



Potential 2027 Legislative Concepts

Table 1. Potential areas of 2027 legislative session work.

LC/POP	Summary
LC	<p>Deschutes Groundwater Mitigation Program: The Deschutes Groundwater Mitigation Program was developed to allow new groundwater development in the Deschutes Basin while maintaining scenic waterway and instream water right flows. The program will sunset on 1/1/2029. If this program sunsets, no new groundwater permits can be issued in the Deschutes Basin. Further, some existing groundwater permit holders may not be able to fully develop their approved permits. Opportunities for program improvements require further evaluation and discussion, including highlighting the role of the Confederated Tribes of Warm Springs, who are co-managers of the resource in the Deschutes Basin and have Tribal Reserved Rights via a settlement agreement.</p>
LC	<p>General spending authority: The Department does not have clear grant, direct payment and contracting authority unless otherwise granted by a specific program or appropriation made in law. This has resulted in uncertainty about the Department’s authority to expend funds when the legislature makes appropriations directly into the Department’s budget.</p>
LC/POP	<p>Conservation Reserve Enhancement Program Other Funds: The Conservation Reserve Enhancement Program (CREP) is a voluntary program operated through the USDA Farm Service Agency (FSA) in partnership with the Department that seeks to improve groundwater conditions by incentivizing landowners to voluntarily cancel groundwater rights. The program provides funding for up to 15 years of payments to landowners who volunteer to cancel groundwater rights. The Department’s base budget was allocated \$500k for the program in general funds (GF) each biennium in the Greater Harney Valley; all unspent funds will go back to the state general fund at the end of each biennium. Because funds do not roll over and there is no distinct account for one-time appropriations, the Department prefers to payout lump sums to ensure water users cancelling the rights receive funds, rather than smaller payments over longer periods of time. This limits the maximum number of participants that can be enrolled at any given time. Establishing an “other funds” account provides location for one-time appropriations or legislatively approved carryforward of unspent GF to potentially commit to longer term contracts maximize the number participants enrolling in the program.</p>
LC	<p>Water resources management solutions (placeholder): As water becomes scarcer, Oregonians need a greater range of flexible solutions to meet both instream and out of stream needs, with appropriate sideboards to protect existing users and the resource. This concept is a placeholder for further conversations.</p>

Deschutes Groundwater Mitigation Program: DRAFT LC Language

Relating to the Deschutes Basin ground water study area.

SECTION 1. Section 5, chapter 669, Oregon Laws 2005, as amended by chapter 694, Oregon Laws 2011 is amended to read: (1) The Water Resources Commission shall repeal the rules referred to in section 2, chapter 669, Oregon Laws 2005, on January 2, **2039** [2029].

(2) Ground water permits and mitigation projects approved before the repeal remain valid and effective.

SECTION 2. As used in this act:

(a) The “Confederated Tribes of the Warm Springs Water Rights Settlement Agreement” means the settlement agreement, including any amendments, executed by the United States, the State of Oregon, and the Confederated Tribes of the Warm Springs Reservation of Oregon, and as incorporated into the final judgment and decree of the Deschutes County Circuit Court, dated January 7, 2003, in case number 99CV038ST.

(b) The “Confederated Tribes of Warm Springs” means the Confederated Tribes of the Warm Springs Reservation of Oregon, a federally-recognized Indian tribe, a legal successor-in-interest to the Indian signatories of the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963, and a sovereign cooperative manager of the water resources of the Deschutes Basin.

(c) “Consultation” means formal communication between the Water Resources Department with respect to the Department’s administration of the Deschutes Groundwater Mitigation Program, including, but not limited to how, the program may affect the Confederated Tribes of the Warm Springs Water Rights Settlement or the Confederated Tribes of Warm Springs’ other sovereign rights, privileges and interests in the waters of this state, including but not limited to treaty-protected rights.

SECTION 3. (1) Prior to adoption, repeal, or amendments of any rules related to the Deschutes Groundwater Mitigation Program, the Department shall request consultation with the Confederated Tribes of the Warm Springs. Any rules adopted, repealed, or amended related to the Deschutes Groundwater Mitigation Program shall be consistent with the Confederated Tribes of the Warm Springs Water Rights Settlement Agreement.

SECTION 4. ORS 537.746 is amended to read: (1) The Water Resources Commission may by rule establish a system of credits that may be used to offset the potential interference with hydraulically connected surface waters caused by ground water withdrawals within the Deschutes River Basin to account for projects performed in the basin that make water available for mitigation.

(2) A person proposing a project that makes water available for mitigation may apply to the Water Resources Department for approval of the project and a preliminary finding as to the amount of mitigation credits available, based on the amount of water made available by the project. Projects approved by the department shall comply with all other applicable provisions of law, including relevant portions of ORS 390.835, and may not result in injury to existing water rights, **including the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Water Rights Settlement Agreement.**

(3)(a) The amount of mitigation credits awarded for a completed project, or any completed phase of the project, shall be equal to the amount of water made available by the project as determined and approved by the department.

(b) A final award of mitigation credits by the department shall be made upon completion of the approved project by the applicant and verification by the department that the project is complete. The department may provide for a partial award of mitigation credits to correspond with completion of approved phases of project implementation.

