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HOUSE OF REPRESENTATIVES

REPORT
118–711

WESTERN WATER ACCELERATED REVENUE REPAYMENT ACT

OCTOBER 22, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3675]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3675) to amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority, having considered the same, reports favorably thereon with an amendment and recommends 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 "Western Water Accelerated Revenue Repayment Act".

SEC. 2. AMENDMENTS TO THE WIIN ACT.

(a) OFFSETS AND WATER STORAGE ACCOUNT.—Section 4011(d)(2) of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322) is amended by inserting "that are directed by project-specific statutes in effect prior to the date of passage of this Act to accounts other than the General Reclamation Fund" before the semicolon.

(b) EXTENSION OF PREPAYMENT AUTHORITY.—Section 4013 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322) is amended—

(1) in paragraph (1), by striking "; and" and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) section 4011.".

59–006

Purpose of the Legislation

The purpose of H.R. 3675 is to amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority.

Background and Need for Legislation

H.R. 3675 permanently authorizes Section 4011 of the Water Infrastructure Improvements for the Nation (WIIN) Act, a provision that allows agriculture and municipal water users to prepay what they owe to the federal government.[1]

Congress created what is now the Bureau of Reclamation (Reclamation) in 1902 to help settle the western United States through water and power infrastructure development. In its effort "to make the desert bloom," and to capture the energy of moving water while controlling very damaging flood cycles, the agency's projects literally led to the creation of western urban areas and internationally renowned farm economies. Its traditional dams, reservoirs, canals, and other features were built under the "beneficiaries pay" principle, in which the water and power beneficiaries paid for the commensurate benefits that these projects provided to them. These water and power users typically entered into long-term contracts (20 to 50 years) with Reclamation to reimburse the federal government for these capital investments.[2] This concept continues to this day on many of Reclamation's projects.

As it relates to water contracts, water users enter into water service or capital repayment contracts with Reclamation. A water user pays for only the water allocated and delivered under water service contracts, whereas a capital repayment contract is for the cost of the water and the appropriate facility (capital) being used to store and convey the water. Municipal and industrial water users (cities) pay these costs with interest and irrigation districts do not under longstanding Reclamation law. However, irrigation districts are subject to federal land-use restrictions and paperwork regulations under the Reclamation Reform Act of 1982 (P.L. 97–293), as long as they owe a capital debt to Reclamation.[3] For example, under the Reclamation Reform Act an irrigation district must ensure that each of its farmers cannot irrigate more than 960 acres if Reclamation projects provide the water.[4] The cost of Reclamation project water is increased substantially if a landowner irrigates more than 960 acres. In addition, complex reporting forms subject to change by administrative fiat, must be submitted each year to the federal government to certify that irrigation districts and their farmers are complying with the Reclamation Reform Act's requirements. Many irrigation districts find these policies restrictive and time consuming.

Many of the repayments described above must be paid through annual installments and cannot be pre-paid, as opposed to how a homeowner can pay off a mortgage early.[5] Only Congress can authorize pre-payment in these circumstances. To address the issue,

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[1] 130 STAT. 1878.
[2] The Reclamation Act of 1902 (Ch. 1093, 32 Stat. 388).
[3] P. L. 97–293.
[4] Id.
[5] Id.

Section 4011 of the WIIN Act authorized these agricultural and municipal water users to prepay outstanding construction costs through a single lump sum payment or over a period of three years.

While this program was successful, with more than 80 entities deciding to prepay what they owed the federal government, the authorities expired in 2021. H.R. 3675 permanently reauthorizes these authorities. As amended, H.R. 3675 clarifies that prepayments will not impact project-specific statutes. This addresses a concern raised by Reclamation that some of the prepayment funds would be taken away from current uses, such as operations, maintenance, and repairs.

Committee Action

H.R. 3675 was introduced on May 25, 2023, by Rep. Lauren Boebert (R–CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On June 14, 2023, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On July 26, 2023, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged by unanimous consent. Rep. Boebert offered an amendment in the nature of a substitute to designated Boebert ANS_112. The amendment offered by Rep. Boebert was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 22 to 14, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: July 26, 2023 Roll Call# 2

Meeting on / Amendment on: **On Favorably Reporting, as amended, H.R. 3675 (Rep. Boebert).** To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority. "Western Water Accelerated Revenue Repayment Act."

