

108TH CONGRESS  
1ST SESSION

# S. 1097

To authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program

---

IN THE SENATE OF THE UNITED STATES

MAY 21, 2003

Mrs. FEINSTEIN (for herself and Mrs. BOXER) 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 implement the Calfed Bay-Delta Program

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 “Calfed Bay-Delta Au-  
5 thorization Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act.

8 (1) CALFED BAY-DELTA PROGRAM.—The term  
9 “Calfed Bay-Delta Program” means the programs,  
10 projects, complementary actions, and activities un-

1 dertaken through coordinated planning, implementa-  
2 tion, and assessment activities of the State and Fed-  
3 eral agencies in a manner consistent with the Record  
4 of Decision.

5 (2) CALIFORNIA BAY-DELTA AUTHORITY.—The  
6 term “California Bay-Delta Authority” means a  
7 committee of State and Federal agencies and public  
8 members established to oversee the Calfed Bay-Delta  
9 Program, as set forth in the California Bay-Delta  
10 Authority Act (2002 Cal. Stat. Chap. 812).

11 (3) ENVIRONMENTAL WATER ACCOUNT.—The  
12 term “Environmental Water Account” means the re-  
13 serve of water provided for in the Record of Decision  
14 to provide water, in addition to the amount of the  
15 regulatory baseline, to protect and restore Delta  
16 fisheries.

17 (4) FEDERAL AGENCIES.—The term “Federal  
18 agencies” means the following—

19 (A) the Department of the Interior (includ-  
20 ing the Bureau of Reclamation, Fish and Wild-  
21 life Service, Bureau of Land Management, and  
22 United States Geological Survey),

23 (B) the Environmental Protection Agency;

24 (C) the Army Corps of Engineers;

1 (D) the Department of Commerce (includ-  
2 ing NOAA Fisheries);

3 (E) the Department of Agriculture (includ-  
4 ing the Natural Resources Conservation Service  
5 and the Forest Service); and

6 (F) the Western Area Power Administra-  
7 tion.

8 (5) GOVERNOR.—The term “Governor” means  
9 the Governor of the State of California.

10 (6) IMPLEMENTATION MEMORANDUM.—The  
11 term “Implementation Memorandum” means the  
12 Calfed Bay-Delta Program Implementation Memo-  
13 randum of Understanding dated August 28, 2000,  
14 executed by the Federal agencies and the State  
15 agencies.

16 (7) RECORD OF DECISION.—The term “Record  
17 of Decision” means the Federal programmatic  
18 Record of Decision dated August 28, 2000, issued  
19 by the Federal agencies and supported by the State.

20 (8) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior.

22 (9) STAGE 1.—The term “Stage 1” means the  
23 programs and projects planned for the first 7 years  
24 of the Calfed Bay-Delta Program, as specified in the  
25 Record of Decision.

1           (10) STATE.—The term “State” means the  
2 State of California.

3           (11) STATE AGENCIES.—The term “State  
4 Agencies” means the following—

5                   (A) the Resources Agency of California  
6                   (including the Department of Water Resources  
7                   and the Department of Fish and Game);

8                   (B) the California Environmental Protec-  
9                   tion Agency (including the State Water Re-  
10                   sources Control Board); and

11                   (C) the California Department of Food  
12                   and Agriculture.

13 **SEC. 3. BAY DELTA PROGRAM.**

14           (a) FINDINGS.—Congress finds that—

15                   (1) the mission of the Calfed Bay-Delta Pro-  
16                   gram is to develop and implement to a long-term  
17                   comprehensive plan that will improve water manage-  
18                   ment and restore the ecological health of the Bay-  
19                   Delta system;

20                   (2) the Federal and State agencies participating  
21                   in the Bay-Delta Program have prepared a thirty-  
22                   year plan, the Record of Decision, dated August 28,  
23                   2000, to coordinate existing programs and direct  
24                   new programs to improve the quality and reliability

1 of the State's water supplies and to restore the eco-  
2 logical health of the Bay-Delta watershed;

3 (3) the Calfed Bay-Delta Program was devel-  
4 oped as a joint Federal-State program to deal effec-  
5 tively with the multijurisdictional issues involved in  
6 managing the Bay-Delta system; and

7 (4) while this Act authorizes appropriations for  
8 four years of this thirty-year program, it is antici-  
9 pated that the Federal Government will participate  
10 as a full partner with the State of California for the  
11 duration of this thirty-year Program.

