To ratify a Treaty between the San Juan Southern Paiute Tribe and the Navajo Nation, to provide for the creation of a reservation for the San Juan Southern Paiute Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2023

Mr. Crane introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To ratify a Treaty between the San Juan Southern Paiute Tribe and the Navajo Nation, to provide for the creation of a reservation for the San Juan Southern Paiute Tribe, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “San Juan Southern Paiute Tribal Homelands Act of 2023”.

SEC. 2. FINDINGS.

The Congress finds the following:
(1) The San Juan Southern Paiute Tribe is a federally recognized Indian Tribe that has occupied its ancestral homelands in northern Arizona and southern Utah since time immemorial.

(2) The San Juan Southern Paiute Tribe was federally recognized on December 11, 1989, though the United States did not create a reservation for its exclusive benefit at that time.

(3) The Navajo Indian Reservation was originally established by the 1868 Navajo Treaty (15 Stat. 667) and expanded in Arizona and Utah by various Executive orders and Acts of Congress, including, but not limited to, Executive order of May 17, 1884; Executive order of January 8, 1900; Public Law 72–403, 47 Stat. 1418 (1933); and Public Law 73–352, 48 Stat. 960 (1934).

(4) The Navajo Indian Reservation presently encompasses lands of the San Juan Southern Paiute Tribe as described in the Treaty between the Navajo Nation and the San Juan Southern Paiute Tribe.

(5) While the Diné people of the Navajo Nation and the Paiute people of the San Juan Southern Paiute Tribe have a long history as neighboring communities, the San Juan Southern Paiute people
are a separate and culturally distinct Tribe residing
within their ancestral lands.

(6) The existence of the San Juan Southern
Paiute Tribe within the exterior boundaries of the
Navajo Indian Reservation and the lack of an exclu-
sive reservation land base causes particular hardship
for the people of the San Juan Southern Paiute
Tribe, preventing the Tribe from providing adequate
housing, infrastructure, healthcare, community serv-
dices, and public safety for its people.

(7) The San Juan Southern Paiute Tribe and
the Navajo Nation entered into a Treaty on March
18, 2000, to resolve and clarify the sovereign au-
thority of both Tribal nations, to provide a perma-
nent homeland for the San Juan Southern Paiute
Tribe, and to resolve other matters of mutual con-
cern.

(8) Ratification and approval of the Treaty by
Congress and the execution of the Treaty by the
Secretary is necessary for the Treaty to become ef-
fective under its terms.

(9) The establishment and proclamation of the
San Juan Southern Paiute Reservation as author-
ized in this Act only includes lands within the exist-
ing boundaries of the Navajo Indian Reservation.
(10) Once effective, the Treaty will—

(A) resolve and cause the dismissal of long-running litigation concerning certain land rights of the Navajo Nation and San Juan Southern Paiute Tribe currently pending before the United States Court of Appeals for the Ninth Circuit (Masayesva v. Zah et al., No. 93–15216 (9th Cir.); and

(B) promote cooperation and harmony between the Diné and Paiute people, serving as an example of friendship and partnership between two sovereign Tribal nations.

SEC. 3. DEFINITIONS.

For the purpose of this Act, the following definitions apply:

(1) San Juan Paiute Northern Area.—The term “San Juan Paiute Northern Area” means the area of land located within the San Juan Southern Paiute Reservation as depicted on Map B of the Treaty.

(2) San Juan Paiute Southern Area.—The term “San Juan Paiute Southern Area” means the area of land within the San Juan Southern Paiute Reservation depicted on Map A of the Treaty.
(3) San Juan Southern Paiute Reservation.—The term “San Juan Southern Paiute Reservation” means the approximately 5,400 acres of lands described in the Treaty as the “San Juan Paiute Northern Area” and the “San Juan Paiute Southern Area” located wholly within the exterior boundaries of the Navajo Indian Reservation.

(4) Secretary.—The term “Secretary” means the Secretary of the Interior.

(5) Treaty.—The term “Treaty” means the articles of Treaty and Agreement entered into by the Navajo Nation and the San Juan Southern Paiute Tribe to settle land claims and other disputes, as executed on March 18, 2000, and modified by addendum on May 7th, 2004, including all exhibits and maps incorporated therein by reference.

SEC. 4. RATIFICATION AND APPROVAL OF THE TREATY.

The Treaty is hereby approved, ratified and confirmed by the Congress of the United States.

SEC. 5. APPROVAL OF THE SECRETARY.

(a) In General.—The Secretary is authorized and directed—

(1) to approve and execute the Treaty as set forth therein, except that the specific findings stated
under the heading “APPROVAL,” following the Treaty, shall not be binding on the Secretary; and
(2) to take all steps necessary to implement and carry out the intent of the Treaty and this Act.

(b) APPROVAL OF AMENDMENTS.—The Secretary is delegated the authority, without further Act of Congress, to approve and execute amendments to the Treaty agreed to by the Navajo Nation and the San Juan Southern Paiute Tribe.

SEC. 6. LANDS PROCLAIMED A RESERVATION FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE.

(a) IN GENERAL.—All right, title and interest, including water rights, to the approximately 5,400 acres of land within the Navajo Indian Reservation that are described in the Treaty as the San Juan Paiute Northern Area and the San Juan Paiute Southern Area, are hereby proclaimed as the San Juan Southern Paiute Reservation and such lands shall be held by the United States in trust as a reservation for the exclusive benefit of the San Juan Southern Paiute Tribe, subject to the rights of access under section 7 of this Act.

(b) NO MAJOR FEDERAL ACTION; UNDERTAKING.—No action taken pursuant to this section shall be considered—
(1) a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.); or

(2) an undertaking under the National Historic Preservation Act (54 U.S.C. 300101 et seq.).