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman	X			*Mr. Grijalva, AZ, Ranking*		X	
Mr. Lamborn, CO	X			*Ms. Napolitano, CA*		X	
Mr. Wittman, VA	X			*Mr. Sablan, CNMI*			
Mr. McClintock, CA	X			*Mr. Huffman, CA*			
Mr. Gosar, AZ	X			*Mr. Gallego, AZ*			
Mr. Graves, LA	X			*Mr. Neguse, CO*		X	
Mrs. Radewagen, AS	X			*Mr. Levin, CA*		X	
Mr. LaMalfa, CA				*Ms. Porter, CA*		X	
Mr. Webster, FL	X			*Ms. Leger Fernandez, NM*		X	
Ms. González-Colón, PR				*Ms. Stansbury, NM*		X	
Mr. Fulcher, ID	X			*Mrs. Peltola, AK*		X	
Mr. Stauber, MN	X			*Ms. Ocasio-Cortez, NY*			
Mr. Curtis, UT	X			*Mr. Mullin, CA*			
Mr. Tiffany, WI	X			*Ms. Hoyle, OR*		X	
Mr. Carl, AL	X			*Ms. Kamlager-Dove, CA*		X	
Mr. Rosendale, MT	X			*Mr. Magaziner, RI*		X	
Mrs. Boebert, CO	X			*Ms. Velázquez, NY*			
Mr. Bentz, OR	X			*Mr. Case, HI*		X	
Ms. Kiggans, VA	X			*Mrs. Dingell, MI*		X	
Mr. Moylan, Guam	X			*Ms. Lee, NV*		X	
Mr. Hunt, TX	X						
Mr. Collins, GA	X						
Ms. Luna, FL							
Mr. Duarte, CA	X						
Ms. Hageman, WY	X						
				TOTAL:	22	14	

Hearings

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on June 14, 2023.

Section-by-Section Analysis

Section 1. Short title

This Act may be cited as the "Western Water Accelerated Revenue Repayment Act".

Section 2. Amendments to the WIIN Act

Clarifies that prepayments will not impact project-specific statutes. Permanently extends authorities that allow Reclamation project water users to prepay what they owe to the federal government.

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 Natural Resources' oversight findings and recommendations are reflected in the body of this report.

Compliance With House Rule XIII and Congressional Budget Act

1. *Cost of Legislation and the Congressional Budget Act.* Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.
2. *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 amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority.

Earmark Statement

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

Unfunded Mandates Reform Act Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION ACT

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TITLE III—NATURAL RESOURCES

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Subtitle J—California Water

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SEC. 4011. OFFSETS AND WATER STORAGE ACCOUNT.

(a) PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND CONTRACTORS OF FEDERALLY DEVELOPED WATER SUPPLIES.—

(1) CONVERSION AND PREPAYMENT OF CONTRACTS.—Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users' association to allow for prepayment of the repay-

ment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:

(A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).

(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).

(2) PREPAYMENT.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, all repayment contracts under section 9(d) of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(A) shall—

(A) provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment schedules, as adjusted to reflect payment not reflected in such schedules, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, no later than 3 years after the effective date of the repayment contract, such amount to be discounted by ½ the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) continue so long as the contractor pays applicable charges, consistent with section 9(d) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) CONTRACT REQUIREMENTS.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, the following shall apply with regard to all repayment contracts under subsection (c)(1) of section 9 of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(B):

(A) Provide for the repayment in lump sum of the remaining construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedules, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of the request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law.

(C) Continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(4) CONDITIONS.—All contracts entered into pursuant to paragraphs (1), (2), and (3) shall—

(A) not be adjusted on the basis of the type of prepayment financing used by the water users' association;

(B) conform to any other agreements, such as applicable settlement agreements and new constructed appurtenant facilities; and

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) ACCOUNTING.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102-575.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) EFFECT OF EXISTING LAW.—Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection (a)(2)(A), subsections (a) and (b) of section 213 of

the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) EFFECT OF OTHER OBLIGATIONS.—The obligation of a contractor to repay construction costs or other capitalized costs described in subsection (a)(2)(B), (a)(3)(B), or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) has been paid.

(d) EFFECT ON EXISTING LAW NOT ALTERED.—Implementation of the provisions of this subtitle shall not alter—

(1) the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and maintenance costs, construction costs, or other capitalized costs incurred after the date of the enactment of this subtitle, or to other contractors; and

(2) specific requirements for the disposition of amounts received as repayments by the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) *that are directed by project-specific statutes in effect prior to the date of passage of this Act to accounts other than the General Reclamation Fund*;

(3) the priority of a water service or repayment contractor to receive water; or

(4) except as expressly provided in this section, any obligations under the reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Public Law 102-575), of the water service and repayment contractors making prepayments pursuant to this section.

(e) WATER STORAGE ENHANCEMENT PROGRAM.—

(1) IN GENERAL.—Except as provided in subsection (d)(2), $335,000,000 out of receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of enactment of this Act shall be directed to the Reclamation Water Storage Account under paragraph (2).

