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REPT. 106–1018
Part 1

CALFED EXTENSION ACT OF 2000

OCTOBER 30, 2000.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5130]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 5130) to authorize the Secretary of the Interior to provide cost sharing for the CALFED water enhancement programs in California, having considered the same, report favorably thereon with an amendment and recommend 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 "CALFED Extension Act of 2000".

SEC. 2. PURPOSE.

The purpose of this Act is to authorize interim funding for the Secretary of the Interior to continue the implementation of ecosystem protection programs, and development of water supply enhancement projects critically needed to achieve increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection for California. This authorization will ensure that the CALFED Program emphasizes well-grounded, sound science for decisions and actions.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Bay-Delta solution area" means the Bay-Delta watershed, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, and the areas in which diverted/exported water is used.

(2) The term "Bay-Delta watershed" means the waters entering and supplied by the San Joaquin and Sacramento Valley watershed and the lands within the watershed.

(3) The term "CALFED Agencies" means both the Federal Agencies and the State Agencies.

(4) The term "Congressional Committees" means the Senate Committee on Energy and Natural Resources, the Senate Appropriations Subcommittee on Energy and Water Development, the House Resources Committee, and the House Appropriations Subcommittee on Energy and Water Development.

(5) The term "Environmental Water Account" means the CALFED Agencies sponsored water account established to provide water for the protection and recovery of fish beyond water available through existing regulatory actions, at no uncompensated water cost to the water users, in the Bay-Delta watershed and export areas.

(6) The term "Federal Agencies" means the Federal Agencies as identified in the CALFED Bay-Delta Record of Decision.

(7) The term "Federal ESA Regulatory Agencies" means the United States Fish and Wildlife Service and the National Marine Fisheries Service.

(8) The term "Record of Decision" means the Federal record of decision issued August 28, 2000, pursuant to the National Environmental Policy Act of 1969 for the CALFED Bay-Delta Program Final Programmatic Environmental Impact Statement.

(9) The term "Secretary" means the Secretary of the Interior.

(10) The term "State Agencies" means the State agencies as identified in the CALFED Bay-Delta Program Record of Decision.

(11) The term "yield" means a quantity of water supply, either derived from recycling existing sources, stored in a reservoir, or by other means that is reliably available in critically dry years. Conservation, land retirement, transfers, groundwater, increased delta pumping and other water management tools that generate additional or new water supplies shall be considered in characterizing yield.

SEC. 4. WATER SYSTEM IMPROVEMENTS.

(a) IN GENERAL.—The Federal Agencies, acting through the CALFED Program, shall develop a balanced and timely program designed to achieve increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection. In meeting the need for balance, funding for water supply enhancements and environmental benefits shall proceed concomitantly so that adequate progress is made in each area.

(b) WATER SYSTEM IMPROVEMENTS.—The Federal Agencies are directed to ensure that Federal participation in the CALFED Program results in continuous, measurable, and significant benefits to achieve increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection for agricultural and urban uses throughout the Bay-Delta solution area. In developing such water supply benefits, funding for water storage development and conveyance facilities located in the Central Valley and Bay-Delta, will occur together. However, nothing in this Act shall be construed to implicitly or explicitly authorize the Hood Diversion or any Peripheral Canal substitute. In developing water supply options the Federal Agencies shall consider all potential storage alternatives and utilize a cost/benefit analysis in conjunction with environmental criteria to ensure that proposals are selected which address environmental issues and are economically viable.

(c) WATER DELIVERIES.—In consultation with interested parties, the Secretary is directed to develop water supply rule curves that can be used to describe increased water delivery in varying water years. To the extent that the 2001 water year is a normal water year, the Secretary is directed to deliver the water supply improvements targeted in the CALFED Framework for Action, dated June 9, 2000, for agricultural and urban uses. If the 2001 water year is not a normal water year, the Central Valley Project shall be operated pursuant to the water supply rule curves identified above, to ensure that the water supply of south-of-the-Delta Central Valley Project agricultural contractors is increased in a manner comparable with the targeted normal-year supply improvements. The increased supply for south-of-the-Delta Central Valley Project agricultural contractors shall be accomplished without affecting deliveries to other water users. For purposes of this section, "normal-year" shall mean a water year in which precipitation, runoff, and storage, projected on April 1 using a 50-percent exceedance, are within 5 percent of the long-term average.

