

At a Glance

S. 306, Tule River Tribe Reserved Water Rights Settlement Act of 2023

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

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	20	804
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	20	804
Spending Subject to Appropriation (Outlays)	0	1	not estimated

Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034? < \$2.5 billion	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? < \$5 billion	Contains intergovernmental mandate?	Yes, Cannot Determine Costs
	Contains private-sector mandate?	No

The bill would

- Secure water rights for the Tule River Tribe of California by ratifying a 2007 agreement between the tribe and other parties
- Establish and appropriate funds for the Tule River Indian Tribe Settlement Trust Fund to be administered by the Department of the Interior until its transfer to the tribe
- Transfer federal land to a trust for the benefit of the Tule Tribe Reservation
- Impose intergovernmental mandates as defined by the Unfunded Mandates Reform Act

Estimated budgetary effects would mainly stem from

- The transfer of the trust fund's ownership to the Tule River Tribe, which would be recorded as a federal expenditure

Detailed estimate begins on the next page.

See also

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



Bill Summary

S. 306 would secure up to 5,828 acre-feet of water annually for the Tule River Tribe of California by ratifying the Tule River Tribe Reserved Water Rights Settlement Agreement reached in 2007 by the Tule River Tribe, the Tule River Association, and the South Tule Independent Ditch Company. The bill would appropriate funds to capitalize the Tule River Indian Tribe Settlement Trust Fund, an interest-bearing fund that would be administered by the Department of the Interior (DOI). After the parties have satisfied certain conditions, the federal government would transfer the trust fund (including any interest credited to the fund) to the tribe for use in constructing water projects for the Tule Tribe Reservation in Tulare County, California.

Estimated Federal Cost

The estimated budgetary effect of S. 306 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

Table 1. Estimated Budgetary Effects of S. 306													
By Fiscal Year, Millions of Dollars												2023- 2028	2023- 2033
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033		
Increases in Direct Spending													
Tule River Indian Tribe Settlement Trust Fund													
Estimated Budget Authority	0	645	0	0	0	0	0	0	0	0	0	645	645
Estimated Outlays	0	5	5	5	5	0	0	0	625	0	0	20	645
Interest Credited to the Trust Fund													
Estimated Budget Authority	0	23	23	18	18	18	19	20	20	0	0	100	159
Estimated Outlays	0	0	0	0	0	0	0	0	159	0	0	0	159
Total Changes in Direct Spending													
Estimated Budget Authority	0	668	23	18	18	18	19	20	20	0	0	745	804
Estimated Outlays	0	5	5	5	5	0	0	0	784	0	0	20	804

CBO estimates that implementing S. 306 would increase spending subject to appropriation by less than \$500,000 in any year over the 2023-2028 period.



Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted early in fiscal year 2024 and that the amounts appropriated in the bill would thus be deposited in the trust fund in that year. Using information from DOI and based on the bill's specifications, CBO expects that the following conditions would be met eight years after enactment:

- The settlement, including amendments required to conform to the bill's provisions, would be finalized and executed;
- All waivers and releases of claims required under the bill would be executed; and
- All appeals would have been exhausted and the courts would have approved the agreement as binding on all parties.

Finally, DOI would publish a statement of findings in the *Federal Register* that the bill's conditions have been met, and ownership of the trust fund would be transferred to the tribe.

Direct Spending

CBO estimates that enacting the bill would increase direct spending by \$804 million over the 2023-2033 period.

Tule River Indian Tribe Settlement Trust Fund. S. 306 would establish a trust fund consisting of two interest-bearing accounts: the Tule River Tribe Water Development Projects Account and the Tule River Tribe Operation, Maintenance, and Replacement Account. The bill would appropriate \$568 million to capitalize those accounts—\$518 million for water projects and \$50 million for operation, maintenance, and replacement. S. 306 also would appropriate additional amounts to account for inflation over the period from November 2020 until those amounts are deposited into the fund. Based on the assumption that the bill will be enacted early in 2024, CBO estimates that the total amount deposited in the fund would be \$645 million.

