

116TH CONGRESS
1ST SESSION

S. 2718

To provide for the conduct of certain water security measures in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2019

Mr. UDALL (for himself and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the conduct of certain water security measures in the State of New Mexico, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Western Water Security Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—INFRASTRUCTURE AND WATER MANAGEMENT
IMPROVEMENT

- Sec. 101. Watersmart extension and expansion.
- Sec. 102. Rural desalination.
- Sec. 103. Emergency drought funding.
- Sec. 104. Rio Grande Pueblo irrigation infrastructure reauthorization.

TITLE II—GROUNDWATER MANAGEMENT

- Sec. 201. Reauthorization and expansion of the Transboundary Aquifer Assessment Program.
- Sec. 202. Groundwater management assessment and improvement.
- Sec. 203. Surface and groundwater water availability and the energy nexus.

TITLE III—WATER CONSERVATION AND ENVIRONMENTAL RESTORATION

- Sec. 301. Definitions.
- Sec. 302. Water acquisition program.
- Sec. 303. Middle Rio Grande water conservation.
- Sec. 304. Sustaining biodiversity during droughts.
- Sec. 305. Reauthorization of cooperative watershed management program.

TITLE IV—EFFECT ON EXISTING LAW

- Sec. 401. Effect on existing law.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **RIO GRANDE COMPACT.**—The term “Rio
4 Grande Compact” means the compact approved by
5 Congress under the Act of May 31, 1939 (53 Stat.
6 785, chapter 155).

7 (2) **SECRETARY.**—The term “Secretary” means
8 the Secretary of the Interior.

9 (3) **STATE.**—The term “State” means the State
10 of New Mexico.

1 **TITLE I—INFRASTRUCTURE AND**
2 **WATER MANAGEMENT IM-**
3 **PROVEMENT**

4 **SEC. 101. WATERSMART EXTENSION AND EXPANSION.**

5 (a) DEFINITION OF ELIGIBLE APPLICANT.—Section
6 9502 of the Omnibus Public Land Management Act of
7 2009 (42 U.S.C. 10362) is amended—

8 (1) in the matter preceding paragraph (1), by
9 striking “section” and inserting “subtitle”;

10 (2) by striking paragraph (7) and inserting the
11 following:

12 “(7) ELIGIBLE APPLICANT.—The term ‘eligible
13 applicant’ means—

14 “(A) any State, Indian tribe, irrigation dis-
15 trict, or water district;

16 “(B) any State, regional, or local author-
17 ity, the members of which include one or more
18 organizations with water or power delivery au-
19 thority;

20 “(C) any other organization with water or
21 power delivery authority; and

22 “(D) any nonprofit conservation organiza-
23 tion.”;

24 (3) in paragraph (10), by striking “450b” and
25 inserting “5304”;

1 (4) by redesignating paragraphs (13) through
2 (17) as paragraphs (14) through (18), respectively;
3 and

4 (5) by inserting after paragraph (12) the fol-
5 lowing:

6 “(13) NATURAL WATER RECHARGE INFRA-
7 STRUCTURE.—The term ‘natural water recharge in-
8 frastructure’ means a single project, a number of
9 distributed projects across a watershed, or the rede-
10 sign and replacement, or removal, of built infra-
11 structure to incorporate natural aquatic elements, in
12 which the project—

13 “(A) uses natural materials appropriate to
14 the specific site and landscape setting;

15 “(B) mimics natural riverine, floodplain,
16 riparian, wetland, hydrologic, or other ecological
17 processes; and

18 “(C) results in aquifer recharge, transient
19 floodplain water retention, or restoration of
20 water in the landscape such that the water re-
21 turns to a wetland, riparian area, or surface
22 water channel.”.

23 (b) RESEARCH AGREEMENTS.—Section 9504(b)(1)
24 of the Omnibus Public Land Management Act of 2009 (42
25 U.S.C. 10364(b)(1)) is amended—

1 (1) in the matter preceding subparagraph (A),
2 by inserting “nonprofit conservation organization,”
3 before “or organization”;

4 (2) in subparagraph (B), by striking “or” at
5 the end;

6 (3) by redesignating subparagraph (C) as sub-
7 paragraph (D); and

8 (4) by inserting after subparagraph (B) the fol-
9 lowing:

10 “(C) to increase natural water recharge in-
11 frastructure; or”.

