

MEMO

June 28, 2020

To: NWRA Federal Affairs Committee

From: NWRA Staff

Re: Overview and Section by Section of Water Related Provisions of H.R. 2

H.R. 2 the Moving Forward Act contains text from dozens of bills including a number of bills NWRA has been tracking: H.R. 3723 (Levin) H.R. 5347 (Cox), H.R. 1162 H.R. 2313 the Water Conservation Tax Parity Act (Huffman), H.R. 4891 (Torres Small), H.R. 2473 (Harder), H.R. 644 (Bishop–UT), and the draft Huffman FUTURE Drought Resiliency Act.

A brief summary of some of these provisions is below and a copy of our Section by Section summary which provides greater detail on provisions of interest to NWRA members can be found below.

The bill authorizes close to \$70 billion dollars for water infrastructure. In addition to funding authorizations, and perhaps of greatest value to NWRA members, H.R. 2 expands and reinstates several tax provisions that will help members develop infrastructure and includes several NWRA priorities:

- Sec. 90101. Credit to issuer for certain infrastructure bonds (Creates something similar to Build America Bonds)
- Sec. 90102. Advance refunding bonds. Restoring advance refunding of bonds has been an NWRA priority. Advanced refunding allows water agencies to “refinance” existing bonds and realize savings that can be reinvested in other infrastructure projects.
- Sec. 90108. Exempt-facility bonds for sewage and water supply facilities. This provides water conservation tax parity. Something NWRA has been pushing for years.

The bill also provides authorizations for over \$70 billion in water infrastructure:

- \$40 billion in wastewater
- \$25 billion in drinking water,
- \$3.5 billion for western water which includes \$750 million for storage projects; \$500 for water recycling and reuse projects; and \$260 for desalination.
- The bill also authorizes several new grant programs at EPA to treat PFAS.

Other provisions in HR 2 include:

- Dam safety and hydropower language.
- A permanent authorization for the Indian Water Rights Settlement Fund
- As noted above significant tax reform language.
- Also includes new environmental requirements under Sec. 81213 (g) for some Reclamation storage projects. (NWRA has concerns with this provision as drafted)
- Expands WaterSmart grant eligibility to non-profit organizations. (NWRA has concerns with this provision as drafted)

- NWRA is seeking clarification from Committee staff and Reclamation on Sec. 33251. Energy and water performance requirement for Federal facilities with respect to the definition of “facilities” in an effort to determine if Reclamation projects would be included.

Divisions of the bill containing text of interest to NWRA members can be found in:

- Division F Investment in Water Resources and Water Related Infrastructure
- Division G Energy and Commerce
- Division L Public Lands, Tribal Communities, and Resilient Natural Infrastructure, (Reclamation provisions)
- Division M Infrastructure Financing

A copy of NWRA’s section by section summary of this language can be found below.

H.R. 2

Section by Section Summary

DIVISION F—INVESTMENT IN WATER RESOURCES AND WATER RELATED INFRASTRUCTURE

Sec. 20001. Short title.

TITLE I—CRITICAL WATER RESOURCES INVESTMENTS – Focuses on water navigation (ports, inland waterways)

TITLE II—CRITICAL CLEAN WATER INVESTMENTS

Subtitle A—Water Quality Protection and Job Creation Act

Sec. 22101. Short title.

Sec. 22102. Wastewater infrastructure workforce investment.

Amends Section 104(g) of the Federal Water Pollution Control Act. Requires EPA Administrator to provide a report to congress within two years on workforce needs of publicly owned treatment works, federal workforce development actions, recommendations from the Administrator to address workforces needs.

Sec. 22103. State management assistance.

Amends Section 106(a) of the Federal Water Pollution Control Act (33 U.S.C. 1256(a). Reauthorizes funding for Section 106 grants which are used for water pollution control programs. Reauthorizes grants through 2025 and authorizes \$300 million annually for the grants. <https://www.epa.gov/water-pollution-control-section-106-grants>

Sec. 22104. Watershed, wet weather, and resiliency projects.

Authorizes \$1 Billion dollars to assess, plan, design, or constructing of projects, on a systemwide or areawide basis, to increase the resilience of publicly owned treatment works to manmade or natural disasters. Resiliency efforts can include: conservation of water, enhancement of water use efficiency, the enhancement of wastewater (including stormwater) management by increasing watershed preservation and protection, including through the use of green infrastructure; or the

reclamation and reuse of wastewater (including stormwater), such as through aquifer recharge zones; the modification or relocation of an existing publicly owned treatment works at risk of being damaged by disaster. Fifteen percent of funding is reserved for areas with a population of 10,000 or less.

Amends Section 122(a)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1274(a)(6))
<https://www.law.cornell.edu/uscode/text/33/1274>

Sec. 22105. Pilot program for alternative water source projects.

