



CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

August 20, 1998

**S. 2131**

**Water Resources Development Act of 1998**

*As ordered reported by the Senate Committee on Environment and Public Works  
on July 29, 1998*

**SUMMARY**

S. 2131 would authorize the appropriation of about \$1.9 billion (in 1998 dollars) over the 1999-2008 period for the Secretary of Army, acting through the Army Corps of Engineers, to conduct studies and undertake projects for flood control, port development, inland navigation, storm damage reduction, and environmental restoration. Adjusting for anticipated inflation, CBO estimates that implementing the bill would require appropriations of \$2.1 billion over that period. The bill also would authorize prepayment of or waive amounts owed to the federal government and make a portion of the fees collected at Corps recreation sites available for spending without further appropriation.

The bill also would settle potential claims of the Cheyenne River and Lower Brule Sioux Tribes and the state of South Dakota against the federal government for losses of terrestrial (land) habitat incurred as a result of the construction of the Missouri River Basin Pick-Sloan project. The bill would transfer to the Department of the Interior, to be held in trust for the tribes, and to the state, federal lands that were acquired for the Pick-Sloan project. The United States would relinquish all fees associated with recreation, permits, easements, and rights-of-way, on these lands. S. 2131 would establish funds for the tribes and the state and make interest from the funds available for restoring habitat flooded as a result of the project.

CBO estimates that implementing S. 2131 would result in additional outlays of about \$1.5 billion over the 1999-2003 period, assuming the appropriation of the necessary amounts. The remaining amounts authorized by the bill would be spent after 2003. Enacting the bill would affect direct spending; therefore, pay-as-you-go procedures would apply. CBO estimates that enacting S. 2131 would reduce direct spending by \$17 million in 1999, but would cause a net increase in direct spending of \$21 million over the 1999-2003 period. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2131 is shown in the following table. For constructing, operating, and maintaining projects that are already authorized, CBO estimates that the Corps will need about \$4 billion annually over the 1999-2003 period (roughly the level appropriated in 1998). The table shows the estimates of additional spending necessary to implement the bill. The costs of this legislation fall within budget function 300 (natural resources and environment).

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	By Fiscal Year, in Millions of Dollars				
	1999	2000	2001	2002	2003
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Estimated Authorization Level	340	425	403	273	132
Estimated Outlays	170	332	401	341	222
<b>CHANGES IN DIRECT SPENDING</b>					
Estimated Budget Authority	-17	6	10	13	14
Estimated Outlays	-17	4	8	12	14

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## BASIS OF ESTIMATE

For the purposes of this estimate, CBO assumes that S. 2131 will be enacted at or near the beginning of fiscal year 1999, and that all amounts estimated to be authorized by the bill will be appropriated for each fiscal year.

### Spending Subject to Appropriation

Estimates of annual budget authority needed to meet design and construction schedules were provided by the Corps. CBO adjusted the estimates to reflect the impact of anticipated inflation during the time between authorization and appropriation. Estimated outlays are based on historical spending rates for Corps activities.

## **Direct Spending**

**Prepayments and Waivers of Payments.** S. 2131 would authorize the state of Oklahoma to pay the present value of its outstanding obligation to the United States for water supply. CBO estimates that, if the bill is enacted, a prepayment of about \$20 million would be made in 1999 and that payments forgone would be about \$2 million a year over the 1999-2033 period. The bill would authorize the Corps to partly or fully waive payments from the Waurika Project Master Conservancy District and the cities of Chesapeake, Virginia, and Moorefield, West Virginia, for other projects. CBO estimates that, under current law, payments from these entities would total less than \$500,000 annually over the 1999-2031 period. Thus, any forgone payments from those activities would not be significant.

**Spending of Recreation Fees.** S. 2131 would authorize the Corps to retain and spend each year any recreation fees that are in excess of \$34 million, the amount that the Administration and CBO estimate will be collected under current law. At present, all recreation fees are deposited as offsetting receipts in the Treasury and are unavailable for spending unless appropriated. By allowing the Corps to spend receipts in excess of \$34 million, this provision creates the possibility of new direct spending. Because recreation fees do not vary significantly from year to year, CBO estimates that the expected increase in spending from any annual receipts collected in excess of \$34 million would be less than \$500,000 a year.

**Land Transfers and Trust Funds.** S. 2131 would direct the Corps to transfer lands to the Department of the Interior, to be held in trust for the Cheyenne River and Lower Brule Sioux Tribes, and to the state of South Dakota. The United States would relinquish all revenues from permits, easements, rights-of-way, and recreational use of these lands. CBO anticipates that the transfers would occur over the 2000-2002 period. CBO estimates that the amount of offsetting receipts forgone under this provision would total less than \$500,000 in 2000 and about \$1 million annually thereafter.

S. 2131 also would establish habitat restoration funds for the Cheyenne River and Lower Brule Tribes and the state of South Dakota. Beginning with the year that S. 2131 is enacted, the bill would direct the Secretary of the Treasury to deposit 25 percent of the previous year's receipts from the Pick-Sloan Missouri River basin program into separate accounts in the U.S. Treasury on behalf of the tribes and the state. Once a total of \$165 million is deposited—\$57 million for the tribes and \$108 million for the state—no further principal deposits would be made. The bill would direct that principal amounts be invested in interest-bearing Treasury securities and that the funds' interest earnings be made available to the tribes and the state without fiscal year limitation or the need for further appropriation.