Under the bill, the tribe would have immediate access to \$20 million from the trust fund to complete technical studies for future water infrastructure projects. Otherwise, the federal government would retain ownership until 2031, when all settlement conditions are expected to be satisfied. Deposited amounts would be credited with interest earnings. In 2031, the federal government would transfer ownership of the trust fund to the tribe; the amount transferred (including any interest earnings) would be considered a federal expenditure. Based on CBO's projections of interest rates and the assumption that all of the conditions would be met by 2031, CBO estimates that interest earnings would total \$159 million. Accordingly, CBO estimates that the total amount transferred in 2031 would be \$784 million.



The federal government would retain fiduciary responsibility over the contents of the trust fund until the money is needed by the tribe to plan, design, construct, and maintain water projects; those subsequent actions would not affect the federal budget.

Land Held in Trust. Within 10 years after the settlement conditions are met, S. 306 would direct DOI to transfer about 11,640 acres to be held in trust for the benefit of the tribe as part of the Tule Tribe Reservation in California. That amount consists of 9,037 acres from the Forest Service; 1,837 acres owned by the tribe; and 765 acres from the Bureau of Land Management.

Using information from those agencies, CBO estimates that, starting in 2031, implementing the bill’s provisions would decrease offsetting receipts (and thus increase direct spending) because the Forest Service would no longer collect grazing fees on that land. Using information from the Forest Service about those fees, CBO estimates that the increase in direct spending would be insignificant in every year and over the 2023-2033 period. No federal receipts are collected from tribal land or from land administered by the Bureau of Land Management.

Spending Subject to Appropriation

The agencies also would incur costs to oversee environmental and technical compliance for water projects constructed by the tribe and to transfer land to the trust. Using information from the agencies and average costs to oversee activities for other water settlements, CBO estimates that carrying out those activities would have insignificant costs in every year and would total \$1 million over the 2024-2028 period; any spending would be subject to the appropriation of the estimated amounts.

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. 306, the Tule River Tribe Reserved Water Rights Settlement Act of 2023, as Ordered Reported by the Senate Committee on Indian Affairs on March 29, 2023														
By Fiscal Year, Millions of Dollars												2023-2028	2023-2033	
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033			
	Increase in the Deficit													
Pay-As-You-Go Effect	0	5	5	5	5	0	0	0	784	0	0	20	804	

Increase in Long-Term Net Direct Spending and Deficits:

CBO estimates that enacting S. 306 would not significantly increase net direct spending in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting S. 306 would not significantly increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2034.

Mandates

S. 306 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO cannot determine whether the aggregate cost of those mandates would exceed the annual threshold established in UMRA (\$99 million in 2023, adjusted annually for inflation).

S. 306 would require the Tule River Tribe to waive the right to raise claims to some water rights and for certain damage to water, land, and other resources resulting from the loss of water or water rights. The cost of the mandate would be the forgone value of awards and settlements of claims that the tribe would be prevented from raising under the bill. Because both the number of claims that could be barred or terminated and the value of forgone compensation stemming from them are uncertain, CBO has no basis for estimating the cost of the mandate.

The tribe also would be prohibited from permanently giving or selling any portion of the Tribal Water Right. Based on the tribe's stated intent to keep and use the water rights in a continuous manner for water storage, the cost for the tribe to comply with the prohibition would be small because the tribe has no foreseeable intent to give or sell the right.

By taking land into trust for the Tule River Tribe, the bill would impose a mandate on state and local governments by prohibiting them from taxing that land. Information from Tulare County about taxes and other receipts associated with the land indicate those forgone revenues would total less than \$100,000 annually.

S. 306 contain no private-sector mandates as defined in UMRA.



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A handwritten signature in black ink, appearing to read "Phillip L. Swagel".

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