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TECHNICAL CORRECTIONS TO THE NORTHWESTERN NEW MEXICO RURAL WATER PROJECTS ACT, TAOS PUEBLO INDIAN WATER RIGHTS SETTLEMENT ACT, AND AAMODT LITIGATION SETTLEMENT ACT

NOVEMBER 4, 2025.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 640]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 640) to amend the Omnibus Public Land Management Act of 2009 to make a technical correction to the Navajo Nation Water Resources Development Trust Fund, to amend the Claims Resolution Act of 2010 to make technical corrections to the Taos Pueblo Water Development Fund and Aamodt Settlement Pueblos' Fund, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 640 authorizes a total of $18.467 million in interest payments to be deposited into three existing trust funds that were created under previously approved Indian water rights settlements. These funds include the Navajo Nation Water Resources Development Trust Fund, the Taos Pueblo Water Development Fund, and the Aamodt Settlement Pueblos' Fund.

69–010

BACKGROUND AND NEED

Between 2009 and 2010, Congress approved five Indian water rights settlements—the Duck Valley[1], Crow[2], Taos Pueblo[3], Aamodt[4], and Navajo San Juan (Navajo-Gallup)[5] settlements. Each of these included a provision that prohibited the investment of settlement funds until the settlement's enforceability date was reached. The Department of the Interior noted in 2021 that such investment restrictions are unusual in Indian water rights legislation and expressed its support for new legislation to remove this limitation. S. 640 specifically remedies this issue for three of the five settlements affected by the investment prohibition.[6]

Navajo Nation (San Juan River). In 2009, Congress passed the Omnibus Public Land Management Act of 2009,[7] which included the Northwestern New Mexico Rural Water Projects Act[8] to ratify the Navajo-San Juan River Water Rights Settlement Agreement and settle the Navajo Nation's claims to water rights in the San Juan River Basin in New Mexico. This law established the Navajo Nation Water Resources Development Fund to construct the Navajo-Gallup Water Supply Project in Northwestern New Mexico, infrastructure designed to deliver piped water to approximately 250,000 people by 2040.

Taos Pueblo. In 2010, Congress passed the Claims Resolution Act of 2010,[9] which included the Taos Pueblo Indian Water Rights Settlement Act[10] to ratify the Taos Pueblo Water Rights Settlement Agreement and settle Taos Pueblo's claims to water rights in the Rio Hondo and Rio Pueblo de Taos Stream Systems in New Mexico. This law established the Taos Pueblo Water Development Fund to carry out the purposes of the Act and settlement agreement.

Nambé, Pojoaque, San Ildefonso, and Tesuque Pueblos. The Claims Resolution Act of 2010 included the Aamodt Litigation Settlement Act[11] to ratify the Aamodt Water Rights Settlement Agreement and settle the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque's claims to water rights in the Pojoaque River Stream System in New Mexico. This law established the Aamodt Settlement Pueblos' Fund for the benefit of the four Pueblos to carry out the purposes of the Act and settlement agreement.

Both the Omnibus Public Land Management Act of 2009 and the Claims Resolution Act of 2010 were intended to further develop water resources infrastructure for the Navajo Nation, Nambé Pueblo, Pojoaque Pueblo, San Ildefonso Pueblo, Tesuque Pueblo, and Taos Pueblo pursuant to their ratified water rights settlements. Unlike other Indian water rights settlements, however, these two Acts prohibited investment of settlement funds prior to their re-

[1] Pub. L. No. 111–11, 123 Stat. 1405 (2009).
[2] Pub. L. No. 111–291, § 401, 124 Stat. 3097 (2010).
[3] Pub. L. No. 111–291, § 501, 124 Stat. 3122 (2010).
[4] Pub. L. No. 111–291, § 601, 124 Stat. 3134 (2010).
[5] Pub. L. No. 111–11, § 10601, 123 Stat. 1379 (2009).
[6] Similar legislation (S. 546) was introduced in the 119th Congress to address an interest-related limitation for the Shoshone-Paiute Tribes of the Duck Valley Reservation by authorizing appropriation of $5.125 million for the Shoshone-Paiute Tribes Water Rights Development Fund, which was established in 2009 pursuant to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act.
[7] Pub. L. No. 111–11, 123 Stat. 991 (2009).
[8] Pub. L. No. 111–11, § 10301, 123 Stat. 1367 (2009).
[9] Pub. L. No. 111–291, 124 Stat. 3064 (2010).
[10] Pub. L. No. 111–291, § 501, 124 Stat. 3122 (2010).
[11] Pub. L. No. 111–291, § 601, 124 Stat. 3134 (2010).

spective enforcement dates. As a result, the six Tribes benefitting from three water settlements were denied millions of dollars of interest that could have been earned if the funds were invested as they are typically in other settlements. The amounts to be deposited in the three trust fund accounts represent the unpaid interest that would have accrued if interest accrual were permitted on the Tribes' water settlement trust funds between the dates these funds were appropriated and the settlement enforcement dates, or another specified date. The funding authorized in S. 640 will provide the Tribes with additional resources to support water infrastructure and uses authorized by their respective water rights settlements.

