

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To modify provisions relating to water infrastructure.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

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

To invest in the energy and outdoor infrastructure of the United States to deploy new and innovative technologies, update existing infrastructure to be reliable and resilient, and secure energy infrastructure against physical and cyber threats, 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 intended to be proposed by Mr. Barrasso

Viz:

1 Strike title IX and insert the following:

2 **TITLE IX—REAUTHORIZATION**  
3 **OF CERTAIN RECLAMATION**  
4 **PROGRAMS**

5 **SEC. 9001. REAUTHORIZATION OF CERTAIN RECLAMATION**  
6 **PROGRAMS.**

7 (a) DEFINITIONS.—In this section:

8 (1) GRANDFATHERED PROJECT.—The term  
9 “grandfathered project” means a project that has  
10 been included in a feasibility level study by the Sec-



1 (ii) by striking paragraph (2) and in-  
2 serting the following:

3 “(2) REQUIREMENT.—

4 “(A) IN GENERAL.—Subject to subpara-  
5 graph (B), a project may only receive funding  
6 under this section if the project has been in-  
7 cluded in an Act of Congress that specifically  
8 approves a project recommendation in an an-  
9 nual report issued in accordance with section  
10 9001(d) of the Energy Infrastructure Act.

11 “(B) LIMITATION.—Subparagraph (A)  
12 shall not apply to a grandfathered project (as  
13 defined in section 9001(a) of the Energy Infra-  
14 structure Act).”;

15 (B) by striking subsection (i); and

16 (C) by redesignating subsections (j) and  
17 (k) as subsections (i) and (j), respectively.

18 (2) ELIGIBLE DESALINATION PROJECTS.—Sec-  
19 tion 4(a) of the Water Desalination Act of 1996 (42  
20 U.S.C. 10301 note; Public Law 104–298) is amend-  
21 ed—

22 (A) by redesignating the second paragraph  
23 (1) (relating to eligible desalination projects) as  
24 paragraph (2); and

1 (B) in subparagraph (F) of paragraph (2)

2 (as so redesignated)—

3 (i) in clause (i)—

4 (I) by striking “(i) \$30,000,000”

5 and inserting the following:

6 “(i) IN GENERAL.—\$125,000,000”;

7 and

8 (II) by striking “; and” and at

9 the end and inserting a period; and

10 (ii) by striking clause (ii) and insert-

11 ing the following:

12 “(ii) REQUIREMENT.—

13 “(I) IN GENERAL.—Subject to

14 subclause (II), a project may only re-

15 ceive funding under this section if the

16 project has been included in an Act of

17 Congress that specifically approves a

18 project recommendation in an annual

19 report issued in accordance with sec-

20 tion 9001(d) of the Energy Infra-

21 structure Act.

22 “(II) LIMITATION.—Subclause

23 (I) shall not apply to a grandfathered

24 project (as defined in section 9001(a)

25 of the Energy Infrastructure Act).”.

1           (3) RECLAMATION AND REUSE OF WASTE-  
2 WATER AND GROUNDWATER.—Section 1602(g) of  
3 the Reclamation Wastewater and Groundwater  
4 Study and Facilities Act (43 U.S.C. 390h(g)) is  
5 amended—

6           (A) in paragraph (1)—

7           (i) by striking the paragraph designa-  
8 tion and all that follows through “There  
9 is” and inserting the following:

10           “(A) IN GENERAL.—There is”; and

11           (ii) by striking “\$50,000,000” and in-  
12 serting “\$375,000,000”; and

13           (B) by striking paragraph (2) and insert-  
14 ing the following:

15           “(2) REQUIREMENT.—

16           “(A) IN GENERAL.—Subject to subpara-  
17 graph (B), a project may only receive funding  
18 under this section if the project has been in-  
19 cluded in an Act of Congress that specifically  
20 approves a project recommendation in an an-  
21 nual report issued in accordance with section  
22 9001(d) of the Energy Infrastructure Act.