Amends Section 220(d) of the Federal Water Pollution Control Act (33 U.S.C. 1300(d)).
<https://www.law.cornell.edu/uscode/text/33/1300>

Reauthorizes Pilot program for alternative water source projects. Allows projects that have received non-construction funds under the Reclamation Projects Authorization and Adjustment Act of 1992 (<https://www.govinfo.gov/content/pkg/STATUTE-106/pdf/STATUTE-106-Pg4600.pdf>) to receive funding. Current law prohibits projects that have received any funding under the Reclamation Projects Authorization and Adjustment Act of 1992 from receiving funds. Sets the cost share as the lesser of 25% or \$20 million. Authorizes \$600 million in funding. Reserves 15% of annual funding for areas with a population of 10,000 or less.

Sec. 22106. Sewer overflow and stormwater reuse municipal grants.

Amends Section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) (<https://www.law.cornell.edu/uscode/text/33/1301>). Stipulates that the federal cost share for Financially Distressed Communities shall be no less than 75% . Reserves 20% of funds for municipalities of 20,000 or less. Authorizes \$400 million in funding annually 2021 through 2025.

Sec. 22107. Reports to Congress.

Makes a technical correction to a biannual EPA reporting requirement to Congress and directs the Administrator to add information on “the costs to implement measures necessary to address the resilience and sustainability of publicly owned treatment works to manmade or natural disasters;”

Sec. 22108. Indian Tribes.

Amends Section 518(c) of the Federal Water Pollution Control Act (33 U.S.C. 1377(c)) (<https://www.law.cornell.edu/uscode/text/33/1377>). Sets annual grant funding at the greater of \$30 million dollars or 2% of total grant funds. (Currently set at minimum .5% and a maximum of 2%). Funding is used for training, technical assistance, and educational programs relating to the operation and management of treatment works.

Sec. 22109. Capitalization grants.

Amends Section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)) (<https://www.law.cornell.edu/uscode/text/33/1382>)

Strikes “and energy conservation” and inserts “and efficient energy use (including through the implementation of technologies to recapture and reuse energy produced in the treatment of wastewater)”.

Sets aside 15% of funds for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.

Sec. 22110. Water pollution control revolving loan funds.

Amends Section 603(i) of the Federal Water Pollution Control Act (33 U.S.C. 1383(i)).

<https://www.law.cornell.edu/uscode/text/33/1383>

Revises loan forgiveness provisions.

Sec. 22111. Allotment of funds.

Amends (33 U.S.C. 1384(a))

<https://www.law.cornell.edu/uscode/text/33/1384>

Revision stipulates that a State may reserve each fiscal year up to 1 percent of the sums allotted to it under this section for the fiscal year to carry out workforce training activities.

Sec. 22112. Reservation of funds for Territories of the United States.

Sets aside 1.5% of EPA's State Water Pollution Control Revolving Fund for the territories of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands. Further states that these territories may not receive funds allotted under section 604(a).''.

Sec. 22113. Authorization of appropriations.

Authorizes \$8 billion annually 2021-2025 for EPA's State Water Pollution Control Revolving Fund.

Sec. 22114. Technical assistance by Municipal Ombudsman.

Amends (42 U.S.C. 4370j(b)(1))

<https://www.law.cornell.edu/uscode/text/42/4370j>

Clarifies / expands who can receive support from the Municipal Ombudsman. Grows from "municipalities" to now include: "technical and planning assistance to support municipalities, including municipalities that are rural, small, and tribal communities, in achieving and maintaining compliance with enforceable deadlines, goals, and requirements of the Federal Water Pollution Control Act;"

Sec. 22115. Report on financial capability of municipalities.

Directs EPA Administrator to review and report on existing implementation guidance of the Agency for evaluating the financial resources a municipality has available to implement the requirements of the Federal Water Pollution Control Act to determine whether, and if so, how, such guidance needs to be revised. Report must be completed within 18 months and be submitted to the Committee on Transportation and Infrastructure / Environment and Public Works.

Sec. 22116. Emerging contaminants.

Directs EPA to award grants to operators of publicly owned treatment works to be used for the implementation of a pretreatment standard or effluent limitation developed by the Administrator for the introduction or discharge of a perfluoroalkyl or polyfluoroalkyl substance (PFAS) or other pollutant identified by the Administrator as a potential contaminant of emerging concern. Authorizes \$200 million annually 2021-2025.

Subtitle B—Local Water Protection

Sec. 22201. Nonpoint source management programs.

Amends Section 319(j) of the Federal Water Pollution Control Act (33 U.S.C. 1329(j)). Extends grant funding authorization of appropriations through 2025 and funds at \$200 million annually.

Subtitle C—Critical Regional Infrastructure Investments

Sec. 22301. Reauthorization of Chesapeake Bay Program.

Reauthorizes the Chesapeake Bay Program. Authorizes funding of \$90,000,000 for fiscal year 2021, \$90,500,000 for fiscal year 2022, \$91,000,000 for fiscal year 2023, \$91,500,000 for fiscal year 2024, and \$92,000,000 for fiscal year 2025”.

Sec. 22302. San Francisco Bay restoration grant program.

Establishes within the EPA a San Francisco Bay Program Office. Authorizes funding for projects, activities, and studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the San Francisco Bay Plan. Allows a federal grant cost share of up to 75%. Authorizes \$25 million each fiscal year 2021-2025.

