

RESOLUTION OF THE  
NAABIK'ÍYÁTI' STANDING COMMITTEE  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Fourth Year, 2022

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND NAABIK'ÍYÁTI' COMMITTEE; REQUESTING AND SUPPORTING THE INTRODUCTION AND ENACTMENT BY UNITED STATES CONGRESS OF THE "EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022"

BE IT RESOLVED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Resources and Development Committee is established as a standing committee of the Navajo Nation Council. 2 N.N.C. § 500(A).
- C. The Resources and Development Committee exercises oversight over water, land, grazing, environment, environmental protection, cultural resources, agriculture, livestock, wildlife, roads and transportation, air transportation, communications and utilities, information technology, chapter activities, economic and community development, commerce and trade, gaming, rights-of-way, minerals, public utilities, telecommunication, and housing for the following purposes:
  - 1. To establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources and to protect the rights, interests, sacred sites and freedoms of the Navajo Nation and People to such resources, now and for future generations.
  - 2. To oversee regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the resource, including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and (administrative procedures in the development and use of resources as a good steward. 2 N.N.C. § 500(C).
- D. The Resources and Development Committee is empowered to represent the Navajo Nation at local, state, and federal

levels, in cooperation and coordination with the President of the Navajo Nation and the appropriate committee of the Navajo Nation Council on proposed resolutions legislation or actions affecting natural resources; energy resources; economic and community development; road and transportation matters; capital improvement projects, including recommending approval of the annual capital improvement projects budget of the Bureau of Indian Affairs, Indian Health Services and other departments or agencies of the United States; and housing development. 2 N.N.C. § 501(B) (5) .

E. The Naabik'íyáti' Committee is established as a standing committee of the Navajo Nation Council and is empowered to:

1. Coordinate all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation; and
2. Coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation; and
3. Review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments; and
4. To coordinate with all committees, Chapters, branches and entities concerned with all Navajo appearances and testimony before Congressional committees, departments of the United States government, state legislatures and departments and county and local governments. 2 N.N.C. §§ 700(A) and 701(A) (6)-(9) .

## SECTION TWO. FINDINGS

A. The Eastern Navajo Land Commission is established as a Commission of the Navajo Nation within the Legislative Branch and is charged with assisting in resolving land title issues, providing assistance to Navajo residents with respect to land-related matters, and coordinating Navajo Nation efforts with respect to Eastern Navajo Agency land-related matters with other governmental authorities and private interests. 2 N.N.C. § 861; and

- B. On June 21, 2022, the Commission approved Resolution ENLC-0106-22, AFFIRMING SUPPORT FOR EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION LEGISLATION, AND RESPECTFULLY REQUESTING THE NAVAJO NATION COUNCIL AND ITS APPROPRIATE COMMITTEES TO RECOMMEND AND THE UNITED STATES CONGRESS TO ENACT LEGISLATION CONSISTENT WITH THE PRINCIPLES STATED IN THE PROPOSED "EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022", attached hereto as Exhibit A; and
- C. The Navajo People have used and occupied certain land in northwest New Mexico, northeastern Arizona, and southeast Utah to the virtual exclusion of others since time immemorial; and
- D. The Treaty between the United States of America and the Navajo Tribe of Indians concluded at Fort Sumner, New Mexico on June 1, 1868 (15 Stat. 667) set aside a small portion of the land historically and presently occupied and used by the Navajo people; and
- E. The United States has set aside for Navajo use and benefit much of the remainder of the land historically and presently occupied and used by the Navajo people through Executive orders, Secretarial orders, public land orders, allotments under the Act of February 8, 1887 (commonly known as the "Indian General Allotment Act") (24 Stat. 388, chapter 119; 25 U.S.C. 331 et seq.), and other means; and
- F. Notwithstanding such federal actions, as of this date only that part of Navajo Indian country known as the Eastern Navajo Agency remains characterized by a mixture of Navajo lands (including lands held in trust for the Navajo Nation, lands held in fee status by the Navajo Nation, and allotments held in trust for Navajo individuals), New Mexico State trust lands, and lands administered by various federal agencies (including the U.S. Bureau of Indian Affairs, the U.S. Bureau of Land Management, and the U.S. National Park Service); and
- G. The "Eastern Navajo Agency" is an administrative agency of the U.S. Bureau of Indian Affairs that includes the three satellite Navajo communities of Alamo, Ramah, and To' Hajiilee and is depicted on the map entitled "Eastern Navajo Agency (Nov. 2021)" prepared by the Navajo Nation and on file with the U.S. Bureau of Indian Affairs; and
- H. The Navajo Nation ceded land in the vicinity of Page, Arizona, to the United States to enable the United States to construct

and operate the Glen Canyon Dam and provide water and power principally to California and the American Southwest; and

