
18 tion, irrigation district, or water district;

19 (B) a State, regional, or local authority,
20 the members of which include 1 or more organi-
21 zations with water or power delivery authority;

22 (C) any other organization with water or
23 power delivery authority; and

24 (D) any nongovernmental entity.

1 (4) PAY-FOR-PERFORMANCE CONTRACT.—The
2 term “pay-for-performance contract” means a con-
3 tract to purchase verified outcomes produced by im-
4 plemented qualifying activities in a watershed out-
5 comes project at a negotiated price.

6 (5) QUALIFYING ACTIVITY.—The term “quali-
7 fying activity” means a conservation project carried
8 out in a watershed identified through advance water-
9 shed analytics as having a high likelihood of cost-ef-
10 fectively achieving 1 or more outcomes if implement
11 consistent with applicable performance standards
12 made available under section 3(e)(4).

13 (6) RECLAMATION STATE.—The term “Rec-
14 lamation State” means—

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

18 (B) the State of Hawaii;

19 (C) the State of Alaska; and

20 (D) the Commonwealth of Puerto Rico.

21 (7) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior, acting through the
23 Commissioner of Reclamation.

24 (8) WATERSHED OUTCOMES PROJECT.—The
25 term “watershed outcomes project” means the over-

1 all watershed project managed by the watershed
2 partner.

3 (9) WATERSHED PARTNER.—The term “water-
4 shed partner” means an eligible entity selected by
5 the Secretary under section 3(a)(2) to carry out a
6 watershed outcomes project.

7 **SEC. 3. WATERSHED OUTCOMES PROJECTS.**

8 (a) PROPOSALS; SELECTION.—The Secretary shall—

9 (1) not later than 1 year after the date of en-
10 actment of this Act, solicit the submission from eligi-
11 ble entities of proposals to develop and implement a
12 strategy that develops and uses advance watershed
13 analytics to cost-effectively carry out watershed out-
14 comes projects to achieve meaningful watershed-
15 scale outcomes in a Reclamation State; and

16 (2) from among the proposals submitted under
17 paragraph (1), select a watershed partner for each
18 watershed to complete advance watershed analytics,
19 carry out watershed outcomes projects in a Reclama-
20 tion State, manage watershed partnership duties
21 during the term of the partnership agreement, and
22 support pay-for-performance contracts.

23 (b) GUIDELINES AND CRITERIA FOR PROPOSALS.—

24 The Secretary—

1 (1) shall develop criteria and guidelines for the
2 submission and selection of proposals under sub-
3 section (a); and

4 (2) for purposes of developing the criteria and
5 guidelines under paragraph (1), may consider—

6 (A) the scope of the proposed watershed
7 outcomes project, including the selected sub-
8 region or basin-level watershed for consider-
9 ation;

10 (B) the purpose and goals of the proposed
11 watershed outcomes project;

12 (C) any stakeholder outreach conducted
13 with respect to the proposed watershed out-
14 comes project;

15 (D) evidence of widespread support within
16 the local community for, the proposed water-
17 shed outcomes project;

18 (E) the capability of the watershed partner
19 to perform the required duties in accordance
20 with subsection (d);

21 (F) how the watershed partner will procure
22 and use advance watershed analytics to identify
23 and quantify the outcomes and costs of all po-
24 tential qualifying activities for the proposed wa-
25 tershed outcomes project;

1 (G) estimated costs of completing advance
2 watershed analytics and operating the proposed
3 watershed outcomes project;

4 (H) the anticipated qualifying activity
5 types that are relevant for the selected water-
6 shed identified under subparagraph (A); and

7 (I) plans for monitoring, evaluating, and
8 reporting on progress made toward achieving
9 the outcomes of the proposed watershed out-
10 comes project.

11 (c) PARTNERSHIP AGREEMENTS.—

12 (1) IN GENERAL.—The Secretary may enter
13 into a partnership agreement with a watershed part-
14 ner selected under subsection (a)(2) to design and
15 implement a watershed outcomes project that uses
16 advance watershed analytics to achieve meaningful
17 watershed-scale outcomes in accordance with this
18 section.

19 (2) TERM.—

20 (A) IN GENERAL.—A partnership agree-
21 ment entered into under paragraph (1) shall be
22 for a term—

23 (i) of not more 5 years; or

24 (ii) if the Secretary determines that a
25 longer term is necessary to meet the objec-

1 tives of the watershed outcomes project, a
2 longer term established by the Secretary.

3 (B) RENEWAL.—A partnership agreement
4 entered into under paragraph (1) may be re-
5 newed for a term of not more than 5 years.

6 (C) EXTENSION.—A partnership agree-
7 ment entered into under paragraph (1) or re-
8 newed under subparagraph (B) may be ex-
9 tended 1 time for a term of not more than 2
10 years, as determined by the Secretary.