Sec. 22303. Puget sound coordinated recovery.

Sets up a new program with WA state, tribes and a number of federal entities (Reclamation is not listed). Sets up a Environmental Protection Agency a Puget Sound Recovery National Program Office. Directs the development of a “Puget Sound Action Plan” and other reports. Authorizes \$50 million annually FY2021-2025.

Sec. 22304. Great Lakes Restoration Initiative Reauthorization.

Reauthorizes the Great Lakes Restoration Initiative. Authorizes \$375 million in FY2022, \$400 million in FY 2023, 425 million in FY 2024, \$450 million in FY 2025, \$475 million in FY2026.

Sec. 22305. National Estuary Program reauthorization.

Revises and reauthorizes the National Estuary Program. Authorizes \$50 million annually FY2022-2026

Sec. 22306. Lake Pontchartrain Basin Restoration Program reauthorization.

Reauthorizes the program at 2009 funding levels through 2025.

Sec. 22307. Long Island Sound Program Reauthorization.

Long Island Sound Program through 2025.

Sec. 22308. Columbia River Basin Restoration Program Reauthorization.

Reauthorizes the Columbia River Basin Restoration Program through 2025.

TITLE III—RESILIENCE REVOLVING LOAN FUND

Sec. 23002. Grants to entities for establishment of hazard mitigation revolving

loan funds.

Establishes a hazard mitigation revolving loan fund providing funding assistance to local governments to carry out eligible to reduce disaster risks for homeowners, businesses, nonprofit organizations, and communities.

To be eligible recipients must deposit at least 10 percent into the entity loan fund.

Loans are made at an interest rate of not more than 1.5 percent; principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized within 20 years. Low income areas can amortize over 30 years.

Funds can be used for a variety of hazard mitigation efforts including drought, flood and wildfire.

Project funding is limited to no more than \$5 million per project. Authorizes \$100 million each year in FY2021 and FY 2022.

TITLE IV—SPORTS FISHING

TITLE V CLIMATE SMART PORTS

DIVISION G—ENERGY AND COMMERCE

TITLE III—ENERGY AND ENVIRONMENT INFRASTRUCTURE

Subtitle A—Infrastructure

CHAPTER 1—DRINKING WATER

SUBCHAPTER A—PFAS INFRASTRUCTURE GRANT PROGRAM

Sec. 33101. Establishment of PFAS Infrastructure Grant Program.

Amends Part E of the Safe Drinking Water Act (42 U.S.C. 10 300j et seq.)

<https://www.law.cornell.edu/uscode/text/42/300j-10>

Creates a new program to award grants to affected community water systems to pay for capital costs associated with the implementation of technologies to treat PFAS. Gives EPA 12 months to establish a grant process and guidelines. Directs EPA to publish a list of treatment technologies that the Administrator determines are effective at removing all detectable amounts of PFAS from drinking water.

Directs EPA to prioritize funding for community water systems that: serve a disadvantaged community; will provide at least a 10 percent cost share for the cost of implementing an eligible treatment technology; or demonstrate the capacity to maintain the eligible treatment technology to be implemented using the grant.

Authorizes up to \$500 million annually 2021-2025.

SUPCHAPTER B – EXTENSIONS

Sec. 33103. Funding

Reauthorizes funding for the State Revolving Loan Funds. Authorizes \$4.1 billion in 2022, \$4.8 billion in 2023, \$5.5 billion in both 2024 and 2025.

- Extends reauthorizations for: the Indian Reservation Drinking Water Program through 2025.
- Extends Voluntary School and Child Care Program lead testing grant program through 2025
- Extends Drinking Water Replacement for Schools program through 2025
- Extends Safe Drinking Water Act Technical Assistance grants through 2025

SEC. 33104. American Iron and Steel Products.

Makes American Iron and Steel requirements permanent.

CHAPTER 2—GRID SECURITY AND MODERNIZATION

Sec. 33111. 21ST Century Power Grid

Establishes a grant program for electric grid modernization including non-federal as well as PMA and Tribal transmission systems. Funds can also be used for cybersecurity measures and energy efficiency. Authorizes \$700 million annually through 2025.

SEC. 33112. Energy Efficient Transformer Rebate Program

Authorizes \$10 million annually through 2025 for upgrading electric transformers.

SEC. 33116. Interregional Transmission Planning Rulemaking

Directs FERC to initiate a rulemaking to increase the effectiveness of the interregional transmission planning process.

CHAPTER 4—RENEWABLE ENERGY

SEC. 33131. Grant Program for Solar Insulations Located in, or that serve, Low-Income and Underserved Areas.

Establishes a grant program to expand use of solar in low income and underserved areas. Authorizes \$200 million annually through 2025 for these grants.