(d) WATER SUPPLY STUDIES.—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to conduct studies of available water supplies and existing demand within the respective units of the Central Valley Project.

SEC. 5. PROGRAM MANAGEMENT.

(a) LONG-TERM SOLUTION.—Nothing in this Act shall be deemed to diminish the Federal interest in, and responsibility for, working with the State of California through the CALFED Program in developing, funding, and implementing a balanced, long-term solution to achieve increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection in the Bay-Delta solution area. The long-term solution shall be provided by congressional action authorized subsequent to this Act, and shall be based on the equitable allocation of program costs among beneficiary groups. The authorization herein provided for the Federal Agencies shall expire January 1, 2002.

(b) CALFED GOVERNANCE.—It is the intent of Congress that the Federal Government and the State of California will work together to develop a joint structure for managing CALFED operations. To achieve that goal, the Federal Agencies are directed to participate with the State Agencies to develop a proposed structure that will be authorized by both Congress and the California legislature prior to becoming effective. In developing such a proposal, the CALFED Agencies are directed to make such a recommendation to Congress and the California Legislature by May 31, 2001. The Federal Agencies are directed to take steps that will encourage broad public, tribal, and local government involvement in developing the CALFED governance proposal. Whenever feasible, meetings of multiple CALFED Agencies to develop program goals or determine operational criteria shall be open to the public.

SEC. 6. ENVIRONMENTAL WATER MANAGEMENT.

(a) MANAGEMENT OF ENVIRONMENTAL WATER ACCOUNT.—The Federal Agencies are directed to manage the Environmental Water Account so that actions taken to avoid jeopardy to ESA listed species, enhance species recovery, and protect fish by reducing incidental take related to Central Valley Project, State Water Project, or other water user operations, are accomplished with no annual net loss of water delivered by those projects, as compared to the water that would otherwise be delivered. In their operation of the Environmental Water Account, the Federal Agencies are directed to minimize water quality impacts associated with Environmental Water Account operations.

(b) AVOIDING JEOPARDY TO SPECIES.—If, by December 31, 2000, the Environmental Water Account water purchase targets have not been met, the Federal Agencies are directed to continue their efforts to meet the water purchase targets as well as cooperate with the State Agencies to operate the Environmental Water Account to avoid jeopardy to listed species and to avoid reductions in Central Valley Project, State Water Project, or other water user deliveries due to the application of take limits. The CALFED Agencies shall make use of the variable Environmental Water Account assets and all amounts of purchased water actually acquired.

(c) WATER DELIVERY REDUCTIONS.—On or before January 30, 2001, the Federal ESA Regulatory Agencies, in cooperation with all CALFED Agencies, shall determine if there is likely to be jeopardy to listed species from the lack of water in the Environmental Water Account. Only after—

(1) full utilization of the available Environmental Water Account assets;

(2) the use of other water, measures, and resources available to the CALFED Agencies, that would not reduce deliveries to water users; and

(3) a determination by the Federal ESA Regulatory Agencies that jeopardy is likely;

shall water deliveries be reduced. In that event, the reductions shall be the minimum required to avoid jeopardy. In carrying out their duties under this subsection the Federal Agencies shall consider all available information, seek and consider the views of the "independent science panel" (as defined in the Record of Decision), and prepare a written response to the views of the panel.

(d) TIER 3 WATER.—The Federal Agencies shall also follow the procedures set forth in subsection (c) if it is determined that "Tier 3" water (as defined in the Record of Decision) is not available or may be insufficient to avoid jeopardy to existing or future listed species under the Federal or California endangered species Acts.

