

107TH CONGRESS
1ST SESSION

H. R. 3121

To further continued economic viability in the communities on the High Plains by promoting sustainable groundwater management of the Ogallala Aquifer.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2001

Mr. MORAN of Kansas (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To further continued economic viability in the communities on the High Plains by promoting sustainable groundwater management of the Ogallala Aquifer.

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; FINDINGS; PURPOSES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “High Plains Groundwater Resource Conservation Act”.

6 (b) **FINDINGS.**—Congress finds the following:

1 (1) A reliable source of groundwater is an es-
2 sential element of the economy of the communities
3 on the High Plains.

4 (2) The High Plains Aquifer consists largely of
5 the Ogallala Aquifer with small components of other
6 geologic units.

7 (3) The High Plains Aquifer experienced a de-
8 cline in water table levels in the latter half of the
9 twentieth century.

10 (4) The decline in water table levels is espe-
11 cially pronounced in the Southern Ogallala Aquifer,
12 with areas in the States of Kansas, New Mexico,
13 Oklahoma, and Texas experiencing declines of over
14 100 feet from 1950 to 1997 (USGS Fact Sheet
15 124–99, Dec. 1999).

16 (5) The saturated thickness of the High Plains
17 Aquifer has declined by over 50 percent in some
18 areas (1186 USGS Circular 27, 1999). Further-
19 more, the percentage of the High Plains Aquifer
20 which has a saturated thickness of 100 feet or more
21 declined from 54 percent to 51 percent in the period
22 from 1980 to 1997 (USGS Fact Sheet 124–99, Dec.
23 1999).

24 (6) The decreased water levels in the High
25 Plains Aquifer coupled with higher pumping lift

1 costs raise concerns about the long-term sustain-
2 ability of irrigated agriculture in the High Plains.

3 (7) Hydrological modeling by the United States
4 Geological Survey indicates that in the context of
5 sustained high groundwater use in the surrounding
6 region, reductions in groundwater pumping at the
7 single farm level or at a local level of up to 100
8 square miles, have a very time limited impact on
9 conserving the level of the local water table, thus
10 creating a disincentive for individual water users to
11 invest in water conservation measures. (“External
12 Effects of Irrigators’ Pumping Decisions, High
13 Plains Aquifer”, Alley and Schefter, American Geo-
14 physical Union, paper #7W0326; Water Resources
15 Research, Vol. 23, No. 7 1123–1130, July 1987).

16 (8) Incentives must be created for conservation
17 of groundwater on a regional scale, in order to
18 achieve an agricultural economy on the High Plains
19 that is sustainable.

20 (9) For water conservation incentives to func-
21 tion, Federal, State, tribal, and local water policy
22 makers, and individual groundwater users must have
23 access to reliable information concerning aquifer re-
24 charge rates, extraction rates, and water table levels
25 at the local and regional levels on an ongoing basis.

1 (10) Coordination of Federal, State, and local
2 efforts to map, model, and monitor the High Plains
3 Aquifer and of programs pertaining to the conserva-
4 tion of the groundwater resources of the Aquifer can
5 play an important role in effectively addressing the
6 issue of the decline of the Aquifer.

7 (c) PURPOSES.—The purposes of this Act are—

8 (1) to provide for the enhanced mapping, mod-
9 eling, and monitoring of the High Plains Aquifer
10 and for the improved coordination of efforts to ad-
11 dress the conservation of the groundwater resources
12 of the Aquifer; and

13 (2) to promote groundwater conservation on the
14 High Plains in order to extend the usable life of the
15 High Plains Aquifer.

16 **SEC. 2. DEFINITIONS.**

17 For purposes of this Act:

18 (1) HIGH PLAINS AQUIFER.—The term “High
19 Plains Aquifer” is the groundwater reserve depicted
20 as Figure 1 in the United States Geological Survey
21 Professional Paper 1400–B, titled Geohydrology of
22 the High Plains Aquifer in Parts of Colorado, Kan-
23 sas, Nebraska, New Mexico, Oklahoma, South Da-
24 kota, Texas, and Wyoming.