(c) Mitigation credits shall remain valid until exercised by the holder.

(4) The commission may by rule provide for the recognition or establishment of mitigation banks to facilitate transactions among the holders of mitigation credits and persons who desire to acquire mitigation credits. The mitigation credits may be assigned by the person creating the project to another person or a mitigation bank.

(5) The Water Resources Department shall prepare an annual report on the implementation and management of the system of mitigation credits established by subsections (1) to (4) of this section.

SECTION 5. ORS 540.155 is amended to read: (1) As used in this section, “Deschutes Basin ground water study area” has the meaning given that term in ORS 540.531.

(2) The Water Resources Department shall periodically review the department program for the Deschutes Basin ground water study area. The review shall include, but need not be limited to, the identification of regulatory and statutory changes that may improve the program in order to address and mitigate injury to existing water rights, **including the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Water Rights Settlement Agreement** and spring systems and to offset measurable reductions of scenic waterway flows.

(3) The department shall report to the Legislative Assembly every five years on outcomes of the department program for the Deschutes Basin ground water study area. The report shall include, but need not be limited to, **program impacts to the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Water Rights Settlement Agreement**, program impacts on other users of the Deschutes River Basin, the potential timing of mitigation, identification of zones of impact, a review of impacts on the headwaters of the Metolius River and other key reaches of the Metolius River system, the potential timing of federal, state and local storage improvements, and other issues identified by stakeholders.

General Spending Authority: DRAFT LC Language

Relating to expenditure of funds.

536.009 is amended to read: (1) There is established in the State Treasury the Water Resources Department Water Right Operating Fund, separate and distinct from the General Fund, to provide for the payment of the program and administrative expenses of the Water Resources Commission and the Water Resources Department in carrying out the provisions of ORS chapters 536, 537, 540 and 541 **or for the purposes appropriated or transferred to the fund by the Legislative Assembly**. Interest earned by the fund shall be credited to the fund.

(2) The fund shall consist of:

(a) All moneys received under ORS 536.050 and 537.747.

(b) All moneys received on behalf of the fund by gift, grant or appropriation from whatever source.

(3) All moneys in the fund are continuously appropriated to the Water Resources Department for payment of expenses as described in this section.

(4) The Department may enter into grant agreements, contracts, and make direct payments for the purposes appropriated or transferred to the fund by the Legislative Assembly.

Conservation Reserve Enhancement Fund Other Funds: DRAFT LC Language

Relating to the Conservation Reserve Enhancement Program for Water Right Retirement.

Section 1. (1) It is the intent of the Legislative Assembly in enacting sections 1 to 5 of this 2027 Act to: (a) Establish the Groundwater Conservation Reserve Enhancement Program Match Fund in the State Treasury, consisting of all moneys credited to the fund, including moneys appropriated or transferred to the fund by the Legislative Assembly and public or private moneys from gifts, grants or donations; (b) Provide the state contribution for water users who cancel ground water rights as part of enrollment in the federal Conservation Reserve Enhancement Program (132 Stat. 4534, 16 U.S.C. 3831a).

Section 2. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Groundwater Conservation Reserve Enhancement Program Match Fund. Interest earned by the Groundwater Conservation Reserve Enhancement Program Match Fund shall be credited to the fund.

(2)(a) All moneys in the fund are continuously appropriated to the Water Resources Department to provide the state contribution for water users who cancel ground water rights as part of enrollment in the federal Conservation Reserve Enhancement Program (132 Stat. 4534, 16 U.S.C. 3831a).

(b) This subsection applies only to water users in areas in which the department is not allowing new rights to use ground water for irrigation.

(3) The fund shall consist of all moneys credited to the fund, including moneys appropriated or transferred to the fund by the Legislative Assembly and public or private moneys from gifts, grants or donations.

Section 3. In addition to and not in lieu of any other appropriation, there is continuously appropriated to the Water Resources Department, for the biennium beginning July 1, 2027, out of the General Fund, the amount of \$__, for deposit in the Groundwater Conservation Reserve Enhancement Program Match Fund established under section 2 of this 2027 Act the purpose of providing the state contribution for water users who cancel ground water rights as part of enrollment in the Groundwater Conservation Reserve Enhancement Program.

Section 4. Notwithstanding any other law limiting expenditures, the limitation on expenditures established for Water Resources Department for the biennium starting July 1, 2027, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including federal funds received under cooperative agreements with or contracts from the Bureau of Reclamation of the United States Department of the Interior, the United States Army Corps of Engineers, the United States Geological Survey, the Bonneville Power Administration and the National Fish and Wildlife Foundation, but excluding lottery funds and federal funds, collected or received by the Water Resources Department, for technical services, is increased by \$__, for authorized expenditures of moneys deposited in the Conservation Reserve Enhancement Program Match Fund.

Section 5. This 2026 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect on its passage.

Water management solutions: DRAFT Placeholder LC Language

Relating to water resources management.

Section 1. (1) The Water Resources Department shall conduct a study of laws related to water resources management.

(2) The department shall submit its findings and recommendations for legislation to an interim committee of the Legislative Assembly no later than September 15, 2027.

Section 2. Section 1 of this 2025 Act is repealed on January 2, 2029.

Section 3. This 2027 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2027 Act takes effect on its passage.