12 (b) IN GENERAL.—The Record of Decision is ap-  
13 proved as a framework for addressing Calfed Bay-Delta  
14 Program components consisting of water storage, eco-  
15 system restoration, water supply reliability, conveyance,  
16 water use efficiency, water quality, water transfers, water-  
17 sheds, Environmental Water Account, levee stability, gov-  
18 ernance, and science. The Secretary and the heads of the  
19 Federal agencies are authorized to carry out (undertake,  
20 fund, or participate in) the activities in the Record of De-  
21 cision, subject to the provisions of this Act and the con-  
22 straints of the Record of Decision, so that the Program  
23 activities consisting of protecting drinking water quality;  
24 restoring ecological health; improving water supply reli-  
25 ability, including additional water storage and conveyance,

1 and protecting Delta levees will progress in a balanced  
2 manner.

3 (c) AUTHORIZED ACTIVITIES.—

4 (1) IN GENERAL.—The Secretary and the heads  
5 of the Federal agencies are authorized to carry out  
6 the activities described in this subsection in further-  
7 ance of Stage 1 of the Calfed Bay-Delta Program as  
8 set forth in the Record of Decision, subject to the  
9 cost-share and other provisions of this Act, if the ac-  
10 tivity has been subject to environmental review and  
11 approval as required under applicable Federal and  
12 State law, and has been approved and certified by  
13 the California Bay-Delta Authority to be consistent  
14 with the Record of Decision.

15 (2) SPECIFIC ACTIVITIES AUTHORIZED.—The  
16 Secretary of the Interior is authorized to carry out  
17 the activities set forth in subparagraphs (A) through  
18 (H), and subparagraphs (K), (L), and (M) of sub-  
19 section (c)(3). The Administrator of the Environ-  
20 mental Protection Agency is authorized to carry out  
21 the activities set forth in subparagraphs (G), (H),  
22 (I), (K), and (L) of subsection (c)(3). The Secretary  
23 of the Army is authorized to carry out the activities  
24 set forth in subparagraphs (G), (J), (K), and (L) of  
25 subsection (c)(3). The Secretary of Commerce is au-

1       thorized to carry out the activities set forth in sub-  
2       paragraphs (E), (G), (H), and (K) of subsection  
3       (c)(3). The Secretary of Agriculture is authorized to  
4       carry out the activities set forth in subparagraphs  
5       (C), (G), (H), (I), and (K) of subsection (c)(3).

6               (3) PROGRAM ACTIVITIES.—

7               (A) WATER STORAGE.—Of the amounts  
8       authorized to be appropriated for fiscal years  
9       2004 through 2007 under this Act, no more  
10      than \$102,000,000 may be expended for the  
11      following—

12              (i) planning activities and feasibility  
13      studies for the following projects to be pur-  
14      sued with project-specific study—

15              (I) enlargement of Shasta Dam  
16      in Shasta County (not to exceed  
17      12,000,000); and

18              (II) enlargement of Los Vaqueros  
19      Reservoir in Contra Costa County  
20      (not to exceed \$17,000,000);

21              (ii) planning and feasibility studies for  
22      the following projects requiring further  
23      consideration—

1 (I) Sites Reservoir in Colusa  
2 County (not to exceed \$6,000,000);  
3 and

4 (II) Upper San Joaquin River  
5 storage in Fresno and Madera Coun-  
6 ties (not to exceed \$11,000,000);

7 (iii) developing and implementing  
8 groundwater management and ground-  
9 water storage project (not to exceed  
10 \$50,000,000); and

11 (iv) comprehensive water management  
12 planning (not to exceed \$6,000,000).

