

Calendar No. 582

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 1973**

[Report No. 104-363]

**A BILL**

To provide for the settlement of the Navajo-Hopi  
land dispute, and for other purposes.

SEPTEMBER 9, 1996

Reported with an amendment

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2D SESSION**S. 1973****[Report No. 104-363]**

To provide for the settlement of the Navajo-Hopi land dispute, and for  
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IN THE SENATE OF THE UNITED STATES

JULY 18, 1996

Mr. MCCAIN introduced the following bill; which was read twice and referred  
to the Committee on Indian Affairs

SEPTEMBER 9, 1996

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To provide for the settlement of the Navajo-Hopi land  
dispute, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Navajo-Hopi Land  
5       Dispute Settlement Act of 1996”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) it is in the public interest for the Tribe,  
4 Navajos residing on the Hopi Partitioned Lands,  
5 and the United States to reach a peaceful resolution  
6 of the longstanding disagreements between the par-  
7 ties under the Act commonly known as the “Navajo-  
8 Hopi Land Settlement Act of 1974” (Public Law  
9 93–531; 25 U.S.C. 640d et seq.);

10 (2) it is in the best interest of the Tribe and  
11 the United States that there be a fair and final set-  
12 tlement of certain issues remaining in connection  
13 with the Navajo-Hopi Land Settlement Act of 1974,  
14 including the full and final settlement of the mul-  
15 tiple claims that the Tribe has against the United  
16 States;

17 (3) this Act, together with the Settlement  
18 Agreement executed on December 14, 1995, and the  
19 Accommodation Agreement (as incorporated by the  
20 Settlement Agreement), provide the authority for the  
21 Tribe to enter agreements with eligible, traditional  
22 Navajo families in order for those families to remain  
23 residents of the Hopi Partitioned Lands for a period  
24 of 75 years, subject to the terms and conditions of  
25 the Accommodation Agreement;

1           (4) the United States acknowledges and re-  
2       spects—

3           (A) the sincerity of the traditional beliefs  
4       of the members of the Tribe and the Navajo  
5       families residing on the Hopi Partitioned  
6       Lands; and

7           (B) the importance that the respective tra-  
8       ditional beliefs of the members of the Tribe and  
9       Navajo families have with respect to the culture  
10      and way of life of those members and families;

11          (5) this Act, the Settlement Agreement, and the  
12      Accommodation Agreement provide for the mutual  
13      respect and protection of the traditional religious be-  
14      liefs and practices of the Navajo families residing on  
15      the Hopi Partitioned Lands; and

16          (6) the Tribe is encouraged to work with the  
17      Navajo families residing on the Hopi Partitioned  
18      Lands to address their concerns regarding the estab-  
19      lishment of family or individual burial plots for de-  
20      ceased family members who have resided on the  
21      Hopi Partitioned Lands.

22   **SEC. 3. DEFINITIONS.**

23       Except as otherwise provided in this Act, for purposes  
24   of this Act, the following definitions shall apply:

1           (1) ACCOMMODATION.—The term “Accommoda-  
 2           tion” has the meaning provided the term “Accom-  
 3           modation” under the Settlement Agreement.

4           (2) HOPI PARTITIONED LANDS.—The term  
 5           “Hopi Partitioned Lands” means lands located in  
 6           the Hopi Partitioned Area, as defined in section  
 7           168.1(g) of title 25, Code of Federal Regulations (as  
 8           in effect on the date of enactment of this Act).

9           (3) NAVAJO PARTITIONED LANDS.—The term  
 10          “Navajo Partitioned Lands” has the meaning pro-  
 11          vided that term in the proposed regulations issued  
 12          on November 1, 1995, at 60 Fed. Reg. 55506.

13          (4) NEW LANDS.—The term “New Lands” has  
 14          the meaning provided that term in section  
 15          700.701(b) of title 25, Code of Federal Regulations.

16          (5) SECRETARY.—The term “Secretary” means  
 17          the Secretary of the Interior.

18          (6) SETTLEMENT AGREEMENT.—The term  
 19          “Settlement Agreement” means the agreement be-  
 20          tween the United States and the Hopi Tribe exe-  
 21          cuted on December 14, 1995.

22          (7) TRIBE.—The term “Tribe” means the Hopi  
 23          Tribe.