SEC. 7. LAND ACQUISITION.

Prior to acquiring land as part of the CALFED Program, the CALFED Agencies shall first determine that Federal or State owned land is not available to achieve identified CALFED Program objectives. If private lands are proposed for acquisition, the Federal Agencies shall ensure that all payments in lieu of taxes on existing Federal lands within the county where the land is to be acquired are currently paid. In determining whether to acquire additional lands for the CALFED Program, the CALFED Agencies shall consider the cumulative impact on the local government and communities of transferring the property into government ownership and mitigate such impacts. The Federal Agencies shall, no later than January 1, 2001, de-

velop an assurances program in cooperation with the State Agencies. Under this program, the CALFED Agencies shall partner with landowners and local agencies to develop cooperating landowner commitments that will meet co-equal objectives to achieve local economic and social goals and to implement the ecosystem restoration goals in the Record of Decision.

SEC. 8. LIST OF PROPOSED FEDERAL EXPENDITURES.

For fiscal year 2002, the Secretary shall transmit to the Congressional Committees, by no later than the submission of the budget for the fiscal year under section 1105 of title 31, United States Code, a report for the proposed projects to be carried out with the Federal portion of the funds to be appropriated pursuant to this Act for the upcoming fiscal year. The report shall separately specify all projects supported by Federal funding. For such projects the Secretary shall provide a summary of the recommendations provided by the Bay-Delta Advisory Committee, the Ecosystem Roundtable, and other members of the public commenting on the projects. No project shall proceed without the concurrence of the Congressional Committees.

SEC. 9. ANNUAL REPORTS.

(a) STATE REPORTS.—On January 1, 2001, the Governor of California shall account for all moneys received by the State of California from the Federal fiscal year 2000 appropriations in a written report to the Secretary. The report shall include a description of all projects and activities receiving funds under this Act, as well as any unexpended funds.

(b) REPORT TO CONGRESS.—On February 1, 2001, the Secretary shall provide to the Congressional Committees a report regarding CALFED Program expenditures and accomplishments in achieving increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection.

SEC. 10. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2001 there is authorized to be appropriated to the Secretary $60,000,000. Funds appropriated pursuant to this Act may remain available until expended.

(b) TREATMENT OF FUNDS.—Funds authorized to be appropriated pursuant to this Act to those Federal Agencies that are currently or subsequently become participants in the CALFED Program shall be in addition to the baseline funding levels established for currently authorized projects and programs under the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) and other currently authorized Federal programs for the purposes of Bay-Delta ecosystem protection and restoration and water system improvement.

SEC. 11. PROGRAM RESPONSIBILITIES.

(a) COORDINATION.—To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this Act. CALFED Agencies shall ensure that all relevant Federal programs authorized under this Act and other preexisting authorities coordinate goalsetting, funding, and implementation so as to ensure the most efficient and effective expenditure of Federal funds and resources for CALFED related activities. The United States shall continue coordinated consultations and negotiations with the State of California pursuant to the cost sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. In addition, the Federal Agencies shall cooperate and undertake joint activities with local public agencies, tribes, private water users, and landowners pursuant to the CALFED Program. Such activities shall include, but not be limited to, planning, design, technical assistance, construction for ecosystem restoration programs and projects, and the development of a peer review science program.

(b) BUDGET CROSSCUT.—By November 1, 2000, the Director of the Office of Management and Budget (in this section referred to as "OMB") is directed to submit to the Congressional Committees an interagency budget crosscut report that displays the proposed Federal spending for fiscal year 2001 on ecosystem restoration and other purposes in the Bay-Delta region and identifies all expenditures within the State and Federal Governments used to achieve the objectives identified within the CALFED Program. The report shall be substantially in the form transmitted by the Executive Director of CALFED on September 16, 1999, to the Chairman of the House Resources Subcommittee on Water and Power. OMB shall produce an update of the September 16, 1999, report by no later than January 1, 2001, to display the actual expenditures that were made for fiscal year 2000. As part of the submission of the budget for fiscal year 2001 under section 1105 of title 31, United States Code,

OMB shall prepare a similar budget crosscut report itemizing the proposed fiscal project level funding for year 2002.