13 (B) CONVEYANCE.—Of the amounts au-  
14 thorized to be appropriated for fiscal years  
15 2004 through 2007 under this Act, no more  
16 than \$77,000,000 may be expended for the fol-  
17 lowing—

18 (i) South Delta Actions (not to exceed  
19 \$45,000,000)—

20 (I) South Delta Improvements  
21 Program to—

22 (aa) increase the State  
23 Water Project export limit to  
24 8,500 cfs;

1 (bb) install permanent, oper-  
2 able barriers in the south Delta;

3 (cc) design and construct  
4 fish screens and intake facilities  
5 at Clifton Court Forebay and the  
6 Tracy Pumping Plant facilities;  
7 and

8 (dd) increase the State  
9 Water Project export to the max-  
10 imum capability of 10,300 cfs;

11 (II) reduction of agricultural drainage  
12 in south Delta channels and other actions  
13 necessary to minimize impacts of such  
14 drainage on drinking water quality;

15 (III) design and construction of  
16 lower San Joaquin River floodway im-  
17 provements;

18 (IV) installation and operation of  
19 temporary barriers in the south Delta  
20 until fully operable barriers are con-  
21 structed;

22 (V) actions to protect navigation  
23 and local diversions not adequately  
24 protected by the temporary barriers;

1 (VI) actions identified in Sub-  
2 clause (I) or other actions necessary  
3 to offset degradation of drinking  
4 water quality in the Delta due to the  
5 South Delta Improvements Program;  
6 and

7 (VII) actions at Franks Tract to  
8 improve water quality in the Delta;

9 (ii) North Delta Actions (not to ex-  
10 ceed \$12,000,000)—

11 (I) evaluation and implementa-  
12 tion of improved operational proce-  
13 dures for the Delta Cross Channel to  
14 address fishery and water quality con-  
15 cerns;

16 (II) evaluation of a screened  
17 through-Delta facility on the Sac-  
18 ramento River; and

19 (III) design and construction of  
20 lower Mokelumne River floodway im-  
21 provements;

22 (iii) interties (not to exceed  
23 \$10,000,000)—

24 (I) evaluation and construction of  
25 an intertie between the State Water

1 Project and the Central Valley Project  
2 facilities at or near the City of Tracy;  
3 and

4 (II) assessment of the connection  
5 of the Central Valley Project to the  
6 State Water Project's Clifton Court  
7 Forebay with a corresponding increase  
8 in the Forebay's screened intake; and  
9 (iv) evaluation and implementation of  
10 the San Luis Reservoir lowpoint improve-  
11 ment project (not to exceed \$10,000,000);

12 (C) WATER USE EFFICIENCY.—Of the  
13 amounts authorized to be appropriated for fis-  
14 cal years 2004 through 2007 under this Act, no  
15 more than \$153,000,000 may be expended for  
16 the following—

17 (i) water conservation projects that  
18 provide water supply reliability, water  
19 quality, and ecosystem benefits to the Bay-  
20 Delta system (not to exceed \$61,000,000);

21 (ii) technical assistance for urban and  
22 agricultural water conservation projects  
23 (not to exceed \$5,000,000);

24 (iii) water recycling and desalination  
25 projects, including but not limited to

1 projects identified in the Bay Area Water  
2 Plan and the Southern California Com-  
3 prehensive Water Reclamation and Reuse  
4 Study (not to exceed \$84,000,000), as fol-  
5 lows—

6 (I) in providing financial assist-  
7 ance under this clause, the Secretary  
8 shall give priority consideration to  
9 projects that include regional solu-  
10 tions to benefit regional water supply  
11 and reliability needs;

12 (II) the Secretary shall review  
13 any feasibility level studies for sea-  
14 water desalination and regional brine  
15 line projects that have been com-  
16 pleted, whether or not those studies  
17 were prepared with financial assist-  
18 ance from the Secretary;

19 (III) the Secretary shall report to  
20 the Congress within 90 days after the  
21 completion of a feasibility study or the  
22 review of a feasibility study for the  
23 purposes of providing design and con-  
24 struction assistance for the construc-

1                   tion of desalination and regional brine  
2                   line projects; and

3                   (IV) the Federal share of the  
4                   cost of any activity carried out with  
5                   assistance under this clause may not  
6                   exceed the lesser of 25 percent of the  
7                   total cost of the activity or  
8                   \$50,000,000;

9                   (iv) water measurement and transfer  
10                  actions (not to exceed \$1,500,000); and

11                  (v) certification of implementation of  
12                  best management practices for urban  
13                  water conservation (not to exceed  
14                  \$1,500,000).

15                  (D) WATER TRANSFERS.—Of the amounts  
16                  authorized to be appropriated for fiscal years  
17                  2004 through 2007 under this Act, no more  
18                  than \$3,000,000 may be expended for the fol-  
19                  lowing—

20                   (i) increasing the availability of exist-  
21                   ing facilities for water transfers;

22                   (ii) lowering transaction costs through  
23                   permit streamlining; and

24                   (iii) maintaining a water transfer in-  
25                   formation clearinghouse.

