



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

September 8, 1999

**S. 438**

**Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved  
Water Rights Settlement Act of 1999**

*As reported by the Senate Committee on Indian Affairs on July 22, 1999*

**SUMMARY**

S. 438 would approve and ratify the water rights settlement agreement entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the state of Montana on April 14, 1997. The bill would authorize appropriations for the Department of Interior (DOI) to implement the agreement, but most of these funds could not be spent until the agreement is approved by the Montana Water Court. S. 438 would create the Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund and would allow the tribe to spend most amounts deposited to the fund (including interest earnings) without further appropriation. The bill also would authorize funding for the Bureau of Reclamation to conduct two feasibility studies and several on-reservation water development projects. (That amount includes \$1 million for 1999 which has already been provided for the current year.) In addition, S. 438 would require the bureau to permanently allocate 10,000 acre-feet per year of stored water to the tribe.

Based on information from DOI, CBO estimates that implementing S. 438 would cost \$48 million over the 2000-2004 period, assuming the appropriation of the authorized amounts. Enacting S. 438 could eventually affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any such impact would not be significant over the next 10 years. S. 438 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs resulting from the settlement agreement would be incurred voluntarily by the state and tribal governments as parties to that agreement.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated impact of S. 438 on discretionary spending is shown in the following table. CBO estimates that the bill could affect future offsetting receipts, but that any such effects would not be significant over the 2000-2004 period. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars					
	1999	2000	2001	2002	2003	2004
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Spending Under Current Law						
Budget Authority <sup>a</sup>	1	0	0	0	0	0
Estimated Outlays	1	0	0	0	0	0
Proposed Changes						
Authorization Level	0	25	16	8	0	0
Estimated Outlays	0	11	9	13	11	4
Spending Under S. 438						
Authorization Level <sup>a</sup>	1	25	16	8	0	0
Estimated Outlays	1	11	9	13	11	4

a. The 1999 level is the amount appropriated to the bureau for preauthorization feasibility studies related to the settlement in that year.

### Spending Subject to Appropriation

Although S. 438 would authorize specific amounts for each fiscal year, most of the funds could not be spent until the Montana Water Court has approved the settlement agreement between the tribe and the state of Montana. S. 438 requires at least one of the parties to petition the court within 180 days of enactment to approve the settlement. Unless the court offers final approval of the settlement within three years of the date when this petition is filed, all unexpended funds provided to implement S. 438 would be returned to the Treasury.

Based on information from the tribe, the state, and DOI, CBO estimates that the settlement would be approved during fiscal year 2002, assuming the bill is enacted by the beginning of fiscal year 2000. For purposes of this estimate, CBO assumes that the amounts authorized for each year would be appropriated as specified in the bill, but that any federal funding

contingent upon the approval of the settlement agreement would not be spent before 2002. For purposes of this estimate, we assume that outlays would occur at historical rates once the funds are released.

**Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund.** S. 438 would authorize appropriations totaling \$21 million over the 2000-2002 period to be deposited in the Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund. Starting in fiscal year 2000, the federal budget will exclude trust funds that are held and managed in a fiduciary capacity by the federal government on the behalf on Indian tribes. Hence, deposits to the trust fund established under this bill would be treated as payments to a nonfederal entity. As a result, the entire amount appropriated to the fund in any fiscal year would be recorded as an outlay in that year.

Once funds are deposited, the tribe could either withdraw the money (subject to DOI approval) and invest it in a private financial institution or leave it in the Treasury where it would earn simple interest at a specified rate. Most of the amounts in the fund would become available to the tribe upon final approval of the settlement agreement. Because the trust fund would be nonbudgetary, such restrictions on the tribe's use of the trust fund would not impact the timing of federal outlays.

**Feasibility Studies.** S. 438 would authorize appropriations of \$1 million in 1999 and \$3 million in 2000 for the bureau to conduct two feasibility studies. The use of these funds would not be contingent on the approval of the settlement agreement. According to the bureau, the \$1 million authorized for 1999 has already been appropriated for feasibility studies related to the settlement. CBO estimates that the amounts authorized for 2000 would be sufficient to cover the remaining costs of these studies.

**Water Development Projects.** S. 438 would authorize appropriations totaling \$24 million over the 2000-2002 period for the bureau to implement several on-reservation water development projects. None of these funds could be spent until the settlement agreement is approved. Based on information from the bureau, CBO estimates that once the funds become available, the agency would spend the accumulated appropriations at historical rates.

### **Direct Spending (including offsetting receipts)**

Effective upon the date when the Montana Water Court approves the settlement agreement, S. 438 would require the bureau to permanently allocate 10,000 acre-feet per year of water to the tribe. The tribe could devote the water to any use within or outside of the reservation and would bear the cost of developing and transporting the water. According to the bureau, the allocation to the tribe would not affect other users over the 2000-2004 period. Because

the allocation would reduce the amount of a marketable resource currently owned by the federal government, this provision could eventually reduce offsetting receipts; thus, pay-as-you-go procedures would apply. CBO estimates, however, that any such impact would not be significant in the foreseeable future.

## **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. Enacting S. 438 eventually could reduce offsetting receipts (a credit against direct spending) that might have been collected if the water allocated to the tribe had been contracted to some other use. Thus, pay-as-you-go procedures would apply, but CBO estimates that any such impact would not be significant over the next 10 years.

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

S. 438 contains no intergovernmental mandates as defined in UMRA. Any costs resulting from the settlement agreement would be incurred voluntarily by the state and tribal governments as parties to that agreement. The tribe has agreed to release the United States from all claims relating to its water rights in exchange for the benefits to be provided by this bill. The state of Montana has agreed to make financial contributions totaling \$550,000 for various activities in support of the settlement.

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

This bill contains no new private-sector mandates as defined in UMRA.

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