1 **SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.**

2 The United States approves, ratifies, and confirms  
3 the Settlement Agreement.

4 **SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.**

5 The Secretary shall take such action as may be nec-  
6 essary to ensure that the following conditions are met  
7 prior to taking lands into trust for the benefit of the Tribe  
8 pursuant to the Settlement Agreement:

9 (1) **SELECTION OF LANDS TAKEN INTO**  
10 **TRUST.—**

11 (A) **PRIMARY AREA.**—In accordance with  
12 section 7(a) of the Settlement Agreement, the  
13 primary area within which lands may be taken  
14 into trust by the Secretary for the benefit of the  
15 Tribe under the Settlement Agreement shall be  
16 located in northern Arizona.

17 (B) **REQUIREMENTS FOR LANDS TAKEN**  
18 **INTO TRUST IN THE PRIMARY AREA.**—Lands  
19 taken into trust in the primary area referred to  
20 in subparagraph (A) shall be—

21 (i) land that is used substantially for  
22 ranching, agriculture, or another similar  
23 use; and

24 (ii) to the extent feasible, in contig-  
25 uous parcels.

1           (2) ACQUISITION OF LANDS.—Before taking  
 2           any land into trust for the benefit of the Tribe  
 3           under this section, the Secretary shall ensure that:

4                   (A) At least 75 percent of the eligible Nav-  
 5                   ajo heads of household (as determined under  
 6                   the Settlement Agreement) have entered into an  
 7                   accommodation or have chosen to relocate and  
 8                   are eligible for relocation assistance (as deter-  
 9                   mined under the Settlement Agreement);

10                   (B) The Tribe has consulted with the State  
 11                   of Arizona concerning the lands proposed to be  
 12                   placed in trust, including consulting the State  
 13                   concerning the impact of placing those lands  
 14                   into trust on the State and political subdivisions  
 15                   thereof resulting from the removal of land from  
 16                   the tax rolls in a manner consistent with the  
 17                   provisions of part 151 of title 25, Code of Fed-  
 18                   eral Regulations.

19 **SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CER-**  
 20 **TAIN INTERSPERSED LANDS.**

21           (a) IN GENERAL.—

22                   (1) ACTION BY THE SECRETARY.—

23                           (A) IN GENERAL.—The Secretary shall  
 24                   take action as specified in subparagraph (B), to

the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

(i) acquires private lands; and

(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

~~(B) ACQUISITION THROUGH CONDEMNATION.~~—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

~~(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.~~—The Secretary may acquire lands through condemnation under this subsection if—



1           (A) that acquisition is consistent with the  
 2           purpose of obtaining not more than 500,000  
 3           acres of land to be taken into trust for the  
 4           Tribe;

5           (B) the State of Arizona concurs with the  
 6           United States that the acquisition is consistent  
 7           with the interests of the State; and

8           (C) the Tribe pays for the land acquired  
 9           through condemnation under this subsection.

10       (b) **DISPOSITION OF LANDS.**—If the Secretary ac-  
 11       quires lands through condemnation under subsection (a),  
 12       the Secretary shall take those lands into trust for the  
 13       Tribe in accordance with this Act and the Settlement  
 14       Agreement.

15       (c) **PRIVATE LANDS.**—The Secretary may not ac-  
 16       quire private lands through condemnation for the purpose  
 17       specified in subsection (a)(2)(A).

18       **SEC. 7. ACTION TO QUIET TITLE.**

19       If the United States fails to discharge the obligations  
 20       specified in section 9(e) of the Settlement Agreement with  
 21       respect to voluntary relocation of Navajos residing on  
 22       Hopi Partitioned Lands, or section 9(d) of the Settlement  
 23       Agreement, relating to the implementation of sections  
 24       700.137 through 700.139 of title 25, Code of Federal  
 25       Regulations, on the New Lands, including failure for rea-

1 son of insufficient funds made available by appropriations  
 2 or otherwise, the Tribe may bring an action to quiet pos-  
 3 session that relates to the use of the Hopi Partitioned  
 4 Lands after February 1, 2000, by a Navajo family that  
 5 is eligible for an accommodation, but fails to enter into  
 6 an accommodation.

7 **SEC. 8. PAYMENTS IN LIEU OF TAXES.**

8 Section 6901(1) of title 31, United States Code, is  
 9 amended—

10 (1) by striking “or” at the end of subparagraph  
 11 (F);

12 (2) by striking the period at the end of sub-  
 13 paragraph (G) and inserting “; and”; and

14 (3) by inserting at the end the following new  
 15 subparagraph:

16 “(H) Fee lands owned by the Hopi Tribe  
 17 or members of the Hopi Tribe that are taken  
 18 into trust by the Secretary of the Interior pur-  
 19 suant to the agreement between the United  
 20 States and the Hopi Tribe executed on Decem-  
 21 ber 14, 1995.”.