(c) PERFORMANCE MEASURES.—CALFED Agencies shall provide to the Congressional Committees by January 1, 2001, a clear statement of goals to achieve increased yield and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection for California. CALFED Agencies shall also provide ecological monitoring plans and protocols to be used for gauging performance of projects funded under this title relative to the stated ecological goals. Such monitoring protocols shall be compatible with the Comprehensive Monitoring Assessment and Research Program and incorporated into all ecosystem projects, grants, and awards of funds appropriated pursuant to this Act. CALFED Agencies shall collect, directly or through the relevant agencies, all monitoring data and use it to assess the effectiveness of the Ecosystem Restoration Program Plan implementation. CALFED Agencies shall also ensure that monitoring data collected for projects funded by the Central Valley Project Improvement Act Restoration Fund and under other relevant authorities are compatible and designed to measure overall trends in ecosystem health in the Bay-Delta watershed.

(d) OBJECTIVE SCIENCE.—The Federal Agencies shall ensure that all aspects of the CALFED Program components use credible and objective scientific review and ensure decisions are based on the best available, independent peer-reviewed information.

SEC. 12. COMPLIANCE WITH STATE LAW.

In carrying out the provisions of this Act, the CALFED Agencies shall operate in compliance with California water law. Nothing in this Act shall be construed to invalidate or preempt State environmental, land use, or water law.

PURPOSE OF THE BILL

The purpose of H.R. 5130 is to authorize the Secretary of the Interior to provide cost sharing for the CALFED water enhancement programs in California.

BACKGROUND

The California San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta) is the largest estuary on the West Coast. Its varied ecosystem includes a maze of tributaries, sloughs, and islands encompassing 738,000 acres. Lying at the confluence of California's two largest rivers, the Sacramento and the San Joaquin, the Delta includes 70,000 acres of wetlands and supports over 120 fish and wildlife species.

The Delta is also the home for thousands of Californians whose predecessors built an extensive system of levees and reclaimed most of the Delta islands in the 1800s. It supports a thriving rural economy based on agriculture, small businesses, mineral extraction, and residences.

The Bay-Delta is also critical to California's economy as a whole, because drinking water for two-thirds of California and irrigation water for 200 crops (including 45 percent of the Nation's produce) pass through the Delta. However, the system no longer serves as a reliable source of high-quality water, and the levees face an unacceptably high risk of breaching. Several native species in the area have been listed as endangered under the Endangered Species Act (ESA).

In the last two decades the population of California has grown by over 30 percent while the water supply has increased by a mere two percent. Much of the promised water deliveries for cities and farms throughout California have not been met. In the intervening years urban and rural water users have adopted many water conservation measures to make up the difference. The demands on the

water system have stretched to the point that new system yield is needed.

Over the last several years water users have had to curtail water use in several parts of the State, not because of a shortage of water, but because of ability to store and gain access to the water. The State of California is in its sixth consecutive "wet" year, yet the water-consuming public has faced shortages based on regulatory redirection of water supplies. It is clear that there will be severe, unmitigatable impacts when the first year of the next drought occurs. In California, it is rare for any 8–10 year period to pass without experiencing at least one drought year. Usually there are about as many drought years as wet years.

The lack of a reliable water supply yield in California to meet all the needs of competing water uses led to the development, in December 1994, of the Bay-Delta Accord, signed by some of the state and federal regulatory agencies involved in water and environmental management. The Accord was also signed with the cooperation of various public interest groups. The Accord created a state-federal coordination group to better integrate the State Water Project and Central Valley Project. The Accord led to the establishment of the CALFED Bay-Delta Program in May 1995. The intent of the program was to develop a long-term comprehensive plan to restore ecological health to the Delta and enhance water supply, reliability, and quality while honoring the water and private property rights of local residents.