12 (c) WATER MANAGEMENT IMPROVEMENT.—Section
13 9504(e) of the Omnibus Public Land Management Act of
14 2009 (42 U.S.C. 10364(e)) is amended by striking
15 “\$480,000,000” and inserting “\$650,000,000, subject to
16 the condition that \$50,000,000 of that amount shall be
17 used to carry out section 206 of the Energy and Water
18 Development and Related Agencies Appropriations Act,
19 2015 (43 U.S.C. 620 note; Public Law 113–235)”.

20 (d) CONFORMING AMENDMENT.—Section 4009(d) of
21 Public Law 114–322 (42 U.S.C. 10364 note) is amended
22 by striking “on the condition that of that amount,
23 \$50,000,000 of it is used to carry out section 206 of the
24 Energy and Water Development and Related Agencies Ap-

1 appropriation Act, 2015 (43 U.S.C. 620 note; Public Law
2 113–235)”.
3

3 **SEC. 102. RURAL DESALINATION.**

4 Section 4(a) of the Water Desalination Act of 1996
5 (42 U.S.C. 10301 note; Public Law 104–298) is amended
6 by striking the second paragraph (1) (relating to projects)
7 and inserting the following:

8 “(2) PROJECTS.—

9 “(A) DEFINITIONS.—In this paragraph:

10 “(i) ELIGIBLE DESALINATION
11 PROJECT.—The term ‘eligible desalination
12 project’ means any project located in a
13 Reclamation State, or for which the con-
14 struction, operation, sponsorship, or fund-
15 ing is the responsibility of, and the pri-
16 mary water supply benefit accrues to, one
17 or more entities in a Reclamation State,
18 that—

19 “(I) involves an ocean or brack-
20 ish water desalination facility—

21 “(aa) constructed, operated,
22 and maintained by a State, In-
23 dian Tribe, irrigation district,
24 water district, or other organiza-

1 tion with water or power delivery
2 authority; or

3 “(bb) sponsored or funded
4 by any combination of a State,
5 department of a State, political
6 subdivision of a State, or public
7 agency organized pursuant to
8 State law, including through—

9 “(AA) direct sponsor-
10 ship or funding; or

11 “(BB) indirect sponsor-
12 ship or funding, such as by
13 paying for the water pro-
14 vided by the facility; and

15 “(II) provides a Federal benefit
16 in accordance with the reclamation
17 laws.

18 “(ii) RURAL DESALINATION
19 PROJECT.—The term ‘rural desalination
20 project’ means a project located in a Rec-
21 lamation State, or for which the construc-
22 tion, operation, sponsorship, or funding is
23 the responsibility of, and the primary
24 water supply benefit accrues to, one or

more entities in a Reclamation State,
that—

“(I) involves an ocean or brackish water desalination facility; and

“(II) is designed to serve a community or group of communities, each of which has a population of not more than 40,000 inhabitants.

“(B) COST-SHARING REQUIREMENT.—

“(i) IN GENERAL.—Subject to the requirements of this subsection and notwithstanding section 7, the Federal share of an eligible desalination project carried out under this subsection shall be—

“(I) not more than 25 percent of the total cost of the eligible desalination project; or

“(II) in the case of a rural desalination project, the applicable percentage determined in accordance with clause (ii).

“(ii) RURAL DESALINATION PROJECTS.—

“(I) COST-SHARING REQUIREMENT FOR APPRAISAL STUDIES.—

1 Subject to subclause (IV), in the case
2 of a rural desalination project carried
3 out under this subsection, the Federal
4 share of the cost of appraisal studies
5 for the rural desalination project shall
6 be—

7 “(aa) 100 percent of the
8 total costs of the appraisal stud-
9 ies, up to \$200,000; and

10 “(bb) if the total costs of
11 the appraisal studies are more
12 than \$200,000, 50 percent of any
13 amounts over \$200,000.

14 “(II) COST-SHARING REQUIRE-
15 MENT FOR FEASIBILITY STUDIES.—

16 Subject to subclause (IV), in the case
17 of a rural desalination project carried
18 out under this subsection, the Federal
19 share of the cost of feasibility studies
20 for the rural desalination project shall
21 be not more than 50 percent.