- I. In exchange for the lands described in Section (H), the United States transferred certain federal lands in southeast Utah, in an area known as "McCracken Mesa," to the Navajo Nation in trust status, but the United States retained the mineral estate for the transferred land, rendering the land practically impossible to exploit commercially; and
- J. The Navajo Nation holds lands and interests in lands that are uniquely valuable for their cultural and archaeological resources; and
- K. The Navajo Nation is willing to convey the lands and interests land described in Section (J) to the United States in exchange for Federal land in the Eastern Navajo Agency and the Federal mineral interests in the land described in Section (I); and
- L. The best interests of both the Navajo Nation and the United States would be served by:
  - 1. Exchanging and consolidating Navajo and federal lands and interests in land through this federal legislation; and
  - 2. Taking into trust for the benefit of the Navajo Nation land purchased in fee status in Eastern Navajo Agency; and
- M. At the request of U.S. Senator Ben Ray Lujan, the congressional Office of Legislative Counsel reformatted an earlier version of proposed legislation approved by the Navajo Nation Council to accomplish the above purposes, and counsel for this Commission has further edited such reformatted legislation to better reflect and accomplish such purposes, attached hereto as Exhibit B.

### SECTION THREE. PURPOSES

The principal purposes of this Resolution are to obtain federal legislation:

- A. To provide that certain lands administered by the U.S. Bureau of Land Management in the Eastern Navajo Agency (shown as "BLM Administered Lands" on attachments to the proposed "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022" or "2022 Act") shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation; and

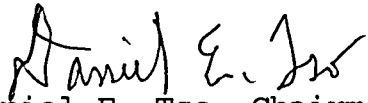
- B. To provide that the Navajo tribal fee lands in the Eastern Navajo Agency (shown as the "Navajo Tribal Fee Land" on attachments to the proposed 2022 Act) shall be taken into trust by the United States for the Navajo Nation and made a part of the Navajo Reservation; and
- C. To provide that certain lands withdrawn by Executive Orders, Secretarial Orders, Departmental Orders, and Public Land Orders ("PLO") in the Eastern Navajo Agency (collectively depicted as the "Withdrawn Lands" on attachments to the proposed 2022 Act) shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation; and
- D. To provide that mineral interests of the United States in the McCracken Mesa Lands, including those lands where the surface estate was conveyed to the Navajo Nation in the exchange authorized by the Act of September 2, 1958, Pub. L. 85-868, 72 Stat. 1686, shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation; and
- E. To provide that the PLO 2198 Lands within the Eastern Navajo Agency shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation; and
- F. To authorize the U.S. Secretary of the Interior, on written request by the Navajo Nation, to convey certain trust land to the Navajo Nation in restricted fee status; and
- G. To effectuate a conveyance of certain lands and interests in lands now held by the Navajo Nation in the Eastern Navajo Agency and valuable for their archaeological and other special attributes to the United States.

#### SECTION FOUR. REQUESTING AND SUPPORTING FEDERAL LEGISLATION

The Navajo Nation Council is requesting and supporting the introduction and enactment by Congress of the "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022" and authorizes the President of the Navajo Nation to take any and all actions to effectuate the intent of this resolution.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 18 in Favor, and 01 Opposed, on this 10<sup>th</sup> day of November 2022.

  
Honorable Daniel E. Tso, Chairman Pro Tem  
Naabik'íyáti' Committee

11/16/22  
Date

Motion: Honorable Mark A. Freeland  
Second: Honorable Raymond Smith, Jr.