11 (3) TECHNICAL AND FINANCIAL ASSISTANCE.—
12 Through a partnership agreement entered into under
13 paragraph (1), the Secretary shall provide to a wa-
14 tershed partner—

15 (A) technical or financial assistance to de-
16 sign and implement a watershed outcomes
17 project; and

18 (B) grants, cooperative agreements, or
19 other financial assistance to support—

20 (i) the activities under subparagraph
21 (A); and

22 (ii) performance payments to quali-
23 fying activities under subsection (g)(4).

24 (4) PROJECT DEVELOPMENT COSTS.—The Sec-
25 retary may annually award to a watershed partner

1 an amount equal to not more than 50 percent of es-
2 timated costs of the watershed outcomes project to
3 carry out the duties described in subsection (d).

4 (d) DUTIES OF WATERSHED PARTNERS.—Under a
5 partnership agreement entered into under subsection
6 (c)(1), the Secretary shall establish duties to be carried
7 out by the watershed partner, including considering estab-
8 lishing the following duties:

9 (1) Preparing a funding and implementation
10 strategy that uses advance watershed analytics to
11 cost-effectively carry out a watershed outcomes
12 project by selecting a sufficient number of qualifying
13 activities to achieve meaningful watershed-scale out-
14 comes by—

15 (A) completing advance watershed ana-
16 lytics to identify and quantify the outcomes and
17 costs of all potential qualifying activities for the
18 watershed outcomes project;

19 (B) establishing baseline metrics to sup-
20 port the development of setting outcome prices
21 and performance standards for the watershed
22 outcomes project;

23 (C) developing performance standards for
24 the watershed outcomes project;

1 (D) leveraging financial assistance pro-
2 vided by the Secretary to secure additional
3 funds for the watershed outcomes project;

4 (E) designing, recruiting, and verifying
5 qualifying activities for the watershed outcomes
6 project; and

7 (F) providing outcome and financial ac-
8 counting services relating to qualifying activities
9 carried out to achieve outcomes.

10 (2) Using the strategy prepared under para-
11 graph (1) to prioritize qualifying activity outreach
12 efforts.

13 (3) Working with local stakeholders to recruit
14 and design an implementation-ready queue of pri-
15 ority qualifying activities.

16 (4) Ensuring that any proposed priority quali-
17 fying activities have the support of affected local
18 stakeholders.

19 (5) Setting activity outcome prices and devel-
20 oping performance standards for qualifying activi-
21 ties.

22 (6) Developing a plan to carry out qualifying
23 activities having a high likelihood of cost-effectively
24 achieving 1 or more outcomes described in sub-
25 section (f) if implemented consistent with the appli-

1 cable performance standards made available by the
2 Secretary under subsection (e)(4).

3 (7) Selecting, developing pay-for-performance
4 contracts for, funding, and carrying out qualifying
5 activities, in accordance with the plan developed
6 under paragraph (6), to achieve meaningful water-
7 shed-scale outcomes.

8 (8)(A) Quantifying the outcomes for qualifying
9 activities.

10 (B) Verifying that qualifying activities have
11 been implemented consistent with applicable per-
12 formance standards.

13 (C) Providing applicable documentation to the
14 Secretary with respect to the information quantified
15 and verified under subparagraphs (A) and (B).

16 (9) Monitoring qualifying activities at appro-
17 priate levels to confirm ongoing performance.

18 (10) Other duties necessary to carry out a wa-
19 tershed outcomes project, as determined to be nec-
20 essary by the Secretary.

21 (e) DUTIES OF SECRETARY.—Under a partnership
22 agreement entered into under subsection (c), the Secretary
23 shall—

1 (1) ensure that there is widespread support
2 within the local community for the watershed out-
3 comes project;

4 (2) verify the advance watershed analytics com-
5 pleted by the watershed partner, to the maximum
6 extent practicable;

7 (3) ensure that there are made available to the
8 public outcome price tables, by qualifying activity
9 type, for use as the basis for negotiating pay-for-per-
10 formance contracts for the applicable watershed out-
11 comes project;

12 (4) ensure that there are made available to the
13 public qualifying activity and watershed outcomes
14 project performance standards that are to be used as
15 the basis for—

16 (A) identifying, quantifying, and verifying
17 qualifying activity outcomes; and

18 (B) executing pay-for-performance con-
19 tracts;

20 (5) review outcome quantification and
21 verification documentation provided by the water-
22 shed partner under subsection (d)(8)(C);

23 (6) provide to a watershed partner financial as-
24 sistance to purchase verified outcomes from quali-
25 fying activities in a watershed outcomes project, at

1 prices set for the watershed outcomes project in ac-
2 cordance with this section; and

3 (7) coordinate with other Federal agencies, to
4 the maximum extent practicable, to help leverage
5 and concentrate funding into watershed outcomes
6 projects.