22 “(III) COST-SHARING REQUIRE-
23 MENT FOR CONSTRUCTION COSTS.—In
24 the case of a rural desalination project
25 carried out under this subsection, the

1 Federal share of the cost of construc-
2 tion of the rural desalination project
3 shall be not more than 75 percent,
4 unless—

5 “(aa) the Secretary deter-
6 mines during the feasibility study
7 phase, on a project-by-project
8 basis, that the non-Federal share
9 should be increased; or

10 “(bb) the Secretary deter-
11 mines that the non-Federal share
12 should be reduced under sub-
13 clause (IV).

14 “(IV) REDUCTION IN NON-FED-
15 ERAL SHARE.—The Secretary may re-
16 duce the non-Federal share of a rural
17 desalination project required under
18 subclause (I), (II), or (III) if the Sec-
19 retary determines, after consultation
20 with the heads of any other Federal
21 agencies that are partners in the rural
22 desalination project and in accordance
23 with applicable Reclamation stand-
24 ards, that the reduction is appropriate
25 due to—

1 “(aa) an overwhelming Fed-
2 eral interest in the rural desali-
3 nation project; and

4 “(bb) the sponsor of the
5 rural desalination project dem-
6 onstrating financial hardship.

7 “(C) STATE ROLE.—Participation by the
8 Secretary in an eligible desalination project
9 under this subsection shall not occur unless—

10 “(i)(I) the eligible desalination project
11 is included in a State-approved plan; or

12 “(II) the participation has been re-
13 quested by the Governor of the State in
14 which the eligible desalination project is lo-
15 cated;

16 “(ii) the State or local sponsor of the
17 eligible desalination project determines,
18 and the Secretary concurs, that—

19 “(I) the eligible desalination
20 project—

21 “(aa) is technically and fi-
22 nancially feasible; and

23 “(bb) provides a Federal
24 benefit in accordance with the
25 reclamation laws; and

1 “(II) the non-Federal project
2 sponsor is financially capable of fund-
3 ing the non-Federal share of the
4 project costs; and

5 “(iii) the Secretary submits to Con-
6 gress a written notification of the deter-
7 minations under clause (ii) by not later
8 than 30 days after the date of the deter-
9 minations.

10 “(D) ENVIRONMENTAL LAWS.—In partici-
11 pating in an eligible desalination project under
12 this paragraph, the Secretary shall comply with
13 all applicable environmental laws, including the
14 National Environmental Policy Act of 1969 (42
15 U.S.C. 4321 et seq.).

16 “(E) INFORMATION.—In participating in
17 an eligible desalination project under this sub-
18 section, the Secretary—

19 “(i) may rely on reports prepared by
20 the sponsor of the eligible desalination
21 project, including feasibility or equivalent
22 studies, environmental analyses, and other
23 pertinent reports and analyses; but

1 “(ii) shall retain responsibility for
2 making the independent determinations de-
3 scribed in subparagraph (C).

4 “(F) FUNDING.—

5 “(i) AUTHORIZATION OF APPROPRIA-
6 TIONS.—There is authorized to be appro-
7 priated to carry out this paragraph
8 \$65,000,000 for the period of fiscal years
9 2020 through 2024, of which not less than
10 \$15,000,000 shall be made available dur-
11 ing that period for rural desalination
12 projects.

13 “(ii) FUNDING OPPORTUNITY AN-
14 NOUNCEMENT.—The Commissioner of Rec-
15 lamation shall release a funding oppor-
16 tunity announcement for a grant program
17 under this paragraph by not later than 75
18 days after the date of enactment of an Act
19 that provides funding for the program.

20 “(iii) CONGRESSIONAL APPROVAL INI-
21 TIALY REQUIRED.—

22 “(I) IN GENERAL.—Each initial
23 award under this paragraph for de-
24 sign and study, or for construction, of

1 an eligible desalination project shall
 2 be approved in an appropriations Act.

3 “(II) RECLAMATION REC-
 4 OMMENDATIONS.—The Commissioner
 5 of Reclamation shall submit rec-
 6 ommendations regarding the initial
 7 award of design and study funding
 8 and construction funding for consider-
 9 ation under subclause (I) to—

10 “(aa) the Committee on Ap-
 11 propriations of the Senate;

12 “(bb) the Committee on En-
 13 ergy and Natural Resources of
 14 the Senate;

15 “(cc) the Committee on Ap-
 16 propriations of the House of Rep-
 17 resentatives; and

18 “(dd) the Committee on
 19 Natural Resources of the House
 20 of Representatives.

