

107TH CONGRESS  
1ST SESSION

# S. 1309

To amend the Water Desalination Act of 1996 to reauthorize that Act and to authorize the construction of a desalination research and development facility at the Tularosa Basin, New Mexico, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2001

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Water Desalination Act of 1996 to reauthorize that Act and to authorize the construction of a desalination research and development facility at the Tularosa Basin, 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.**

4       This Act may be cited as the “Water Supply Security  
5       Act of 2001”.

1 **SEC. 2. AUTHORIZATION OF RESEARCH AND STUDIES.**

2 Section 4 of the Water Desalination Act of 1996 (42  
3 U.S.C. 10301 note; Public Law 104–298) is amended by  
4 adding at the end the following:

5 “(c) TULAROSA BASIN DESALINATION FACILITY.—

6 “(1) IN GENERAL.—

7 “(A) TECHNOLOGY PROGRESS PLAN.—

8 “(i) IN GENERAL.—Not later than 1  
9 year after the date of enactment of this  
10 subsection, Sandia National Laboratories,  
11 in collaboration with the Secretary of En-  
12 ergy and in consultation with the Sec-  
13 retary, and using as models the roles of de-  
14 salination facilities operated by the Federal  
15 Government and other research institu-  
16 tions as of the date of enactment of this  
17 subsection, shall develop a desalination  
18 technology progress plan that includes—

19 “(I) an overview of available  
20 short-term and long-term desalination  
21 technology development;

22 “(II) recommendations for the lo-  
23 cation, siting, and configuration of the  
24 facility under subparagraph (B);

1                   “(III) an assessment of the con-  
2                   tributions that the facility could make  
3                   to the field of desalination; and

4                   “(IV) recommendations con-  
5                   cerning the most effective and effi-  
6                   cient manner of carrying out subpara-  
7                   graph (B).

8                   “(ii) COST-SHARING REQUIRE-  
9                   MENTS.—The cost-sharing requirements  
10                  described in sections 1604 and 1605 of the  
11                  Wastewater and Groundwater Study and  
12                  Facilities Act (43 U.S.C. 390h–2, 390h–3)  
13                  shall not apply to—

14                   “(I) the funding of the tech-  
15                   nology progress plan described in  
16                   clause (i);

17                   “(II) the facility authorized to be  
18                   constructed under subparagraph (B);  
19                   or

20                   “(III) any research carried out  
21                   by Sandia National Laboratories  
22                   under this Act.

23                   “(B) TESTING AND EVALUATION FACIL-  
24                   ITY.—

1           “(i) CONSTRUCTION.—Not later than  
2           3 years after the date of completion of the  
3           technology progress plan under subpara-  
4           graph (A), the Secretary of Energy, in col-  
5           laboration with the Secretary and in ac-  
6           cordance with the memorandum of under-  
7           standing described in subparagraph (C)  
8           and the technology progress plan developed  
9           under subparagraph (A)(i), shall construct  
10          a desalination test and evaluation facility  
11          at the Tularosa Basin, located in Otero  
12          County in the State of New Mexico (re-  
13          ferred to in this subsection as the ‘facil-  
14          ity’).

15          “(ii) REPORT.—Not later than 1 year  
16          after the date on which the facility begins  
17          operation, the Secretary of Energy shall  
18          submit to Congress a report that describes  
19          project plans of, and any technological ad-  
20          vancements developed by, the facility.

21          “(iii) CONTRACTORS.—The Secretary  
22          of Energy may enter into such contracts as  
23          are necessary (including contracts with  
24          other Federal agencies, State agencies,  
25          educational institutions, and private enti-

1           ties and organizations) to carry out this  
2           subparagraph.

3           “(C)     MEMORANDUM     OF     UNDER-  
4     STANDING.—In carrying out this paragraph,  
5     the Secretary of Energy and the Secretary of  
6     the Interior shall enter into a memorandum of  
7     understanding under which the Secretary of  
8     Energy shall seek from the Secretary of the In-  
9     terior, and the Secretary of the Interior shall  
10    provide to the Secretary of Energy, technical  
11    assistance and expertise in the development and  
12    construction of the facility.