22 **SEC. 9. 75-YEAR LEASING AUTHORITY.**

23 The first section of the Act of August 9, 1955 (69  
 24 Stat. 539, chapter 615; 25 U.S.C. 415) is amended—

1           (1) in subsection (a), by inserting before the pe-  
 2           riod at the end of the second sentence the following:  
 3           “; and except leases of land by the Hopi Tribe to  
 4           Navajo Indians on the Hopi Partitioned lands, which  
 5           may be for a term of years not to exceed seventy-  
 6           five years”; and

7           (2) by adding at the end the following new  
 8           subsection:

9           “(e) For purposes of this section—

10           “(1) the term ‘Hopi Partitioned Lands’ means  
 11           lands located in the Hopi Partitioned Area, as de-  
 12           fined in section 168.1 (g) of title 25, Code of Fed-  
 13           eral Regulations (as in effect on the date of enact-  
 14           ment of this subsection); and

15           “(2) the term ‘Navajo Indians’ means members  
 16           of the Navajo Tribe.”.

17 **SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI**  
 18 **RELOCATION HOUSING PROGRAM.**

19           Section 25(a)(8) of Public Law 93-531 (25 U.S.C.  
 20           640d-24(a)(8)) is amended by striking “1996, and 1997”  
 21           and inserting “1996, 1997, 1998, 1999, and 2000”.

22 **SECTION 1. SHORT TITLE.**

23           *This Act may be cited as the “Navajo-Hopi Land Dis-*  
 24           *pute Settlement Act of 1996”.*

1 **SEC. 2. FINDINGS.**

2 *The Congress finds that—*

3 *(1) it is in the public interest for the Tribe, Nav-*  
4 *ajos residing on the Hopi Partitioned Lands, and the*  
5 *United States to reach a peaceful resolution of the*  
6 *longstanding disagreements between the parties under*  
7 *the Act commonly known as the “Navajo-Hopi Land*  
8 *Settlement Act of 1974” (Public Law 93–531; 25*  
9 *U.S.C. 640d et seq.);*

10 *(2) it is in the best interest of the Tribe and the*  
11 *United States that there be a fair and final settlement*  
12 *of certain issues remaining in connection with the*  
13 *Navajo-Hopi Land Settlement Act of 1974, including*  
14 *the full and final settlement of the multiple claims*  
15 *that the Tribe has against the United States;*

16 *(3) this Act, together with the Settlement Agree-*  
17 *ment executed on December 14, 1995, and the Accom-*  
18 *modation Agreement (as incorporated by the Settle-*  
19 *ment Agreement), provide the authority for the Tribe*  
20 *to enter agreements with eligible Navajo families in*  
21 *order for those families to remain residents of the*  
22 *Hopi Partitioned Lands for a period of 75 years, sub-*  
23 *ject to the terms and conditions of the Accommodation*  
24 *Agreement;*

25 *(4) the United States acknowledges and re-*  
26 *spects—*

1           (A) the sincerity of the traditional beliefs of  
 2           the members of the Tribe and the Navajo families  
 3           residing on the Hopi Partitioned Lands; and

4           (B) the importance that the respective tra-  
 5           ditional beliefs of the members of the Tribe and  
 6           Navajo families have with respect to the culture  
 7           and way of life of those members and families;

8           (5) this Act, the Settlement Agreement, and the  
 9           Accommodation Agreement provide for the mutual re-  
 10          spect and protection of the traditional religious beliefs  
 11          and practices of the Tribe and the Navajo families re-  
 12          siding on the Hopi Partitioned Lands; and

13          (6) the Tribe is encouraged to work with the  
 14          Navajo families residing on the Hopi Partitioned  
 15          Lands to address their concerns regarding the estab-  
 16          lishment of family or individual burial plots for de-  
 17          ceased family members who have resided on the Hopi  
 18          Partitioned Lands.

19 **SEC. 3. DEFINITIONS.**

20          Except as otherwise provided in this Act, for purposes  
 21 of this Act, the following definitions shall apply:

22          (1) ACCOMMODATION.—The term “Accommoda-  
 23          tion” has the meaning provided that term under the  
 24          Settlement Agreement.

