

Public Law 100-666
100th Congress

An Act

To reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes.

Nov. 16, 1988

[S. 1236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Navajo and Hopi
Indian
Relocation
Amendments of
1988.
25 USC 640d
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Navajo and Hopi Indian Relocation Amendments of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended—

- (1) by striking out "\$7,700,000" in paragraph (4) and inserting in lieu thereof "\$13,000,000", and
- (2) by striking out "\$15,000,000 annually for fiscal years 1983 through 1987" in paragraph (8) and inserting in lieu thereof "\$30,000,000 annually for fiscal years 1989, 1990, and 1991".

USE OF DISCRETIONARY FUNDS

SEC. 3. Subsection (b) of section 27 of Public Law 93-531 (25 U.S.C. 640d-25) is amended to read as follows:

"(b) Funds appropriated under the authority of subsection (a) may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this Act."

COMMISSIONER ON NAVAJO AND HOPI INDIAN RELOCATION

SEC. 4. (a) Section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended to read as follows:

"(a) There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act referred to as the 'Commissioner').

"(b)(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term.

"(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c)(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the

President of U.S.

Navajo and Hopi Indian Relocation Commission had before the enactment of such amendments.

“(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

“(2) There are hereby transferred to the Commissioner, on January 31, 1989—

“(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

“(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs.

“(d)(1) The Commissioner shall have the power to—

“(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

“(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$200 a day for individuals.

Contracts.

“(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

Appropriation authorization.

“(3) There are authorized to be appropriated for each fiscal year \$100,000 to fund contracts described in paragraph (2).

“(e)(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

“(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

“(f) The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.”

25 USC 640d *et seq.*

(b) Public Law 93-531 is amended by striking out “the Commission” each place it appears and inserting in lieu thereof “the Commissioner”.

25 USC 640d-11 note.

(c)(1) Notwithstanding any other provisions of law or any amendment made by this Act—

(A) the Navajo and Hopi Indian Relocation Commission shall—

(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act, and

(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93-531, as amended by this Act, until the Commissioner is confirmed,

(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.

(d) Section 13 of Public Law 93-531 (25 U.S.C. 640d-12) is amended to read as follows:

“(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this Act.

Reports.

“(b) The report required under subsection (a) shall contain, among other matters, the following:

“(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

“(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this Act and who have not received all the benefits for which such members are eligible under this Act;

“(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is being among the persons named in clause (1) of this subsection; and

“(4) a report on how funds in the Navajo Rehabilitation Trust Funds will be expended to carry out the purposes described in section 32(d).”

LOBBYING

SEC. 5. Public Law 93-531 is amended by adding at the end thereof the following new section:

“Sec. 31. (a) Except as provided in subsection (b), no person or entity who has entered into a contract with the Commissioner to provide services under this Act may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this Act.

25 USC 640d-29.

“(b) Subsection (a) shall not apply to the Navajo Tribe or the Hopi Tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation.”

NEW DEVELOPMENT ON CERTAIN LANDS

SEC. 6. Subsection (f) of section 10 of Public Law 93-531 (25 U.S.C. 640d-9(f)) is amended—

(1) by striking out “Any development” and inserting in lieu thereof “(1) Any development”, and

(2) by adding at the end thereof the following new paragraphs:
 “(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other development on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

“(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

“(i) such improvement, construction, or development does not involve new housing construction, and

Safety.

“(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

Safety.

“(B) If a written request for a determination described in subparagraph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, by no later than the date that is 45 days after the date on which such request is submitted to the Secretary, determine whether such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either Tribe.

Courts, U.S.
Arizona.

“(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 8 of this Act, as amended.”

NAVAJO REHABILITATION TRUST FUND

SEC. 7. Public Law 93-531 is amended by adding at the end thereof the following new section:

25 USC 640d-30.

“**SEC. 32.** (a) There is hereby established in the Treasury of the United States a trust fund to be known as the ‘Navajo Rehabilitation Trust Fund’, which shall consist of the funds transferred under subsection (b) and of the funds appropriated pursuant to subsection (f) and any interest or investment income accrued on such funds.

“(b) All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are

acquired for the benefit of the Navajo Tribe under section 11 shall be deposited into the Navajo Rehabilitation Trust Fund.

“(c) The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

“(d) Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

“(1) the decision in the Healing case, or related proceedings,

“(2) the provision of this Act, or

“(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

“(e) The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f). All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

“(f) There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not exceed \$10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land referred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.”.

Appropriation
authorization.

LANDS TRANSFERRED OR ACQUIRED FOR THE NAVAJO TRIBE

SEC. 8. Subsection (h) of section 11 of Public Law 93-531 (25 U.S.C. 640d-10(h)) is amended by striking out “the date of this subsection who are awaiting relocation under this Act” and inserting in lieu thereof “the date of enactment of this Act: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act”.

PROVISION OF ATTORNEY FEES FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE

SEC. 9. (a) Subsection (e) of section 8 of Public Law 93-531 (25 U.S.C. 640d-7(e)) is amended by inserting a comma and the words “San Juan Southern Paiute” after the word “Navajo”.

(b) Section 8 of Public Law 93-531 is amended by adding at the end thereof the following new subsection:

“(f)(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney’s fees shall be paid directly to the tribe’s attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe’s eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

“(2) Nothing in this subsection shall be interpreted as a congressional acknowledgement of the San Juan Southern Paiute as an

Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

Appropriation
authorization.

“(3) There is hereby authorized to be appropriated not to exceed \$250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to enactment of the Navajo and Hopi Indian Relocation Amendments of 1988.”

25 USC 640d-14.

SEC. 10. Section 15 of Public Law 93-531 is amended by adding the following new subsection (g) at the end thereof:

Courts, U.S.
Arizona.

“(g) Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona.”

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 1236:

HOUSE REPORTS: No. 100-1032 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-425 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed Senate.

Oct. 3, 4, considered and passed House, amended.

Oct. 13, Senate concurred in House amendments.