13          “(2) PURPOSES.—The facility—

14               “(A) shall be used—

15                       “(i) to carry out research on, and to  
16                       test, demonstrate, and evaluate, new de-  
17                       salination technologies (including long-  
18                       term, alternative technologies that have the  
19                       potential for significant desalination cost  
20                       reductions beyond the time frame of the  
21                       focus of current research);

22                       “(ii) to fully evaluate the performance  
23                       of new technologies, including performance  
24                       in—

25                               “(I) energy consumption;

1 “(II) byproduct disposal; and

2 “(III) operational maintenance  
3 costs; and

4 “(iii) to determine the most techno-  
5 logically-efficient and cost-efficient means  
6 by which potable water may be produced  
7 from salinated water or other water that  
8 is unsuitable for use; and

9 “(B) should be capable of processing at  
10 least 100,000 gallons of water per day.

11 “(3) COLLABORATION; FACILITY DISCRETION.—

12 “(A) COLLABORATION.—All research at  
13 the facility shall be carried out by the Secretary  
14 of Energy, in collaboration with the Secretary.

15 “(B) FACILITY DISCRETION.—Research  
16 described in paragraph (2)(A)(i) may be carried  
17 out at the facility or at any other laboratory fa-  
18 cility determined to be suitable by Sandia Na-  
19 tional Laboratories.

20 “(4) PROVISION OF WATER.—

21 “(A) IN GENERAL.—Subject to subpara-  
22 graph (B), all desalinated water produced by  
23 the facility shall be provided to 1 or more com-  
24 munities located in Otero County, New Mexico,  
25 at no cost to the communities, as jointly deter-

1           mined by the Secretary of Energy and the Sec-  
2           retary.

3           “(B) TIMING; SUPPLEMENTARY ASPECT.—  
4           The water provided under subparagraph (A)  
5           shall be—

6                     “(i) provided only after technology  
7                     testing demonstrates that the water is of a  
8                     consistent, reliable quality, as determined  
9                     by Sandia National Laboratories, in co-  
10                    ordination with the Secretary of Energy;  
11                    and

12                   “(ii) supplementary to water provided  
13                    by public water systems or wells in the  
14                    communities.

15           “(5) TECHNICAL ADVISORY COMMITTEE.—

16                   “(A) IN GENERAL.—The Secretary and the  
17                    Secretary of Energy shall jointly establish a  
18                    technical advisory committee to provide, under  
19                    such procedures as the Secretary and the Sec-  
20                    retary of Energy shall jointly develop, program  
21                    guidance and technical assistance in carrying  
22                    out this subsection.

23                   “(B) COMPOSITION.—

24                    “(i) IN GENERAL.—The technical ad-  
25                    visory committee shall be composed of—

1                   “(I) representatives from the De-  
2                   partment of the Interior and the De-  
3                   partment of Energy, to be appointed  
4                   by the Secretary and the Secretary of  
5                   Energy, respectively; and

6                   “(II) such additional representa-  
7                   tives from academic institutions, the  
8                   private sector, other Federal agencies,  
9                   and educational institutions, as the  
10                  Secretary and the Secretary of En-  
11                  ergy, respectively, determine to be ap-  
12                  propriate.

13                  “(ii) CHAIRPERSONS.—A representa-  
14                  tive of the Department of the Interior se-  
15                  lected by the Secretary and a representa-  
16                  tive of the Department of Energy selected  
17                  by the Secretary of Energy shall serve as  
18                  cochairpersons of the technical advisory  
19                  committee.

20                  “(6) COST SHARING.—Section 7 shall not apply  
21                  to this subsection.”.