1           (E) ENVIRONMENTAL WATER ACCOUNT.—  
2           Of the amounts authorized to be appropriated  
3           for fiscal years 2004 through 2007 under this  
4           act, no more than \$75,000,000 may be ex-  
5           pended for implementation of the Environ-  
6           mental Water Account.

7           (F) INTEGRATED REGIONAL WATER MAN-  
8           AGEMENT PLANS.—Of the amounts authorized  
9           to be appropriated for fiscal years 2004  
10          through 2007 under this Act, no more than  
11          \$95,000,000 may be expended for the fol-  
12          lowing—

13               (i) establishing a competitive grants  
14               program to assist local and regional com-  
15               munities in California in developing and  
16               implementing integrated regional water  
17               management plans to carry out Stage 1 of  
18               the Record of Decision; and

19               (ii) implementation of projects and  
20               programs in California that improve water  
21               supply reliability, water quality, ecosystem  
22               restoration, and flood protection, or meet  
23               other local and regional needs, that are  
24               consistent with, and make a significant

1 contribution to, Stage 1 of the Calfed Bay-  
2 Delta Program.

3 (G) ECOSYSTEM RESTORATION.—Of the  
4 amounts authorized to be appropriated for fis-  
5 cal years 2004 through 2007 under this Act, no  
6 more than \$100,000,000 may be expended for  
7 the following—

8 (i) implementation of large-scale res-  
9 toration projects in San Francisco Bay,  
10 the Delta, and its tributaries;

11 (ii) restoration of habitat in the Delta,  
12 San Pablo Bay, and Suisun Bay and  
13 Marsh, including tidal wetlands and ripar-  
14 ian habitat;

15 (iii) fish screen and fish passage im-  
16 provement projects;

17 (iv) implementation of an invasive  
18 species program, including prevention, con-  
19 trol, and eradication;

20 (v) development and integration of  
21 State and Federal agricultural programs  
22 that benefit wildlife into the Ecosystem  
23 Restoration Program;

24 (vi) financial and technical support  
25 for locally-based collaborative programs to

1 restore habitat while addressing the con-  
2 cerns of local communities;

3 (vii) water quality improvement  
4 projects to reduce salinity, selenium, mer-  
5 cury, pesticides, trace metals, dissolved ox-  
6 ygen, turbidity, sediment, and other pollut-  
7 ants;

8 (viii) land and water acquisitions to  
9 improve habitat and fish spawning and  
10 survival in the Delta and its tributaries;

11 (ix) integrated flood management,  
12 ecosystem restoration, and levee protection  
13 projects;

14 (x) scientific evaluations and targeted  
15 research on program activities; and

16 (xi) strategic planning and tracking of  
17 program performance.

18 (H) WATERSHEDS.—Of the amounts au-  
19 thorized to be appropriated for fiscal years  
20 2004 through 2007 under this Act, no more  
21 than \$50,000,000 may be expended for the fol-  
22 lowing—

23 (i) building local capacity to assess  
24 and manage watersheds affecting the Bay-  
25 Delta system;

1 (ii) technical assistance for watershed  
2 assessments and management plans; and

3 (iii) developing and implementing lo-  
4 cally-based watershed conservation, main-  
5 tenance, and restoration actions.

6 (I) WATER QUALITY.—Of the amounts au-  
7 thorized to be appropriated for fiscal years  
8 2004 through 2007 under this Act, no more  
9 than \$50,000,000 may be expended for the fol-  
10 lowing—

11 (i) addressing drainage problems in  
12 the San Joaquin Valley to improve down-  
13 stream water quality, including habitat res-  
14 toration projects that reduce drainage and  
15 improve water quality, provided that—

16 (I) a plan is in place for moni-  
17 toring downstream water quality im-  
18 provements;

19 (II) state and local agencies are  
20 consulted on the activities to be fund-  
21 ed; and

22 (III) this clause is not intended  
23 to create any right, benefit or privi-  
24 lege;

