

At a Glance

S. 595, Rio San José and Rio Jemez Water Settlements Act of 2023

As ordered reported by the Senate Committee on Indian Affairs on March 29, 2023

By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	21	111	1,703
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	21	111	1,703
Spending Subject to Appropriation (Outlays)	*	2	not estimated

Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and \$500,000.

The bill would

- Secure water rights for four Pueblo tribes in New Mexico by ratifying agreements among various parties
- Establish and appropriate funds for five trust funds to be administered by the Department of the Interior until their transfer to the Pueblo tribes

Estimated budgetary effects would mainly stem from

- Transfer of the trust funds' ownership to the Pueblo tribes

Areas of significant uncertainty include

- Anticipating when the water right settlements would be finalized

Detailed estimate begins on the next page.

See also

[CBO's Cost Estimates Explained](#), [CBO Describes Its Cost-Estimating Process](#), [Glossary](#)

Bill Summary

S. 595 would secure about 30,000 acre-feet of water annually for four Pueblo tribes in New Mexico by ratifying two agreements:

- The Rio San José Stream System Water Rights Local Settlement Agreement, reached in 2022 between the Pueblo of Acoma, the Pueblo of Laguna, the Navajo Nation, the State of New Mexico, and other parties, would secure 20,200 acre-feet of water annually for the Pueblos of Acoma and Laguna.
- The Pueblos of Jemez and Zia Water Rights Settlement Agreement, reached in 2022 between the Pueblo of Jemez, the Pueblo of Zia, the State of New Mexico, and other parties, would secure 9,800 acre-feet of water annually for those tribes.

The bill would provide appropriations to capitalize five different trust funds and those trust funds would accrue interest during the period they are administered by the Department of the Interior (DOI). Once the parties to the settlements have satisfied specified conditions, the federal government would transfer ownership of each trust fund, including interest credited to the fund, to the relevant tribe for use in developing, constructing, and maintaining water projects.

Estimated Federal Cost

The estimated budgetary effect of S. 595 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted by the end of calendar year 2023 and that the amounts appropriated will be deposited into the trust funds soon thereafter.

Using information from DOI about specifications in the bill, CBO expects that the following conditions would be met seven years after enactment:

- All settlements, including amendments required to conform to the bill would be final and executed,
- All waivers and releases of claims required under the bill would be executed,
- All appeals would have been exhausted and the courts would have approved agreements as binding on all parties, and
- The State of New Mexico would have contributed to or entered into funding agreements for the required amounts.



CBO expects that DOI would publish findings in the *Federal Register* for each settlement, stating that the bill’s conditions have been met and that ownership of the trust funds is to be transferred.

**Table 1.
Estimated Increases in Direct Spending Under S. 595**

	By Fiscal Year, Millions of Dollars										2024-2028	2024-2033
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033		
Pueblos of Acoma and Laguna Settlement Trust Funds												
Estimated Budget Authority	901	0	0	0	0	0	0	0	0	0	901	901
Estimated Outlays	11	13	17	14	14	14	818	0	0	0	69	901
Interest Credited to the Trust Funds												
Estimated Budget Authority	31	32	24	24	24	25	19	0	0	0	135	179
Estimated Outlays	0	0	0	0	0	0	179	0	0	0	0	179
Subtotal												
Estimated Budget Authority	932	32	24	24	24	25	19	0	0	0	1,036	1,080
Estimated Outlays	11	13	17	14	14	14	997	0	0	0	69	1,080
Pueblos of Jemez and Zia Settlement Trust Funds												
Estimated Budget Authority	519	0	0	0	0	0	0	0	0	0	519	519
Estimated Outlays	10	8	8	8	8	8	469	0	0	0	42	519
Interest Credited to the Trust Funds												
Estimated Budget Authority	17	18	13	14	14	14	14	0	0	0	76	104
Estimated Outlays	0	0	0	0	0	0	104	0	0	0	0	104
Subtotal												
Estimated Budget Authority	536	18	13	14	14	14	14	0	0	0	595	623
Estimated Outlays	10	8	8	8	8	8	573	0	0	0	42	623
Total Increases												
Estimated Budget Authority	1,468	50	37	38	38	39	33	0	0	0	1,631	1,703
Estimated Outlays	21	21	25	22	22	22	1,570	0	0	0	111	1,703

CBO estimates that implementing S. 595 would increase spending subject to appropriation by less than \$500,000 in every year and would total \$2 million over the 2024-2028 period.

Direct Spending

CBO estimates that enacting S. 595 would increase direct spending by \$1.7 billion over the 2024-2033 period.

Pueblos of Acoma and Laguna Settlement Trust Funds. Title I would establish one trust fund for each tribe and a third fund for the benefit of both tribes. The amounts in the trust funds would be capitalized with appropriations totaling \$850 million, distributed as follows:

- \$312 million for the Pueblo of Acoma Settlement Trust Fund, consisting of the Water Rights Settlement Account (\$296 million), a Water Infrastructure Operations and Maintenance Account (\$14 million), and a Feasibility Studies Settlement Account (\$2 million);
- \$493 million for the Pueblo of Laguna Settlement Trust Fund, consisting of the Water Rights Settlement Account (\$464 million), a Water Infrastructure Operations and Maintenance Account (\$26 million), and a Feasibility Studies Settlement Account (\$3 million); and
- \$45 million for the Acomita Reservoir Works Trust Fund, consisting of the Water Rights Settlement Account.