In September 1996, Congress enacted the California Bay-Delta Environmental Enhancement Act, which authorized $143.3 million per year in additional federal funding for Bay-Delta ecosystem restoration activities in 1998, 1999, and 2000. Since its passage, the CALFED program has proven unresponsive to members who have asked for information on CALFED activities in their district or other areas of responsibility. The extension of the CALFED program adopted by the Committee is designed to make sure that there is adequate Congressional review as the program meets the multiple goals of improved water supply, environmental management, water quality, and system maintenance. This authorization will also ensure that the CALFED program emphasizes well-grounded, sound science for decisions and actions.

Under the Bay-Delta Accord there was a general understanding that the time had come to improve the environment, establish reliable water supplies, and improve water quality. Since its inception water users have actually lost hundreds of thousands of acre-feet of water from the system. Water quality remains a concern based on the operation of the system. And while a great deal of money has been appropriated for environmental restoration, the program lacks the kind of good science, success measurement tools, and coordinated operation which should be a foundation of this effort.

California Governor Davis and Secretary of the Interior Babbitt charted new ground in the Framework for Action by proposing that the State and federal governments step up to the plate to fund environmental protection so project delays and misplaced financial burdens do not fall on the water consuming public. H.R. 5130 builds on that principle and makes sure that the Environmental Water Account (EWA) is pursued aggressively and administered equitably. Beyond that, it provides a safety net for the environment

and water users if the financing targets of the EWA are not fully realized.

This bill improves how the CALFED program is managed in California. Specifically it: (1) addresses the need for additional water yield options in the State of California; (2) assures that federally-funded CALFED projects come before Congress prior to appropriation of funds; (3) continues to reduce the demand on Northern California water through the development of water reuse and recycling; (4) requires federal agencies to take steps to encourage broad public, tribal and local government involvement in developing a CALFED governance proposal; (5) assures that the regulatory relief promised by the Babbitt/Davis Administrations is adhered to; (6) requires that prior to any federal land acquisition of private lands, certain requirements need to be met; and (7) directs the CALFED agencies to operate in compliance with California water law.

COMMITTEE ACTION

H.R. 5130 was introduced on September 7, 2000, by Congressman John Doolittle (R–CA). The bill was referred to the Committee on Resources, and additional to the Committee on Transportation and Infrastructure. On September 20, 2000, the Resources Committee met to consider the bill. Congressman Doolittle offered an amendment in the nature of a substitute to assure regulatory relief and compliance with California State water law. Representative George Miller offered a substitute amendment to the Doolittle amendment, which was ruled non-germane. The Doolittle amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section provides a short title for the bill, the "CALFED Extension Act of 2000".

Section 2. Purpose

The purpose of this bill is to authorize interim funding for the Secretary of the Interior to implement the CALFED program, except as otherwise provided in this bill. This authorization will ensure the implementation of ecosystem protection programs, and development of water supply enhancement projects critically needed to achieve increased water supply and environmental benefits as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection for California. This authorization will ensure that the CALFED program emphasizes well-grounded, sound science for decisions and actions.

Section 3. Definitions

This section defines several words used throughout the bill. In particular, it identifies new water supply as "a quantity of water, either derived from recycling existing sources, stored in a reservoir, or by other means that is reliably available in critically dry years."

Section 4. Water system improvements

This section provides for a balanced approach to water management in California. It is designed to ensure that the CALFED program results in continuous, measurable, and significant benefits in the California water system to achieve increased yield and environmental enhancement. It will assure that funding to increase water yield in the State and to improve environmental benefits will proceed together, with adequate progress in each area.

A key goal of this section is to ensure that water storage development and conveyance facilities proceed together. The Committee wants to make sure that additional opportunities to move water out of the Bay-Delta do not proceed without new supplies being developed to meet the needs of the areas where the water to be conveyed originates. There was a concern that additional conveyance, without additional system yield, would merely make environmental goals and water sufficiency harder to achieve in upstream locations. The section also clarifies that this CALFED authorization has nothing to do with the authorization of any new facility, including any implicit or explicit authorization of the Hood Diversion, any Peripheral Canal, or any substitute. CALFED continues to evaluate a variety of water enhancement and management options but any proposal for additional facilities requiring federal funds would have to come before Congress for subsequent scrutiny and authorization.