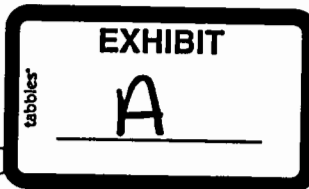
Chairman Pro Tem Daniel E. Tso not voting



## EASTERN NAVAJO LAND COMMISSION

*Edmund Yazzie*, Chairperson  
*Mark A. Freeland*, Vice-Chairperson  
*Seth Damon*, Member  
*Jeremy DeGroat*, Interim Executive Director

*Danny Simpson*, Member  
*Daniel E. Tso*, Member  
*Jaime Henlo*, Member



ENLC-0106-22

### RESOLUTION OF THE EASTERN NAVAJO LAND COMMISSION

AFFIRMING SUPPORT FOR EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION LEGISLATION, AND RESPECTFULLY REQUESTING THE NAVAJO NATION COUNCIL AND ITS APPROPRIATE COMMITTEES TO RECOMMEND AND THE UNITED STATES CONGRESS TO ENACT LEGISLATION CONSISTENT WITH THE PRINCIPLES STATED IN THE PROPOSED "EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022"

#### SECTION ONE. AUTHORITIES

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Navajo Nation Council established the Eastern Navajo Land Commission (the "Commission") to exercise primary responsibility for the direction of the Navajo Nation's land acquisition and consolidation efforts in the Eastern Navajo Agency. 2 N.N.C. § 863(J).
- C. The Navajo Nation Council established the Resources and Development Committee as a standing committee thereof empowered to oversee land and resources issues. 2 N.N.C. § 500(C).
- D. The Navajo Nation Council established the Naabik'iyati' Committee as a standing committee thereof to consider and debate proposed resolutions requiring the final authority of the Navajo Nation Council as a whole. 2 N.N.C. § 164(A)(9).

#### SECTION TWO. FINDINGS

The Commission finds that:

- A. The Navajo People have used and occupied certain land in northwest New Mexico, northeastern Arizona, and southeast Utah to the virtual exclusion of others since time immemorial, as confirmed by the Indian Claims Commission.

- B. The Treaty between the United States of America and the Navajo Tribe of Indians concluded at Fort Sumner, New Mexico on June 1, 1868 (15 Stat. 667) set aside a small portion of the land historically and presently occupied and used by the Navajo people.
- C. The United States has set aside for Navajo use and benefit much of the remainder of the land historically and presently occupied by the Navajo people through later Acts of Congress, Executive Orders, Secretarial Orders, Public Land Orders, the granting of trust allotments to individual Navajo tribal members under the General Allotment Act and other authorities, and other means.
- D. Notwithstanding such federal actions, as of this date only that part of Navajo Indian country known as the Eastern Navajo Agency remains characterized by a mixture of Navajo lands (including lands held in trust for the Navajo Nation, lands held in fee status by the Navajo Nation, and individual trust allotments), New Mexico State trust lands, and lands administered by various federal agencies (including the Bureau of Indian Affairs, the Bureau of Land Management, and the National Park Service).
- E. The "Eastern Navajo Agency" is an administrative agency of the Bureau of Indian Affairs depicted on the map entitled "Eastern Navajo Agency (Nov. 2021)" prepared by the Commission's staff and which includes the three satellite Navajo communities of Alamo, Ramah, and To' Hajiilee.
- F. The Navajo Nation ceded land in the vicinity of Page, Arizona, to the United States to enable the United States to construct and operate the Glen Canyon Dam and provide water and power principally to non-Indian jurisdictions in southern California, Nevada, and Arizona.
- G. In exchange for the lands described in paragraph (F), the United States transferred certain federal lands in southeast Utah, in an area known as "McCracken Mesa," to the Navajo Nation in trust status, but the United States retained the mineral estate of such McCracken Mesa lands, rendering the land practically impossible to exploit commercially.
- H. The Navajo Nation holds lands and interests in lands in the Eastern Navajo Agency that are uniquely valuable for their cultural and archaeological resources.
- I. The Navajo Nation is willing to convey to the United States certain of such lands and interests in lands described in paragraph (H) as part of a larger land exchange and consolidation program whereunder the United States would convey to the Navajo Nation in trust status federal lands and mineral interests in the Eastern Navajo Agency and the federal minerals interests described in paragraph (G).
- J. The best interests of both the Navajo Nation and the United States would be served by:



1. Exchanging and consolidating Navajo and federal lands and interests in land through federal legislation; and
  2. The United States taking into trust for Navajo Nation lands in the Eastern Navajo Agency purchased and presently held by the Navajo Nation in fee status.
- K. At the request of Senator Ben Ray Lujan, the congressional Office of Legislative Counsel reformatted an earlier version of proposed legislation approved by the Navajo Nation Council to accomplish the above purposes, and counsel for this Commission has further edited such reformatted legislation to better reflect and accomplish such purposes, as shown on the attached Exhibit 1.

