

WATER RESOURCES DEVELOPMENT ACT OF 1983

JUNE 8, 1984.—Ordered to be printed

Mr. DOLE, from the Committee on Finance,
submitted the following

R E P O R T

together with

A D D I T I O N A L V I E W S

[To accompany S. 1739]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 1739) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 112, beginning with line 22, strike out all through page 114, line 7, and insert in lieu thereof the following:

SEC. 502. (a) No toll, operating charge, or fee may be levied upon, or collected from, any vessel, dredge, or other water craft for passing through any—

(1) lock,

(2) canal,

(3) canalized river, or

(4) other work for the use and benefit of navigation.

that belongs to the United States.

(b) Any proposals or recommendations of the Secretary of the Army or of any other official of the executive branch of the Federal Government relating to the imposition of any fee for the commercial use of harbors, inland

waterways, or any work described in subsection (a) shall be submitted by the Secretary of the Army or such official, as the case may be, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) The provisions of this section shall not apply with respect to the Panama Canal.

2. On page 175, beginning with line 7, strike out all through page 176, line 11, and insert in lieu thereof the following:

SEC. 1006. Any appropriate non-Federal interest which has constructed, maintained, or funded any project may submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives proposals and recommendations for legislation which would authorize such non-Federal interests to collect fees for the use of such project by vessels in commercial waterway transportation.

I. BACKGROUND

S. 1739 (the "Water Resources Development Act") was reported by the Senate Committee on Environment and Public Works, with an amendment, on November 17, 1983 (S. Rept. No. 98-340), and was reported by the Senate Committee on Energy and Natural Resources, with amendments, on April 27, 1984 (S. Rept. No. 98-418). The bill was ordered referred on May 16, 1984, to the Committee on Finance for a period not to exceed beyond June 8, 1984, for consideration of sections 502 and 1006. The Finance Subcommittee on Taxation and Debt Management held a public hearing on these provisions on June 5, 1984.

Section 502 of S. 1739, as referred to the Committee on Finance, would authorize the Secretary of the Army "to impose, collect, and obligate use charges on the commercial users of the inland waterways and harbors of the United States to the degree necessary for additional construction, rehabilitation, renovation, operation, and maintenance of commercial navigational features and components of the inland waterways and harbors . . . so they are sufficient to meet the needs of the commercial waterway users, as recommended by the Inland Waterways Users Board. " Such user charges were to be instituted if spending for such inland waterway and harbor purposes is to exceed the \$646 million annual obligation ceiling set by section 501 of the bill for fiscal years 1986-1999.

Section 1006 would authorize any appropriate non-Federal interest to recover its obligations for construction and certain incremental maintenance costs undertaken pursuant to section 1004 of the bill (relating to certain harbors) by collecting fees from vessels in commercial waterway transportation. At least 80 percent of such fees would have to be assessed on "users that benefit directly" from such construction and maintenance expenditures. Such fees could be used only to pay for the non-Federal share of such construction and incremental maintenance costs.

II. INLAND WATERWAYS FUEL TAX AND TRUST FUND

FUEL TAX

Pursuant to the Inland Waterways Revenue Act of 1978 (P.L. 95-502), a retailers excise tax is currently imposed on diesel and other liquid fuels used by commercial cargo vessels on 26 designated inland or intracoastal waterways of the United States (Code sec. 4042). Included among the 26 waterways are the Mississippi River upstream from Baton Rouge, the Mississippi's tributaries, and the Gulf and Atlantic Intracoastal Waterways.

The tax does not apply to fuel used by deep-draft ocean-going vessels, recreational vessels, or noncargo vessels such as passenger vessels and fishing boats. In addition, fuel used by tugs in moving LASH and SEABEE ocean-going barges carrying international cargoes is exempt.

The present tax rate is 8 cents per gallon; that rate was first effective on October 1, 1983. On October 1, 1985, the rate is scheduled to increase to 10 cents per gallon. Present law does not provide any further increases.

TRUST FUND

Revenues from the inland waterways fuel excise tax are transferred periodically to the Inland Waterways Trust Fund. Amounts in the Trust Fund are available, as provided by authorization and appropriation Acts, for making construction and rehabilitation expenditures for navigation on the 26 specified inland or intracoastal waterways. At present, there is an unappropriated balance in the Trust Fund of amounts available for appropriation (estimated at \$142.5 million as of the end of fiscal year 1984).

III. DESCRIPTION OF COMMITTEE ACTION

REASONS FOR COMMITTEE ACTION

The committee is concerned about whether the costs of maintaining and improving the Nation's waterways (including harbors) should be borne out of general revenues or out of user charges and about the economic effect of any increased fees on commercial waterways. In addition, the committee believes that the tax-writing committees and the Congress should have the opportunity to review any proposals that would impose charges on the commercial users of the Nation's waterways. This also would provide the affected industries, consumers, and others with a forum to express any concerns about these issues and any specific fee proposals.