CHAPTER 5—SMART COMMUNITIES

SEC. 33141. 3C Energy Program

Directs the Secretary of Energy to establish a “Cities, Counties, and Communities Energy Program (or the 3C Energy 8 Program)” to provide technical assistance and competitively awarded grants to local governments, public housing authorities, nonprofit organizations, and other entities the Secretary determines to be eligible, to incorporate clean energy into community development and revitalization efforts.

Authorizes 50 million annually through 2025

SEC. 33142. FEDERAL TECHNOLOGY ASSISTANCE.

Establishes a smart city or community assistance pilot program. Expands Technologist in Residence pilot program of the Department of Energy to include partnerships between national

laboratories and local governments. Directs Secretary to consider needs of small and medium sized cities. Authorizes 20 million annually through 2025.

CHAPTER 6—BROWNFIELDS

SEC. 33151. Brownfields Funding.

Reauthorizes Brownfields funding through 2025

CHAPTER 7—INDIAN ENERGY

Establishes and expands a number of programs aimed at expanding tribal energy programs.

CHAPTER 8—HYDROPOWER AND DAM SAFETY

Sec. 33171. Hydroelectric production incentives and efficiency improvements.

<https://www.law.cornell.edu/uscode/text/42/15881>

Amends Section 242 of the Energy Policy Act of 2005 (42 U.S.C. 15881). Adds additional requirements for non-federally owned dams to qualify for hydropower production incentives. This includes a new requirement that the production be added to an existing facility, produce less than 10 megawatts, and serve an area that the Secretary of Energy has determined has “inadequate electric service”

Sec. 33172. FERC briefing on Edenville Dam and Sanford Dam failures.

Directs FERC to brief congress and provide a report on failures of Edenville and Sanford Dams within 90 days of finalizing its investigation. Directs FERC to include recommendations for changing its Dam Safety guidelines.

Sec. 33173. Dam safety conditions.

Amends Section 10 of the Dam Safety Act (16 U.S.C. 803)

<https://www.law.cornell.edu/uscode/text/16/803>

Adds a new section stating: “(k) That the dam and other project works meet the Commission’s dam safety requirements and that the licensee shall continue to manage, operate, and maintain the dam and other project works in a manner that ensures dam safety and public safety under the operating conditions of the license.”.

Sec. 33174. Dam safety requirements.

Amends Section 15 of the Federal Power Act (16 U.S.C. 808).

<https://www.law.cornell.edu/uscode/text/16/808>

Adds new license and renewal requirements. Stipulates that a new license can only be provided if: “the Commission determines that the dam and other project works covered by the license meet the Commission’s dam safety requirements and that the licensee can continue to manage, operate, and maintain the dam and other project works in a manner that ensures dam safety and public safety under the operating conditions of the new license.’

Sec. 33175. Viability procedures.

Directs FERC to establish procedures to assess the financial viability of an applicant for a license under the Federal Power Act to meet applicable dam safety requirements and to operate the dam and project works under the license.

Sec. 33176. FERC dam safety technical conference with States.

Directs FERC to hold a technical conference with States no later than April 1, 2021 to discuss: (1) dam maintenance and repair; (2) Risk Informed Decision Making (RIDM); (3) climate and hydrological regional changes that may affect the structural integrity of dams; and (4) high hazard dams.

Sec. 33177. Required dam safety communications between FERC and States.

Establishes requirements for FERC to inform a State in which a project is located when a licensee is required to take actions to repair a dam or other project works following a dam safety inspection, if a licensee who has been so notified fails to take actions to make repairs for a period of five years, or if FERC takes steps to revoke a license for failure to make such repairs.

Section requires FERC to provide specific documents to the State if it issues an order to revoke or approve the surrender of a license.

CHAPTER 9—LOAN PROGRAM OFFICE REFORM

Sec. 33181. Loan program office title XVII reform.

Amends Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512)

<https://www.law.cornell.edu/uscode/text/42/16512>

Revises a loan program aimed at expanding use of innovative technologies. Directs the Secretary to bear the full credit subsidy cost using appropriated funds Requires the appropriation of the cost of a loan guarantee. Defers payment of fees charged by the Secretary to closing of the guaranteed loan.

Expands eligible project categories to include several new areas including “Energy-water use efficiency in water resources infrastructure and water-using technologies.”

Sec. 33251. Energy and water performance requirement for Federal facilities.

Amends Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253)

<https://www.law.cornell.edu/uscode/text/42/8253>

the National Energy Conservation Policy Act to direct each Federal agency to reduce each year average building energy intensity by 2.5 percent relative to 2018 numbers. Also , requires federal agencies to improve water use efficiency and management

Requires federal “facilities” to reduce potable water consumption by 54 percent by fiscal year 2030 (based off of 2007 consumption). Measured in gallons per gross square foot. Federal facilities are directed to reduce potable water consumption; lowering industrial, landscaping, and agricultural water consumption; and installing infrastructure features on Federally-owned properties to improve stormwater and wastewater management.

By February 1, 2025, in accordance with guidelines established by the Secretary under paragraph (2), each agency shall use water meters at facilities of the agency where doing so will assist in reducing the cost of water used at such facilities.”

This section defines “facility” from.