One of the important considerations in this section was a desire by the Committee to include adequate consideration of the economic viability of water projects. Throughout the hearing process and subsequent correspondence, the Committee became concerned that projects were being evaluated for storage and yield without making an objective determination of the relative cost per acre-foot of the new yield being considered.

Section 5. Program management

This section is designed to recognize that there is yet to be developed a long-term solution to California's water problems, particularly a plan to address the Bay-Delta, and the other areas of California that are affected by water management through the Bay-Delta. The Committee wants to be very clear that the future governance of the CALFED program needs to be a multiparty structure originating in California with broad public, tribal, and local government involvement. On that basis, a structure could be advanced that would carry out the responsibilities of the CALFED program only after it has been authorized by both Congress and the California legislature.

Section 6. Environmental water management

A problem acknowledged by both Governor Davis and Secretary Babbitt is a federal and state regulatory process gone awry within the State of California. The California water system was designed to meet the needs of a world-class agriculture system and growing cities. For the last several years the water system has been managed with the effect that fish priorities have been addressed while jeopardizing water quality, human consumption needs, and system reliability. The current operation of the system is not producing balance.

This section requires the Secretary to manage the Environmental Water Account so that environmental goals can be met, but will be carried out in such a way that there will be no annual net loss of water to water users in the Central Valley Project, the State Water Project, and other water user operations because of actions taken to avoid jeopardy due to ESA, or other environmental requirements. The program would be authorized to make sure that the public benefits are matched by public expenditures to achieve these important goals.

Section 7. Land acquisition

This section is designed to ensure that federal or State owned land is first identified to reach CALFED program objectives. If private lands are proposed for acquisition, the federal government cannot take additional private property off the tax rolls unless the existing federal commitment to make payments in lieu of taxes on existing federal lands within the county are currently paid. In addition, the CALFED agencies are being charged to consider the cumulative impact on the local government and communities of transferring the property into government ownership and then devise ways to mitigate such impacts. The section requires the federal government to develop a program in cooperation with the State agencies, landowners and local agencies to achieve local economic and social goals at the same time it implements the ecosystem restoration goals in the Record of Decision

Section 8. List of proposed federal expenditures

In recognition of the fact that the CALFED program has operated as a preauthorization/block grant program, the Committee believes that there needs to be an adjustment to return the federal funding mechanism to Congress to allow Congress to clearly understand what expenditures are planned prior to a federal appropriation. This mechanism will be a report to Congress that will identify the proposed projects to be carried out with the federal portion of the funds prior to the actual appropriation of the funds.

Section 9. Annual reports

This section provides for annual reporting.

Section 10. Program funding

This section authorizes $60 million in appropriations to the Secretary of the Interior for fiscal year 2001.

Section 11. Program responsibilities

This section focuses on the need for the CALFED program to improve coordination with the state and federal agencies; provide meaningful annual budget crosscuts; adopt performance measures that provide a real basis for adaptive management rather than continual policy drifting with no goals or financial accountability; and the use of objective science rather than the current agency speculation driven by regulatory objectives.

Section 12. Compliance with State law

This section ensures that the authorization does not inadvertently adversely affect the existing California legal structure.