SUMMARY

S. 640 authorizes a total of $18.467 million in interest payments to be deposited into three existing trust funds that were created under previously approved Indian water rights settlements. These funds include $6.358 million to the Navajo Nation Water Resources Development Trust Fund, $7.794 million to the Taos Pueblo Water Development Fund, and $4.315 million to the Aamodt Settlement Pueblos' Fund.

LEGISLATIVE HISTORY

S. 640 was introduced by Senators Luján and Heinrich on February 19, 2025. The Committee held a business meeting on March 5, 2025 to consider S. 640 and ordered the bill to be reported favorably, without amendment, by voice vote.

In the 118th Congress an identical bill, S. 3406, was introduced by Senators Luján and Heinrich on December 5, 2023. The Committee held a hearing on S. 3406 on July 10, 2024 (S. Hrg. 118–530). The Committee held a business meeting to consider S. 3406 on July 25, 2024, and ordered the bill reported favorably, without amendment (S. Rept. 118–241).

An identical companion bill, H.R. 6599, was introduced by Representatives Leger Fernandez (D–NM–3) and Stansbury (D–NM–1) in the House of Representatives on December 5, 2023. The Committee on Natural Resources Subcommittee on Water, Wildlife, and Fisheries held a hearing on H.R. 6599 on July 23, 2024.

In the 117th Congress, a similar bill, H.R. 9293, was introduced by Representative Leger Fernandez (D–NM) in the House of Representatives on November 14, 2022.

COMMITTEE RECOMMENDATION

The Senate Committee on Indian Affairs in an open business meeting on March 5, 2025, by a majority voice vote of a quorum present, recommends that the Senate pass, S. 640, without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section sets forth the short title as the "Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act."

Section 2—Authorization of payment of adjusted interest on the Navajo Nation Water Resources Development Trust Fund

This section would amend the Omnibus Public Land Management Act of 2009 to authorize the appropriation of $6.358 million to be deposited into the Navajo Nation Water Resources Development Fund, commensurate with the Tribe's earned interest.

Section 3—Authorization of payment of adjusted interest on the Taos Pueblo Water Development Fund

This section would amend the Claims Resolution Act of 2010 to authorize the appropriation of $7.794 million into the Taos Pueblo Water Development Fund, commensurate with the Tribe's earned interest.

Section 4—Authorization of payment of adjusted interest on the Aamodt Settlement Pueblos' Fund

This section would amend the Claims Resolution Act of 2010 to authorize the appropriation of $4.315 million into the Aamodt Settlement Pueblos' Fund, commensurate with the Tribes' earned interest.

Section 5—Disclaimer

Section 5(a) clarifies that nothing in the Act impacts the previous satisfaction of conditions precedent or Secretarial findings for the Taos Pueblo Indian Water Rights Settlement Act and the Taos Pueblo Water Rights Settlement Agreement.

Section 5(b) clarifies that nothing in the Act impacts the previous satisfaction of the requirements of the conditions precedent for the Aamodt Litigation Settlement Act and the Aamodt Water Rights Settlement Agreement.

COST AND BUDGETARY CONSIDERATIONS

At a Glance

S. 640, Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act

As ordered reported by the Senate Committee on Indian Affairs on March 5, 2025

By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	*	1	2
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	1	2
Spending Subject to Appropriation (Outlays)	1	18	18

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2036?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2036?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and $500,000.

The bill would

- Authorize appropriations to three Indian water rights settlement trust funds

Estimated budgetary effects would mainly stem from

- Spending of the amounts authorized to be appropriated
- Spending of interest that is credited to the trust funds

Detailed estimate begins on the next page.

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- Authorize appropriations to three Indian water rights settlement trust funds

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- Spending of the amounts authorized to be appropriated
- Spending of interest that is credited to the trust funds

Bill summary: S. 640 would amend the Omnibus Public Land Management Act of 2009 to authorize the appropriation of specific amounts totaling $18 million for three trust funds that are credited with interest. Specifically, the bill would authorize the appropriation of:

- $6 million for the Navajo Nation Water Resources Development Trust Fund,
- $8 million for the Taos Pueblo Water Development Fund, and
- $4 million for the Aamodt Settlement Pueblos' Fund.