21 “(iv) SUBSEQUENT FUNDING
 22 AWARDS.—After approval by Congress of
 23 an initial award of design and study fund-
 24 ing or construction funding for an eligible
 25 desalination project under clause (iii), the

1 Commissioner of Reclamation may award
2 additional design and study funding or
3 construction funding, respectively, for the
4 eligible desalination project without further
5 congressional approval.”.

6 **SEC. 103. EMERGENCY DROUGHT FUNDING.**

7 (a) FINANCIAL ASSISTANCE.—

8 (1) IN GENERAL.—Financial assistance may be
9 made available under the Reclamation States Emer-
10 gency Drought Relief Act of 1991 (43 U.S.C. 2201
11 et seq.) for eligible water projects to assist Western
12 States and Tribal governments to address drought-
13 related impacts to water supplies or any other imme-
14 diate water-related crisis or conflict, including
15 through voluntary, temporary, and compensated pro-
16 grams to reduce water demands for the purpose of
17 increasing water available in a system or reducing
18 water supply-demand imbalances.

19 (2) ADDITIONAL AVAILABILITY.—Financial as-
20 sistance may be made available under this sub-
21 section to organizations and entities with water de-
22 livery authority that are—

23 (A) engaged in collaborative processes to
24 restore the environment; or

1 (B) part of a basin-wide solution for res-
2 toration.

3 (3) TYPES OF ASSISTANCE.—Assistance under
4 paragraph (1) may include a range of projects, in-
5 cluding—

6 (A) the installation of pumps, temporary
7 barriers, or operable gates for water diversion
8 and fish protection;

9 (B) the installation of drought-relief
10 groundwater wells for Indian Tribes and in
11 wildlife refuges and other environmentally sen-
12 sitive areas requiring emergency surface water
13 flow augmentation;

14 (C) the acquisition or assistance in the ac-
15 quisition of water from willing sellers, including
16 on a voluntary, temporary, and compensated
17 basis, to enhance stream flow for the benefit of
18 fish and wildlife (including endangered species),
19 water quality, river ecosystem restoration, and
20 other beneficial purposes, to be carried out in
21 accordance with the water acquisition program
22 established under section 302;

23 (D) agricultural and urban conservation
24 and efficiency projects;

1 (E) exchanges with any water district will-
2 ing to provide water to meet the emergency
3 water needs of other water districts in return
4 for the delivery of equivalent quantities of water
5 later that year or in future years;

6 (F) maintenance of cover crops to prevent
7 public health impacts from severe dust storms;

8 (G) emergency pumping projects for crit-
9 ical health and safety purposes;

10 (H) activities to reduce water demand con-
11 sistent with a comprehensive program for envi-
12 ronmental restoration and settlement of water
13 rights claims;

14 (I) the use of new or innovative on-farm
15 water conservation technologies or methods that
16 may—

17 (i) assist in sustaining permanent
18 crops in areas with severe water shortages;
19 and

20 (ii) make water available for other
21 beneficial uses, provided that the assist-
22 ance cannot be used to increase the con-
23 sumptive use of water or increase deple-
24 tions under an interstate compact, as de-
25 termined in accordance with the applicable

1 laws of the State in which the eligible
2 project is located;

3 (J) activities that protect, restore, or en-
4 hance fish and wildlife habitat or otherwise im-
5 prove environmental conditions, including water
6 quantity or quality concerns and improved fish
7 passage;

8 (K) activities reducing or preventing
9 groundwater depletion or promoting ground-
10 water recharge;

11 (L) technical assistance to improve existing
12 irrigation practices to provide water supply ben-
13 efits;

14 (M) the investigation of, and pilot projects
15 for, brackish water development and aquifer
16 storage and recovery;

17 (N) the lining of irrigation ditches and ca-
18 nals to reduce water loss and improve effi-
19 ciency;

20 (O) assistance to municipal water manage-
21 ment entities for water supply planning in prep-
22 aration for and in response to dry, critically
23 dry, and below normal water years, including—

24 (i) hydrological forecasting;

1 (ii) identification of alternative water
2 supply sources; and

3 (iii) guidance on potential water
4 transfer partners; and

5 (P) any other assistance the Secretary de-
6 termines to be necessary—

7 (i) to increase available water sup-
8 plies;

9 (ii) to reduce water supply-demand
10 imbalances in a hydrologic system;

11 (iii) to maintain the health of river
12 ecosystems; or

13 (iv) to mitigate drought impacts.

