

105TH CONGRESS
1ST SESSION

S. 1047

To settle certain Miccosukee Indian land takings claims within the State
of Florida.

IN THE SENATE OF THE UNITED STATES

JULY 22, 1997

Mr. MACK (for himself and Mr. GRAHAM) introduced the following bill; which
was read twice and referred to the Committee on Indian Affairs

A BILL

To settle certain Miccosukee Indian land takings claims
within the State of Florida.

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 “Miccosukee Settlement
5 Act of 1997”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 Congress finds that:

8 (1) There is pending before the United States
9 District Court for the Southern District of Florida
10 a lawsuit by the Miccosukee Tribe that involves the

1 taking of certain tribal lands in connection with the
2 construction of highway Interstate 75 by the Florida
3 Department of Transportation.

4 (2) The pendency of the lawsuit referred to in
5 paragraph (1) clouds title of certain lands used in
6 the maintenance and operation of the highway and
7 hinders proper planning for future maintenance and
8 operations.

9 (3) The Florida Department of Transportation,
10 with the concurrence of the Board of Trustees of the
11 Internal Improvements Trust Fund of the State of
12 Florida, and the Miccosukee Tribe have executed an
13 agreement for the purpose of resolving the dispute
14 and settling the lawsuit.

15 (4) The agreement referred to in paragraph (3)
16 requires the consent of Congress in connection with
17 contemplated land transfers.

18 (5) The Settlement Agreement is in the interest
19 of the Miccosukee Tribe, as the Tribe will receive
20 certain monetary payments, new reservation lands to
21 be held in trust by the United States, and other ben-
22 efits.

23 (6) Land received by the United States pursu-
24 ant to the Settlement Agreement is in consideration
25 of Miccosukee Indian Reservation lands lost by the

1 Miccosukee Tribe by virtue of transfer to the Florida
2 Department of Transportation under the Settlement
3 Agreement.

4 (7) The United States lands referred to in
5 paragraph (6) will be held in trust by the United
6 States for the use and benefit of the Miccosukee
7 Tribe as Miccosukee Indian Reservation lands in
8 compensation for the consideration given by the
9 Tribe in the Settlement Agreement.

10 (8) Congress shares with the parties to the Set-
11 tlement Agreement a desire to resolve the dispute
12 and settle the lawsuit.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) BOARD OF TRUSTEES OF THE INTERNAL
16 IMPROVEMENTS TRUST FUND.—The term “Board of
17 Trustees of the Internal Improvements Trust Fund”
18 means the agency of the State of Florida holding
19 legal title to and responsible for trust administration
20 of certain lands of the State of Florida, consisting
21 of the Governor, Attorney General, Commissioner of
22 Agriculture, Commissioner of Education, Controller,
23 Secretary of State, and Treasurer of the State of
24 Florida, who are Trustees of the Board.

1 (2) FLORIDA DEPARTMENT OF TRANSPOR-
2 TATION.—The term “Florida Department of Trans-
3 portation” means the executive branch department
4 and agency of the State of Florida that—

5 (A) is responsible for the construction and
6 maintenance of surface vehicle roads, existing
7 pursuant to section 20.23, Florida Statutes;
8 and

9 (B) has the authority to execute the Settle-
10 ment Agreement pursuant to section 334.044,
11 Florida Statutes.

12 (3) LAWSUIT.—The term “lawsuit” means the
13 action in the United States District Court for the
14 Southern District of Florida, entitled Miccosukee
15 Tribe of Indians of Florida v. State of Florida and
16 Florida Department of Transportation et al., docket
17 No. 91–285–Civ–Paine.

18 (4) MICCOSUKEE LANDS.—The term
19 “Miccosukee lands” means lands that are—

20 (A) held in trust by the United States for
21 the use and benefit of the Miccosukee Tribe as
22 Miccosukee Indian Reservation lands; and

23 (B) identified pursuant to the Settlement
24 Agreement for transfer to the Florida Depart-
25 ment of Transportation.

1 (5) MICCOSUKEE TRIBE; TRIBE.—The terms
2 “Miccosukee Tribe” and “Tribe” mean the
3 Miccosukee Tribe of Indians of Florida, a tribe of
4 American Indians recognized by the United States
5 and organized under section 16 of the Act of June
6 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C.
7 476) and recognized by the State of Florida pursu-
8 ant to chapter 285, Florida Statutes.

9 (6) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (7) SETTLEMENT AGREEMENT; AGREEMENT.—
12 The terms “Settlement Agreement” and “Agree-
13 ment” mean the assemblage of documents entitled
14 “Settlement Agreement” (with incorporated exhibits)
15 that—

16 (A) addresses the lawsuit; and

17 (B)(i) was signed on August 28, 1996, by
18 Ben G. Watts (Secretary of the Florida Depart-
19 ment of Transportation) and Billy Cypress
20 (Chairman of the Miccosukee Tribe); and

21 (ii) after being signed, as described in
22 clause (i), was concurred in by the Board of
23 Trustees of the Internal Improvements Trust
24 Fund of the State of Florida.

1 (8) STATE OF FLORIDA.—The term “State of
2 Florida” means—

3 (A) all agencies or departments of the
4 State of Florida, including the Florida Depart-
5 ment of Transportation and the Board of
6 Trustees of the Internal Improvements Trust
7 Fund; and

8 (B) the State of Florida as a governmental
9 entity.

10 **SEC. 4. AUTHORITY OF SECRETARY.**

11 As Trustee for the Miccosukee Tribe, the Secretary
12 shall—

13 (1)(A) aid and assist in the fulfillment of the
14 Settlement Agreement at all times and in a reason-
15 able manner; and

16 (B) to accomplish the fulfillment of the Settle-
17 ment Agreement in accordance with subparagraph
18 (A), cooperate with and assist the Miccosukee Tribe;

19 (2) upon finding that the Settlement Agreement
20 is legally sufficient and that the State of Florida has
21 the necessary authority to fulfill the Agreement—

22 (A) sign the Settlement Agreement on be-
23 half of the United States; and

24 (B) ensure that an individual other than
25 the Secretary who is a representative of the Bu-

1 reau of Indian Affairs also signs the Settlement
2 Agreement;

3 (3) upon finding that all necessary conditions
4 precedent to the transfer of Miccosukee land to the
5 Florida Department of Transportation as provided
6 in the Settlement Agreement have been or will be
7 met so that the Agreement has been or will be ful-
8 filled, but for the execution of that land transfer and
9 related land transfers—

10 (A) transfer ownership of the Miccosukee
11 land to the Florida Department of Transpor-
12 tation in accordance with the Settlement Agree-
13 ment, including in the transfer solely and exclu-
14 sively that Miccosukee land identified in the
15 Settlement Agreement for transfer to the Flor-
16 ida Department of Transportation; and

17 (B) in conjunction with the land transfer
18 referred to in subparagraph (A), transfer no
19 land other than the land referred to in that
20 subparagraph to the Florida Department of
21 Transportation; and

22 (4) upon finding that all necessary conditions
23 precedent to the transfer of Florida lands from the
24 State of Florida to the United States have been or
25 will be met so that the Agreement has been or will

1 be fulfilled but for the execution of that land trans-
2 fer and related land transfers, receive and accept in
3 trust for the use and benefit of the Miccosukee Tribe
4 ownership of all land identified in the Settlement
5 Agreement for transfer to the United States.

6 **SEC. 5. MICCOSUKEE INDIAN RESERVATION LANDS.**

7 The lands transferred and held in trust for the
8 Miccosukee Tribe under section 4(4) shall be Miccosukee
9 Indian Reservation lands.

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