### SECTION THREE. PURPOSES

The principal purposes of this Resolution are to obtain federal legislation:

- A. To provide that certain lands and interests in lands administered by the Bureau of Land Management in the Eastern Navajo Agency (shown as "BLM Administered Lands" on attachments to the proposed "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022" or "2022 Act") shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation.
- B. To provide that the Navajo tribal fee lands in the Eastern Navajo Agency (shown as the "Navajo Tribal Fee Land" on attachments to the proposed 2022 Act) shall be taken into trust by the United States for the Navajo Nation and made a part of the Navajo Reservation.
- C. To provide that certain lands withdrawn by Executive Orders, Secretarial Orders, Departmental Orders, and Public Land Orders in the Eastern Navajo Agency (collectively depicted as the "Withdrawn Lands" on attachments to the proposed 2022 Act) shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation.
- D. To provide that mineral interests of the United States in the McCracken Mesa lands described above and including those lands where the surface estate was conveyed to the Navajo Nation in the exchange authorized by the Act of September 2, 1958, Pub. L. 85-868, 72 Stat. 1686, shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation.
- E. To provide that lands subject to Public Land Order 2198 and other Withdrawn Lands within the Eastern Navajo Agency shall be taken into trust by the United States for the benefit of the Navajo Nation and made a part of the Navajo Reservation.

- F. To authorize the Secretary of the Interior, on request of the Navajo Nation, to convey certain trust land to the Navajo Nation in restricted fee status.
- G. To effect a conveyance of certain lands and interests in lands now held by the Navajo Nation in the Eastern Navajo Agency and valuable for their archaeological and other special attributes to the United States.

WHEREFORE, be it hereby resolved that

1. The Eastern Navajo Land Commission expresses its wholehearted support for the enactment of the "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022" in substantially the form and substance as that shown in Exhibit 1 attached hereto.

2. The Eastern Navajo Land Commission respectfully requests that the Navajo Nation Council, with the support of its Resources and Development and Naabik'iyati' Committees, recommend to Congress the enactment of such "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022" and to authorize the President of the Navajo Nation to take any and all appropriate steps to secure such enactment.

3. The Chairperson of the Eastern Navajo Land Commission is authorized to take all necessary and proper actions to effect the intent of this Resolution

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Eastern Navajo Land Commission at a duly called meeting in Crownpoint, Navajo Nation (New Mexico) at which a quorum was present, and that the same was passed by a vote of 3 in favor, 0 opposed and 1 abstained on this 21st day of June, 2022.

 JUNE 20, 2022  
Hon. Edmund Yazzie, Chairman  
Eastern Navajo Land Commission

Motion: Hon. Jamie Henio

Second: Hon. Mark Freeland

Senate Legislative Counsel  
Draft Copy of KEN21A01 S03

Title: To authorize certain Federal land to be taken into trust for the benefit of the Navajo Nation and to be made a part of the Navajo Indian Reservation, to accept the conveyance of certain land and interests in land held by the Navajo Nation, to preserve valid existing rights in certain land held in trust for the Navajo Nation, to facilitate an exchange of New Mexico State land with the United States for the benefit of the Navajo Nation, 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; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the Eastern Navajo Agency Land Exchange and Archaeological Protection Act [“— Act of 2021”].

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec.1.Short title; table of contents.

Sec.2.Definition of Secretary.

## TITLE I—EASTERN NAVAJO AGENCY

Sec.101.Short title.

Sec.102.Findings; purposes.

Sec.103.Definitions.

Sec.104.Land taken into trust for the benefit of the Navajo Nation.

Sec.105.Navajo Nation land rights conveyed to the United States.

Sec.106.Preservation and protection of existing rights.

Sec.107.Administration of existing leases; revenue administration.

Sec.108.Extinguishment of Navajo Nation claims for past payments on conveyed land.

Sec.109.Surface use agreements preserved.

## TITLE II—NEW MEXICO SCHOOLS AND LAND EXCHANGE STUDY

Sec.201.Short title.