From 42 USC § 8253(f)(1)

Which defines a facility as: “(C) Facility (i) In general The term “facility” means any building, installation, structure, or other property (including any applicable fixtures) owned or operated by, or constructed or manufactured and leased to, the Federal Government. (ii) Inclusions The term “facility” includes— (I) a group of facilities at a single location or multiple locations managed as an integrated operation; and (II) contractor-operated facilities owned by the Federal Government. (iii) Exclusions The term “facility” does not include any land or site for which the cost of utilities is not paid by the Federal Government.”

It is not clear if some Reclamation projects could inadvertently be captured under this definition. NWRA is checking with Committee staff and Reclamation.

DIVISION L—PUBLIC LANDS, TRIBAL COMMUNITIES, AND RESILIENT NATURAL INFRASTRUCTURE

Sec. 80000. Table of contents.

TITLE I—WATER RESOURCES INFRASTRUCTURE

Subtitle A—Water Settlements Infrastructure

Sec. 81101. Reclamation water settlements fund.

Amends Section 10501 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407)

<https://www.law.cornell.edu/uscode/text/43/407>

Makes the Reclamation Indian Water Rights Settlement Fund permanent similar to H.R. 1904.

Sec. 81102. Conveyance capacity correction project.

Authorizes \$200 million to repair the Friant-Kern Canal as contemplated in the San Joaquin River Restoration Settlement Act. Similar to HR 5316.

Sec. 81103. Funding parity for water management goals and restoration goals.

Authorizes \$200 million for the San Joaquin River Restoration Settlement Act. Similar to HR 5316.

Subtitle B—FUTURE Western Water Infrastructure and Drought Resiliency (Similar to Draft Huffman Water Infrastructure Bill)

Sec. 81201. Findings.

Provides a number of findings relating to importance of water, concerns about drought, and “There is a long and robust legal precedent of Federal deference to State primacy in water law and the legal system that States establish for resolving disputes over water use.”

Sec. 81202. Definitions.

-“Reclamation State” is defined as: (A) Arizona; (B) California; (C) Colorado; (D) Idaho; (E) Kansas; (F) Montana; (G) Nebraska; (H) Nevada; (I) New Mexico; (J) North Dakota; (K) Oklahoma; (L) Oregon; (M) South Dakota; (N) Texas; (O) Utah; (P) Washington; and (Q) Wyoming.

CHAPTER 1—INFRASTRUCTURE DEVELOPMENT

Sec. 81211. Competitive grant program for the funding of water recycling and reuse projects.

- Amends Reclamation’s Title XVI authority: <https://www.law.cornell.edu/uscode/text/43/390h>

- Gives priorities to projects that meet one or more of the following criteria: (1) Projects that are likely to provide a more reliable water supply for States and local governments, (2) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies, (3) Projects that are regional in nature, (4) Projects with multiple stakeholders. (5) Projects that provide multiple benefits, including water supply reliability, eco- system benefits, groundwater management and enhancements, and water quality improvements.

Increases the recycling program-funding authorization to a total of \$500 million through 2025, and increases the federal funding cap to \$30 million.

Sec. 81212. Storage project development reports to congress.

Directs Interior to send a report to Congress annually (By Feb 1st of each year) with a list of projects. If projects are on this list a member of congress can advocate for project funding. This process designed to authorize major water storage projects (both federal and non-federal) that are supported by the Department of the Interior. This effort is somewhat similar to the WRDA processes congress developed for use by USACE for project development. This is an effort to address earmark issues. To be eligible for this process a project would need: Project Report that includes the following documents: completed feasibility study, any final NEPA documents, any additional environmental reports.

The requirement for projects to study and prove a “net ecosystem benefit” has been removed and replaced with a new requirement for a report on Fish and Wildlife Losses and Benefits.

Parties interested in being included in the report to congress will need to apply through Interior. Criteria for being included in the report include projects and project studies that: (1) are related to the missions and authorities of the Department of the Interior; (2) require specific congressional authorization, including by an Act of Congress; (3) have not been congressionally authorized; (4) have not been included in any previous annual report; and (5) if authorized, could be carried out by the Department of the Interior or a non-Federal entity eligible to carry out a major non-Federal storage project.

The report will include information on the following project benefits: water supply, environment, including fish and wildlife benefits estimated under section 81213(g), protection of human life and property, the national economy, national security interests of the United States.

SPECIAL RULE FOR INITIAL ANNUAL REPORT.— Directs the Secretary of Interior to publish a notice in the Federal Register a notice within 60 days regarding accepting project submissions for the initial report. Submissions must be turned into the department within 120 days of the publication notice.

Sec. 81213. Funding for storage and supporting projects.

Authorizes a total of \$750 million for the various storage programs described below. Also establishes a new requirement for a Fish and Wildlife Benefit and Loss study under Section 81213 (g).

This section establishes funding and cost share for a number of project categories as described below:

MAJOR FEDERALLY ASSISTED STORAGE PROJECT.