Because of these concerns, the committee amendments to sections 502 and 1006 (as referred) will provide an opportunity to the Committee on Finance, the Ways and Means Committee, and the Congress to consider whether to adopt any proposal or recommendation that would impose fees on the commercial users of the inland waterways or harbors.

EXPLANATION OF COMMITTEE ACTION

Section 502

The committee amendment strikes the language of section 502 (as referred) and substitutes the provision of present law (included in 33 U.S.C. sec. 5) that no toll, operating charge, or fee may be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, that belongs to the United States. In addition, the committee amendment provides that if the Secretary of the Army or any other official of the executive branch of the Federal Government develops any proposals or recommendations relating to waterways user fees to be acted on by the Congress, the Secretary or official must submit such proposal or recommendation to the Senate Committee on Finance and to the House Committee on Ways and Means. The amendment includes the present-law exception in 33 U.S.C. sec. 5 for the Panama Canal.

Section 1006

The committee amendment strikes the language of section 1006 (as referred) and provides that any appropriate non-Federal interest which has constructed, maintained, or funded any project may submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives proposals and recommendations for legislation which would authorize such non-Federal interests to collect fees for the use of such project by vessels in commercial waterway transportation. The committee anticipates that consideration of any such user fee proposal would include an examination as to whether there would be a reasonable relationship between the types and amount of fees proposed and the differing classes and types of users which directly benefit from the expenditures of the fees collected.

Thus, under the committee amendments to sections 502 and 1006 (as referred), no waterways fees, whether with respect to the inland waterways or harbors, can be established, imposed, or collected unless and until a proposal or recommendation for such fees has been enacted by the Congress.

IV. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

A. BUDGET EFFECTS

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the budget effects of sections 502 and 1006 of S. 1739, as reported by the Committee on Finance.

The committee does not believe that these provisions as amended by the Committee on Finance will have any revenue or budget effect.

B. VOTE OF THE COMMITTEE

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the

vote by the committee on the motion to amend sections 502 and 1006 of S. 1739. Sections 502 and 1006, as amended, were ordered favorably reported by voice vote.

V. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out sections 502 and 1006 of S. 1739, as reported by the Committee on Finance.

Numbers of individuals and businesses who would be regulated

The provisions do not involve new or expanded regulation of individuals or businesses.

Economic impact of regulation on individuals, consumers, and business

The provisions do not relate to the personal privacy of individuals.

Determinations of the amount of paperwork

The provisions will involve no additional paperwork for taxpayers.

B. OTHER MATTERS

Consultation with Congressional Budget Office on budget estimates

In accordance with section 403 of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee advises that the Director of the Congressional Budget Office agrees with the committee's budget estimate with respect to sections 502 and 1006 of S. 1739 as amended by the Committee on Finance (as indicated above in Part IV of this report).

New budget authority

In compliance with section 308(a)(1) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by sections 502 and 1006 of the bill as amended involve no new budget authority.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that sections 502 and 1006 of the bill as amended involve no new or increased tax expenditures.

Congressional Budget Office letter

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 8, 1984.

Hon. ROBERT DOLE,
*Chairman, Committee on Finance, U.S. Senate, Dirksen Senate
Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the amendments approved by the Committee on Finance on June 7, 1984 to S. 1739, the Water Resources Development Act of 1983. The amendments remove provisions allowing the collection of additional user fees both by the federal government, on the commercial navigational features of inland waterways and harbors, and by nonfederal interests, on improvements made by these parties to deep draft harbors. These provisions would have no net budget impact relative to current law, because such user fees are not presently authorized.

S. 1739 was referred to the Senate Committee on Finance for consideration of Sections 502 and 1006 of the bill, as reported by the Senate Committee on Environment and Public Works, November 17, 1983. Title V of that bill places a cap of \$646 million on obligations of construction, rehabilitation, renovation, operation, and maintenance of the commercial navigational features and components of inland waterways and harbors in each of the fiscal years 1985-1999. It also authorizes the Secretary of the Army (acting through the Chief of the Army Corps of Engineers) to collect and obligate use charges on this waterway system to finance any spending above the \$646 million level. That title also establishes an inland waterways users board to make recommendations for spending levels for the following fiscal year. The Senate Finance Committee's amendments remove the language allowing the collection and obligation of user fees on the inland waterway system, and replace it with that found in existing law. Relative to S. 1739 as reported by the Committee on Environment and Public Works, these amendments would eliminate both potential receipts from the waterway use charges, and the spending of those receipts on the waterway system. Thus, there would be no net budget impact relative to the reported bill, but spending levels on inland waterways could be lower.