Sec.202.Findings.

Sec.203.Definitions.

Sec.204.Negotiations; reports.

Sec.205.Authorization of appropriations.

## ~~SEC. 2. DEFINITION OF SECRETARY.~~

~~In this Act, the term “Secretary” means the Secretary of the Interior.~~

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## TITLE I—EASTERN NAVAJO AGENCY

### SEC. 101. SHORT TITLE.

This title may be cited as the “Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2021”.

### SEC. 102. FINDINGS; PURPOSES.

#### (a) Findings.—Congress finds that—

(1) the Navajo people have used and occupied certain land in northwest New Mexico, northeastern Arizona, and southeast Utah to the virtual exclusion of others since time immemorial;

(2)(A) the Treaty between the United States of America and the Navajo Tribe of Indians, concluded at Fort Sumner on June 1, 1868 (15 Stat. 667), set aside a small portion of the land historically and presently occupied and used by the Navajo people; and

(B) the United States has set aside for Navajo use and benefit much of the remainder of the land historically and presently occupied and used by the Navajo people through Executive orders, Secretarial orders, public land orders, allotments under the Act of February 8, 1887 (commonly known as the “Indian General Allotment Act”) (24 Stat. 388, chapter 119; 25 U.S.C. 331 et seq.), and other means;

(3) notwithstanding the actions described in paragraph (2), as of the date of enactment of this Act, only part of that part of Navajo Indian country known as the Eastern Navajo Agency~~[[traditional/historical] Navajo Indian country/the land historically and presently occupied and used by the Navajo people] is still —~~ remains characterized by a mixture of Navajo lands (including lands held in trust for the Navajo Nation, lands held in fee status by the Navajo Nation, and allotments held in trust for Navajo individuals), New Mexico state trust lands, and lands administered by federal agencies (including the Bureau of Indian Affairs, the Bureau of Land Management, and the National Park Service);

~~(A) held in trust for the benefit of the Navajo [people/Nation];~~

~~(B) held in fee by the Navajo [people/Nation];~~

~~(C) made up of individual Navajo trust allotments;~~

~~(D) made up of Federal land administered by the Bureau of Land Management and the National Park Service that is set aside for Navajo use and benefit; or~~

~~(E) State trust land;~~

(4) the land described in subparagraphs (A) through (E) of paragraph (3) is known as the “Eastern Navajo Agency” is an administrative agency of the Bureau of Indian Affairs that includes the three satellite Navajo communities of Alamo, Ramah and To Hajoilee, and is depicted on the map entitled “Eastern Navajo Agency (Nov. 2021)” prepared by the Navajo Nation and on file with the Bureau of Indian Affairs;

(5) the Navajo Nation ceded land in the vicinity of Page, Arizona to enable the United States to construct the Glen Canyon Dam and provide water and power to California and the

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American Southwest region;

(6) in exchange for the land described in paragraph (5), the United States transferred certain Federal land in southeast Utah, in an area known as "McCracken Mesa", to the Navajo Nation in trust status, but the United States retained the mineral estate for the transferred land, rendering the land practically impossible to exploit commercially;

(7) the Navajo Nation holds land and interests in land that are uniquely valuable for their cultural and archaeological resources;

(8) the Navajo Nation is willing to convey the land and interests land described in paragraph (7) to the United States in exchange for certain Federal land in the Eastern Navajo Agency and the Federal mineral interests in the land described in paragraph (6); and

(9) the best interests of both the Navajo Nation and the United States would be served by—

(A) exchanging and consolidating Navajo and Federal land as provided in this title;  
and

(B) taking into trust for the benefit of the Navajo Nation land purchased in fee status in the Eastern Navajo Agency.