The term “major non-Federal storage project” means any project in a Reclamation State that involves the construction, expansion, upgrade, or capital repair by an eligible entity or qualified partner of a surface or groundwater storage facility that is not federally owned; or a facility that is not federally owned conveying water to or from a surface or groundwater storage facility; is a forest or watershed restoration project that quantifiably increases the water yield of a project. To qualify as a Major Non-Federal Storage Project a project must have a total cost of at least \$250 million.

Federal government can provide up to 25% cost share.

Governor of a state must request assistance.

Directs the Secretary of Interior a feasibility study similar to Title XVI for these projects.

NATURAL WATER STORAGE PROJECT

- a single natural water storage project, a number of distributed natural water storage projects across a watershed, or the redesign and replacement, or removal, of built infrastructure to incorporate natural water storage elements, where the project has the following characteristics: (A) Uses primarily natural materials appropriate to the specific site and landscape setting. (B) Largely relies on natural riverine, wetland, hydrologic, or ecological processes. (C) Results in aquifer recharge, transient floodplain water retention, or reconnection of historic floodplains to their stream channels with water retention benefits. (D) provides two or more of the following benefits: stream flow changes, fish and wildlife habitat benefits, floodplain reconnection and inundation, riparian restoration and improvement.

Directs the Secretary of Interior a feasibility study similar to Title XVI.

Cost share of up to 80 percent is provided.

Governor of a state must request assistance.

STANDARD FEDERALLY ASSISTED STORAGE PROJECT

Any project in a Reclamation State that— (A) involves the construction, expansion, upgrade, or capital repair by an eligible entity or qualified partner of

(i) a surface or groundwater storage facility that is not federally owned; or (ii) a facility that is not federally owned conveying water to or from a surface or groundwater storage facility; or (B) is a an ecosystem or forest or watershed restoration project that reduces the risk of water storage loss by reducing the risk of erosion or sediment loading and (C) provides a Federal benefit in accordance with the reclamation laws; and (D) has a total estimated cost of less than \$1 billion. If project cost is more than \$1 Billion cost share funding shall not be approved without a resolution from the House Resources and Senate Energy Committees.

Federal government may provide up to 25% of project costs but no more than \$30 million per project.

Governor of a state must request assistance.

Directs the Secretary of Interior a feasibility study similar to Title XVI.

QUALIFIED PARTNER

Means a non-profit organization operating in a Reclamation State.

FEDERAL STORAGE PROJECT

Includes a project in a Reclamation State that: involves the construction, expansion, upgrade, or capital repair of a Federal water storage facility or a facility conveying water to or from a surface or groundwater storage facility where Reclamation holds title. It also includes a forest or watershed restoration project that will quantifiably increase yield in a facility where Reclamation holds title. Reclamation may fund up to 50 percent of the cost of a project.

-To qualify a federal storage project must meet the following conditions:

1. be authorized in name in federal statute,
2. project is a multi-benefit project that would, at a minimum, provide water supply reliability benefits (including additional storage, conveyance, or new firm yield) and fish and wildlife benefits as determined by the final estimate prepared pursuant to subsection (g);
3. Construction funding for the project is congressionally approved by reference to the annual Report to Congress on Future Storage Project Development.
4. The Secretary secures an agreement providing sufficient upfront funding to pay the non-Federal share of the construction costs of the Federal storage project.
5. The Secretary determines that the project is technically and financially feasible, provides water supply reliability benefits for a State or local government and fish and wildlife benefits; and
6. In return for the Federal cost share investment in the project, at least a proportionate share of the project benefits are for: fish and wildlife benefits; or non-reimbursable expenses authorized under the reclamation laws other than fish and wildlife expenses.

ENVIRONMENTAL LAWS.

In participating in a Federal storage project under this subsection, the Secretary shall comply with all applicable Federal environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and all State environmental laws of the Reclamation State in which the project is located.

Sec. 81213 Subsection (g) creates a new requirement for fish and wildlife reports for projects completed under this section. Done not by Reclamation but by FWS.

Imports Judicial Review standards from section (i) and (j) of Public Law 102–575; 106 Stat. 4709 noted below:

“(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C).”

(j) CITIZEN SUITS.—(1) IN GENERAL. Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.”

Sec. 81213 (g) also states that “any cost allocated to a water storage project under this section for the sole purpose of providing fish and wildlife benefits, determined in accordance with all applicable requirements under this section, shall be considered a 100 percent non-reimbursable Federal cost.”

Sec. 81214. Extension of existing requirements for grandfathered storage projects.

Extends authorization for certain “grandfathered WIIN act projects” that have already “been recommended for funding made available under section 4007 of the Water Infrastructure Improvements for the Nation Act”.

Sec. 81215. Desalination project development.

Amends the Water Desalination Act of 1996. Requires adherence to state laws. Provides a new authorization carve out for rural desalination projects (projects that serve communities with 40,000 people or less). Authorizes 260 million for desalination projects in Reclamation states, including \$15 million for rural desalination.