23           “(B) LIMITATION.—Subparagraph (A)  
24 shall not apply to a grandfathered project (as

1 defined in section 9001(a) of the Energy Infra-  
2 structure Act).”.

3 (4) DURATION OF CERTAIN RECLAMATION  
4 PROJECTS.—Section 4013 of the WIIN Act (43  
5 U.S.C. 390b note; Public Law 114–322) is amend-  
6 ed—

7 (A) in paragraph (1), by striking “; and”  
8 at the end;

9 (B) in paragraph (2), by striking the pe-  
10 riod at the end the following and inserting “;  
11 and”; and

12 (C) by adding at the end the following:

13 “(2) sections 4006, 4007 (other than a project  
14 under construction under that section that is covered  
15 by paragraph (2)), 4008, 4009 (other than a project  
16 under construction under the amendment made by  
17 subsection (a) or (c) of section 4009 that is covered  
18 by paragraph (2)), and 4011 (including any amend-  
19 ments made by those sections), which shall expire 5  
20 years after the date of enactment of the Energy In-  
21 frastructure Act.”.

22 (5) APPLICABLE LAW.—A grandfathered  
23 project shall continue to be subject to the applicable  
24 requirements of the following:

1 (A) Section 4007 of the WIIN Act (43  
2 U.S.C. 390b note; Public Law 114–322).

3 (B) Section 4(a)(2) of the Water Desalina-  
4 tion Act of 1996 (42 U.S.C. 10301 note; Public  
5 Law 104–298).

6 (C) Section 1602(e) of the Reclamation  
7 Wastewater and Groundwater Study and Facili-  
8 ties Act (43 U.S.C. 390h(e)).

9 (c) INCREASED FUNDING FOR WATER MANAGEMENT  
10 IMPROVEMENT.—Section 9504(e) of the Omnibus Public  
11 Land Management Act of 2009 (42 U.S.C. 10364(e)) is  
12 amended by striking “\$700,000,000” and inserting  
13 “\$1,000,000,000”.

14 (d) ANNUAL REPORT TO CONGRESS ON FUTURE  
15 WESTERN WATER STORAGE PROJECTS.—

16 (1) DEFINITIONS.—In this subsection:

17 (A) ANNUAL REPORT.—The term “annual  
18 report” means a report required under para-  
19 graph (2)(A).

20 (B) AUTHORIZED RECLAMATION  
21 PROJECT.—

22 (i) IN GENERAL.—The term “author-  
23 ized Reclamation project” means a project  
24 authorized under—

1 (I) section 4007 of the WIIN Act  
2 (43 U.S.C. 390b note; Public Law  
3 114–322);

4 (II) section 4(a)(2) of the Water  
5 Desalination Act of 1996 (42 U.S.C.  
6 10301 note; Public Law 104–298); or

7 (III) section 1602(e) of the Rec-  
8 lamation Wastewater and Ground-  
9 water Study and Facilities Act (43  
10 U.S.C. 390h(e)).

11 (ii) EXCLUSION.—The term “author-  
12 ized Reclamation project” does not include  
13 a grandfathered project.

14 (C) AUTHORIZING COMMITTEES OF CON-  
15 GRESS.—The term “authorizing committees of  
16 Congress” means—

17 (i) the Committee on Energy and  
18 Natural Resources of the Senate; and

19 (ii) the Committee on Natural Re-  
20 sources of the House of Representatives.

21 (2) ANNUAL REPORT.—

22 (A) IN GENERAL.—Not later than Feb-  
23 ruary 1 of each year, the Secretary shall de-  
24 velop and submit to the authorizing committees  
25 of Congress a report, to be entitled “Report to



1 Congress on Future Water Storage Projects”,  
2 that identifies each authorized Reclamation  
3 project that the Secretary has determined meets  
4 the criteria and eligibility requirements under  
5 subsection (a) or (b) of section 4007 of the  
6 WIIN Act (43 U.S.C. 390b note; Public Law  
7 114–322), section 4(a)(2) of the Water Desali-  
8 nation Act of 1996 (42 U.S.C. 10301 note;  
9 Public Law 104–298), or section 1602(e) of the  
10 Reclamation Wastewater and Groundwater  
11 Study and Facilities Act (43 U.S.C. 390h(e)),  
12 as applicable.