(c) NO APPRAISAL OR VALUATION.—Notwithstanding any other law, no appraisal or other valuation shall be required to carry out the provisions of this section.

SEC. 7. RIGHTS OF ACCESS AND EASEMENTS.

The Navajo Indian Reservation and the San Juan Southern Paiute Reservation shall be subject to the rights of access and easements as identified in the Treaty.

SEC. 8. SURVEYING AND FENCING OF LAND.

(a) REQUIREMENT.—The Secretary is directed to—

(1) complete a survey and legal description of the boundary lines to establish the boundaries of the San Juan Southern Paiute Reservation, not later than 18 months after the date of the enactment of this Act;

(2) officially file the survey plat in the appropriate office of the Department of the Interior;

(3) mark and fence the lands as described in article V of the Treaty, where feasible; and
(4) study the feasibility of an access road to the
San Juan Paiute Southern Area from U.S. Route
89, as described in article XI of the Treaty.

(b) LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—The legal descriptions pub-
lished in accordance with subsection (b) shall be con-
sidered the official legal description of the San Juan
Southern Paiute Reservation and shall have the
same force and effect as if included in this Act.

(2) PUBLICATION.—Upon completion of the
surveys under subsection (a), the Secretary shall
publish in the Federal Register a legal description of
the lands comprising the San Juan Southern Paiute
Reservation.

(3) CORRECTIONS.—The Secretary may make
minor corrections to correct technical and clerical er-
rors in the legal descriptions.

SEC. 9. REPEAL OF PAIUTE ALLOTMENT PROCEDURES.

Section 9 of Public Law 93–531 (88 Stat. 1716, for-
merly codified at 25 U.S.C. 640d–8) is repealed.

SEC. 10. WATER RIGHTS.

(a) IN GENERAL.—Except as provided in the Treaty,
nothing in this Act shall affect any water rights, in exist-
ence on the date of the enactment of this Act, appurtenant
to the lands of the San Juan Paiute Northern Area and
the San Juan Paiute Southern Area.

(b) Transfer of Water Rights.—As authorized
by article XV of the Treaty, the establishment of the San
Juan Southern Paiute Reservation from lands within the
Navajo Indian Reservation shall include the transfer of
any water rights appurtenant to those lands, including the
priority dates associated with such rights.

(e) Rights Held in Trust.—The water rights for
the San Juan Southern Paiute Reservation shall be held
by the United States in trust for the San Juan Southern
Paiute Tribe.

(d) Claims by the United States.—The United
States, as trustee for the San Juan Southern Paiute
Tribe, shall take all necessary steps to quantify the water
rights appurtenant to the San Juan Southern Paiute Res-
ervation for the benefit of the San Juan Southern Paiute
Tribe.

(e) Water Rights for the San Juan Paiute
Northern Area.—

(1) Right to Water Service.—The San Juan
Southern Paiute Tribe shall have the right to water
service for the San Juan Paiute Northern Area for
domestic uses on a pro rata and non-discriminatory
basis as described in article XIV of the Treaty.
(2) NO OBJECTION BY THE NAVAJO NATION.—

The Navajo Nation shall not object to the quantification of water rights appurtenant to the San Juan Paiute Northern Area consistent with and limited to the following:

(A) The San Juan Southern Paiute Tribe shall have the right to divert all surface waters arising on or flowing across the San Juan Paiute Northern Area for any purpose consistent with this Act or the Treaty.

(B) The San Juan Southern Paiute Tribe shall have the right to pump groundwater beneath the San Juan Paiute Northern Area for domestic or stock-watering uses.

(f) LAWFUL USES.—The San Juan Southern Paiute Tribe and the Navajo Nation shall not object to uses of water consistent with the rights decreed to either Tribe.

(g) ACCOUNTING.—The United States, on behalf of the San Juan Southern Paiute Tribe, shall provide the Navajo Nation with an annual accounting of the depletions associated with the use of water on the San Juan Paiute Northern Area, and the depletions associated with those uses shall be accounted for as a depletion by the Navajo Nation for purposes of depletion accounting.
(h) Water Rights for the San Juan Paiute
Southern Area.—Until the water rights to the San
Juan Paiute Southern Area are adjudicated, the San Juan
Southern Paiute Tribe shall limit its water use on the San
Juan Paiute Southern Area to no more than 300 acre-
feet annually from a combination of groundwater and
water from springs and washes.

SEC. 11. PUBLICATION; JURISDICTION.

(a) Publication.—In accordance with article VI of
the Treaty, the Secretary shall publish in the Federal Reg-
ister separate notices of completion of fencing or boundary
marking upon completion of fencing or boundary marking
of—

(1) the San Juan Northern Area; and

(2) the San Juan Southern Area.

(b) Jurisdiction.—Upon publication in the Federal
Register under either subsection (a)(1) or subsection
(a)(2)—

(1) the San Juan Southern Paiute Tribe shall
have full jurisdiction over all matters within that
area of the San Juan Southern Paiute Reservation
to the fullest extent permitted by Federal law; and

(2) the Navajo Nation shall no longer have ju-
risdiction over matters occurring within that area of
the San Juan Southern Paiute Reservation except as
agreed to by the Navajo Nation and the San Juan Southern Paiute Tribe.

SEC. 12. CONSTRUCTION OF LAW.

The San Juan Southern Paiute Tribe shall—

(1) be recognized as a Tribe of Indians within the purview of the Act of June 18, 1934, as amended (25 U.S.C. 5101 et seq.); and

(2) be subject to all of the provisions thereof.