Based on information from the Western Area Power Administration—which markets electricity produced from the Pick-Sloan Missouri River Basin—CBO estimates that receipts from the Pick-Sloan project will total about \$250 million annually over the 1998-2001 period; therefore, if S. 2131 is enacted in fiscal year 1999, the funds would be fully capitalized in fiscal year 2001. The deposits to the trust funds would be intragovernmental transfers, and thus, there would be no net outlays associated with them.

S. 2131 would make the interest on the amounts in the funds available to the tribes and the state for restoring terrestrial habitat. For the purpose of this estimate, CBO assumes that deposits into the funds will be made by January 1 of each year; the initial deposits would be made by January 1, 1999, and earn interest for three quarters of fiscal year 1999. Interest earnings would first become available for spending in fiscal year 2000. We assume that the balances in the funds would earn interest at an annual rate of about 6.2 percent, which is CBO's baseline projection of the interest rate on 30-year Treasury bonds. Unspent interest in the accounts also would earn interest, but at a lower (short-term) rate of about 5 percent.

As a result, CBO estimates that interest earnings in the following amounts would be made available to the tribes and the state: \$3 million in 2000, \$7 million in 2001, \$10 million in 2002, and \$11 million a year thereafter. Estimated outlays are based on historical spending rates for similar programs.

It is possible that enacting S. 2131 would allow the United States to avoid potential costs from possible claims by the tribes and South Dakota related to the restoration of terrestrial habitat. The state has indicated that it may file suit against the United States for failing to restore such wildlife habitat affected by the construction of the Missouri River Basin Pick-Sloan Project if provisions similar to those included in S. 2131 are not enacted. It is possible that the tribes would do the same. Because the bill would provide for completely restoring such habitat affected by the project, CBO estimates that enacting the bill would probably be more costly than any potential judgment (which might provide for only partial restoration). However, CBO has no basis for estimating the likelihood, timing, or amount of any judgment. Enacting the bill would not settle any potential claims related to aquatic habitat. The impact of the project on these resources is still under evaluation.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. (The bill would not

affect governmental receipts.) For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

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	By Fiscal Year, in Millions of Dollars										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	-17	4	8	12	14	14	14	14	14	14
Changes in receipts											

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## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2131 contains no intergovernmental mandates as defined in UMRA. State and local governments that choose to participate in water resources development projects and programs carried out by the Corps would incur costs as described below. In addition, some state, local, and tribal governments would benefit from provisions in this bill that would alter their obligations to make payments to the federal government, order transfers of land, and create habitat restoration trust funds.

### Authorizations of New Projects

CBO estimates that nonfederal entities (primarily state and local governments) that choose to participate in the projects authorized by this bill would spend about \$1.1 billion during fiscal years 1999 through 2010 to help construct these projects. These estimates are based on information provided by the Corps. In addition to these costs, nonfederal entities would pay for the operation and maintenance of many of the projects after they are constructed.

### Changes in Cost-Sharing Policies

S. 2131 would make a number of changes to federal laws that specify the share of water resources project costs borne by state and local governments. Section 107 would increase the nonfederal share of recurring costs associated with new coastal shore protection projects from 35 percent to 50 percent. This change would not affect the initial construction of these projects. In the case of projects to place on beaches sand that has been dredged from adjacent navigation inlets and channels, section 140 of this bill would reduce the nonfederal share of costs from 50 percent to 35 percent.

Several provisions in S. 2131 would expand the opportunities for state and local governments to participate in water resources projects. Other parts of the bill would alter the responsibility of specific state and local governments to pay amounts owed to the federal government in association with water resource projects, either by allowing the prepayment of amounts owed or by waiving amounts owed under current law.

### **New Programs**

S. 2131 would authorize two new programs that would assist state and local governments. Specifically, the bill would authorize total appropriations of \$75 million for fiscal years 2000 and 2001 for a program to reduce flood hazards and \$30 million for the same period for activities to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River. State and local governments choosing to participate in these programs would have to provide 35 percent of the initial cost of any funded project and all the subsequent operation and maintenance costs.

### **Land Transfers and Trust Funds**

S. 2131 would direct the Corps to transfer certain lands to the state of South Dakota and to the Department of the Interior. The latter lands would be held in trust for two tribes in that state—the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe. Further, the bill would create habitat restoration funds for the state and the tribes. The interest earnings of those funds would be made available to those governments for restoration activities. The amounts available would reach about \$11 million a year by 2003. In addition, the state, the tribes, and affected counties in the state would receive all the revenues now collected by the federal government on the lands to be transferred—about \$1 million per year.

The state and the tribes would incur some costs initially to complete plans for restoration of wildlife habitat. Based on information provided by state and tribal officials, CBO estimates that these costs would total less than \$500,000.

### **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

This bill would impose no new private-sector mandates as defined UMRA.

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