(b) Purposes.—The purposes of this title are—

(1) to provide that certain lands administered by the BLM in the Eastern Navajo Agency Administered Lands (the "BLM Administered Lands") shall be taken into trust by the United States for the benefit of the Navajo Nation and made part of the Navajo Reservation;

(2) to provide that the Navajo Tribal Fee Land in the Eastern Navajo Agency (the "Navajo Tribal Fee Land") shall be taken into trust by the United States for the benefit of the Navajo Nation and made part of the Navajo Reservation;

(3) to provide that certain lands withdrawn by Executive Orders, Secretarial Orders, Departmental Order, and Public Land Orders ("PLO") in the Eastern Navajo Agency the Withdrawn Land (collectively, the "Withdrawn Lands") shall be taken into trust by the United States for the benefit of the Navajo Nation and made part of the Navajo Reservation;

(4) to provide that the mineral interests of the United States in the McCracken Mesa Land, including those lands where the surface estate was conveyed to the Navajo Nation in an exchange authorized by the Act of September 2, 1958, Publ. L. 85-868, 72 Stat. 1686, and shall be taken into trust by the United States for the benefit of the Navajo Nation and made part of the Navajo Reservation;

(5) to provide that the PLO 2198 Lands within the Eastern Navajo Agency shall be taken into trust by the United States for the benefit of the Navajo Nation and made part of the Navajo Reservation; and

(6) to authorize the Secretary, on written request by the Navajo Nation, to convey certain trust land to the Navajo Nation in restricted fee status; and

(7) to effect a conveyance of lands and interests in lands now held by the Navajo Nation in the Eastern Navajo Agency and valuable for their archaeological and other special

attributes to the United States.

## SEC. 103. DEFINITIONS.

In this title:

(1) BIA.—The term “BIA” means the Bureau of Indian Affairs.

(2) BLM.—The term “BLM” means the Bureau of Land Management.

(3) BLM ADMINISTERED LANDS.—The term “BLM Administered Lands” means the land depicted as BLM administered lands within the Eastern Navajo Agency but excluding any such lands within any Special Designated Areas outlined~~[ ]~~ on the map entitled “BLM Administered Lands”, dated December, 2020, revised ~~November~~ July 2021, and on file ~~with the Bureau of Indian Affairs in~~ ~~[ ]~~. ~~[SLC note: It is vital to be specific when referring to land descriptions. The map you provided includes labels for different areas of land—please provide which label(s) correspond to the land actually intended to be conveyed.]~~

(4) EXISTING LEASE.—The term “existing lease” means—

(A) with respect to the BLM Administered Lands, the Navajo Tribal Fee Land, the Withdrawn Lands, the McCracken Mesa Land, and the PLO 2198 Lands—

(i) each mineral lease valid and in force on the date of enactment of this Act, including each oil or gas lease issued or approved pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.), section 5 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 354), and any other Federal law;

(ii) each grazing lease valid and in force on the date of enactment of this Act; and

(iii) each right-of-way and easement valid and in force on the date of enactment of this Act; and

(B) with respect to the BLM Administered Lands and the Navajo Tribal Fee Land, any other ~~grant~~~~[land use right?]~~ issued by the United States ~~or the Navajo Nation~~, or provided for in a contract entered into by the United States ~~or the Navajo Nation~~, that is valid and in force on the date of enactment of this Act.

(5) MCCracken MESA LAND.—The term “McCracken Mesa Land” means the land depicted as “McCracken Mesa (Land Exchange Act of Sept. 2, 1958)” on the map entitled “McCracken Mesa, ~~Utah~~”, dated ~~November 2021~~ October 2016, and on file with the Bureau of Indian Affairs in ~~[ ]~~.

(6) NAVAJO NATION.—The term “Navajo Nation” means the Navajo Nation, a federally recognized Indian Tribe, also known as the “Navajo Tribe of Indians.”

(7) NAVAJO TRIBAL FEE LAND.—The term “Navajo Tribal Fee Land” means ~~all~~ the land depicted as “Navajo Tribal Fee”~~[ ]~~ on the map entitled “Navajo Tribal Fee ~~Lands~~ (Tribal Ranches)”, dated December 2020, revised ~~November~~ July 2021, and on file with the Bureau of Indian Affairs in ~~[ ]~~. ~~[SLC note: It is vital to be specific when referring to land descriptions. The map you provided includes labels for different areas of land—please provide which label(s) correspond to the land actually intended to be conveyed.]~~

(8) ONRR.—The term “ONRR” means the Office of Natural Resources Revenue of the Department of the Interior or any successor agency.

(9) PLO 2198 LANDS.—The term “PLO 2198 Lands” means the land depicted as “PLO 2198” on the map entitled “PLO 2198 Lands,” dated December 2020, revised November 2021, and on file with the Bureau of Indian Affairs. [SLC note: It is vital to be specific when referring to land descriptions. The map you provided includes labels for different areas of land—please provide which label(s) correspond to the land actually intended to be conveyed.]