- 1 (ii) implementation of source control  
2 programs in the Delta and its tributaries;
- 3 (iii) developing recommendations  
4 through scientific panels and advisory  
5 council processes to meet the Calfed Bay-  
6 Delta Program goal of continuous improve-  
7 ment in Delta water quality for all uses;
- 8 (iv) investing in treatment technology  
9 demonstration projects;
- 10 (v) controlling runoff into the Cali-  
11 fornia aqueduct and other similar convey-  
12 ances;
- 13 (vi) addressing water quality problems  
14 at the North Bay Aqueduct;
- 15 (vii) studying recirculation of export  
16 water to reduce salinity and improve dis-  
17 solved oxygen in the San Joaquin River;
- 18 (viii) supporting and participating in  
19 the development of projects to enable San  
20 Francisco Bay Area water districts to work  
21 cooperatively to address their water quality  
22 and supply reliability issues, including con-  
23 nections between aqueducts, water trans-  
24 fers, water conservation measures, institu-  
25 tional arrangements, and infrastructure

1 improvements that encourage regional ap-  
2 proaches, and investigations and studies of  
3 available capacity in a project to deliver  
4 water to the East Bay Municipal Utility  
5 District under its contract with the Bureau  
6 of Reclamation dated July 20, 2001, in  
7 order to determine if such capacity can be  
8 utilized to meet the above objectives; *Pro-*  
9 *vided,* That these investigations and stud-  
10 ies shall be conducted consistent with the  
11 Record of Decision;

12 (ix) development of water quality ex-  
13 changes and other programs to make high  
14 quality water available to urban areas; and

15 (x) development and implementation  
16 of a plan to meet all existing water quality  
17 standards for which the State and Federal  
18 water projects have responsibility.

19 (J) LEVEE STABILITY.—Of the amounts  
20 authorized to be appropriated for fiscal years  
21 2004 through 2007 under this Act, no more  
22 than \$70,000,000 may be expended for the fol-  
23 lowing—

24 (i) assisting local reclamation districts  
25 in reconstructing Delta levees to a base

1 level of protection (not to exceed  
2 \$20,000,000);

3 (ii) enhancing the stability of levees  
4 that have particular importance in the sys-  
5 tem through the Delta Levee Special Im-  
6 provement Projects program (not to exceed  
7 \$20,000,000);

8 (iii) developing best management  
9 practices to control and reverse land sub-  
10 sidence on Delta islands (not to exceed  
11 \$1,000,000);

12 (iv) refining the Delta Emergency  
13 Management Plan (not to exceed  
14 \$1,000,000);

15 (v) developing a Delta Risk Manage-  
16 ment Strategy after assessing the con-  
17 sequences of Delta levee failure from  
18 floods, seepage, subsidence, and earth-  
19 quakes (not to exceed \$500,000);

20 (vi) developing a strategy for reuse of  
21 dredged materials on Delta islands (not to  
22 exceed \$1,500,000);

23 (vii) evaluating, and where appro-  
24 priate, rehabilitating the Suisun Marsh lev-  
25 ees (not to exceed \$6,000,000); and

1 (viii) integrated flood management,  
2 ecosystem restoration, and levee protection  
3 projects, including design and construction  
4 of lower San Joaquin River and lower  
5 Mokelumne River floodway improvements  
6 and other projects under the Sacramento-  
7 San Joaquin Comprehensive Study (not to  
8 exceed \$20,000,000);

9 (K) SCIENCE.—Of the amounts authorized  
10 to be appropriated for fiscal years 2004  
11 through 2007 under this Act, no more than  
12 \$50,000,000 may be expended for the fol-  
13 lowing—

14 (i) establishing and maintaining an  
15 independent science board, technical pan-  
16 els, and standing boards to provide over-  
17 sight and peer review of the program;

18 (ii) conducting expert evaluations and  
19 scientific assessments of all program ele-  
20 ments;

21 (iii) coordinating existing monitoring  
22 and scientific research programs;

23 (iv) developing and implementing  
24 adaptive management experiments to test,

1 refine and improve scientific under-  
2 standings;

3 (v) establishing performance meas-  
4 ures, and monitoring and evaluating the  
5 performance of all program elements; and

6 (vi) preparing an annual Science Re-  
7 port.

