To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2019

Ms. McSally (for herself and Ms. Sinema) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 29, 2019

Reported by Ms. Murkowski, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Supply Infra-
structure Rehabilitation and Utilization Act".

SEC. 2. AGING INFRASTRUCTURE ACCOUNT.

Section 9603 of the Omnibus Public Land Manage-
ment Act of 2009 (43 U.S.C. 510b) is amended by adding
at the end the following:

"(d) Aging Infrastructure Account.—

"(1) Establishment.—There is established in
the general fund of the Treasury a special account,
to be known as the 'Aging Infrastructure Account' (referred to in this subsection as the 'Account'), to
provide funds to, and provide for the extended re-
payment of the funds by, transferred works oper-
at ing entities or project beneficiaries responsible for
repayment of reimbursable costs for the conduct of
extraordinary operation and maintenance work at
transferred works, which shall consist of—

"(A) any amounts that are authorized to
be appropriated to the Account under section
9605; and

"(B) any amounts deposited in the Ac-
count under paragraph (3)(B)."
"(2) EXPENDITURES.—Subject to appropriations and paragraph (3), the Secretary may expend amounts in the Account to fund and provide for extended repayment of the funds for eligible projects at transferred works identified in a report submitted under paragraph (5)(A).

"(3) REPAYMENT CONTRACT.—

"(A) IN GENERAL.—The Secretary may not expend amounts under paragraph (2) with respect to an eligible project described in that paragraph unless the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs has entered into a contract to repay the amounts under subsection (b)(2).

"(B) DEPOSIT OF REPAID FUNDS.—

Amounts repaid by a transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs receiving funds under a repayment contract entered into under this subsection shall be deposited in the Account without further appropriation.

"(4) APPLICATION FOR FUNDING.—

"(A) IN GENERAL.—Not less than once per fiscal year, the Secretary shall accept, during
an application period established by the Secretary, applications from transferred works operating entities or project beneficiaries responsible for payment of reimbursable costs for funds and extended repayment for eligible projects.

"(B) ELIGIBLE PROJECT.—A project eligible for funds and extended repayment under this subsection is a project that—

"(i) qualifies as an extraordinary operation and maintenance work under this section;

"(ii) is for the major, non-recurring maintenance of a mission-critical asset; and

"(iii) is not eligible to be carried out or funded under the repayment provisions of section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)).

"(C) GUIDELINES FOR APPLICATIONS.—

Not later than 60 days after the date of enactment of this subsection, the Secretary shall issue guidelines describing the information required to be provided in an application for
funds and extended repayment under this subsection that require, at a minimum—

(i) a description of the project for which the funds are requested;

(ii) the amount of funds requested;

(iii) the repayment period requested by the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs;

(iv) the financial justification for requesting an extended repayment period; and

(v) the financial records of the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs.

(D) Review by the Secretary.—The Secretary shall review each application submitted under subparagraph (A)—

(i) to determine whether the project is eligible for funds and an extended repayment period under this subsection;

(ii) to determine if the project has been identified by the Bureau of Reclama-
tion as part of the major rehabilitation and
replacement of a project facility; and

"(iii) to conduct a financial analysis
of—

"(I) the project; and

"(II) the transferred works opera-
ting entity or project beneficiary re-
sponsible for repayment of reimburs-
able costs.

"(5) Report.—Not later than 90 days after
the date on which an application period closes under
paragraph (4)(A), the Secretary shall submit to the
Committees on Energy and Natural Resources and
Appropriations of the Senate and the Committees on
Natural Resources and Appropriations of the House
of Representatives a report that—

"(A) identifies each project eligible for
funds and extended repayment under this sub-
section;

"(B) with respect to each eligible project
identified under subparagraph (A), includes—

"(i) a description of—

"(I) the eligible project;

"(II) the anticipated cost and du-
ration of the eligible project; and
(III) any remaining engineering or environmental compliance that is required before the eligible project commences;

(ii) an analysis of—

(I) the repayment period proposed in the application; and

(II) if the Secretary recommends a minimum necessary repayment period that is different than the repayment period proposed in the application, the minimum necessary repayment period recommended by the Secretary;

(iii) an analysis of the effect on the affordability of water of—

(I) the repayment period proposed in the application; and

(II) if the Secretary recommends a minimum necessary repayment period that is different than the repayment period proposed in the application, the minimum necessary repayment period recommended by the Secretary; and
“(iv) an analysis of alternative non-
Federal funding options; and
“(C) describes the balance of funds in the
Account as of the date of the report.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE
RECLAMATION SAFETY OF DAMS ACT OF 1978.

Section 5 of the Reclamation Safety of Dams Act of
1978 (43 U.S.C. 509) is amended, in the first sentence,
by inserting “, and, effective October 1, 2019, not to ex-
ceed an additional $550,000,000 (October 1, 2019, price
levels)” before “, plus or minus”.