1 (2) HIGH PLAINS.—The term “High Plains”
2 means the approximately 174,000 square miles of
3 land surface overlying the High Plains Aquifer in
4 the States of Colorado, Kansas, Nebraska, New
5 Mexico, Oklahoma, South Dakota, Texas, and Wyo-
6 ming.

7 (3) HIGH PLAINS AQUIFER STATES.—The term
8 “High Plains Aquifer States” means the States of
9 Colorado, Kansas, Nebraska, New Mexico, Okla-
10 homa, South Dakota, Texas, and Wyoming.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 **TITLE I—HIGH PLAINS AQUIFER**
14 **CONSERVATION AND MONI-**
15 **TORING**

16 **SEC. 101. HYDROGEOLOGIC MAPPING, MODELING, AND**
17 **MONITORING.**

18 (a) PROGRAM.—The Secretary, working through the
19 United States Geological Survey, and in cooperation with
20 the State Geologists of the High Plains Aquifer States,
21 shall develop and carry out a comprehensive hydrogeologic
22 mapping, modeling, and monitoring program for the High
23 Plains Aquifer. The program shall include on a county-
24 by-county basis—

1 (1) a map of the hydrological configuration of
2 the High Plains Aquifer; and

3 (2) an analysis of—

4 (A) the current and past rate at which
5 groundwater is being withdrawn and recharged,
6 and the net rate of decrease or increase in aqui-
7 fer storage;

8 (B) the factors controlling the rate of hori-
9 zontal migration of water within the High
10 Plains Aquifer; and

11 (C) the current and past rate of loss of
12 saturated thickness within the High Plains Aq-
13 uifer.

14 (b) FUNDING.—At the request of a Governor of a
15 High Plains State, the Secretary shall transfer to the Gov-
16 ernor no less than one-eighth of 50 percent of the funds
17 made available pursuant to this section to be used to by
18 the State, working in cooperation with the Secretary, to
19 implement the program provided for by this section.

20 (c) ANNUAL REPORT.—One year after the date of the
21 enactment of this Act, and every two years thereafter, the
22 Secretary shall submit a report on the status of the High
23 Plains Aquifer to the Committee on Energy and Natural
24 Resources of the Senate, the Committee on Resources of

1 the House of Representatives, and the Governors of the
2 High Plains Aquifer States.

3 **SEC. 102. HIGH PLAINS AQUIFER COORDINATION COUNCIL.**

4 (a) ESTABLISHMENT AND PURPOSE.—The Secretary,
5 in cooperation with the Secretary of Agriculture, shall es-
6 tablish a High Plains Aquifer Coordination Council. The
7 purpose of the Council shall be to—

8 (1) ensure that comprehensive and coordinated
9 mapping, modeling, and monitoring efforts relating
10 to the High Plains Aquifer are in place to provide
11 information on the water resources of the High
12 Plains Aquifer, including the sustainability of such
13 resources;

14 (2) facilitate the coordination of federal, state,
15 and local programs relating to the groundwater re-
16 sources of the High Plains Aquifer;

17 (3) facilitate coordination of programs and poli-
18 cies among the High Plains Aquifer States with re-
19 spect to the groundwater resources of the High
20 Plains Aquifer;

21 (4) evaluate the effectiveness of Federal and
22 state programs in addressing the present and antici-
23 pated groundwater resources issues relating to the
24 High Plains Aquifer;

1 (5) provide recommendations to the Secretary,
2 the Secretary of Agriculture, and each Governor of
3 a High Plains Aquifer State, regarding programs
4 and policies and changes in Federal and state law to
5 address the groundwater resources issues of the
6 High Plains Aquifer.

7 (b) MEMBERSHIP.—The Secretary, in consultation
8 with the Secretary of Agriculture, shall appoint the fol-
9 lowing members of the High Plains Aquifer Coordination
10 Council:

11 (1) Two representatives of the Secretary of the
12 Interior, one representing the Bureau of Reclama-
13 tion, and one representing the U.S. Geological Sur-
14 vey.