14 (4) AUTHORIZATION OF APPROPRIATIONS.—

15 There is authorized to be appropriated to provide fi-
16 nancial assistance under this subsection not more
17 than \$180,000,000 for the period of fiscal years
18 2006 through 2024, of which not more than
19 \$30,000,000 shall be made available during that pe-
20 riod for the conduct of actions authorized under title
21 I of the Reclamation States Emergency Drought Re-
22 lief Act of 1991 (43 U.S.C. 2211 et seq.) to benefit
23 imperiled fish and wildlife.

24 (b) APPLICABLE PERIOD OF DROUGHT PROGRAM.—

25 Section 104 of the Reclamation States Emergency

1 Drought Relief Act of 1991 (43 U.S.C. 2214) is amended
 2 by striking subsection (a) and inserting the following:

3 “(a) IN GENERAL.—The programs and authorities
 4 established under this title shall become operative in any
 5 Reclamation State and in the State of Hawaii only—

6 “(1) after the Governor or Governors of the af-
 7 fected State or States, or the governing body of an
 8 affected Indian Tribe with respect to a reservation,
 9 has made a request for temporary drought assist-
 10 ance and the Secretary has determined that the tem-
 11 porary assistance is merited;

12 “(2) after a drought emergency has been de-
 13 clared by the Governor or Governors of the affected
 14 State or States; or

15 “(3) on approval of a drought contingency plan
 16 as provided in title II.”.

17 (c) REAUTHORIZATION.—Section 104(c) of the Rec-
 18 lamation States Emergency Drought Relief Act of 1991
 19 (43 U.S.C. 2214(c)) is amended by striking “2020” and
 20 inserting “2030”.

21 **SEC. 104. RIO GRANDE PUEBLO IRRIGATION INFRASTRUC-**
 22 **TURE REAUTHORIZATION.**

23 Section 9106 of the Omnibus Public Land Manage-
 24 ment Act of 2009 (Public Law 111–11; 123 Stat. 1304)
 25 is amended—

1 (1) in subsection (c)(4), by striking “2 years
 2 after the date of enactment of this Act, the Sec-
 3 retary shall submit to the Committee on Energy and
 4 Natural Resources of the Senate and the Committee
 5 on Resources” and inserting “December 31, 2020,
 6 the Secretary shall submit to the Committee on En-
 7 ergy and Natural Resources of the Senate and the
 8 Committee on Natural Resources”; and

9 (2) in subsection (g)(2), by striking “2010
 10 through 2019” and inserting “2019 through 2029”.

11 **TITLE II—GROUNDWATER** 12 **MANAGEMENT**

13 **SEC. 201. REAUTHORIZATION AND EXPANSION OF THE** 14 **TRANSBOUNDARY AQUIFER ASSESSMENT** 15 **PROGRAM.**

16 (a) DESIGNATION OF PRIORITY TRANSBOUNDARY
 17 AQUIFERS.—Section 4(c)(2) of the United States-Mexico
 18 Transboundary Aquifer Assessment Act (42 U.S.C. 1962
 19 note; Public Law 109–448) is amended by striking “New
 20 Mexico or Texas” and inserting “New Mexico, Texas, or
 21 Arizona (other than an aquifer underlying Arizona and
 22 Sonora, Mexico, that is partially within the Yuma ground-
 23 water basin designated by the order of the Director of the
 24 Arizona Department of Water Resources dated June 21,
 25 1984)”.

1 (b) REAUTHORIZATION.—

2 (1) AUTHORIZATION OF APPROPRIATIONS.—

3 Section 8(a) of the United States-Mexico Trans-
4 boundary Aquifer Assessment Act (42 U.S.C. 1962
5 note; Public Law 109–448) is amended by striking
6 “fiscal years 2007 through 2016” and inserting “fis-
7 cal years 2020 through 2029”.

8 (2) SUNSET OF AUTHORITY.—Section 9 of the
9 United States-Mexico Transboundary Aquifer As-
10 sessment Act (42 U.S.C. 1962 note; Public Law
11 109–448) is amended by striking “enactment of this
12 Act” and inserting “enactment of the Western
13 Water Security Act of 2019”.