SEC. 4. REVIEW OF FLOOD CONTROL RULE CURVES PILOT
PROJECT.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term “Bureau” means the
Bureau of Reclamation.

(2) ELIGIBLE WORKS.—

(A) IN GENERAL.—The term “eligible
works” means a reserved works, or a trans-
ferred works for which—

(i) the flood control rule curve has not
been substantially adjusted during the 10-
year period ending on the date of enact-
ment of this Act; and
(ii) the Secretary receives a request in accordance with subsection (a)(1)(A).

(B) Exclusions.—The term "eligible works" does not include—

(i) any project authorized by the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(ii) any project authorized by the Act of April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.); or

(iii) any project of the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891, chapter 665)).

(3) Pilot project.—The term "pilot project" means the pilot project established under subsection (b).

(4) Secretary.—The term "Secretary" means Secretary of the Interior.

(b) Establishment of Pilot Project.—The Secretary shall establish within the Bureau a pilot project to
adjust flood control rule curves in accordance with subsection (d).

(c) Selection of Eligible Works.—

(1) Request.—

(A) In general.—In order for an eligible works to be selected for inclusion in the pilot project, a responsible party shall submit a written request to the Secretary.

(B) Notice.—Not later than 30 days after the date on which the Secretary receives a request under subparagraph (A), the Secretary shall notify—

(i) each responsible party of that request, using lists maintained by the Bureau; and

(ii) if applicable, the appropriate Federal power marketing administration.

(2) Selection.—Each year, the Secretary shall—

(A) select 1 or more eligible works for inclusion in the pilot project; and

(B) submit a list of those eligible works to—

(i) the Secretary of the Army;
(ii) the Committee on Natural Resources of the House of Representatives;

and

(iii) the Committee on Energy and Natural Resources of the Senate.

(3) EXCLUSION.—The Secretary shall not select an eligible works for inclusion in the pilot project under paragraph (2)(A) if, not later than 60 days after the date on which the notice is provided to each responsible party under paragraph (1)(B)(i), a majority of the responsible parties submit to the Secretary an objection to the inclusion of the eligible works in the pilot project.

(d) ADJUSTMENT OF FLOOD CONTROL RULE.—

(1) IN GENERAL.—The flood control rule curve of an eligible works shall be adjusted pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709), if the Secretary of the Army determines that the adjustment would enhance the authorized purposes of the eligible works.

(2) CONSIDERATIONS.—In the adjustment of a flood control rule curve under paragraph (1), the following factors shall be considered:

(A) Forecast-informed reservoir operations;

(B) Improved hydrologic forecasting for—
(i) precipitation;
(ii) snowpack;
(iii) runoff; and
(iv) soil moisture conditions.

(C) Any new watershed data, including data provided by a responsible party for the eligible works.

(3) CONSULTATION.—In the adjustment of a flood control rule curve under paragraph (1), the following entities shall be consulted:

(A) Each responsible party for the eligible works;

(B) In the case of an eligible works that produces power marketed by the Federal Government, the Federal power marketing administration that markets the power;

(C) The Secretary.

(e) CONSULTATION.—The Secretary shall consult with the Secretary of the Army with respect to any action taken by the Secretary of the Army—

(1) pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709); and

(2) that relates to the pilot project.

(f) FUNDING.—The Secretary or the Secretary of the Army, as appropriate, may accept amounts from respon-
(g) **EFFECT.**—Nothing in this section—

(1) affects or modifies any existing authority to review or modify—

(A) reservoir operations, including any existing forecast-informed reservoir operations at a facility of the Corps of Engineers, such as Coyote Dam; and

(B) flood control operations; or

(2) affects or modifies any authorized purpose of any project carried out by the Secretary.

(h) **TERMINATION.**—

(1) **In General.**—The pilot project shall terminate on the date that is 15 years after the date of enactment of this Act.

(2) **Effect.**—Termination of the pilot project under paragraph (1) shall not affect any flood control rule curve developed as part of the pilot project.
SECTION 1. SHORT TITLE.  

This Act may be cited as the “Water Supply Infrastructure Rehabilitation and Utilization Act”.

SEC. 2. AGING INFRASTRUCTURE ACCOUNT.  

Section 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) is amended by adding at the end the following:

“(d) AGING INFRASTRUCTURE ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a special account, to be known as the ‘Aging Infrastructure Account’ (referred to in this subsection as the ‘Account’), to provide funds to, and provide for the extended repayment of the funds by, a transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs for the conduct of extraordinary operation and maintenance work at a project facility, which shall consist of—

“(A) any amounts that are specifically appropriated to the Account under section 9605; and

“(B) any amounts deposited in the Account under paragraph (3)(B).