15 (2) Two representatives of the Secretary of Ag-
16 riculture, to be selected from a list of candidates
17 provided by such Secretary, one representing the
18 Natural Resources Conservation Service and one
19 representing Rural Development.

20 (3) A representative of each Governor of a High
21 Plains Aquifer State, who shall be a state employee
22 and shall be selected from a list of candidates pro-
23 vided by the Governor, at least one of which shall be
24 a State Geologist of a High Plains Aquifer State.

1 (4) A representative of irrigation production ag-
2 riculture from each High Plains Aquifer State, se-
3 lected from a list of candidates provided by each
4 Governor.

5 (5) A representative of the municipal and in-
6 dustrial water user community from each High
7 Plains Aquifer State, selected from a list provided by
8 the Governor.

9 (6) Two representatives of Indian Tribes from
10 the High Plains or the vicinity thereof.

11 (c) TERMS.—Each member of the High Plains Aqi-
12 fer Coordination Council shall serve for a term of four
13 years, whereupon the Secretary may reappoint the mem-
14 ber or appoint a new member in conformance with the pro-
15 visions of subsection (b). Members of the Council who are
16 not employees of the Federal Government shall serve with-
17 out Federal compensation, but shall be reimbursed by the
18 Secretary for travel, subsistence, and other necessary ex-
19 penses incurred by them in the performance of their du-
20 ties.

21 (d) ADMINISTRATION.—Financial and administrative
22 services shall be provided to the High Plains Aquifer Co-
23 ordination Council by the Secretary.

24 (e) REPORT.—The High Plains Aquifer Coordination
25 Council shall report to the Secretary, the Secretary of Ag-

1 riculture, the Committees on Energy and Natural Re-
 2 sources and Agriculture of the Senate and the Committees
 3 on Resources and Agriculture of the House of Representa-
 4 tives, two years from the date of the enactment of this
 5 Act and every two years thereafter. The report shall con-
 6 tain the Council's findings and recommendations regard-
 7 ing the matters set forth in subsection (a).

8 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) SECTION 101.—There is hereby authorized to be
 10 appropriated not to exceed \$10,000,000 for each of the
 11 fiscal years 2003 through 2008 to carry out the purposes
 12 of section 101.

13 (b) SECTION 102.—There is hereby authorized to be
 14 appropriated not to exceed \$2,000,000 for each of the fis-
 15 cal years 2003 through 2008 to carry out the purposes
 16 of section 102.

17 **TITLE II—HIGH PLAINS**
 18 **GROUNDWATER RESOURCE**
 19 **CONSERVATION**

20 **SEC. 201. HIGH PLAINS GROUNDWATER CONSERVATION AS-**
 21 **SISTANCE.**

22 (a) HIGH PLAINS AQUIFER GROUNDWATER CON-
 23 SERVATION INCENTIVES PROGRAM.—The Food Security
 24 Act of 1985 is amended by inserting after section 1240H
 25 the following new section:

1 **“SEC. 1240I. HIGH PLAINS AQUIFER GROUNDWATER CON-**
2 **SERVATION INCENTIVES PROGRAM.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) HIGH PLAINS.—The term ‘High Plains’
5 means the approximately 174,000 square miles of
6 land surface overlying the High Plains Aquifer in
7 the States of Colorado, Kansas, Nebraska, New
8 Mexico, Oklahoma, South Dakota, Texas, and Wyo-
9 ming.

10 “(2) HIGH PLAINS AQUIFER.—The term ‘High
11 Plains Aquifer’ is the groundwater reserve depicted
12 as Figure 1 in the United States Geological Survey
13 Professional Paper 1400–B, titled Geohydrology of
14 the High Plains Aquifer in Parts of Colorado, Kan-
15 sas, Nebraska, New Mexico, Oklahoma, South Da-
16 kota, Texas, and Wyoming.