14 **SEC. 202. GROUNDWATER MANAGEMENT ASSESSMENT AND**
15 **IMPROVEMENT.**

16 Section 9504(a) of the Omnibus Public Land Man-
17 agement Act of 2009 (42 U.S.C. 10364(a)) is amended—

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph
20 (A), by inserting “or carrying out any activity”
21 after “any improvement”;

22 (B) by striking subparagraphs (A) through
23 (E);

1 (C) by redesignating subparagraphs (F)
 2 through (H) as subparagraphs (B) through
 3 (D), respectively;

4 (D) by inserting before subparagraph (B)
 5 (as so redesignated) the following:

6 “(A) to assist States and water users in
 7 complying with interstate compacts or reducing
 8 basin water supply-demand imbalances, includ-
 9 ing through temporary, voluntary, and com-
 10 pensated transactions that decrease consump-
 11 tive water use at a regional or watershed
 12 scale;”;

13 (E) in subparagraph (B) (as so redesign-
 14 ated), by striking “to prevent” and inserting
 15 “to achieve the prevention of”;

16 (F) in subparagraph (C) (as so redesign-
 17 ated), by striking “to accelerate” and inserting
 18 “to achieve the acceleration of”; and

19 (G) in subparagraph (D) (as so redesign-
 20 ated)—

21 (i) by striking clause (i) and inserting
 22 the following:

23 “(i) to increase ecological resilience to
 24 climate change, including by enhancing
 25 natural water storage within a floodplain

or riparian wetland, by addressing climate-related impacts or vulnerability to the water supply of the United States;”;

(ii) in clause (ii), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(iii) to plan for or address the impacts of drought.”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

“(2) ELIGIBLE PROJECTS.—The improvements or activities eligible for assistance under paragraph (1) may include improvements or activities—

“(A) using an approach—

“(i) to conserve water;

“(ii) to increase water use efficiency;

“(iii) to facilitate water markets; or

“(iv) to enhance water management, including increasing the use of renewable energy in the management and delivery of water or increasing natural water storage;

1 “(B) to improve the condition of natural
2 water recharge infrastructure; or

3 “(C) to achieve the acceleration of the
4 adoption and use of advanced water treatment
5 technologies to increase water supply.”; and
6 (4) in paragraph (4) (as so redesignated)—

7 (A) in subparagraph (B)(i), by striking
8 subclause (II) and inserting the following:

9 “(II) to use the assistance pro-
10 vided under a grant or agreement to
11 increase the consumptive use of water
12 for agricultural operations above the
13 pre-project levels, as determined pur-
14 suant to the law of the State in which
15 the operation of the eligible applicant
16 is located.”; and

17 (B) in subparagraph (E)—

18 (i) by striking clause (i) and inserting
19 the following:

20 “(i) FEDERAL SHARE.—

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), the Federal
23 share of the cost of any infrastructure
24 improvement or activity that is the
25 subject of a grant or other agreement

1 entered into between the Secretary
 2 and an eligible applicant under para-
 3 graph (1) shall not exceed 50 percent
 4 of the cost of the infrastructure im-
 5 provement or activity.

6 “(II) INCREASED FEDERAL
 7 SHARE FOR CERTAIN INFRASTRUC-
 8 TURE IMPROVEMENTS AND ACTIVI-
 9 TIES.—

10 “(aa) IN GENERAL.—The
 11 Federal share of the cost of an
 12 infrastructure improvement or
 13 activity described in item (bb)
 14 shall not exceed 75 percent of the
 15 cost of the infrastructure im-
 16 provement or activity.

17 “(bb) INFRASTRUCTURE IM-
 18 PROVEMENTS AND ACTIVITIES
 19 DESCRIBED.—An infrastructure
 20 improvement or activity referred
 21 to in item (aa) is an infrastruc-
 22 ture improvement or activity that
 23 provides benefits to consumptive
 24 water users and nonconsumptive

ecological or recreational values
in which—

“(AA) in the case of an
infrastructure improvement
or activity that conserves
water, the conserved water
is returned to a surface
water source with ecological
or recreational benefits; or

“(BB) in the case of
other infrastructure im-
provements or activities, the
majority of the benefits are
nonconsumptive ecological or
recreational benefits.”; and

(ii) in clause (ii), in the matter pre-
ceding subclause (I), by striking “para-
graph (2)” and inserting “paragraph (3)”.