“(2) EXPENDITURES.—Subject to appropriations and paragraph (3), the Secretary may expend amounts in the Account to fund and provide for ex-
tended repayment of the funds for eligible projects
identified in a report submitted under paragraph
(5)(A).

“(3) Repayment contract.—

“(A) In general.—The Secretary may not
expend amounts under paragraph (2) with re-
spect to an eligible project described in that
paragraph unless the transferred works operating
entity or project beneficiary responsible for re-
payment of reimbursable costs has entered into a
contract to repay the amounts under subsection
(b)(2).

“(B) Deposit of repaid funds.—
Amounts repaid by a transferred works oper-
ating entity or project beneficiary responsible for
repayment of reimbursable costs receiving funds
under a repayment contract entered into under
this subsection shall be deposited in the Account
and shall be available to the Secretary for ex-
penditure in accordance with this subsection
without further appropriation.

“(4) Application for funding.—

“(A) In general.—Not less than once per
fiscal year, the Secretary shall accept, during an
application period established by the Secretary,
applications from transferred works operating
entities or project beneficiaries responsible for
payment of reimbursable costs for funds and ex-
tended repayment for eligible projects.

“(B) ELIGIBLE PROJECT.—A project eligible
for funding and extended repayment under this
subsection is a project that—

“(i) qualifies as an extraordinary op-
eration and maintenance work under this
section;

“(ii) is for the major, non-recurring
maintenance of a mission-critical asset; and

“(iii) is not eligible to be carried out
or funded under the repayment provisions
of section 4(c) of the Reclamation Safety of
Dams Act of 1978 (43 U.S.C. 508(c)).

“(C) GUIDELINES FOR APPLICATIONS.—Not
later than 60 days after the date of enactment of
this subsection, the Secretary shall issue guide-
lines describing the information required to be
provided in an application for funding and ex-
tended repayment under this subsection that re-
quire, at a minimum—

“(i) a description of the project for
which the funds are requested;
“(ii) the amount of funds requested;

“(iii) the repayment period requested by the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs;

“(iv) alternative non-Federal funding options that have been evaluated;

“(v) the financial justification for requesting an extended repayment period; and

“(vi) the financial records of the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs.

“(D) Review by the Secretary.—The Secretary shall review each application submitted under subparagraph (A)—

“(i) to determine whether the project is eligible for funds and an extended repayment period under this subsection;

“(ii) to determine if the project has been identified by the Bureau of Reclamation as part of the major rehabilitation and replacement of a project facility; and

“(iii) to conduct a financial analysis of—

VerDate Sep 11 2014 23:07 Oct 29, 2019 Jkt 099200 PO 00000 Frm 00017 Fmt 6652 Sfmt 6203 E:\BILLS\S2044.RS S2044kjohnson on DSK79L0C42 with BILLS
“(I) the project; and

“(II) the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs.

“(5) REPORT.—Not later than 90 days after the date on which an application period closes under paragraph (4)(A), the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Natural Resources and Appropriations of the House of Representatives a report that—

“(A) identifies each project eligible for funding and extended repayment under this subsection;

“(B) with respect to each eligible project identified under subparagraph (A), includes—

“(i) a description of—

“(I) the eligible project;

“(II) the anticipated cost and duration of the eligible project; and

“(III) any remaining engineering or environmental compliance that is required before the eligible project commences;
“(ii) an analysis of—

“(I) the repayment period proposed in the application; and

“(II) if the Secretary recommends a minimum necessary repayment period that is different than the repayment period proposed in the application, the minimum necessary repayment period recommended by the Secretary; and

“(iii) an analysis of alternative non-Federal funding options; and

“(C) describes the balance of funds in the Account as of the date of the report.

“(6) EFFECT OF SUBSECTION.—Nothing in this subsection affects—

“(A) any funding provided, or contracts entered into, under subsection (a) before the date of enactment of this subsection; or

“(B) the use of funds otherwise made available to the Secretary to carry out subsection (a).”
SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE

RECLAMATION SAFETY OF DAMS ACT OF 1978.

Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended, in the first sentence, by inserting “, and, effective October 1, 2019, not to exceed an additional $550,000,000 (October 1, 2019, price levels)” before “, plus or minus”.

SEC. 4. REVIEW OF FLOOD CONTROL RULE CURVES PILOT PROJECT.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term “Bureau” means the Bureau of Reclamation.

(2) ELIGIBLE WORKS.—

(A) IN GENERAL.—The term “eligible works” means a reserved works, or a transferred works for which—

(i) the flood control rule curve has not been substantially adjusted during the 10-year period ending on the date of enactment of this Act; and

(ii) the Secretary receives a request in accordance with subsection (c)(1)(A).

(B) EXCLUSIONS.—The term “eligible works” does not include—
(i) any project authorized by the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(ii) any project authorized by the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) (43 U.S.C. 620 et seq.); or

(iii) any project of the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891, chapter 665)).

