

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3168

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## AN ACT

To amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to modify the enforceability date for certain provisions, 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,*

1 **SECTION 1. WHITE MOUNTAIN APACHE TRIBE RURAL**  
2 **WATER SYSTEM.**

3 (a) **EXTENSION OF ENFORCEABILITY DATE.**—

4 (1) **IN GENERAL.**—Section 309(d)(2) of the  
5 White Mountain Apache Tribe Water Rights Quan-  
6 tification Act of 2010 (Public Law 111–291; 124  
7 Stat. 3088; 133 Stat. 2669) is amended—

8 (A) in the matter preceding subparagraph  
9 (A), by striking “April 30, 2023” and inserting  
10 “December 30, 2027”; and

11 (B) in subparagraph (A), by striking “May  
12 1, 2023” and inserting “December 31, 2027”.

13 (2) **CONFORMING AMENDMENT.**—Section  
14 3(b)(2) of the White Mountain Apache Tribe Rural  
15 Water System Loan Authorization Act (Public Law  
16 110–390; 122 Stat. 4191; 124 Stat. 3092) is  
17 amended by striking “beginning on” and all that fol-  
18 lows through the period at the end and inserting  
19 “beginning on December 31, 2027.”.

20 (b) **COST INDEXING.**—Section 312(c) of the White  
21 Mountain Apache Tribe Water Rights Quantification Act  
22 of 2010 (Public Law 111–291; 124 Stat. 3095) is amend-  
23 ed by striking “All amounts made available under” and  
24 all that follows through the period at the end and inserting  
25 the following:

1           “(1) WHITE MOUNTAIN APACHE TRIBE WATER  
2 RIGHTS SETTLEMENT SUBACCOUNT.—All amounts  
3 made available under subsection (a) shall be ad-  
4 justed as necessary to reflect the changes since Oc-  
5 tober 1, 2007, in the construction cost indices appli-  
6 cable to the types of construction involved in the  
7 construction of the WMAT rural water system and  
8 the maintenance of the WMAT rural water system.

9           “(2) WMAT SETTLEMENT FUND.—All amounts  
10 made available under subsection (b)(2) shall be ad-  
11 justed annually to reflect the changes since October  
12 1, 2007, in the construction cost indices applicable  
13 to the types of construction involved in the construc-  
14 tion of the WMAT rural water system and the main-  
15 tenance of the WMAT rural water system.

16           “(3) WMAT MAINTENANCE FUND.—All  
17 amounts made available under subsection (b)(3)  
18 shall be adjusted on deposit to reflect changes since  
19 October 1, 2007, in the Consumer Price Index for  
20 All Urban Consumers West Urban 50,000 to  
21 1,500,000 published by the Bureau of Labor Statis-  
22 tics.

23           “(4) WMAT COST OVERRUN SUBACCOUNT.—Of  
24 the amounts made available under subsection  
25 (e)(2)—

1           “(A) \$35,000,000 shall be adjusted as nec-  
2           essary to reflect the changes since October 1,  
3           2007, in the construction cost indices applicable  
4           to the types of construction involved in the con-  
5           struction of the WMAT rural water system and  
6           the maintenance of the WMAT rural water sys-  
7           tem; and

8           “(B) additional funds, in excess of the  
9           amount referred to in subparagraph (A), shall  
10          be adjusted as necessary to reflect the changes  
11          since April 1, 2021, in the construction cost in-  
12          dices applicable to the types of construction in-  
13          volved in the construction of the WMAT rural  
14          water system and the maintenance of the  
15          WMAT rural water system.

16          “(5) CONSTRUCTION COSTS ADJUSTMENT.—

17          The amounts made available under subsections (a),  
18          (b)(2), and (e)(2) shall be adjusted to address con-  
19          struction cost changes necessary to account for un-  
20          foreseen market volatility that may not otherwise be  
21          captured by engineering cost indices, as determined  
22          by the Secretary, including repricing applicable to  
23          the types of construction and current industry  
24          standards involved.

1           “(6) PROHIBITION.—Notwithstanding any other  
2           provision of law, after the enforceability date, any  
3           increase in the amounts appropriated under sub-  
4           sections (a)(1), (b)(3)(B), and (e)(2)(A) because of  
5           cost indexing shall not be available from funds in the  
6           Treasury not otherwise appropriated.