(10) REVENUE.—The term “revenue” means all gross receipts, including bonuses, rents, and royalties, derived by the United States, and all other payments received by the United States, from an existing lease.

[(11) WITHDRAWN LANDS.—The term “Withdrawn Lands” means lands in the Eastern Navajo Agency withdrawn pursuant to certain Executive Orders, Secretarial Orders, Departmental Orders, and Public Land Orders identified on the map entitled “Withdrawn Lands” dated November 2021 and on file with the Bureau of Indian Affairs, [the land [described in/withdrawn, reserved, or restored, as applicable by] each of each of the highlighted] Executive orders and public land orders listed in the document entitled “Legislative & Administration Measures, Effecting Land Use Administration in the Checkerboard Area”, dated [ ], and on file in [ ]]. [SLC note: This is not a legally sufficient description of the land to be conveyed. At a minimum, you need to clarify the brackets above and fill in the missing information. At best, we strongly recommend that you instead have a map prepared that accurately depicts the land to be conveyed.]]

## SEC. 104. LAND TAKEN INTO TRUST FOR THE BENEFIT OF THE NAVAJO NATION.

### (a) BLM Administered Lands.—

(1) IN GENERAL.—Except as provided in section 106, effective beginning on the date of enactment of this Act, all right, title, and interest of the United States in and to the BLM Administered Lands, including all improvements on the BLM Administered Lands as of the date of enactment of this Act and all mineral interests in the BLM Administered Lands, shall be held in trust by the United States for the benefit of the Navajo Nation.

(2) RESERVATION.—The land taken into trust by paragraph (1) shall be part of the Navajo Reservation.

### (b) Navajo Tribal Fee Land.—

(1) IN GENERAL.—Notwithstanding part 151 of title 25, Code of Federal Regulations (or successor regulations), or any other Federal law, as soon as practicable after the date of enactment of this Act, the Secretary shall take all right, title, and interest of the Navajo Nation in and to the Navajo Tribal Fee Land into trust for the benefit of the Navajo Nation.

(2) RESERVATION.—The land taken into trust under paragraph (1) shall be part of the Navajo Reservation.

### (c) Withdrawn Lands.—

**Commented [PF2]:** Splitting this out and repeating it five times seems inefficient and unnecessary, but I defer to SLC here. If we were writing on a clean slate, I would either combine (1) and (2) by adding to the end of (1) “, and shall be a part of the Navajo Reservation” or insert a new subsection (f) “All lands taken into trust by the United States under subsections (a) through (e) shall be part of the Navajo Reservation.” [and re-letter the remaining subsections.]

(1) IN GENERAL.—Notwithstanding part 151 of title 25, Code of Federal Regulations (or successor regulations), or any other Federal law, as soon as practicable after the date of enactment of this Act, the Secretary shall take all right, title, and interest of the United States in and to the Withdrawn Lands, including all improvements (except the ownership of and right to use, at no cost, schools and related educational facilities and materials) on the Withdrawn Land as of the date of enactment of this Act and all mineral interests in the Withdrawn Land, into trust for the benefit of the Navajo Nation.

(2) RESERVATION.—The land taken into trust under paragraph (1) shall be part of the Navajo Reservation.

(d) McCracken Mesa Land.—

(1) IN GENERAL.—Except as provided in section 106, effective beginning on the date of enactment of this Act, all right, title, and interest of the United States in and to the McCracken Mesa Land, including all improvements on the McCracken Mesa Land as of the date of enactment of this Act and all mineral interests in the McCracken Mesa Land, shall be held in trust by the United States for the benefit of the Navajo Nation.

(2) RESERVATION.—The land taken into trust by paragraph (1) shall be part of the Navajo Reservation.

(e) PLO 2198 Lands.—

(1) IN GENERAL.—Effective beginning on the date of enactment of this Act, and subject to subsection 105(a), all right, title, and interest of the United States in and to the PLO 2198 Lands, including all improvements on the PLO 2198 Lands as of the date of enactment of this Act and all mineral interests in the PLO 2198 Lands, shall be held in trust by the United States for the benefit of the Navajo Nation.

(2) RESERVATION.—The land taken into trust by paragraph (1) shall be part of the Navajo Reservation.