**SEC. 203. SURFACE AND GROUNDWATER WATER AVAIL-
ABILITY AND THE ENERGY NEXUS.**

Section 9508(d)(3) of the Omnibus Public Land
Management Act of 2009 (42 U.S.C. 10368(d)(3)) is
amended—

(1) in subparagraph (D), by striking “and” at
the end;

1 (2) in subparagraph (E), by striking the semi-
 2 colon and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(F) all oil, gas, and mineral development
 5 activities;”.

6 **TITLE III—WATER CONSERVA-**
 7 **TION AND ENVIRONMENTAL**
 8 **RESTORATION**

9 **SEC. 301. DEFINITIONS.**

10 In this title:

11 (1) BASIN.—The term “Basin”—

12 (A) is limited to areas within the State;

13 and

14 (B) means each of—

15 (i) the Upper Rio Grande Basin;

16 (ii) the Middle Rio Grande Basin;

17 (iii) the Lower Rio Grande Basin;

18 (iv) the Lower Pecos River Basin;

19 (v) the Gila River Basin;

20 (vi) the Canadian River Basin;

21 (vii) the San Francisco River Basin;

22 and

23 (viii) the San Juan River Basin.

24 (2) DISTRICT.—The term “District” means the

25 Middle Rio Grande Conservancy District.

1 (3) PUEBLO.—The term “Pueblo” means each
2 of the following pueblos in the State:

3 (A) Cochiti.

4 (B) Santo Domingo.

5 (C) San Felipe.

6 (D) Santa Ana.

7 (E) Sandia.

8 (F) Isleta.

9 **SEC. 302. WATER ACQUISITION PROGRAM.**

10 (a) AUTHORIZATION.—The Secretary, acting through
11 the Commissioner of Reclamation, shall carry out in the
12 Basins a water acquisition program in coordination with
13 the other appropriate Federal agencies, State agencies,
14 and non-Federal stakeholders, under which the Secretary
15 shall—

16 (1) make acquisitions, or assist the State or the
17 District in making acquisitions, of water in the Ba-
18 sins by lease or purchase of water rights or contrac-
19 tual entitlements from willing lessors or sellers, con-
20 sistent with section 8 of the Act of June 17, 1902
21 (43 U.S.C. 383), the Rio Grande Compact, and ap-
22 plicable State law relating to the acquisition and ad-
23 ministration of water rights; and

24 (2) take any other actions, consistent with sec-
25 tion 8 of the Act of June 17, 1902 (43 U.S.C. 383),

1 the Rio Grande Compact, and applicable State law,
2 that the Secretary determines would achieve the pur-
3 poses of the water acquisition program described in
4 subsection (b).

5 (b) PURPOSES.—The purposes of the water acqui-
6 sition program are—

7 (1) to enhance stream flow to benefit fish and
8 wildlife (including endangered species), water qual-
9 ity, and river ecosystem restoration in the Basins;

10 (2) to enhance stewardship and conservation of
11 working land, water, and watersheds in the Basins,
12 consistent with the purpose described in paragraph
13 (1); and

14 (3) to address water supply-demand imbalances
15 in the Basins, consistent with State law and the pur-
16 pose described in paragraph (1).

17 (c) COORDINATION.—To assist in developing and ad-
18 ministering the program, the Secretary may provide funds
19 to the State, the District, or a federally established non-
20 profit entity with particular expertise in western water
21 transactions.

22 (d) DISTRICT PROJECTS.—Subject to the Rio Grande
23 Compact and applicable State law, the Secretary may de-
24 velop programs to provide—

1 (1) cost-share assistance to the District to re-
2 duce water depletions by agricultural producers and
3 irrigators in the District to reduce water depletions
4 by making irrigation system improvements and in-
5 creasing system efficiency;

6 (2) incentives to the District for the establish-
7 ment of a water leasing program from willing lessors
8 for agricultural producers and irrigators in the Dis-
9 trict to temporarily lease pre-1907 water rights (in-
10 stead of permanent severance from irrigable land)
11 for the purpose of providing benefits to species listed
12 as threatened or endangered under the Endangered
13 Species Act of 1973 (16 U.S.C. 1531 et seq.) and
14 other river ecosystem benefits; and

15 (3) cost-share assistance to the District to im-
16 plement infrastructure or operational changes that
17 will allow for effective management of a leasing pro-
18 gram, while maintaining adequate water deliveries to
19 other agricultural producers and irrigators.