7           “(7) AUTHORIZATION OF APPROPRIATIONS.—  
8           There are authorized to be appropriated funding for  
9           the purposes provided in this subsection.”.

10          (c) FUNDING FOR WMAT COST OVERRUN SUB-  
11          ACCOUNT.—Section 312(e)(2)(B) of the White Mountain  
12          Apache Tribe Water Rights Quantification Act of 2010  
13          (Public Law 111–291; 124 Stat. 3095) is amended by  
14          striking “\$11,000,000” and inserting “\$541,000,000”.

15          (d) RETURN TO TREASURY.—

16                 (1) IN GENERAL.—Section 312(e)(4)(B) of the  
17                 White Mountain Apache Tribe Water Rights Quan-  
18                 tification Act of 2010 (Public Law 111–291; 124  
19                 Stat. 3096) is amended, in the matter preceding  
20                 clause (i), by striking “shall be—” and all that fol-  
21                 lows through the period at the end of clause (ii) and  
22                 inserting “shall be returned to the general fund of  
23                 the Treasury.”.

24                 (2) CONFORMING AMENDMENT.—Section  
25                 312(b)(2) of the White Mountain Apache Tribe

1 Water Rights Quantification Act of 2010 (Public  
 2 Law 111–291; 124 Stat. 3093; 132 Stat. 1626) is  
 3 amended by striking subparagraph (B) and inserting  
 4 the following:

5 “(B) TRANSFERS TO FUND.—There is au-  
 6 thorized to be appropriated to the Secretary for  
 7 deposit in the WMAT Settlement Fund  
 8 \$78,500,000.”.

9 (e) CONVEYANCE OF TITLE TO TRIBE.—Section  
 10 307(d)(2)(E) of the White Mountain Apache Tribe Water  
 11 Rights Quantification Act of 2010 (Public Law 111–291;  
 12 124 Stat. 3082; 132 Stat. 1626) is amended, in the mat-  
 13 ter preceding clause (i), by striking “water system—” and  
 14 all that follows through the period at the end of clause  
 15 (ii)(II) and inserting “water system is substantially com-  
 16 plete, as determined by the Secretary in accordance with  
 17 subsection (k).”.

18 (f) REQUIREMENTS FOR DETERMINATION OF SUB-  
 19 STANTIAL COMPLETION OF THE WMAT RURAL WATER  
 20 SYSTEM.—Section 307 of the White Mountain Apache  
 21 Tribe Water Rights Quantification Act of 2010 (Public  
 22 Law 111–291; 124 Stat. 3080; 132 Stat. 1626) is amend-  
 23 ed by adding at the end the following:

24 “(k) REQUIREMENTS FOR DETERMINATION OF SUB-  
 25 STANTIAL COMPLETION OF THE WMAT RURAL WATER

1 SYSTEM.—The WMAT rural water system shall be deter-  
2 mined to be substantially complete if—

3 “(1) the infrastructure constructed is capable of  
4 storing, diverting, treating, transmitting, and dis-  
5 tributing a supply of water as set forth in the final  
6 project design described in subsection (c); or

7 “(2) the Secretary—

8 “(A) expended all of the available funding  
9 provided to construct the WMAT rural water  
10 system; and

11 “(B) despite diligent efforts, cannot com-  
12 plete construction as described in the final  
13 project design described in subsection (c) due  
14 solely to the lack of additional authorized fund-  
15 ing.”.

16 (g) REQUIREMENT.—Section 310(b) of the White  
17 Mountain Apache Tribe Water Rights Quantification Act  
18 of 2010 (Public Law 111–291; 124 Stat. 3090) is amend-  
19 ed by adding at the end the following:

20 “(3) EXPENDITURES.—If, before the enforce-  
21 ability date, Federal funds are expended to carry out  
22 activities described in subparagraph (A) or (C) of  
23 paragraph (2) in excess of the amounts provided  
24 pursuant to the White Mountain Apache Tribe  
25 Rural Water System Loan Authorization Act (Public

1 Law 110–390; 122 Stat. 4191), such expenditures  
2 shall be accounted for as White Mountain Apache  
3 Tribe Water Rights Settlement Subaccount funds.”.