17 “(3) HIGH PLAINS AQUIFER STATES.—The
18 term ‘High Plains Aquifer States’ means the States
19 of Colorado, Kansas, Nebraska, New Mexico, Okla-
20 homa, South Dakota, Texas, and Wyoming.

21 “(b) IN GENERAL.—In each of the fiscal years 2003
22 through 2012, the Secretary shall provide cost-share pay-
23 ments, incentive payments, and technical assistance to
24 producers who enter into contracts with the Secretary,
25 through a High Plains Aquifer Ground Water Conserva-
26 tion Incentives Program in accordance with this section.

1 The goal of the program shall be to achieve significant
2 per acre savings of the groundwater resources of the High
3 Plains Aquifer.

4 “(c) PARTICIPATION.—The Secretary shall ensure, to
5 the maximum extent practicable, that producers on lands
6 drawing water from the High Plains Aquifer throughout
7 the High Plains region shall have an opportunity to par-
8 ticipate in the program established under this subsection:
9 Provided however, that the participation of producers in
10 areas experiencing significant aquifer level declines shall
11 be given a priority and that participation shall be limited
12 to producers in areas for which a plan has been certified
13 pursuant to subsection (l) of this section.

14 “(d) ELIGIBLE PRACTICES.—

15 “(1) STRUCTURAL PRACTICES.—A producer on
16 lands drawing water from the High Plains Aquifer
17 who implements an on-farm structural practice,
18 which may include the improvement of irrigation
19 systems and the purchase of new equipment, which
20 the Secretary determines will result in a significant
21 and quantifiable per-acre savings of the groundwater
22 resources of the High Plains Aquifer, shall be eligi-
23 ble for cost-share payments, in accordance with this
24 section.

1 “(2) LAND MANAGEMENT PRACTICES.—A pro-
2 ducer on lands drawing water from the High Plains
3 Aquifer who performs a land management practice,
4 which may include the conversion of acreage from ir-
5 rigated agricultural production to dryland produc-
6 tion, the modification of cropping patterns from high
7 water intensity crops to low water intensity crops, or
8 the implementation of other groundwater conserva-
9 tion measures, which the Secretary determines will
10 result in a significant and quantifiable per-acre sav-
11 ings of the groundwater resources of the High
12 Plains Aquifer, shall be eligible for incentive pay-
13 ments, in accordance with this section.

14 “(e) APPLICATION AND TERM.—A contract between
15 a producer and the Secretary under this section may—

16 “(1) apply to one or more structural practices
17 or one or more land management practices, or both;
18 and

19 “(2) have a term of not less than three, nor
20 more than ten, years as determined appropriate by
21 the Secretary, depending on the practice or practices
22 that are the basis of the contract.

23 “(f) STRUCTURAL PRACTICES.—

24 “(1) OFFER SELECTION PROCESS.—The Sec-
25 retary shall, to the maximum extent practicable, es-

1 establish a process for selecting applications for finan-
2 cial assistance if there are numerous applications for
3 assistance for structural practices that would provide
4 substantially the same level of groundwater con-
5 servation benefits. The process shall be based on—

6 “(A) a reasonable estimate of the projected
7 cost of the proposals and other factors identi-
8 fied by the Secretary for determining which ap-
9 plications will result in the least cost to the pro-
10 gram authorized by this section; and

11 “(B) the priorities established under this
12 section and such other factors determined by
13 the Secretary that maximize groundwater con-
14 servation benefits per dollar expended.

15 “(2) CONCURRENCE OF OWNER.—If the pro-
16 ducer making an offer to implement a structural
17 practice is a tenant of the land involved in agricul-
18 tural production, for the offer to be acceptable, the
19 producer shall obtain the concurrence of the owner
20 of the land with respect to the offer.

21 “(g) LAND MANAGEMENT PRACTICES.—The Sec-
22 retary shall establish an application and evaluation pro-
23 cess for awarding incentive payments to a producer in ex-
24 change for the performance of one or more land manage-
25 ment practices by the producer.