22 **SEC. 3. CONSULTATION; AUTHORIZATION OF APPROPRIA-**  
23 **TIONS.**

24                  The Water Desalination Act of 1996 (42 U.S.C.  
25                  10301 note; Public Law 104–298) is amended—

- 1 (1) by striking section 8;
- 2 (2) by redesignating section 9 as section 8;
- 3 (3) in section 8 (as redesignated by paragraph
- 4 (2)), in the first sentence, by striking “Army,” and
- 5 inserting “Army and the Secretary of Energy,”; and
- 6 (4) by adding at the end the following:

7 **“SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

8 “(a) RESEARCH AND STUDIES.—

9 “(1) IN GENERAL.—There is authorized to be

10 appropriated to the Secretary to carry out section 3

11 and section 4(c)(1)(A) \$6,000,000 for each of fiscal

12 years 2002 through 2008.

13 “(2) RESEARCH PROGRAMS.—Of the amounts

14 made available under paragraph (1)—

15 “(A) not to exceed \$1,000,000 for each fis-

16 cal year may be awarded, without any cost-

17 sharing requirement, to institutions of higher

18 education (including United States-Mexico bina-

19 tional research foundations and interuniversity

20 research programs established by the 2 coun-

21 tries) for research grants; and

22 “(B) not less than \$1,000,000 of the

23 amount made available for fiscal year 2002

24 shall be used to carry out section 4(c)(1)(A).

25 “(3) INTERNAL RESEARCH.—

1           “(A) IN GENERAL.—Of the amounts made  
2           available under paragraph (1) to carry out sec-  
3           tion 3 for each of fiscal years 2002 through  
4           2008, the Secretary may use not more than 25  
5           percent for research carried out by the Depart-  
6           ment of the Interior.

7           “(B) COST SHARING.—Research described  
8           in subparagraph (A) shall not be subject to any  
9           cost-sharing requirement.

10          “(b) DESALINATION DEMONSTRATION AND DEVEL-  
11          OPMENT.—

12           “(1) IN GENERAL.—There is authorized to be  
13           appropriated to the Secretary to carry out section 4  
14           (other than section 4(c)) \$30,000,000 for the period  
15           of fiscal years 2002 through 2008.

16           “(2) DESALINATION RESEARCH AND DEVELOP-  
17           MENT FACILITY.—There is authorized to be appro-  
18           priated to the Secretary of Energy for transfer to  
19           Sandia National Laboratories, to carry out section  
20           4(c) (other than section 4(c)(1)(A)) \$6,000,000 for  
21           each of fiscal years 2003 through 2008.”.

22          **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

23           (a) AUTHORIZATION OF RESEARCH AND STUDIES.—  
24           Section 3 of the Water Desalination Act of 1996 (42  
25           U.S.C. 10301 note; Public Law 104–298) is amended—

1 (1) in subsection (a)—

2 (A) by redesignating paragraphs (1), (2),  
3 (3), (4), (5), (6), and (7) as subparagraphs (A),  
4 (B), (C), (D), (E), (F), and (G), respectively,  
5 and indenting appropriately;

6 (B) by striking “In order to” and inserting  
7 the following:

8 “(1) IN GENERAL.—To”;

9 (C) in the first sentence—

10 (i) by striking “is authorized to award  
11 grants and to enter into contracts,” and  
12 inserting “may award grants and enter  
13 into cooperative agreements, interagency  
14 agreements, and contracts,”; and

15 (ii) by inserting “and” after “financ-  
16 ing of research”; and

17 (D) by striking “Awards” and all that fol-  
18 lows through “include—” and inserting the fol-  
19 lowing:

20 “(2) LOCATIONS.—If the Secretary determines  
21 that it is in the national interest, the Secretary may  
22 carry out a program described in paragraph (1), in  
23 accordance with all applicable law, at a location out-  
24 side the United States.

1           “(3) BASIS FOR GRANTS, AGREEMENTS, AND  
2           CONTRACTS.—All awards of grants and all coopera-  
3           tive agreements, interagency agreements, and con-  
4           tracts entered into under paragraph (1), shall be  
5           made on the basis of a competitive, merit-reviewed  
6           process.

7           “(4) TOPICS.—Research and study topics au-  
8           thorized by this section include—”; and

9           (2) in subsection (c), by striking “other facili-  
10          ties and educational institutions suitable” and in-  
11          serting the following: “educational institutions,  
12          international organizations, international founda-  
13          tions, and international educational institutions, and  
14          other facilities suitable”.