(3) PILOT PROJECT.—The term “pilot project” means the pilot project established under subsection (b).

(4) RESPONSIBLE PARTY.—The term “responsible party” means—

(A) with respect to a reserved works—

(i) a non-Federal water user or power contractor that has an active repayment, water service, or power service contract with the Bureau;

(ii) a power contractor that has an active contract with a Federal power marketing administration for energy, capacity,
or energy and capacity, from a hydropower
facility owned by the Bureau; or

(iii) a non-Federal operating entity,
including a joint powers authority or board
of control, that has assumed responsibility
on behalf of multiple water users, through a
contract with the Bureau, for the operation
and maintenance of the reserved works; and

(B) with respect to a transferred works, the
operating entity of the transferred works.

(5) SECRETARY.—The term “Secretary” means
Secretary of the Interior.

(b) ESTABLISHMENT OF PILOT PROJECT.—The Sec-
retary, in consultation with the Secretary of the Army, shall
establish within the Bureau a pilot project to adjust flood
control rule curves in accordance with subsection (d).

(c) SELECTION OF ELIGIBLE WORKS.—

(1) REQUEST.—

(A) IN GENERAL.—In order for an eligible
works to be selected for inclusion in the pilot
project, a responsible party shall submit a writ-
ten request to the Secretary seeking a flood con-
trol rule curve adjustment.

(B) NOTICE.—Not later than 30 days after
the date on which the Secretary receives a re-
request under subparagraph (A), the Secretary shall notify—

(i) each responsible party of that request, using lists maintained by the Bureau; and

(ii) if applicable, the appropriate Federal power marketing administration.

(2) SELECTION.—Each year, the Secretary shall—

(A) select 1 or more eligible works for inclusion in the pilot project; and

(B) submit a list of those eligible works to—

(i) the Secretary of the Army;

(ii) the Committee on Natural Resources of the House of Representatives; and

(iii) the Committee on Energy and Natural Resources of the Senate.

(3) EXCLUSION.—The Secretary shall not select an eligible works for inclusion in the pilot project under paragraph (2)(A) if, not later than 60 days after the date on which the notice is provided to each responsible party under paragraph (1)(B)(i), a majority of the responsible parties submit to the Secretary an objection to the inclusion of the eligible works in the pilot project.
(d) ADJUSTMENT OF A FLOOD CONTROL RULE.—

(1) IN GENERAL.—The flood control rule curve of an eligible works shall be adjusted pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709), if the Secretary of the Army determines that the adjustment would enhance the authorized purposes of the eligible works.

(2) CONSIDERATIONS.—In the adjustment of a flood control rule curve under paragraph (1), the following factors shall be considered:

(A) Forecast-informed reservoir operations.

(B) Improved hydrologic forecasting for—

(i) precipitation;

(ii) snowpack;

(iii) runoff; and

(iv) soil moisture conditions.

(C) Any new watershed data, including data provided by a responsible party for the eligible works.

(3) CONSULTATION.—In the adjustment of a flood control rule curve under paragraph (1), the following entities shall be consulted:

(A) Each responsible party for the eligible works.
(B) In the case of an eligible works that produces power marketed by the Federal Government, the Federal power marketing administration that markets the power.

(C) The Secretary.

(e) Consultation.—The Secretary shall consult with the Secretary of the Army with respect to any action taken by the Secretary of the Army—

(1) pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709); and

(2) that relates to the pilot project.

(f) Funding.—The Secretary or the Secretary of the Army, as appropriate, may accept amounts from responsible parties for eligible works to fund all or a portion of the cost of carrying out an adjustment of a flood control rule under subsection (d), including a review or revision of operational documents (including water control plans, water control manuals, water control diagrams, release schedules, rule curves, operational agreements with non-Federal entities, and any associated environmental documentation).

(g) Effect.—Nothing in this section—

(1) affects or modifies any existing authority to review or modify—
(A) reservoir operations, including any existing forecast-informed reservoir operations at a facility of the Corps of Engineers, such as Coyote Dam; and

(B) flood control operations; or

(2) affects or modifies any authorized purpose of any project carried out by the Secretary.

(h) TERMINATION.—

(1) IN GENERAL.—The pilot project shall terminate on the date that is 15 years after the date of enactment of this Act.

(2) EFFECT.—Termination of the pilot project under paragraph (1) shall not affect any flood control rule curve developed as part of the pilot project.
A BILL

[Report No. 116–156]

S. 2044

116th CONGRESS

Calendar No. 277

OCTOBER 29, 2019

Reported with an amendment

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds to carry out a review of flood control rule curves pilot project within the Bureau of Reclamation, to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds to carry out a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

OCTOBER 29, 2019

Reported with an amendment