Sec. 81216. Assistance for disadvantaged communities without adequate drinking water. Establishes a new grant program at Reclamation to help disadvantaged communities: “meet the primary drinking water standards set by the Federal Safe Drinking Water Act (42 22 U.S.C. 300f et seq.); or address a significant decline in the quantity or quality of drinking water.”

Disadvantaged is described as areas having a “population of less than 60,000 residents; and has a median household income of less than 100 percent of the nonmetropolitan median household income of the State.”

Authorizes \$100 million.

CHAPTER 2—IMPROVED TECHNOLOGY AND DATA

Sec. 81221. Reauthorization of water availability and use assessment program. Amends 42 U.S.C. 24 10368 to add new requirements for data integration. Also establishes criteria for Tribal participation.

Sec. 81222. Renewal of advisory committee on water information. Directs Interior to renew the Advisory Committee on Water Information established by the Office of Management and Budget Memorandum No. M-92-01. States that the committee will not terminate without approval from Congress.

Sec. 81223. Desalination technology development. Expands DOI’s support for desalination research to include research on brine management, and increases the funding from \$3 million to \$20 million annually through 2026.

Sec. 81224. X-prize for water technology breakthroughs. Establishes a prize program for new water desalination technologies. Authorizes \$5 million in prizes each year through 2026.

Sec. 81225. Study examining sediment transport. Establishes a research program at the National Academies of Sciences to study sediment flows from removal of sediment filled dams.

Sec. 81226. Determination of water supply allocations. Directs DOI to incorporate data from emerging technologies for snowpack measurement such as LIDAR.

Sec. 81227. Federal priority streamgages. Directs Interior to “make every reasonable effort to make operational all streamgages identified as Federal Priority Streamgages by the United States Geological Survey” within 10 years. Authorizes \$45 million annually through 2026.

Sec. 81228. Study examining climate vulnerabilities at federal dams

Directs National Academies of Sciences to assess impact of climate change on the safety of Reclamation dams

Sec. 81229. Innovative technology adoption.

Directs Interior to prioritize grant funding for the adaption of technologies that can reduce water loss.

CHAPTER 3—ECOSYSTEM PROTECTION AND RESTORATION

Sec. 81231. Waterbird habitat creation program.

Establishes a grant program to provide incentives for farmers who create temporary habitat by flooding farmlands at crucial times for bird migration. Authorizes \$3.5 million annually through 2026.

Sec. 81232. Cooperative watershed management program.

Authorizes funding for cooperative watershed management programs for disadvantaged communities.

Sec. 81233. Competitive grant program for the funding of watershed health

Creates DOI Grant program for habitat restoration projects designed to improve watershed health, mitigate against climate change, benefit ecosystems, benefit commercial and recreational fishing, benefit recreation.

Sec. 81234. Support for refuge water deliveries.

Directs DOI to assess the impediments to compliance with required water deliveries to wildlife refuges under the Central Valley Project Improvement Act.

Sec. 81235. Drought planning and preparedness for critically important fisheries.

Requires federal agencies to develop plans to sustain the survival of commercially and recreational important fisheries during future droughts in the West. Authorizes \$25 million.

Sec. 81236. Aquatic ecosystem restoration.

Authorizes a new DOI program to fund voluntary, broadly supported fish passage projects. Authorizes \$25 million annually through 2026.

Sec. 81237. Reauthorization of the Fisheries Restoration and Irrigation Mitigation Act of 2000.

Authorizes \$25 million through 2027 for fish passage projects to support voluntary fish screen and passage projects in Oregon, Washington, California, Montana, and Idaho.

CHAPTER 4—WATER JOB TRAINING AND EDUCATION

Sec. 81241. Water resource education.

Authorizes Interior to provide resources, including grant funding, to help inform and educate individuals on water. Includes teacher training.

Sec. 81242. Water sector career grant programs.

Directs DOI to establish a grant program for water sector career training and authorizes \$25 million annually through 2026. Includes language that gives priority to programs that provide

training for a number of groups including veterans, at risk youth, unemployed individuals, and “formerly incarcerated, adjudicated, nonviolent offenders”. Priority is also given to programs that partner with labor organizations to help establish training programs. Authorizes \$10 million through 2026.

CHAPTER 5—MISCELLANEOUS

Sec. 81251. Offset.

Establishes a process to identify and deauthorize inactive Reclamation water projects where no application for federal funding has been received and no construction has occurred in the previous 10 years

Sec. 81252. Delayed water project recommendations.

Directs Interior to transmit recommendations to for the use of funds made available for fiscal year 2019 to advance (1) water storage projects in accordance with section 4007 of Public Law 114–322; (2) title XVI water reuse projects in accordance with section 4009(c) of Public Law 114–322; and (3) water desalination projects in accordance with section 4009(a) of Public Law 114–322.

Subtitle C—Western Water Security

Same as H.R. 4891 (Torres Small – NM)

Sec. 81301. Definitions.

CHAPTER 1—INFRASTRUCTURE AND WATER IMPROVEMENT

Sec. 81311. Watersmart extension and expansion.

Expands eligibility to nonprofit organizations.

Sec. 81312. Emergency drought funding.