4 (h) ENFORCEABILITY DATE EFFECTIVENESS.—Sec-  
5 tion 309(d)(1) of the White Mountain Apache Tribe Water  
6 Rights Quantification Act of 2010 (Public Law 111–291;  
7 124 Stat. 3088; 133 Stat. 2669) is amended—

8 (1) by redesignating subparagraphs (D)  
9 through (G) as subparagraphs (E) through (H), re-  
10 spectively; and

11 (2) by inserting after subparagraph (C) the fol-  
12 lowing:

13 “(D) such amount, up to the amount made  
14 available under section 312(e)(2), as the Sec-  
15 retary determines to be necessary to construct  
16 the WMAT rural water system that is capable  
17 of storing, diverting, treating, transmitting, and  
18 distributing a supply of water as set forth in  
19 the final project design described in section  
20 307(c) has been deposited in the WMAT Cost  
21 Overrun Subaccount;”.

22 (i) PROHIBITION.—Section 312(e) of the White  
23 Mountain Apache Tribe Water Rights Quantification Act  
24 of 2010 (Public Law 111–291; 124 Stat. 3095) is amend-  
25 ed by adding at the end the following:



1           “(5) PROHIBITION.—Notwithstanding any other  
2 provision of law, any amounts made available under  
3 paragraph (2)(B) shall not be made available from—

4           “(A) the Indian Water Rights Settlement  
5 Completion Fund established by section  
6 70101(a) of the Infrastructure Investment and  
7 Jobs Act (25 U.S.C. 149(a)); or

8           “(B) the Reclamation Water Settlements  
9 Fund established by section 10501(a) of the  
10 Omnibus Public Land Management Act of 2009  
11 (43 U.S.C. 407(a)).”.

12       (j) OVERSIGHT AND ACCOUNTING.—Section 312 of  
13 the White Mountain Apache Tribe Water Rights Quan-  
14 tification Act of 2010 (Public Law 111–291; 124 Stat.  
15 3093) is amended by adding at the end the following:

16       “(h) OVERSIGHT AND ACCOUNTING.—

17           “(1) IN GENERAL.—Not later than 1 year after  
18 the date of enactment of this subsection and annu-  
19 ally thereafter, the Director of the Bureau shall sub-  
20 mit to the Committee on Indian Affairs of the Sen-  
21 ate and the Committee on Natural Resources of the  
22 House of Representatives an annual report that de-  
23 scribes all expenditures, during the year covered by  
24 the report, from—

1           “(A) the WMAT Settlement Fund estab-  
 2           lished by subsection (b)(2)(A) and the WMAT  
 3           Maintenance Fund established by subsection  
 4           (b)(3)(A) (referred to in this subsection as the  
 5           ‘Funds’); and

6           “(B) the WMAT Cost Overrun Subaccount  
 7           established by subsection (e)(1) (referred to in  
 8           this subsection as the ‘Subaccount’).

9           “(2) INCLUSIONS.—Each report under para-  
 10          graph (1) shall include, but not be limited to:

11           “(A) Progress and cost accounting on the  
 12           planning, design and construction of the Miner  
 13           Flat Dam and any additional water supply fa-  
 14           cilities resulting from expenditures from the  
 15           Funds and the Subaccount.

16           “(B) A cost accounting of the administra-  
 17           tive expenses related to activities resulting from  
 18           expenditures from the Funds and the Sub-  
 19           account.

20           “(C) A cost accounting of the environ-  
 21           mental regulatory and economic process related  
 22           to activities resulting from expenditures from  
 23           the Funds and the Subaccount.

24           “(D) A projection of such costs described  
 25           in subparagraphs (A), (B), and (C) for the next

1           fiscal year and specific goals and objectives for  
2           the next fiscal year.

3           “(E) Whether those projections and spe-  
4           cific goals and objectives have been met and  
5           any barriers encountered in the last fiscal  
6           year.”.

Passed the Senate December 19, 2022.

Attest:

*Secretary.*

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