8 (L) PROGRAM MANAGEMENT, OVERSIGHT,  
9 AND COORDINATION.—Of the amounts author-  
10 ized to be appropriated for fiscal years 2004  
11 through 2007 under this Act, no more than  
12 \$25,000,000 may be expended by the Secretary,  
13 acting through the Director of the Calfed Bay-  
14 Delta Program, for the following—

15 (i) program-wide tracking of sched-  
16 ules, finances, and performance;

17 (ii) multi-agency oversight and coordi-  
18 nation of Calfed activities to ensure pro-  
19 gram balance and integration;

20 (iii) development of interagency cross-  
21 cut budgets and a comprehensive finance  
22 plan to allocate costs in accordance with  
23 the beneficiary pays provisions of the  
24 Record of Decision;

1 (iv) coordination of public outreach  
2 and involvement, including tribal, environ-  
3 mental justice, and public advisory activi-  
4 ties under the Federal Advisory Committee  
5 Act; and

6 (v) development of Annual Reports.

7 (M) DIVERSIFICATION OF WATER SUP-  
8 PLIES.—Of the amounts authorized to be ap-  
9 propriated for fiscal years 2004 through 2007  
10 under this Act, no more than \$30,000,000 may  
11 be expended to diversify sources of level 2 ref-  
12 uge supplies and modes of delivery to refuges,  
13 and to acquire additional water for level 4 ref-  
14 uge supplies.

15 (4) AUTHORIZED ACTIONS.—The Secretary and  
16 the Federal agency heads are authorized to carry  
17 out the activities authorized by this Act through the  
18 use of grants, loans, contracts, and cooperative  
19 agreements with Federal and non-Federal entities  
20 where the Secretary or Federal agency head deter-  
21 mines that the grant, loan, contract, or cooperative  
22 agreement will assist in implementing the authorized  
23 activity in an efficient, timely, and cost-effective  
24 manner. Provided, however, that such activities shall

1 not include construction unless the United States is  
2 a party to the contract for construction.

3 **SEC. 4. MANAGEMENT.**

4 (a) COORDINATION.—In carrying out the Calfed Bay-  
5 Delta Program, the Federal agencies shall coordinate their  
6 activities with the State agencies.

7 (b) PUBLIC PARTICIPATION.—In carrying out the  
8 Calfed Bay-Delta Program, the Federal agencies shall co-  
9 operate with local and tribal governments and the public  
10 through a federally chartered advisory committee or other  
11 appropriate means, to seek input on program elements  
12 such as planning, design, technical assistance, and devel-  
13 opment of peer review science programs.

14 (c) SCIENCE.—In carrying out the Calfed Bay-Delta  
15 Program, the Federal agencies shall seek to ensure, to the  
16 maximum extent practicable, that—

17 (1) all major aspects of implementing the Pro-  
18 gram are subjected to credible and objective sci-  
19 entific review; and

20 (2) major decisions are based upon the best  
21 available scientific information.

22 (d) GOVERNANCE.—In carrying out the Calfed Bay-  
23 Delta Program, the Secretary and the Federal agency  
24 heads are authorized to become voting members of the  
25 California Bay-Delta Authority, as established in the Cali-

1   ornia Bay-Delta Authority Act (2002 Cal. Stat. Chap.  
2   812), to the extent consistent with Federal law. Nothing  
3   in this subsection shall preempt or otherwise affect any  
4   Federal law or limit the statutory authority of any Federal  
5   agency: *Provided*, That the California Bay-Delta Authority  
6   shall not be deemed to be an advisory committee within  
7   the meaning of the Federal Advisory Committee Act (5  
8   U.S.C. App. 1) and the financial interests of the California  
9   Bay-Delta Authority shall not be imputed to any Federal  
10  official participating in such Authority.

11       (e) ENVIRONMENTAL JUSTICE.—Consistent with Ex-  
12  ecutive Order 12898 pertaining to Federal Actions to Ad-  
13  dress Environmental Justice in Minority and Low-Income  
14  Populations, it is the intent of the Congress that the Fed-  
15  eral and State agencies should continue to collaborate to  
16  develop a comprehensive environmental justice workplan  
17  for the Calfed Bay-Delta Program and fulfill the commit-  
18  ment to addressing environmental justice challenges re-  
19  ferred to in the Calfed Bay-Delta Program Environmental  
20  Justice Workplan dated December 13, 2000.