Reauthorizes Reclamation States Emergency Drought Relief Act of 1991 authorizes an additional \$60 million through 20225.

Sec. 81313. Rio Grande Pueblo Irrigation Infrastructure Reauthorization.

Reauthorizes this program at “such sums as necessary” through 2029.

CHAPTER 2—GROUNDWATER MANAGEMENT

Sec. 81321. Reauthorization and expansion of the Transboundary Aquifer Assessment Program Reauthorization through 2029.

The U.S. – Mexico Transboundary Aquifer Assessment Act (Public Law 109-448) of 2006 was enacted to conduct binational scientific research to systematically assess priority transboundary aquifers and to address water information needs of border communities. Collaborators include the USGS Water Science Centers and Water Resources Research Institutes of Arizona, New Mexico, and Texas, IBWC, stakeholders, and Mexican counterparts.

Sec. 81322. Groundwater management assessment and improvement.

Sec. 81323. Surface and groundwater water availability and the energy nexus.
Look at energy and water nexus in oil and gas industry.

CHAPTER 3—WATER CONSERVATION AND ENVIRONMENTAL

CHAPTER 4—EFFECT ON EXISTING LAW

Sec. 81341. Effect on existing law.
States this section does not conflict or affect any state law.

Subtitle D—Water Resources Research Amendments
Reauthorizes the Water Resource Research Act grants through 2023.

Subtitle E—Ground Water Recharge Planning
similar to H.R. 2473 (Harder–CA)

Sec. 81511. Ground water recharge planning.
Directs Interior to submit a report on groundwater management to Congress and to provide an assessment of potentially beneficial storage and recharge locations based on the Secretary's assessment.

Subtitle F—Tribal Water Infrastructure

Sec. 81611. Finding.

Sec. 81612. Indian Health Services Sanitation Facilities Construction Program
funding.

Authorizes funding for the planning, design, construction, modernization, improvement, and renovation of water, sewer, and solid waste sanitation facilities located on tribal land that are listed on the Indian Health Service's Sanitation Facilities Deficiency List. Authorizes 2.67 billion annually through 2024.

Subtitle G—Navajo Utah Water Rights Settlement
Similar to H.R. 644 Congressman Bishop's legislation of the same name.

Sec. 81711. - Sec. 81720.

Ratifies and modifies the Navajo Utah Water Rights Settlement Agreement negotiated between the Navajo Nation, the United States, and Utah. The agreement gives the Navajo Nation the right to use water from sources located within Utah and adjacent to or encompassed within the boundaries of the Navajo Reservation resulting in depletions not to exceed a specified amount. The Navajo Nation shall have authority to allocate, distribute, and lease the water rights for any use on or off its reservation in accordance with the settlement. The section also specifies waivers and releases that must be executed in order for the settlement to be binding and effective.

DIVISION M

TITLE I—INFRASTRUCTURE FINANCING

Subtitle A—Bond Financing Enhancements

Sec. 90101. Credit to issuer for certain infrastructure bonds.*

issuers of qualified infrastructure bonds would receive a tax credit equal to a percentage of the interest. Similar to Build America Bonds. The applicable percentage of the credit for interest paid with respect to qualified bonds is determined in the year the bond is issued as follows: 2020 through 2024 42%, 2025 38%, 2026 34%, 2027 and thereafter 30%.

Sec. 90102. Advance refunding bonds. Restoring advance refunding of bonds has been an NWRA priority. Advanced refunding allows water agencies to “refinance” existing bonds and realize savings that can be reinvested in other infrastructure projects.

Sec. 90103. Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 90104. Volume cap on private activity bonds.

Increases the annual state volume cap on private activity bonds from the greater of \$75 per capita or \$225 million to the greater of \$135 per capita or \$402 million.

Sec. 90105. Modifications to qualified small issue bonds.

Sec. 90106. Expansion of certain exceptions to the private activity bond rules for first-time farmers.

Increases the limitation on the exemption of the use of private activity bond proceeds for first-time farmers from \$450,000 to \$552,500.

Sec. 90108. Exempt-facility bonds for sewage and water supply facilities.*

Adds to the list of private activity bonds that are not subject to the volume cap to include bonds for water and sewerage facilities.

Sec. 90301. Increase in rehabilitation credit

This provision increases the historic rehabilitation tax credit (HTC) percentage from 20 percent to 30 percent for 2020 through 2024. The credit percentage is phased down to 26 percent in 2025, 23 percent in 2026, and returns to 20 percent in 2027.

***Sec. 90425.** Modifications to income exclusion for water conservation subsidies. Similar to H.R. 2313 the Water Conservation Tax Parity Act introduced by Congressman Huffman. This has been an NWRA priority. The provision excludes from gross income water conservation, storm water management, and wastewater management subsidies provided by public utilities, state or local governments, or storm water management providers

Please let NWRA staff know if you have questions about HR 2.

A copy of the full bill can be found at the following link:

<https://transportation.house.gov/imo/media/doc/Section%20by%20Section%20HR%202%20The%20Moving%20Forward%20Act.pdf>