Title X of the reported version of S. 1739 authorizes nonfederal interests to undertake navigational improvements to deep-draft harbors of the United States, and authorizes these nonfederal interests to recover costs of construction and incremental maintenance through the collection of user fees. The Finance Committee's amendments provide that no nonfederal interest is authorized to establish, impose or collect any fees on waterway transportation unless and until a proposal or recommendation for fees has been approved both by the Senate Committee on Finance and the House Committee on Ways and Means. Relative to the reported version of S. 1739, this provision would not have any federal budget impact. However, if such fees were proposed and not approved, the level of port improvement activity carried out by nonfederal interests might be reduced, or such bodies (primarily port authorities) would

be required to finance their improvements in some other way. No other impact on state and local governments is expected to result from the Committee's amendments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

VI. CHANGES IN EXISTING LAW MADE BY THE REVENUE PROVISIONS OF THE BILL, AS REPORTED

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by sections 502 and 1006 of S. 1739, as reported by the Committee on Finance).

VII. ADDITIONAL VIEWS OF HON. JOHN H. CHAFEE

The proposals adopted as committee amendments to S. 1739 weaken the modest cost-recovery provisions of this vital legislation.

S. 1739, as reported by the Environment and Public Works Committee, recognizes two important factors—that we must press ahead with important and long-delayed water development projects, and that we must carefully target scarce federal dollars toward projects for which a genuine need exists.

It has been eight years since Congress last enacted authorizing legislation for water programs. The primary reason for this delay is the lack of a cost recovery mechanism to permit a continued strong federal role in water development. Budgetary constraints in recent years have severely limited the federal government's capacity to fund many worthwhile programs. The construction budget of the Corps of Engineers has declined steadily, and our staggering \$200 billion deficit will severely constrain the ability of Congress to embark upon major new waterway projects.

The federal investment in waterway and port projects has made an important contribution to the movement of goods within our nation and to our exports. Unfortunately, the federal government can no longer afford to invest in every water project that is proposed. S. 1739 makes a reasonable and timely attempt to strengthen our waterway development program while recognizing fiscal realities. The best way to insure the sound investment of limited federal dollars is to give commercial users of waterway facilities a greater stake in determining priorities.

We have spent a great deal of time in the Finance Committee attempting to raise revenue and restrain spending in order to reduce the deficit. Weakening the cost recovery provisions of S. 1739 is not in keeping with these goals and will do little to advance the interests of waterway and harbor users.

S. 1739 does not reduce spending for these programs. It establishes annual caps of \$646 million for the inland system and \$350 million for harbor maintenance—the current levels of spending—and provides a framework for users to assess priorities and make recommendations for future spending. If additional funding is recommended, a cost recovery program would be introduced.

During the eight-year delay in authorizing new water projects, a debate has taken place as to how to contain the rising costs of these programs. Those who benefit from federally supported water facilities have urged us to study the matter. They have cautioned that we must not consider user fees unless they are imposed gradually and in a manner permitting the industry's participation.

After three-and-one-half years of work on this measure, Senator Abdnor and other members of the Environment and Public Works Committee have developed legislation which accomplishes these goals. We cannot afford to study the matter indefinitely. We need

to authorize new water projects, but it would be irresponsible for us to do so without also setting a rational policy for narrowing future spending priorities.

I would like to have seen the bill go further. I supported an amendment offered by Senator Simpson in the Environment Committee to reduce federal expenditures on the inland waterway system by \$35 million each year until 1999, in order to compel users of the system to develop a cost recovery plan. Unfortunately, this proposal was defeated on a vote of 8 to 8. It has been strongly supported by the National Taxpayers Union, which has argued for greater cost recovery than the bill now provides, and by environmental organizations, which have expressed concern about the effects upon wildlife of continued unrestrained waterway development.

The Administration has supported legislation—S. 1554—to immediately require 70 percent cost-recovery on waterway expenditures. In testimony before this committee, the Administration has expressed support for the more modest approach contained in S. 1739 while stressing its preference for a greater reduction in waterway obligations. It is essential that this legislation retain a cost-recovery component if we are to enact a water resources authorization bill this year.

S. 1739 does not impose user fees. It merely sets the stage for greater cost recovery by permitting users to set priorities and requiring them to share in future expenditures. By encouraging a further delay in the eventual adoption of a cost-recovery program, the amendments reported by the Finance Committee to sections 502 and 1006 will not enhance the prospects for our nation's efficient management of water resources in the midst of pressing budgetary constraints.