21       (f) LAND ACQUISITION.—Before obligating or ex-  
22  pending any Federal funds to acquire land for the Eco-  
23  system Restoration Program, the Secretary shall first de-  
24  termine that existing Federal land, State land, or other  
25  public land is not available for the project purpose. Private

1 land acquisitions shall prioritize easements over acqui-  
2 tions of fee title unless easements are unavailable or un-  
3 suitable for the stated purpose.

4 (g) STATUS REPORTS.—The Secretary shall report  
5 monthly on the Authority’s progress in achieving the water  
6 supply targets as described in Section 2.2.4 of the Record  
7 of Decision, the environmental water account require-  
8 ments as described in Section 2.2.7, and the water quality  
9 targets as described in Section 2.2.9, and any pending ac-  
10 tions that may affect the Authority’s ability to achieve  
11 those targets and requirements.

12 **SEC. 5. REPORTING REQUIREMENTS.**

13 (a) REPORT AND CERTIFICATION BY CALFED.—The  
14 Secretary, in cooperation with the Governor, shall submit  
15 a report of the California Bay-Delta Authority by Decem-  
16 ber 15 of each year to the appropriate authorizing and  
17 appropriating Committees of the Senate and the House  
18 of Representatives that describes the status of implemen-  
19 tation of all components of the Calfed Bay-Delta Program  
20 and that certifies whether or not the Calfed Bay-Delta  
21 Program is progressing in a balanced manner which allows  
22 all program components to be advanced, including addi-  
23 tional water supply, ecosystem restoration, and water  
24 quality. The Secretary’s report shall describe—

1           (1) the progress of the Calfed Bay-Delta Pro-  
2           gram in meeting the implementation schedule for the  
3           Program in a manner consistent with the Record of  
4           Decision;

5           (2) the status of implementation of all compo-  
6           nents of the Calfed Bay-Delta Program;

7           (3) expenditures in the past fiscal year and year  
8           to date for implementing the Calfed Bay-Delta Pro-  
9           gram; and

10          (4) accomplishments in the past fiscal year and  
11          year to date in achieving the objectives of additional  
12          and improved—

13                 (A) water storage;

14                 (B) water quality;

15                 (C) water use efficiency;

16                 (D) ecosystem restoration;

17                 (E) watershed management;

18                 (F) levee system integrity;

19                 (G) water transfers;

20                 (H) water conveyance; and

21                 (I) water supply reliability.

22 The report shall discuss the status of Calfed Bay-Delta  
23 Program goals, current schedules, and relevant financing  
24 agreements.

1 (b) STATEMENT OF BALANCE.—Substantial progress  
2 in each of the categories listed in subsection (a) shall be  
3 considered in determining whether the Calfed Bay-Delta  
4 Program is proceeding in a balanced manner for purposes  
5 of making the certification provided for in subsection (a).  
6 In addition, in making such certification the Secretary, in  
7 cooperation with the Governor, shall prepare a statement  
8 of whether the program is in balance which takes into con-  
9 sideration the following—

10 (1) status of all Stage 1 actions, including  
11 goals, schedules, and financing agreements;

12 (2) progress on storage projects, conveyance im-  
13 provements, levee improvements, water quality  
14 projects, and water use efficiency programs;

15 (3) completion of key projects and milestones  
16 identified in the Ecosystem Restoration Program;

17 (4) development and implementation of local  
18 programs for watershed conservation and restora-  
19 tion;

20 (5) progress in improving water supply reli-  
21 ability and implementing the Environmental Water  
22 Account;

23 (6) achievement of commitments under State  
24 and Federal Endangered Species Acts;

1           (7) implementation of a comprehensive science  
2           program;

3           (8) progress toward acquisition of the State and  
4           Federal permits, including Clean Water Act section  
5           404(a) permits, for implementation of projects in all  
6           identified program areas;

7           (9) progress in achieving benefits in all geo-  
8           graphic regions covered by the Program;

9           (10) legislative action on water transfer,  
10          groundwater management, water use efficiency, and  
11          governance issues;

12          (11) status of complementary actions;

13          (12) status of mitigation measures; and

14          (13) revisions to funding commitments and pro-  
15          gram responsibilities.