Title I would appropriate whatever amounts are necessary to account for inflation from October 2021 through the time those amounts are deposited into each trust fund. Based on the assumption that the bill will be enacted by the end of calendar year 2023, CBO estimates that the amount for inflation would be \$51 million; thus, the total appropriation would be \$901 million.

Under the bill, the Acoma and Laguna Pueblos would have immediate access to \$80 million from the funds to use for feasibility studies, installing groundwater wells, and construction projects to rehabilitate and expand the Acomita reservoir, dam, and water conveyance infrastructure. The federal government would retain ownership of the remaining amounts until 2030, when CBO expects that all settlement conditions will be satisfied. Interest would be credited to the deposited amounts.

In 2030, the federal government would transfer ownership of the trust funds to the tribes; those transfers (including credited interest) would be considered federal expenditures. Based on CBO's projections of interest rates and on an assumption that all conditions will be met by 2030, CBO estimates that \$997 million would be transferred in 2030; \$179 million of that amount would be for interest credited to the trust funds. On that basis, CBO estimates that enacting title I would increase direct spending by \$1.1 billion over the 2024-2033 period.

The federal government would retain fiduciary responsibility over the trust funds until the tribes are ready to acquire water rights and to plan, design, build, and maintain water projects; those subsequent actions would not affect the federal budget.



Pueblos of Jemez and Zia Settlement Trust Funds. Title II would establish an interest-bearing trust fund for each tribe, capitalized with appropriations of \$290 million for the Pueblo of Jemez Settlement Trust Fund and \$200 million for the Pueblo of Zia Settlement Trust Fund. Title II would appropriate whatever amounts are necessary to account for inflation from October 2021 through the time those amounts are deposited into each fund. Based on the assumption that the bill will be enacted by the end of calendar year 2023, CBO estimates that amount for inflation would be \$29 million; thus, the total appropriation would be \$519 million.

Under the bill, the Jemez and Zia Pueblos would have immediate access to \$50 million for developing economic water plans, preparing environmental documents, and designing and installing groundwater wells. The federal government would retain ownership of the remaining amounts until 2030, when CBO expects that all settlement conditions will be satisfied. Interest would be credited to the deposited amounts.

In 2030, the federal government would transfer ownership of the trust funds to the tribes; those transfers (including credited interest) would be considered federal expenditures. Based on CBO's projections of interest rates and the assumption that all of the conditions will be met by 2030, CBO estimates that \$573 million would be transferred to the tribes in 2030; \$104 million would be for interest credited to the account. Accordingly, CBO estimates that enacting title II would increase direct spending by \$623 million over the 2024-2033 period.

The federal government would retain fiduciary responsibility over the contents of the trust funds until the money is needed by the tribes to design, rehabilitate, and construct water projects for domestic, municipal, and agricultural use; those subsequent actions would not affect the federal budget.

Spending Subject to Appropriation

DOI would incur administrative costs to implement S. 595, such as overseeing environmental and technical compliance during construction projects. Using information about average costs for other water settlements, CBO estimates that the annual cost of those activities would be less than \$500,000 and would total \$2 million over the 2024-2028 period; any spending would be subject to the availability of appropriated funds.

Nonbudgetary Effects

The settlements would require New Mexico to contribute \$36 million for the Pueblos of Acoma and Laguna Water Rights Settlement and \$20 million for the Pueblos of Jemez and Zia Water Rights Settlement. Generally, when the federal government takes control of assets that belong to other entities, those amounts are considered nonbudgetary and their collection and disbursement does not affect the deficit.

Uncertainty

This estimate is subject to uncertainty because the amount of interest credited to each fund will depend on when the water settlements are finalized. S. 595 allows the parties to delay the finalization of the settlements if additional time is needed to satisfy the required conditions. Thus, interest credited to the funds could be lower if the settlements are finalized earlier than CBO anticipates or higher if those settlements are finalized after 2030.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

Table 2.
CBO's Estimate of the Statutory Pay-As-You-Go Effects of S. 595, the Rio San José and Rio Jemez Water Settlements Act of 2023, as Ordered Reported by the Senate Committee on Indian Affairs on March 29, 2023

	By Fiscal Year, Millions of Dollars										2024-2028	2024-2033
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033		
	Increase in the Deficit											
Pay-As-You-Go Effect	21	21	25	22	22	22	1,570	0	0	0	111	1,703

Increase in Long-Term Net Direct Spending and Deficits

CBO estimates that enacting S. 595 would not increase net direct spending or deficits in any of the four consecutive 10-year periods beginning in 2034.

Mandates

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.



Estimate Prepared By

Federal Costs: Aurora Swanson

Mandates: Rachel Austin

Estimate Reviewed By

Ann E. Futrell
Senior Adviser for Budget Analysis

Kathleen FitzGerald
Chief, Public and Private Mandates Unit

H. Samuel Papenfuss
Deputy Director of Budget Analysis

Estimate Approved By

A handwritten signature in black ink that reads "Phillip L. Swagel". The signature is fluid and cursive, with a long, sweeping underline.

Phillip L. Swagel
Director, Congressional Budget Office