20 **SEC. 303. MIDDLE RIO GRANDE WATER CONSERVATION.**

21 (a) IN GENERAL.—The Secretary, in cooperation
22 with the District and in consultation with the Pueblos,
23 may provide funding and technical assistance for the in-
24 stallation of metering and measurement devices and the

1 construction of check structures on irrigation diversions,
 2 canals, laterals, ditches, and drains—

3 (1) to ensure the conservation and efficient use
 4 of water within the District by—

5 (A) reducing actual consumptive use; or

6 (B) not increasing the use of water; and

7 (2) to improve the measurement and allocation
 8 of water, including water acquired through the water
 9 acquisition program established under section 302.

10 (b) RIO GRANDE, SAN ACACIA, AND ISLETA
 11 REACHES.—

12 (1) IN GENERAL.—The Secretary shall provide
 13 for the development of a comprehensive plan for the
 14 San Acacia and Isleta reaches to plan, design, per-
 15 mit, construct, and prioritize projects that balance
 16 river maintenance, water availability, use, and deliv-
 17 ery, and ecosystem benefits, including—

18 (A) planning, permitting, and construction
 19 of a pumping station at Bosque del Apache Na-
 20 tional Wildlife Refuge for the purpose of more
 21 efficiently using water to provide—

22 (i) a stable supply for the Refuge; and

23 (ii) an efficient and reliable supply of
 24 water to the Rio Grande for the benefit of

1 the endangered silvery minnow and South-
2 western willow flycatcher;

3 (B) planning, permitting, and construction
4 of a river channel realignment project near the
5 Rio Grande mile-83 for the purpose of con-
6 veying water and sediment through the reach to
7 Elephant Butte Reservoir and addressing river
8 channel aggradation while maintaining flood-
9 plain connectivity during the snowmelt runoff;

10 (C) planning, permitting, and construction
11 of a controlled outlet for the low flow convey-
12 ance channel to the Rio Grande between Fort
13 Craig, New Mexico, and Rio Grande mile-60 for
14 the purpose of water use and delivery, enhance-
15 ment and development of habitat areas, and
16 possible creation of a single-channel river eco-
17 system; and

18 (D) development of a Lower Reach plan—

19 (i) to identify additional projects and
20 maintenance activities with water use, sedi-
21 ment management, and delivery and eco-
22 system benefits; and

23 (ii) to prioritize implementation of all
24 projects and activities.

1 (2) PUBLIC PARTICIPATION.—In carrying out
 2 this subsection, the Secretary shall provide a process
 3 for public participation and comment during plan
 4 development and alternative analysis.

5 **SEC. 304. SUSTAINING BIODIVERSITY DURING DROUGHTS.**

6 Section 9503(b) of the Omnibus Public Land Man-
 7 agement Act of 2009 (42 U.S.C. 10363(b)) is amended—

8 (1) in paragraph (3)(D), by inserting “and na-
 9 tive biodiversity” after “wildlife habitat”; and

10 (2) in paragraph (4)(B), by inserting “and
 11 drought biodiversity plans to address sustaining na-
 12 tive biodiversity during periods of drought” after
 13 “restoration plans”.

14 **SEC. 305. REAUTHORIZATION OF COOPERATIVE WATER-**
 15 **SHED MANAGEMENT PROGRAM.**

16 Section 6002(g)(4) of the Omnibus Public Land
 17 Management Act of 2009 (16 U.S.C. 1015a(g)(4)) is
 18 amended by striking “2020” and inserting “2031”.

19 **TITLE IV—EFFECT ON EXISTING**
 20 **LAW**

21 **SEC. 401. EFFECT ON EXISTING LAW.**

22 (a) IN GENERAL.—An action taken by the Secretary
 23 or another entity under this Act or an amendment made
 24 by this Act shall comply with applicable State laws in ef-
 25 fect on the date of enactment of this Act.

1 (b) STATE LAW.—Nothing in this Act or an amend-
2 ment made by this Act affects, is intended to affect, or
3 interferes with a law of the State relating to the control,
4 appropriation, use, or distribution of water, or any vested
5 right acquired under the law.

6 (c) RIO GRANDE COMPACT.—Nothing in this Act or
7 an amendment made by this Act affects or is intended to
8 affect or interfere with any obligation of a State under
9 the Rio Grande Compact or any litigation relating to the
10 Rio Grande Compact.

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