15          (b) DESALINATION DEMONSTRATION AND DEVELOP-  
16          MENT.—Section 4 of the Water Desalination Act of 1996  
17          (42 U.S.C. 10301 note; Public Law 104–298) is  
18          amended—

19               (1) by redesignating subsection (b) as sub-  
20               section (c);

21               (2) by inserting after subsection (a) the fol-  
22               lowing:

23           “(b) LOCATION.—If the Secretary determines that it  
24           is in the national interest, the Secretary may carry out  
25           the program described in subsection (a), in accordance

1 with all applicable law, at a location outside the United  
2 States.”; and

3           (3) in subsection (c) (as redesignated by para-  
4 graph (1)), by striking “conducted through” and all  
5 that follows through “to develop” and inserting the  
6 following: “conducted through the provision of  
7 grants to, and the entering into cooperative agree-  
8 ments and contracts (including cost-sharing agree-  
9 ments) with, non-Federal public utilities, State and  
10 local governmental agencies, educational institutions,  
11 international organizations, international founda-  
12 tions, international educational institutions, and  
13 other entities, as appropriate, to develop”.

14           (c) COST SHARING.—Section 7 of the Water Desali-  
15 nation Act of 1996 (42 U.S.C. 10301 note; Public Law  
16 104–298) is amended—

17           (1) by striking the first sentence and inserting  
18 the following:

19           “(a) IN GENERAL.—

20           “(1) ALL PROJECTS.—Notwithstanding any  
21 other provision of law, the Federal share of the cost  
22 of a research, study, or demonstration project or a  
23 desalination development project or activity carried  
24 out under this Act—

1           “(A) except as provided in paragraph (2)  
2           and in section 9(a)(3)(B), shall not exceed 100  
3           percent of the total cost of the project or activ-  
4           ity; and

5           “(B) may be paid out of—

6                   “(i) funds made available to the Sec-  
7                   retary, in an amount not to exceed 50 per-  
8                   cent of the total cost of the project or ac-  
9                   tivity;

10                   “(ii) funds made available to 1 or  
11                   more other heads of Federal agencies; or

12                   “(iii) a combination of funds described  
13                   in clauses (i) and (ii).

14           “(2) INTERIOR PROJECTS.—The Federal share  
15           of the cost of a project or activity described in para-  
16           graph (1) that is carried out by the Secretary shall  
17           not exceed 50 percent.”;

18           (2) by striking “A Federal contribution” and  
19           inserting the following:

20           “(b) DETERMINATION OF INFEASIBILITY.—A con-  
21           tribution by the Secretary described in subsection (a)(2)  
22           that is”;

23           (3) by striking “The Secretary shall prescribe”  
24           and inserting the following:

1 “(c) PROCEDURES.—The Secretary shall prescribe”;  
2 and

3 (4) by striking “Costs of operation,” and insert-  
4 ing the following:

5 “(d) NON-FEDERAL RESPONSIBILITIES.—Costs of  
6 operation,”.

7 (d) CONSULTATION.—Section 8 of the Water Desali-  
8 nation Act of 1996 (42 U.S.C. 10301 note; Public Law  
9 104–298) (as redesignated by section 3(2)) is amended to  
10 read as follows:

11 **“SEC. 8. CONSULTATION.**

12 “(a) IN GENERAL.—In carrying out this Act, the Sec-  
13 retary shall consult with the heads of other Federal agen-  
14 cies (including the Secretary of the Army) that have expe-  
15 rience in conducting desalination research or operating de-  
16 salination facilities.

17 “(b) INTERNATIONAL CONSULTATION.—In a case in  
18 which the Secretary intends to conduct an activity under  
19 this Act in accordance with section 3(a)(2) or 4(b), the  
20 Secretary shall consult with the Secretary of State before  
21 beginning the conduct of the activity.

22 “(c) OTHER PROGRAMS.—Nothing in this Act pro-  
23 hibits any other agency from carrying out a program for

- 1 desalination research or operation that is authorized under
- 2 any other provision of law.”.

○