16          (c) REVISED SCHEDULE.—If the report provided for  
17          in subsection (a) and the statement of balance provided  
18          for in subsection (b) conclude that the Calfed Bay-Delta  
19          Program is not progressing in a balanced manner so that  
20          no certification of balanced implementation can be made,  
21          the California Bay-Delta Authority shall prepare a revised  
22          schedule to ensure the Calfed Bay-Delta Program will  
23          progress in a balanced manner consistent with the intent  
24          of the Record of Decision. This revised schedule shall be  
25          subject to approval by the Secretary and the Governor,

1 and upon such approval, shall be submitted to the appro-  
2 priate authorizing and appropriating committees of the  
3 Senate and the House of Representatives.

4 (d) FEASIBILITY STUDIES.—Any feasibility studies  
5 completed for storage projects as a result of this Act shall  
6 include identification of project benefits and beneficiaries  
7 and a cost allocation plan consistent with the beneficiaries  
8 pay provisions of the Record of Decision.

9 (e) FINANCIAL SUMMARY.—In addition to the report  
10 required pursuant to subsection (a), no later than Feb-  
11 ruary 15 of each year the Secretary shall submit to the  
12 appropriate authorizing and appropriating committees of  
13 the Senate and the House of Representatives a financial  
14 report certified by the Secretary containing a detailed ac-  
15 counting of all funds received and obligated by all Federal  
16 and State agencies responsible for implementing the  
17 Calfed Bay-Delta Program in the previous fiscal year, a  
18 budget for the proposed projects (including a description  
19 of the project, authorization level, and project status) to  
20 be carried out in the upcoming fiscal year with the Federal  
21 portion of funds authorized under this Act, and a listing  
22 of all projects to be undertaken in the upcoming fiscal year  
23 with the Federal portion of funds authorized under this  
24 Act.

1 (f) REPORT.—Prior to December 2004, the Sec-  
2 retary, after consultation with the Governor and the Fed-  
3 eral agency heads, shall submit a report to Congress  
4 that—

5 (1) details the accomplishments of the Califed  
6 Bay-Delta Program to date;

7 (2) identifies the specific steps that remain to  
8 be undertaken in the Program;

9 (3) sets forth the specific funding levels and  
10 sources to accomplish such steps; and

11 (4) makes such recommendations as may be  
12 necessary to accomplish the goals and objectives of  
13 the continuing Califed Bay-Delta Program.

14 **SEC. 6. CROSSCUT BUDGET AND AUTHORIZATION OF AP-**  
15 **PROPRIATIONS.**

16 (a) CROSSCUT BUDGET.—The President’s Budget  
17 shall include requests for the appropriate level of funding  
18 for each of the Federal agencies to carry out its respon-  
19 sibilities under the Califed Bay-Delta Program. Such funds  
20 shall be requested for the Federal agency with authority  
21 and programmatic responsibility for the obligation of such  
22 funds, as set forth in section 3(c)(2). At the time of sub-  
23 mission of the President’s Budget to the Congress, the Di-  
24 rector of the Office of Management and Budget shall sub-  
25 mit to the appropriate authorizing and appropriating com-

1 mittees of the Senate and the House of Representatives  
2 and interagency budget crosscut report that displays the  
3 budget proposed, including any interagency or intra-agen-  
4 cy transfer, for each of the Federal agencies to carry out  
5 the Calfed Bay-Delta Program for the upcoming fiscal  
6 year, separately showing funding requested under both  
7 pre-existing authorities and under the new authorities  
8 granted by this Act. The report shall also identify all ex-  
9 penditures since 1996 within the Federal and State gov-  
10 ernments used to achieve the objectives of the Calfed Bay-  
11 Delta Program.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated to the Secretary and  
14 the heads of the Federal agencies \$880,000,000 to pay  
15 the Federal share of carrying out Stage 1 of the Record  
16 of Decision for fiscal years 2004 through 2007, in accord-  
17 ance with the provisions of this Act. The funds shall re-  
18 main available without fiscal year limitation.

19 **SEC. 7. FEDERAL SHARE OF COSTS.**

20 The Federal share of the cost of implementing Stage  
21 1 of the Calfed Bay-Delta Program as set forth in the  
22 Record of Decision shall not exceed 33.3 percent.

23 **SEC. 8. COMPLIANCE WITH STATE AND FEDERAL LAW.**

24 Nothing in this Act preempts or otherwise affects any  
25 Federal or State law, including any authority of a Federal

- 1 agency to carry out activities related to, or in furtherance
- 2 of, the Calfed Bay-Delta Program.

○