

## Calendar No. 670

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SENATE

{ REPORT  
110-318

### LOWER REPUBLICAN RIVER BASIN STUDY ACT

APRIL 10, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 1025]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1025) to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 1025 is to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas.

#### BACKGROUND AND NEED

In 1998, Kansas filed a lawsuit in the U.S. Supreme Court against Nebraska and Colorado alleging that Nebraska was using more than its allocation of water under the Republican River Compact. The three States negotiated a settlement that was approved by the Court in May 2003.

In accordance with the final settlement, the States agreed to pursue in good faith, and in collaboration with the United States, sys-

tem improvements in the basin, including measures to improve the ability to use the water supply below Hardy, Nebraska, on the Republican River's mainstem. In January 2005, an appraisal report was completed which analyzed a number of alternatives recommended by the Compact Commissioners. The results of the study indicated that the water supply in the basin is not being fully utilized. With improvements in existing systems and possibly additional storage capability, the systems could be managed to alleviate some of the water shortage problems that exist in the lower reaches of the basin. A feasibility study will provide the level of analysis needed to fully evaluate all the viable alternatives.

#### LEGISLATIVE HISTORY

H.R. 1025 was introduced by Representative Jerry Moran for himself and Representative Adrian Smith, on February 13, 2007, and referred to the Committee on Natural Resources. Under suspension of the rules, H.R. 1025 passed the House of Representatives on May 7, 2007. The bill was received in the Senate and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on H.R. 1025 on July 26, 2007. At its business meeting on January 30, 2008, the Committee on Energy and Natural Resources ordered H.R. 1025 to be favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by voice vote of a quorum present, recommends that the Senate pass H.R. 1025.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title of the Act.

*Section 2(a)* authorizes the Secretary of the Interior to conduct a study to determine the feasibility of a project to improve water supply, water storage, and water management efficiency projects in the Republican River basin, and consider cost-sharing options for implementation of projects.

*Section 2(b)* directs that the Federal cost-share of the study shall not exceed 50 percent and shall be nonreimbursable.

*Section 2(c)* requires the Secretary to undertake the study through cooperative agreements.

*Section 2(d)* requires the Secretary to complete the study within 3 years or report back to Congress on when the study will be completed.

*Section 2(e)* terminates after 10 years, the authorization contained in the Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

#### *H.R. 1025—Lower Republican River Basin Study Act*

H.R. 1025 would authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to work with the states of Nebraska, Kansas, and Colorado, to conduct a feasibility study on im-

plementing water supply and conservation projects for the Lower Republican River Basin. The act would limit the federal share of the study's cost to 50 percent; the authority of the Secretary to implement this legislation would terminate 10 years after the date of enactment.

According to the Bureau of Reclamation, the total cost of the study is estimated to be \$2 million. CBO estimates that implementing H.R. 1025 would cost the federal government \$1 million over the 2008–2013 period, subject to the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues.

H.R. 1025 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Tyler Kruzich, who can be reached at 226–2860. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1025. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1025, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the July 26, 2007 subcommittee hearing on H.R. 1025 follows:

STATEMENT OF LARRY TODD, DEPUTY COMMISSIONER FOR  
POLICY, ADMINISTRATION AND BUDGET, BUREAU OF RECLAMATION,  
DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Subcommittee, my name is Larry Todd, and I am Deputy Commissioner of the Bureau of Reclamation. I am pleased to provide the Administration's views on H.R. 1025, legislation authorizing a feasibility study to improve water management in the Republican River Basin between Harlan County Lake in Nebraska, and Milford Lake in Kansas.

Reclamation was included in the early stages of the project planning process that resulted in completion of the Lower Republican River Basin Appraisal Report in January 2005. We support the goal of the States, as project sponsors, to develop a locally-supported solution that is economical, affordable and environmentally sensible. However, funds have not been allocated to carry out the provisions of H.R. 1025 in the Administration's budgets for fiscal years 2007 and 2008. Given Reclamation's need to focus its limited resources on maintaining its existing in-

frastructure and completing on-going construction projects, the Administration cannot support this bill.

#### BACKGROUND

Reclamation has been working with the States on Republican River Compact water supply issues for many years. There is some important background information that I would like to share with you today to provide context for consideration of this legislation.

In 1998, Kansas filed a U.S. Supreme Court lawsuit against Nebraska and Colorado because of their belief that Nebraska was using more than its allocation of water under the Republican River Compact. The three States negotiated a settlement that was approved by the United States Supreme Court in May 2003.

In accordance with the Final Settlement Stipulations, the States agreed to pursue in good faith, and in collaboration with the United States, system improvements in the basin, including measures to improve the ability to utilize the water supply below Hardy, Nebraska, on the Republican River's mainstem. Reclamation's appraisal study analyzed a number of alternatives recommended by the Compact Commissioners. The results from the study indicate that the water supply in the basin is not being fully utilized. With improvements in the existing systems and possibly with additional storage capability, the systems could be managed to alleviate some of the water shortage problems that exist in the lower reaches of the basin. The Settlement provided for Compact accounting which is indicating overuse of the allocations by Colorado and Nebraska. Reclamation has been working with the States in an effort to achieve and sustain Compact compliance. These efforts have included the release of 2007 storage water at Bonny Reservoir in Colorado in response to a "call" placed by the State Engineer; and approval of temporary sales of project water in 2006 and 2007 to reduce consumptive use in Nebraska and provide additional water supply to project lands in Kansas. Reclamation has worked closely with project beneficiaries and the States to find more effective and efficient ways to deliver water, and will continue to do so in the future.

Mr. Chairman, that concludes my testimony, I would be pleased to answer any questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill H.R. 1025, as ordered reported.