Estimated Federal cost: The estimated budgetary effect of S. 640 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. 640

	By fiscal year, millions of dollars—												
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2025–2030	2025–2035
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Authorization	18	0	0	0	0	0	0	0	0	0	0	18	18
Estimated Outlays	1	5	5	3	2	2	0	0	0	0	0	18	18
INCREASES IN DIRECT SPENDING													
Estimated Budget Authority	*	*	1	*	*	*	1	*	*	*	*	1	2
Estimated Outlays	*	*	*	*	1	*	*	*	1	*	*	1	2

* = between zero and $500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in 2025 and that the authorized amounts will be appropriated in that same year.

Spending subject to appropriation: S. 640 would authorize the appropriation of specific amounts to three trust funds. That money would be spent on activities specified or allowed in the underlying settlement agreements. Based on historical spending patterns, CBO estimates that implementing S. 640 would cost $18 million over the 2025–2030 period, assuming appropriation of the authorized amounts.

Direct spending: Any appropriations provided to the three trust funds are invested in Treasury obligations, including those that would be authorized by S. 640. Those trust funds are credited with interest based on the value of the Treasury obligations they hold. Because that credited interest can be spent on the trust funds' activities without further appropriation, that spending is classified as direct spending.

Based on the projection of interest rates that underlie CBO's baseline, CBO estimates that the trust funds would be credited with $2 million, all of which would be spent over the 2025–2035 period.

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 net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term net direct spending and deficits: CBO estimates that enacting S. 640 would not increase net direct spending by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2036.

CBO estimates that enacting S. 640 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2036.

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

Estimate prepared by: Federal Costs: Alaina Rhee; Mandates: Erich Dvorak.

Estimate reviewed by: Ann E. Futrell, Acting Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 640, as reported, will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE TESTIMONY AND COMMUNICATIONS

The testimony provided by the U.S. Department of the Interior from the July 10, 2024, hearing on S. 3406 follows:

STATEMENT OF JASON FREIHAGE, DEPUTY ASSISTANT SECRETARY OF MANAGEMENT FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

S. 3406, THE TECHNICAL CORRECTIONS TO THE NORTHWESTERN NEW MEXICO RURAL WATER PROJECTS ACT, TAOS PUEBLO INDIAN WATER RIGHTS SETTLEMENT ACT, AND AAMODT LITIGATION SETTLEMENT ACT

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Jason Freihage, and I am the Deputy Assistant Secretary of Management for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present testimony on . . . S. 3406, *"Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act,"*. . .

S. 3406, Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act

S. 3406 would amend the Omnibus Public Land Management Act of 2009 and the Claims Resolution Act of 2010 to authorize funding for deposit into the Navajo Nation Water Resources Development Trust Fund, the Taos Pueblo Water Development Fund, and the Aamodt Settlement Pueblos' Fund equivalent to the amounts that would have accrued to the trust funds if the Department had the authority to invest the funds upon appropriation.

In the 111th Congress, four Indian water rights settlements (the Taos Pueblo Indian Water Rights Settlement Act, Pub. L. No. 111–291; the Aamodt Litigation Settlement Act, Pub. L. No. 111–291; the Duck Valley settlement, Pub. L. No. 111–11; and the Crow Tribe Water Rights Settlement Act of 2010, Pub. L. No. 111–291) included provisions authorizing an investment of monies into the settlement trust funds after the enforceability date. The enforceability date is effective when the Secretary finds that all conditions for the full effectiveness and enforceability of the settlement had occurred and publishes that finding in the Federal Register. The Northwestern New Mexico Rural Water Projects Act, Pub. L. No. 111–11, (Navajo Settlement), also allowed for the investment of monies into the Navajo Nation Resources Development Trust Fund, only upon a specified date certain ten years after the enactment date.

These provisions prohibited the Department from investing trust fund monies before the enforceability date or a date certain. However, the Department mistakenly started investing trust fund monies when they were appropriated, which was before the enforceability date. When the Department discovered this error, the Department's Solicitor's Office determined that the interest amounts earned prior to the date that the funds were authorized to be invested were contrary to the Antideficiency Act and, in accordance with 31 U.S.C. § 3302, must be returned to Treasury. The Department then returned all interest monies accrued prior to the authorized date back to Treasury.

The issue that S. 3406 addresses is a provision in certain Indian water rights settlements that prohibited investment until the enforceability date was reached. This provision is not common in Indian water rights settlements. Similar provisions appeared in other settlements enacted in 2009–2010, including the Crow Tribe Water Rights Settlement Act of 2010; the Taos Pueblo Indian Water Rights Settlement Act; the Aamodt Litigation Settlement Act; and the Navajo Gallup Water Supply Project and Navajo Nation Water Rights. In each of these settlements, funds were inadvertently invested and returned to Treasury. The Department supported similar legislation to resolve this issue, and thus supports S. 3406 to correct this issue for the Northwestern New Mexico Rural Water Projects Act, the Taos Pueblo Indian Water Rights Settlement Act, and the Aamodt Litigation Settlement Act.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

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