

LOWER REPUBLICAN RIVER BASIN STUDY ACT

SEPTEMBER 6, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4750]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4750) 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, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lower Republican River Basin Study Act”.

SEC. 2. REPUBLICAN RIVER BASIN FEASIBILITY STUDY.

(a) AUTHORIZATION OF STUDY.—Pursuant to reclamation laws, the Secretary of the Interior, acting through the Bureau of Reclamation and in consultation and cooperation with the States of Nebraska, Kansas, and Colorado, may conduct a study to—

(1) determine the feasibility of implementing a water supply and conservation project that will—

(A) improve water supply reliability in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, including areas in the counties of Harlan, Franklin, Webster, and Nuckolls in Nebraska and Jewell, Republic, Cloud, Washington, and Clay in Kansas (in this section referred to as the “Republican River Basin”);

(B) increase the capacity of water storage through modifications of existing projects or through new projects that serve areas in the Republican River Basin;

(C) improve water management efficiency in the Republican River Basin through conservation and other available means and, where appropriate,

- evaluate integrated water resource management and supply needs in the Republican River Basin; and
- (2) consider appropriate cost-sharing options for implementation of the project.
- (b) COST SHARING.—The Federal share of the cost of the study shall not exceed 50 percent of the total cost of the study, and shall be nonreimbursable.
- (c) COOPERATIVE AGREEMENTS.—The Secretary shall undertake the study through cooperative agreements with the State of Kansas or Nebraska and other appropriate entities determined by the Secretary.
- (d) COMPLETION AND REPORT.—
- (1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of the enactment of this section the Secretary of the Interior shall complete the study and transmit to the Congress a report containing the results of the study.
- (2) EXTENSION.—If the Secretary determines that the study cannot be completed within the 3-year period beginning on the date of the enactment of this Act, the Secretary—
- (A) shall, at the time of that determination, report to the Congress on the status of the study, including an estimate of the date of completion; and
- (B) complete the study and transmit to the Congress a report containing the results of the study by not later than that date.
- (e) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 4750 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 FOR LEGISLATION

In 1943, the States of Colorado, Kansas and Nebraska entered into the Republican River Compact with the approval of Congress. The Compact provided for equitable apportionment of the Republican River stream flows for beneficial consumptive use. The River is approximately 400 miles long, beginning in eastern Colorado, flowing through Kansas into southern Nebraska and then back into Kansas, where it eventually forms into the Kansas River. The Compact allocates waters from the Republican River Basin as such: 49% to Nebraska, 40% to Kansas, and 11% to Colorado. The amount of water allocated to each State varies annually depending on stream flows.

In 1998, Kansas filed a complaint with the U.S. Supreme Court alleging that Nebraska violated the Compact, “by allowing the use of wells connected to the Republican River and its tributaries, [and] by the failure to protect surface flows from unauthorized appropriation by Nebraska users.” Nebraska argued that the original Compact only restricts water directly diverted from streams, and not groundwater pumping. In 1999, the Supreme Court referred the matter to Special Master Vincent L. McKusick, who initially ruled in 2000 that groundwater pumping did deplete stream flows.

In 2001, McKusick’s additional rulings helped set the stage for a negotiated settlement. In October 2001, the three States began settlement discussions. The U.S. Department of Justice, the U.S. Army Corps of Engineers, and the Bureau of Reclamation also par-

ticipated in the settlement meetings. After 17 months of negotiations, the States achieved a settlement package and, on April 15, 2003, McKusick formally recommended the approval of the Final Settlement Stipulation to the Supreme Court. On May 13, 2003, the Supreme Court approved it.

As part of the ruling, the Supreme Court stated, “the States agree 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 mainstem.” The purpose of H.R. 4750 is to implement the part of the settlement that requires a study to determine the feasibility of implementing a water supply and conservation project on the Republican River Basin.

COMMITTEE ACTION

H.R. 4750 was introduced on February 14, 2006, by Congressman Tom Osborne (R-NE). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On April 26, 2006, the Subcommittee held a hearing on the bill. On July 19, 2006, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. Congressman George Radanovich (R-CA) offered an amendment in the nature of a substitute to place a 10-year sunset on the bill’s authorization. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the bill as the “Lower Republican River Basin Study Act.”

Section 2. Republican River Basin feasibility study.

This section authorizes the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project that will improve water reliability, increase water storage capacity, and improve water management efficiency in the Republican River Basin and to consider appropriate cost-sharing options for implementation of the project. The federal share of the cost of the study shall not exceed 50% of the study cost. The Secretary shall undertake the study through cooperative agreements with the States of Kansas or Nebraska and other appropriate entities. The Secretary shall complete the study no later than three years after the date of the enactment and transmit the results to Congress in a report. If the Secretary determines the study cannot be completed within three years, the Secretary must report to Congress on the status of the study and give an estimated time for completion, then complete the study and report to Congress. This section, as amended, states that the authority of the Secretary to carry out the provisions of the bill shall terminate 10 years after its enactment.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, clause 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill 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.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4750—Lower Republican River Basin Study Act

H.R. 4750 would authorize the Secretary of the Interior, through the Bureau of Reclamation, to work with the states of Nebraska, Kansas, and Colorado, to conduct a feasibility study on implementing water supply and conservation projects of the Lower Republican River Basin. The bill would limit the federal cost share of the study to 50 percent. According to the Bureau of Reclamation, the estimated total cost of the study is \$1.5 million. The authority of the Secretary to implement this bill would terminate 10 years after the date of enactment.

CBO estimates that implementing H.R. 4750 would cost \$0.75 million over the 2007–2011 period, subject to the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues. H.R. 4750 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Re-

form Act; any costs to state governments would be incurred voluntarily.

The CBO staff contact for this estimate is Julie Middleton. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