13 (B) TRANSPARENCY.—For each authorized  
14 Reclamation project included in the annual re-  
15 port under subparagraph (A), the Secretary  
16 shall include—

17 (i) the name of the associated non-  
18 Federal entity, including the name of any  
19 non-Federal entity that has contributed, or  
20 is expected to contribute, a non-Federal  
21 share of the cost of the authorized Rec-  
22 lamation project;

23 (ii) a letter or statement of support  
24 from each associated non-Federal entity;  
25 and

1 (iii) a summary of the basis for the  
2 determination of the Secretary that the au-  
3 thorized Reclamation project meets the eli-  
4 gibility requirements referred to in sub-  
5 paragraph (A), including an estimate, to  
6 the maximum extent practicable, of the  
7 monetary and nonmonetary benefits of the  
8 authorized Reclamation project.

9 (e) CONTRACTS FOR ENHANCED INSPECTION.—

10 (1) DEFINITIONS.—In this subsection:

11 (A) AGING INFRASTRUCTURE.—The term  
12 “aging infrastructure” means any infrastruc-  
13 ture subject to an enhanced inspection under  
14 this subsection that is associated with a facility  
15 that—

16 (i) was constructed by the Bureau of  
17 Reclamation (or a precursor to the Bureau  
18 of Reclamation), in accordance with the  
19 reclamation laws; and

20 (ii) is greater than 50 years old as of  
21 the date of the enhanced inspection.

22 (B) ENHANCED INSPECTION.—The term  
23 “enhanced inspection” means an inspection that  
24 uses current or innovative technology, including  
25 Light Detection and Ranging (commonly known

1 as “LiDAR”), ground penetrating radar, sub-  
2 surface imaging, or subsurface geophysical tech-  
3 niques, to detect whether the features of aging  
4 infrastructure—

5 (i)(I) are structurally sound; and

6 (II) can operate as intended; or

7 (ii) are at risk of failure.

8 (C) RECLAMATION LAWS.—The term “rec-  
9 lamation laws” means Federal reclamation law  
10 (the Act of June 17, 1902 (32 Stat. 388, chap-  
11 ter 1093), and Acts supplemental to and  
12 amendatory of that Act (43 U.S.C. 371 et  
13 seq.)).

14 (2) ENHANCED INSPECTION.—

15 (A) IN GENERAL.—The Secretary may  
16 carry out enhanced inspections of aging infra-  
17 structure, pursuant to a contract with the  
18 owner or operator of the aging infrastructure.

19 (B) CERTAIN CIRCUMSTANCES.—Subject  
20 to the availability of appropriations or funds  
21 otherwise available pursuant to paragraph (4),  
22 the Secretary shall enter into a contract de-  
23 scribed in subparagraph (A), if the owner or op-  
24 erator of the aging infrastructure requests that

1 the Secretary carry out the enhanced inspec-  
2 tions.

3 (C) REIMBURSABILITY.—Any Federal  
4 funds used to carry out the enhanced inspec-  
5 tions under this subsection are nonreimburs-  
6 able.

7 (3) LIMITATION.—The Secretary shall not re-  
8 quire an owner or operator of a project under the ju-  
9 risdiction of another Federal agency to carry out  
10 corrective or remedial actions in response to an en-  
11 hanced inspection carried out under this subsection.

12 (4) FUNDING.—

13 (A) AUTHORIZATION OF APPROPRIA-  
14 TIONS.—There is authorized to be appropriated  
15 to carry out this subsection \$50,000,000, to re-  
16 main available until expended.