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

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5130, the CALFED Extension Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 5130—CALFED Extension Act of 2000

Summary: A consortium of federal agencies and the State of California participate in the CALFED Bay-Delta program to improve

the water supply and environment in the area of the San Francisco Bay and the Sacramento-San Joaquin Delta. H.R. 5130 would authorize the appropriation of $60 million for this program. H.R. 5130 also would require federal agencies to study all options for water storage projects, require federal agencies to acquire Congressional approval before proceeding with any project, and make other changes to the CALFED Bay-Delta Program.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 5130 would cost $60 million over the 2001–2005 period. H.R. 5130 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 5130 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5130 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
CALFED Spending Under Current Law:						
Budget Authority[1]	60	0	0	0	0	0
Estimated Outlays	30	48	35	15	5	0
Proposed Changes:						
Authorization Level	0	60	0	0	0	0
Estimated Outlays	0	9	12	15	15	9
CALFED Spending Under H.R. 5130:						
Authorization Level[1]	60	60	0	0	0	0
Estimated Outlays	30	57	47	30	20	9

[1] The 2000 level is the amount appropriated for that year.

Basis of estimate: For this estimate, CBO assumes enactment of H.R. 5130 early in fiscal year 2001 and appropriation of the authorized amount. Outlay estimates are based on information from the Bureau of Reclamation and historic spending patterns for the CALFED Bay-Delta program.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 5130 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs state, local, or tribal governments.

Estimate prepared by: Federal Costs: Rachel Applebaum. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS OF CONGRESSMAN GEORGE MILLER

Enactment of H.R. 5130 as reported will do severe damage to the CALFED water program in California. While we need to reauthorize CALFED in order to assure that the $60 million requested by the President is appropriated, passage of H.R. 5130 as reported would undermine the long negotiations and careful planning that have gone into the CALFED Framework document. Secretary of the Interior Bruce Babbitt, California Governor Gray Davis, California Attorney General Bill Lockyer, and more than 40 state, local, and national environmental and public interest organizations clearly indicated their strong opposition to H.R. 5130. The Secretary of the Interior and the Administrator of EPA have both advised they will recommend a veto of any legislation containing these divisive CALFED provisions.

CALFED officials held thousands of hours of negotiations with dozens of state and federal planners and hundreds of stakeholders, and many public comment sessions over the past four years in order to arrive at its Framework package. By contrast, H.R. 5130 was introduced just a few weeks before the Committee convened to consider the bill, and has been the subject of no hearings whatsoever.

The CALFED process is widely viewed as the key for resolving California's legendary water disputes. State and Federal agency heads on August 28, 2000 signed a comprehensive "Record of Decision," a document that describes in great detail how the agencies and many stakeholder groups believe California should implement this new blueprint for solving the state's water problems.

H.R. 5130 as reported in effect re-writes the recent CALFED Record of Decision before the ink is dry. The bill introduces extraneous and divisive requirements that are guaranteed to disrupt sensible water planning efforts in California for years to come. The bill will compound endangered species problems and unravel years of effort to implement the Central Valley Project Improvement Act. Moreover, the legislation threatens the underlying integrity of the CALFED process: who will be willing to devote hundreds of hours to the planning and implementation efforts that are so critical to California's future if all of that work can be undone without consultation by a congressional committee acting without benefit of public input or expert opinion?

H.R. 5130 as reported is not a simple extension of the CALFED program. It is a major re-write of carefully negotiated plans for water development and management in California for the next several decades. The language will negate over 5 years of negotiations and studies by California water users, scientists, economists, environmentalists, and 18 agencies of the Federal government and State of California.

H.R. 5130 as reported reverses CALFED decisions regarding new dams for water storage in California. CALFED has carefully selected new storage projects that are cost-effective and can be build with minimal environmental damage. H.R. 5130 as reported would require CALFED to reopen its analysis of water storage projects, including highly controversial projects such as the proposed Auburn Dam.

H.R. 5130 as reported requires micro-management of the CALFED process by Congress, including project-level congressional approvals. This would delay and politicize the CALFED program and undermine the science-based approach to restoration that the bill claims to support.

California water issues are complex and have far-reaching implications for California's future. CALFED must continue to do its challenging work without the controversial and extraneous revisions unilaterally proposed in H.R. 5130 as reported. This flawed legislation is clearly intended to undermine sound water policy planning and management for California, and it should be rejected in favor of a simple and non-controversial extension of the CALFED authority.

GEORGE MILLER.

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