(2) STORAGE ACCOUNT.—The Secretary shall allocate amounts collected under paragraph (1) into the "Reclamation Storage Account" to fund the construction of water storage. The Secretary may also enter into cooperative agreements with water users' associations for the construction of water storage and amounts within the Storage Account may be used to fund such construction. Water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Storage Account for part or all of such facilities.

(3) REPAYMENT.—Amounts used for water storage construction from the Account shall be fully reimbursed to the Account

consistent with the requirements under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) except that all funds reimbursed shall be deposited in the Account established under paragraph (2).

(4) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Account under this subsection shall—

(A) be made available in accordance with this section, subject to appropriation; and

(B) be in addition to amounts appropriated for such purposes under any other provision of law.

(f) DEFINITIONS.—For the purposes of this subtitle, the following definitions apply:

(1) ACCOUNT.—The term "Account" means the Reclamation Water Storage Account established under subsection (e)(2).

(2) CONSTRUCTION.—The term "construction" means the designing, materials engineering and testing, surveying, and building of water storage including additions to existing water storage and construction of new water storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

(3) WATER STORAGE.—The term "water storage" means any federally owned facility under the jurisdiction of the Bureau of Reclamation or any non-Federal facility used for the storage and supply of water resources.

(4) TREASURY RATE.—The term "Treasury rate" means the 20- year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury existing on the effective date of the contract.

(5) WATER USERS' ASSOCIATION.—The term "water users' association" means—

(A) an entity organized and recognized under State laws that is eligible to enter into contracts with Reclamation to receive contract water for delivery to end users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservancy districts, irrigation districts, municipalities, and water project contract units.

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SEC. 4013. DURATION.

This subtitle shall expire on the date that is 5 years after the date of its enactment, with the exception of—

(1) section 4004, which shall expire 10 years after the date of its enactment**[**; and**]***;*

(2) projects under construction in sections 4007, 4009(a), and 4009(c)**[**.**]***; and*

(3) section 4011.

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DISSENTING VIEWS

H.R. 3675 is an attempt to permanently reauthorize section 4011 of the Water Infrastructure Improvements for the Nation (WIIN) Act, enabling administrative conversions of agricultural and municipal water service contracts into repayment contracts. This legislation would provide contractors with discounted repayment rates, encouraging increased water use during a time of climate-induced drought, ultimately burdening taxpayers. At the same time, tribes, fisheries, non-agricultural industries, and the environment—all of which depend on shared water resources for their livelihoods and ecosystem health—would suffer the negative consequences of this policy.

Reclamation law is founded on the principle that beneficiaries (contractors) are responsible for reimbursing the federal government for construction costs of federal water projects. Water delivery reimbursements are typically governed by water service contracts or repayment contracts. Under water service contracts, contractors are responsible for paying a combined rate for capital repayment and operations and maintenance for each acre-foot of water delivered. By contrast, repayment contracts amortize capital costs over a long term—generally 40 years—and are repaid in fixed annual installments, with irrigation investments bearing no interest and municipal and industrial investments incurring interest. Furthermore, Reclamation law established acreage limitations for land irrigated with water delivered from federal reclamation projects to prevent speculation and monopolies, thereby supporting development and expansion of the West. Efforts to increase these acreage limits have been longstanding, with the original limit of 160 acres having been raised to 960 acres under the Reclamation Reform Act (RRA).

H.R. 3675 would permit the prepayment of outstanding construction cost obligations, either through a lump sum or in installments, to enable contract conversion. Contractors would thus be allowed to pay the current value of their remaining contract payments, discounted at one-half of the 20-year Treasury securities maturity rate. Once contractors fulfill their repayment obligations, they would be exempt from acreage limitations and full-cost pricing for water, along with other requirements set forth by the RRA, which could diminish the funding returns for the Bureau of Reclamationand would effectively authorize contractors to buy their way out of RRA restrictions.

While Congress has supported the authorization for prepayment on a case-by-case basis, there remain concerns regarding the adoption of a "one-size-fits-all" approach, as such is the case with this legislation. Although prepayment may offer short-term benefits for taxpayers, it's crucial to ensure that these arrangements provide both immediate and long-term advantages for the public and protect taxpayer interests. Irrigators typically receive the most significant financial assistance from the federal government, benefiting from subsidized financing, as they are not charged interest on their debt. Additionally, other project beneficiaries cover the portion of debt deemed to exceed irrigators' "ability to pay." Taxpayer watchdog groups and others have consistently opposed the removal of acreage limitations and other RRA requirements.

Permanent reauthorization of Section 4011 of the WIIN Act would effectively eliminate congressional oversight and disregard the unique circumstances of individual projects. Not only does the bill favor House Republicans' special interest industry friends, but the legislation also undermines environmental water protections and fails to consider that irrigators generally receive the largest amount of financial assistance from the federal government.

RAÚL M. GRIJALVA,
Ranking Member.

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