1           (2) *HOPÍ PARTITIONED LANDS.*—*The term*  
 2           *“Hopi Partitioned Lands” means lands located in the*  
 3           *Hopi Partitioned Area, as defined in section 168.1(g)*  
 4           *of title 25, Code of Federal Regulations (as in effect*  
 5           *on the date of enactment of this Act).*

6           (3) *NAVAJO PARTITIONED LANDS.*—*The term*  
 7           *“Navajo Partitioned Lands” has the meaning pro-*  
 8           *vided that term in the proposed regulations issued on*  
 9           *November 1, 1995, at 60 Fed. Reg. 55506.*

10          (4) *NEW LANDS.*—*The term “New Lands” has*  
 11          *the meaning provided that term in section 700.701(b)*  
 12          *of title 25, Code of Federal Regulations.*

13          (5) *SECRETARY.*—*The term “Secretary” means*  
 14          *the Secretary of the Interior.*

15          (6) *SETTLEMENT AGREEMENT.*—*The term “Set-*  
 16          *tlement Agreement” means the agreement between the*  
 17          *United States and the Hopi Tribe executed on Decem-*  
 18          *ber 14, 1995.*

19          (7) *TRIBE.*—*The term “Tribe” means the Hopi*  
 20          *Tribe.*

21 **SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.**

22          *The United States approves, ratifies, and confirms the*  
 23          *Settlement Agreement.*

1 **SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.**

2       The Secretary shall take such action as may be nec-  
3 essary to ensure that the following conditions are met  
4 prior to taking lands into trust for the benefit of the Tribe  
5 pursuant to the Settlement Agreement:

6           (1) *SELECTION OF LANDS TAKEN INTO TRUST.*—

7               (A) *PRIMARY AREA.*—*In accordance with*  
8 *section 7(a) of the Settlement Agreement, the pri-*  
9 *mary area within which lands acquired by the*  
10 *Tribe may be taken into trust by the Secretary*  
11 *for the benefit of the Tribe under the Settlement*  
12 *Agreement shall be located in northern Arizona.*

13               (B) *REQUIREMENTS FOR LANDS TAKEN*  
14 *INTO TRUST IN THE PRIMARY AREA.*—*Lands*  
15 *taken into trust in the primary area referred to*  
16 *in subparagraph (A) shall be—*

17                   (i) *land that is used substantially for*  
18 *ranching, agriculture, or another similar*  
19 *use; and*

20                   (ii) *to the extent feasible, in contiguous*  
21 *parcels.*

22           (2) *ACQUISITION OF LANDS.*—*Before taking any*  
23 *land into trust for the benefit of the Tribe under this*  
24 *section, the Secretary shall ensure that—*

25               (A) *at least 85 percent of the eligible Navajo*  
26 *heads of household (as determined under the Set-*

1        *tlement Agreement) have entered into an accom-*  
 2        *modation or have chosen to relocate and are eli-*  
 3        *gible for relocation assistance (as determined*  
 4        *under the Settlement Agreement); and*

5                *(B) the Tribe has consulted with the State*  
 6        *of Arizona concerning the lands proposed to be*  
 7        *placed in trust, including consulting with the*  
 8        *State concerning the impact of placing those*  
 9        *lands into trust on the State and political sub-*  
 10       *divisions thereof resulting from the removal of*  
 11       *land from the tax rolls in a manner consistent*  
 12       *with the provisions of part 151 of title 25, Code*  
 13       *of Federal Regulations.*

14                *(3) PROHIBITION.—The Secretary may not, pur-*  
 15       *suant to the provisions of this Act and the Settlement*  
 16       *Agreement, place lands, any portion of which are lo-*  
 17       *cated within or contiguous to a 5-mile radius of an*  
 18       *incorporated town (as that term is defined by the Sec-*  
 19       *retary) in northern Arizona, into trust for benefit of*  
 20       *the Tribe without specific statutory authority.*

21    **SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CER-**  
 22                **TAIN INTERSPERSED LANDS.**

23                *(a) IN GENERAL.—*

24                *(1) ACTION BY THE SECRETARY.—*



1           (A) *IN GENERAL.*—*The Secretary shall take*  
 2           *action as specified in subparagraph (B), to the*  
 3           *extent that the Tribe, in accordance with section*  
 4           *7(b) of the Settlement Agreement—*

5                     (i) *acquires private lands; and*

6                     (ii) *requests the Secretary to acquire*  
 7                     *through condemnation interspersed lands*  
 8                     *that are owned by the State of Arizona and*  
 9                     *are located within the exterior boundaries of*  
 10                    *those private lands in order to have both the*  
 11                    *private lands and the State lands taken*  
 12                    *into trust by the Secretary for the benefit of*  
 13                    *the Tribe.*