17 (B) ACCEPTANCE OF FUNDS.—The Sec-  
18 retary may—

19 (i) accept funds from an owner or op-  
20 erator of aging infrastructure to carry out  
21 an enhanced inspection of the aging infra-  
22 structure under this subsection; and

23 (ii) use the funds accepted under  
24 clause (i) to carry out an enhanced inspec-  
25 tion of the aging infrastructure pursuant

1                   to a contract entered into with the owner  
2                   or operator under this subsection.

3           (f) RESERVOIR SEDIMENT MANAGEMENT.—

4           (1) DEFINITION OF SEDIMENT MANAGEMENT  
5           PLAN.—In this subsection, the term “sediment man-  
6           agement plan” means a plan for—

7                   (A) preventing sediment from reducing  
8                   water storage capacity at a reservoir; and

9                   (B) increasing water storage capacity  
10                  through sediment removal at a reservoir.

11           (2) SEDIMENT MANAGEMENT PROGRAM.—The  
12           Secretary shall carry out a program for the develop-  
13           ment and implementation of sediment management  
14           plans for reservoirs owned by the Secretary, on re-  
15           quest by project beneficiaries.

16           (3) PLAN ELEMENTS.—A sediment manage-  
17           ment plan under paragraph (2) shall—

18                   (A) provide opportunities for States,  
19                   project beneficiaries, and other stakeholders to  
20                   participate in sediment management decisions;

21                   (B) evaluate the volume of sediment in a  
22                   reservoir and impacts on project purposes, in-  
23                   cluding storage capacity;

24                   (C) identify sediment management options,  
25                   including sediment dikes and dredging;

- 1 (D) identify constraints;
- 2 (E) assess technical feasibility, economic  
3 justification, and environmental impacts;
- 4 (F) identify beneficial uses for sediment;  
5 and
- 6 (G) to the maximum extent practicable,  
7 use, develop, and demonstrate innovative, cost-  
8 saving technologies, including structural and  
9 nonstructural technologies and designs, to man-  
10 age sediment.

11 (4) JUSTIFICATION.—In determining the eco-  
12 nomic justification of a sediment management plan  
13 under paragraph (2), the Secretary shall—

14 (A) measure and include flooding, erosion,  
15 and accretion damages upstream and down-  
16 stream of the reservoir that are likely to occur  
17 as a result of sediment management within the  
18 reservoir compared to the damages that are  
19 likely to occur if the sediment management plan  
20 is not implemented; and

21 (B) include—

22 (i) lifecycle costs; and

23 (ii) a 100-year period of analysis.

24 (5) PRIORITIZATION OF SEDIMENT MANAGE-  
25 MENT PLANS.—In carrying out the program under

1       this subsection, the Secretary shall give priority to  
2       developing and implementing sediment management  
3       plans that affect reservoirs that cross State lines.

4               (6) COST SHARE.—

5                       (A) IN GENERAL.—The beneficiaries re-  
6                       questing a sediment management plan shall  
7                       share in the cost of development and implemen-  
8                       tation of the sediment management plan.

9                       (B) ALLOCATION.—There shall be allo-  
10                      cated—

11                               (i) among the beneficiaries described  
12                               in subparagraph (A) the reimbursable  
13                               costs of developing and implementing the  
14                               sediment management plan; and

15                               (ii) to the Secretary the nonreimburs-  
16                               able costs of any other public benefits iden-  
17                               tified in the sediment management plan.

18               (7) CONTRIBUTED FUNDS.—The Secretary may  
19       accept funds from non-Federal entities and other  
20       Federal agencies to develop and implement a sedi-  
21       ment management plan under this subsection.

22               (8) GUIDANCE.—The Secretary shall use the  
23       knowledge gained through the development and im-  
24       plementation of sediment management plans under

1 paragraph (2) to develop guidance for sediment  
2 management at other reservoirs.