1 “(h) PAYMENTS.—

2 “(1) COST-SHARE PAYMENTS.—The Federal
3 share of cost-share payments to a producer pro-
4 posing to implement one or more structural practices
5 shall be not more than 50 percent of the projected
6 cost of the practice, as determined by the Secretary,
7 taking into consideration any payment received by
8 the producer from a State or local government.

9 “(2) INCENTIVE PAYMENTS.—The Secretary
10 shall make incentive payments in an amount and at
11 a rate determined by the Secretary to be necessary
12 to encourage a producer to perform one or more
13 land management practices. Payments shall be made
14 per acre foot of water savings from the greater of
15 the actual or projected water right allocation.

16 “(3) NET SAVINGS.—Payment may be made to
17 producers only if the Secretary determines that the
18 structural practice or land management practice will
19 result in a net savings on lands owned or operated
20 by the producer of groundwater resources of the
21 High Plains Aquifer.

22 “(i) MODIFICATION OR TERMINATION OF CON-
23 TRACTS.—

24 “(1) VOLUNTARY MODIFICATION OR TERMI-
25 NATION.—The Secretary may modify or terminate a

1 contract entered into with a producer under this sec-
2 tion if—

3 “(A) the producer agrees to the modifica-
4 tion or termination; and

5 “(B) the Secretary determines that the
6 modification or termination is in the public in-
7 terest.

8 “(2) INVOLUNTARY TERMINATION.—The Sec-
9 retary may terminate a contract under this section
10 if the Secretary determines that the producer vio-
11 lated the contract.

12 “(j) DUTIES.—

13 “(1) DUTIES OF THE PRODUCERS.—To receive
14 cost-share payments, incentive payments, or tech-
15 nical assistance under this section, a producer shall
16 agree to implement the structural practice or land
17 management practice as agreed to in the contract
18 with the Secretary and to comply with such addi-
19 tional conditions as the Secretary determines are
20 necessary to carry out the intent of this section.

21 “(2) DUTIES OF THE SECRETARY.—The Sec-
22 retary shall provide cost-share payments or incentive
23 payments for developing and implementing one or
24 more structural practices or one or more land man-

1 agement practices, as agreed to in the contract with
2 the producer.

3 “(k) LIMITATION ON PAYMENTS.—The total amount
4 of cost-share payments paid to any one producer under
5 this section may not exceed \$50,000 for any multi-year
6 contract. The Secretary shall set a limitation on the
7 amount of incentive payments paid to any one producer
8 under this section at a level which, in the Secretary’s dis-
9 cretion, will maximize the conservation of groundwater re-
10 sources from the High Plains Aquifer.

11 “(l) HIGH PLAINS GROUNDWATER CONSERVATION
12 PLANNING.—

13 “(1) PLANNING ASSISTANCE.—The Secretary
14 shall provide financial and technical assistance, in-
15 cluding modeling and engineering design to States,
16 tribes, and counties, conservation districts, or other
17 political subdivisions recognized under State law, for
18 the development of comprehensive groundwater con-
19 servation plans within the High Plains. This assist-
20 ance shall be provided on a cost-share basis ensuring
21 that—

22 “(A) the Federal funding for the develop-
23 ment of any given plan shall not exceed fifty
24 percent of the total cost; and

1 “(B) the Federal funding for groundwater
2 water conservation planning for any one county,
3 conservation district, or similar political subdivi-
4 sion recognized under State law shall not ex-
5 ceed \$50,000.

6 “(2) STATE ADMINISTRATION.—Upon applica-
7 tion by a High Plains Aquifer State, and approval
8 by the Secretary, the Secretary may provide funding
9 on an annual basis to the State to carry out, in lieu
10 of the Secretary, the activities set forth in paragraph
11 (1), including assistance to counties, conservation
12 districts, or other political subdivisions recognized
13 under the law of that State, for the development of
14 the conservation plans described in paragraph (1).