14           (B) *ACQUISITION THROUGH CONDEMNATION.*—*With respect to a request for an acquisi-*  
 15           *tion of lands through condemnation made under*  
 16           *subparagraph (A), the Secretary shall, upon the*  
 17           *recommendation of the Tribe, take such action as*  
 18           *may be necessary to acquire the lands through*  
 19           *condemnation and, with funds provided by the*  
 20           *Tribe, pay the State of Arizona fair market*  
 21           *value for those lands in accordance with applica-*  
 22           *ble Federal law, if the conditions described in*  
 23           *paragraph (2) are met.*  
 24

1           (2) *CONDITIONS FOR ACQUISITION THROUGH*  
 2           *CONDEMNATION.—The Secretary may acquire lands*  
 3           *through condemnation under this subsection if—*

4                   (A) *that acquisition is consistent with the*  
 5                   *purpose of obtaining not more than 500,000*  
 6                   *acres of land to be taken into trust for the Tribe;*

7                   (B) *the State of Arizona concurs with the*  
 8                   *United States that the acquisition is consistent*  
 9                   *with the interests of the State; and*

10                  (C) *the Tribe pays for the land acquired*  
 11                  *through condemnation under this subsection.*

12           (b) *DISPOSITION OF LANDS.—If the Secretary acquires*  
 13           *lands through condemnation under subsection (a), the Sec-*  
 14           *retary shall take those lands into trust for the Tribe in ac-*  
 15           *cordance with this Act and the Settlement Agreement.*

16           (c) *PRIVATE LANDS.—The Secretary may not acquire*  
 17           *private lands through condemnation for the purpose speci-*  
 18           *fied in subsection (a)(2)(A).*

19   **SEC. 7. ACTION TO QUIET POSSESSION.**

20           *If the United States fails to discharge the obligations*  
 21           *specified in section 9(c) of the Settlement Agreement with*  
 22           *respect to voluntary relocation of Navajos residing on Hopi*  
 23           *Partitioned Lands, or section 9(d) of the Settlement Agree-*  
 24           *ment, relating to the implementation of sections 700.137*  
 25           *through 700.139 of title 25, Code of Federal Regulations,*

1 *on the New Lands, including failure for reason of insuffi-*  
 2 *cient funds made available by appropriations or otherwise,*  
 3 *the Tribe may bring an action to quiet possession that re-*  
 4 *lates to the use of the Hopi Partitioned Lands after Feb-*  
 5 *ruary 1, 2000, by a Navajo family that is eligible for an*  
 6 *accommodation, but fails to enter into an accommodation.*

7 **SEC. 8. PAYMENT TO STATE OF ARIZONA.**

8       (a) *AUTHORIZATION OF APPROPRIATIONS.*—Subject to  
 9 subsection (b), there are authorized to be appropriated to  
 10 the Department of the Interior \$250,000 for fiscal year  
 11 1998, to be used by the Secretary of the Interior for making  
 12 a payment to the State of Arizona.

13       (b) *PAYMENT.*—The Secretary shall make a payment  
 14 in the amount specified in subsection (a) to the State of  
 15 Arizona after an initial acquisition of land from the State  
 16 has been made by the Secretary pursuant to section 6.

17 **SEC. 9. 75-YEAR LEASING AUTHORITY.**

18       *The first section of the Act of August 9, 1955 (69 Stat.*  
 19 *539, chapter 615; 25 U.S.C. 415) is amended by adding*  
 20 *at the end the following new subsections:*

21       “(c) *LEASES INVOLVING THE HOPI TRIBE AND THE*  
 22 *HOPI PARTITIONED LANDS ACCOMMODATION AGREE-*  
 23 *MENT.*—Notwithstanding subsection (a), a lease of land by  
 24 the Hopi Tribe to Navajo Indians on the Hopi Partitioned

1 *Lands may be for a term of 75 years, and may be extended*  
 2 *at the conclusion of the term of the lease.*

3 “(d) *DEFINITIONS.—For purposes of this section—*

4 “(1) *the term ‘Hopi Partitioned Lands’ means*  
 5 *lands located in the Hopi Partitioned Area, as de-*  
 6 *finied in section 168.1(g) of title 25, Code of Federal*  
 7 *Regulations (as in effect on the date of enactment of*  
 8 *this subsection); and*

9 “(2) *the term ‘Navajo Indians’ means members*  
 10 *of the Navajo Tribe.”.*

11 **SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCA-**  
 12 **TION HOUSING PROGRAM.**

13 *Section 25(a)(8) of Public Law 93–531 (25 U.S.C.*  
 14 *640d–24(a)(8)) is amended by striking “1996, and 1997”*  
 15 *and inserting “1996, 1997, 1998, 1999, and 2000”.*