7 (f) REQUIRED OUTCOMES FOR QUALIFYING ACTIVI-
8 TIES.—To be eligible for a performance payment under
9 subsection (g)(4), a qualified activity shall produce 1 or
10 more measurable, clearly defined outcomes that result in
11 a quantifiable and verifiable—

12 (1) increase in surface water or groundwater;

13 (2) increase in aquatic habitat quality, quantity,
14 connectivity, or access in a watershed;

15 (3) surface water or groundwater quality im-
16 provement, including water temperature reductions,
17 or a reduction in salinity or nutrient or sediment
18 runoff associated with irrigated agriculture; or

19 (4) other quantifiable benefits, as determined
20 by the Secretary, likely to improve watershed health
21 in the watershed outcomes project.

22 (g) FINANCIAL ASSISTANCE FOR QUALIFYING AC-
23 TIVITIES IN WATERSHED OUTCOMES PROJECTS.—

24 (1) LEVERAGING FEDERAL FUNDING.—To
25 achieve meaningful watershed-scale outcomes,

1 amounts made available under section 5 may be
2 used to satisfy any cost-sharing requirement with re-
3 spect to carrying out a watershed outcomes project.

4 (2) FEDERAL SHARE.—The Federal share of
5 grants or other financial assistance for a watershed
6 outcomes project under this Act shall be not more
7 than 75 percent of the total cost of the watershed
8 outcomes project.

9 (3) WATERSHED PARTNER CONTRIBUTIONS.—
10 The Secretary may—

11 (A) accept non-Federal contributions for a
12 watershed outcomes project, including funding
13 or financing secured by the watershed partner
14 in accordance with the strategy developed under
15 subsection (d)(1); and

16 (B) use amounts accepted under subpara-
17 graph (A) to carry out activities authorized
18 under this Act in the watershed outcomes
19 project.

20 (4) PERFORMANCE PAYMENTS.—Not later than
21 90 days after the date on which a watershed partner
22 verifies the outcomes generated from qualifying ac-
23 tivities and confirms that the qualifying activity has
24 been implemented consistent with the performance
25 standards of the applicable watershed outcomes

1 project, the Secretary shall provide financial assist-
2 ance to the watershed partner to support perform-
3 ance payments.

4 (h) MAXIMUM NUMBER OF WATERSHED OUTCOMES
5 PROJECTS.—Not more than a total of 5 watershed out-
6 comes projects may be carried out under this section.

7 (i) RESTRICTIONS ON USE OF ADVANCE WATERSHED
8 ANALYTICS DATA.—

9 (1) IN GENERAL.—Nothing in this Act affects
10 or modifies existing law with respect to the treat-
11 ment of personal data in the conduct by an employee
12 of the Federal Government or a designee of an em-
13 ployee of the Federal Government in carrying out of-
14 ficial duties of the Federal employee or designee
15 under this Act.

16 (2) DATA COLLECTION.—All information or
17 data collected or assembled by a Federal employee
18 or a designee of a Federal employee to complete ad-
19 vance watershed analytics activities, directly or indi-
20 rectly, under this Act—

21 (A) shall be used for the sole purpose of
22 identifying, prioritizing, and funding qualifying
23 activities in a watershed outcomes project; and

24 (B) shall be considered to be confidential
25 commercial information that is exempt from

1 disclosure under section 552(b)(4) of title 5,
2 United States Code (commonly known as the
3 “Freedom of Information Act”).

4 (3) APPLICABILITY TO WATERSHED PART-
5 NERS.—Any restrictions on a Federal employee
6 under this section shall apply to an employee of a
7 watershed partner.

8 (j) EFFECT.—Nothing in this Act creates, impairs,
9 alters, or supersedes a Federal or State water right.

10 **SEC. 4. BRIEFING; REPORTS.**

11 (a) ANNUAL BRIEFING OR REPORT.—For each fiscal
12 year for which a watershed outcomes project is carried out
13 under section 3, not later than the date on which the
14 budget of the United States Government is submitted by
15 the President under section 1105 of title 31, United States
16 Code, for that fiscal year, the Secretary shall provide to
17 the appropriate committees of Congress a briefing or re-
18 port describing the status of each watershed outcomes
19 project, including progress towards the applicable strategy
20 prepared under section 3(d)(1), including any payments
21 made for outcomes.

22 (b) 5-YEAR REPORT.—Not later than October 1 of
23 the fifth fiscal year in which a watershed outcomes project
24 is carried out under section 3, the Secretary shall submit
25 to the appropriate committees of Congress a report that—

1 (1) summarizes—

2 (A) the projected results of the qualifying
3 activities in the watershed outcomes project in
4 meeting the strategy prepared under section
5 3(d)(1);

6 (B) the projected outcomes of the water-
7 shed outcomes project;

8 (C) the total amount of funds secured for
9 the watershed outcomes project;

10 (D) the type of funding expended under
11 the watershed outcomes project; and

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

14 (2) includes recommendations for continuing,
15 terminating, or making permanent the authoriza-
16 tions under this Act.

17 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

18 There is authorized to be appropriated to the Sec-
19 retary to carry out this Act \$17,000,000 for each of fiscal
20 years 2025 through 2030.