15 “(3) CERTIFICATION.—The Secretary shall cre-
16 ate a certification process for comprehensive ground-
17 water conservation plans developed under this pro-
18 gram, or developed independently by States, tribes,
19 counties, conservation districts, or other political
20 subdivisions recognized under State law. To be cer-
21 tified, a plan must achieve significant per acre sav-
22 ings of groundwater from the High Plains Aquifer
23 and must—

1 “(A) cover a sufficient geographic area to
2 provide a benefit to the groundwater resource
3 over at least a 20 year time period;

4 “(B) include a set of goals and objectives
5 for groundwater conservation and a timetable
6 for achieving the goals and objectives;

7 “(C) identify specific measures for achiev-
8 ing the groundwater conservation goals and ob-
9 jectives;

10 “(D) define a plan of action for achieving
11 the groundwater conservation goals and objec-
12 tives;

13 “(E) include a process for an annual eval-
14 uation of the implementation of the plan of ac-
15 tion; and

16 “(F) provide a process for modification of
17 the plan if the conservation goals and objectives
18 are not being met or for purposes of updating
19 the plan.

20 “(m) FUNDING.—Of the funds of the Commodity
21 Credit Corporation, the Corporation shall make available
22 to carry out this section, \$75,000,000 in each of fiscal
23 years 2003 through 2004, \$100,000,000 in each of fiscal
24 years 2005 through 2007 and \$125,000,000 in each of
25 fiscal years 2008 through 2012.”.

1 (b) CONSERVATION RESERVE PROGRAM ENHANCE-
2 MENT.—Lands eligible for the Conservation Reserve Pro-
3 gram established under section 1231 of the Food Security
4 Act of 1985 (16 U.S.C. 3831) which would result in sig-
5 nificant per acre savings of groundwater resources of the
6 High Plains Aquifer if removed from agricultural produc-
7 tion shall be awarded 90 Conservation Reserve Program
8 bid points, to be designated as groundwater conservation
9 points, in addition to any other ratings the lands may re-
10 ceive.

11 (c) REPORT.—The Secretary shall prepare a report
12 regarding the impacts of the commodity programs admin-
13 istered by the U. S. Department of Agriculture on the
14 water resources of the High Plains Aquifer. In particular,
15 the report shall address the economic incentives and dis-
16 incentives, if any, created by those programs with respect
17 to the willingness of producers in High Plains Aquifer de-
18 cline areas to modify cropping patterns to change from
19 high water intensive crops to a low water intensive crops
20 through low volume irrigation or dryland production. The
21 report shall address and make recommendations regarding
22 opportunities through modifications to the commodity pro-
23 grams to encourage producers to conserve the ground-
24 water resources of the High Plains Aquifer. The report
25 shall be submitted to the Committee on Agriculture, Nu-

1 trition, and Forestry and the Committee on Energy and
2 Natural Resources of the Senate and the Committee on
3 Agriculture and the Committee on Resources of the House
4 of Representatives no later than two years after the date
5 of the enactment of this Act.

6 **SEC. 202. HIGH PLAINS AQUIFER EDUCATIONAL ASSIST-**
7 **ANCE.**

8 The Secretary shall provide financial assistance, sub-
9 ject to the availability of appropriations, to each of the
10 eight High Plains Aquifer States to provide educational
11 programs related to this title. The States may cooperate
12 with educational institutions or other private organiza-
13 tions in the administration of these programs. Educational
14 programs shall include the following:

15 (1) Water conservation workshops for pro-
16 ducers, crop consultants, and agricultural groups
17 throughout the High Plains Aquifer region.

18 (2) Training and periodic update workshops for
19 field staff responsible for implementing water con-
20 servation cost-share programs.

21 (3) Public education and information for ele-
22 mentary and secondary students and adult learners,
23 and education for State and local decision makers.

1 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) SECTION 201.—There is authorized to be appro-
3 priated \$500,000 in each of fiscal years 2003, 2004, and
4 2005 for the report required by section 201.

5 (b) SECTION 202.—There is authorized to be appro-
6 priated \$3,000,000 million annually fiscal year 2003
7 through fiscal year 2012 to carry out the program set
8 forth in section 202.

○