3 (9) PARTNERSHIP WITH CHIEF OF ENGI-  
4 NEERS.—

5 (A) IN GENERAL.—The Secretary shall  
6 carry out the program established under this  
7 subsection in partnership with the Secretary of  
8 the Army, acting through the Chief of Engi-  
9 neers, which shall apply to reservoirs managed  
10 or owned by the Corps of Engineers.

11 (B) MEMORANDUM OF AGREEMENT.—For  
12 sediment management plans that apply to a  
13 reservoir managed or owned by the Corps of  
14 Engineers under subparagraph (A), the Sec-  
15 retary and the Secretary of the Army shall exe-  
16 cute a memorandum of agreement estab-  
17 lishing—

18 (i) the framework for a partnership;

19 and

20 (ii) the terms and conditions for shar-  
21 ing expertise and resources.

22 (C) PAYMENTS.—The Secretary may ac-  
23 cept and expend funds from the Secretary of  
24 the Army any work under this subsection at a



1 reservoir managed or owned by Corps of Engi-  
2 neers.

3 (D) LEAD AGENCY.—The Secretary or the  
4 Secretary of the Army, as applicable, based on  
5 who has primary jurisdiction over a reservoir,  
6 shall take the lead in developing and imple-  
7 menting a sediment management plan for the  
8 reservoir.

9 (10) OTHER AUTHORITIES NOT AFFECTED.—  
10 Nothing in this subsection affects—

11 (A) sediment management; or

12 (B) the share of costs paid by Federal and  
13 non-Federal entities relating to sediment man-  
14 agement under any other provision of law (in-  
15 cluding regulations).

16 (11) AUTHORIZATION OF APPROPRIATIONS.—  
17 There is authorized to be appropriated to carry out  
18 this subsection \$100,000,000, to remain available  
19 until expended.

20 (g) ELIMINATION OF BUREAU OF RECLAMATION  
21 MAINTENANCE BACKLOG.—

22 (1) IN GENERAL.—The Secretary shall use  
23 amounts made available under paragraph (2)—

24 (A) to carry out activities to reduce or  
25 eliminate all major rehabilitation and replace-

1           ment needs of the Bureau of Reclamation, as  
2           identified in an Asset Management Report (as  
3           defined in section 8601 of the John D. Dingell,  
4           Jr. Conservation, Management, and Recreation  
5           Act (43 U.S.C. 505a)); or

6                   (B) to support the rehabilitation, recon-  
7           struction, or replacement of any dam—

8                           (i) the construction of which began on  
9                           or after January 1, 1905;

10                           (ii) that was developed pursuant to  
11                           section 4 of the Act of August 18, 1894  
12                           (commonly known as the “Carey Act”) (28  
13                           Stat. 422, chapter 301; 43 U.S.C. 641);

14                           (iii) that the Governor of the State in  
15                           which the dam is located has—

16                                   (I) determined reached the useful  
17                                   life of the dam;

18                                   (II) determined poses significant  
19                                   health and safety concerns; and

20                                   (III) requested Federal support;  
21                                   and

22                                   (iv) for which the estimated rehabili-  
23                                   tation, reconstruction, or replacement, en-  
24                                   gineering, and permitting costs would ex-  
25                                   ceed \$50,000,000.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 (A) IN GENERAL.—There is authorized to  
3 be appropriated to the Secretary to carry out  
4 this subsection \$5,000,000,000 for the period of  
5 fiscal years 2022 through 2026.

6 (B) REIMBURSEMENT OF COSTS.—  
7 Amounts made available to the Secretary under  
8 subparagraph (A) for maintenance activities at  
9 reserved works and transferred works identified  
10 in the report described in paragraph (1)(A)  
11 that are considered to be reimbursable costs  
12 under existing contracts shall be afforded the  
13 repayment terms provided under section 9603  
14 of the Omnibus Public Land Management Act  
15 of 2009 (43 U.S.C. 510b).