(f) Option of the Navajo Nation to Take Land in Restricted Fee Status.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 180 days after the date on which the Secretary receives a written request described in paragraph (2), the Secretary shall convey to the Navajo Nation all right, title, and interest in and to the land described in the written request in restricted fee status, subject to a restriction imposed by the United States against alienation and taxation.

(2) WRITTEN REQUEST DESCRIBED.—A written request referred to in paragraph (1) is a written request—

(A) adopted or approved by resolution of the Navajo Nation Council;

(B) that provides legal descriptions of any of the land described in subsections (a) through (d); and

(C) that the land described pursuant to subparagraph (B) be conveyed to the Navajo Nation in restricted fee status.

(3) STATUS OF LAND.—Any land conveyed to the Navajo Nation in restricted fee status under this subsection shall be—



- (A) part of the Navajo Reservation; and  
(B) subject to section 107(c)(4), deemed to be—  
(i) Indian country (as defined in section 1151 of title 18, United States Code);  
(ii) land of the Navajo Nation subject to section 2116 of the Revised Statutes (commonly known as the “Indian Trade and Intercourse Act”) (25 U.S.C. 177); and  
(iii) land on which the Navajo Nation may grant easements or rights-of-way and over for which the Navajo Nation may exercise its prerogatives as landowner and governmental regulator to, among other things, tax, zone, and grant business site, mineral, or other leases, for any period of time without review or approval by the Secretary.

(g) Confirmation of Land Descriptions; Notice of Conveyances in Federal Register.— The Secretary shall review the maps and legal descriptions of all lands to be taken into trust for the Navajo Nation under this Act, and, after good faith consultation with the Navajo Nation, shall correct any land descriptions in conformity with the principal goal of this Act of augmenting the Navajo Nation land base. Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register the boundaries and descriptions of the land conveyed to, or taken into trust for the benefit of, the Navajo Nation under this section.

## SEC. 105. NAVAJO NATION LAND RIGHTS CONVEYED TO THE UNITED STATES.

(a) In General.—As consideration for the conversions into trust land and conveyances under section 104, effective beginning on the date described in subsection (b), all right, title, and interest of the Navajo Nation in and to the land within any Special Protection Areas {depicted as either “Navajo Tribal Trust” or “Navajo Tribal Fee” or “PL.O 2198” (other than land {that is occupied? [SLC note: Is there a undisputed way to determine this or is it depicted on the map?]} or land depicted as “Indian Allotment”)} on the map entitled “Federal “Special ProtectionAreas”, dated December 2020, revised NovemberJuly 2021, and on file in the Bureau of Indian Affairs{—}, including all archaeological resources, shall be conveyed to the United States.

[(b) Date Described.—The date referred to in subsection (a) is the date on which all of the following have been accomplished: latest of—]

{(1) the date on which the Secretary has taken the land described in section 104(a)(1), (b)(1), (c)(1), (d)(1) and (e)(1) into trust for the benefit of the Navajo Nation; and}

{(2) the date on which the Secretary has published in the Federal Register notices that all of the lands required to be taken into trust under paragraph (1) have been taken into trust by the United States for the benefit of the Navajo Nation as part of the Navajo Reservation. takes the land described in section 104(e)(1) into trust for the benefit of the Navajo Nation; and}

{(3) the date on which the Secretary publishes in the Federal Register the notice required under section 104(g).}

(c) Effect.—Nothing in this section affects any right of the Navajo Nation under other Federal law, including the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

## SEC. 106. PRESERVATION AND PROTECTION OF EXISTING RIGHTS.

(a) In General.—Nothing in this title terminates—

(1) any valid existing right of possession in, contract right in, interest in, easement to, or title to any land described in any of subsections (a) through (e) of section 104; or

(2) any existing {public} right of access over and across any land described in any of subsections (a) through (e) of section 104.

(b) Protection of Rights of Federal Lessees and Grantees.—Each existing lease shall remain in full force and effect in accordance with the terms of the existing lease, except that all revenue derived and received by the United States from an existing lease shall be administered in accordance with section 107.

(c) Treatment of Pending Applications for Leases, Rights-of-way, or Easements.—

(1) IN GENERAL.—Any application described in paragraph (4) that is pending on, or received after, the date of enactment of this Act shall be rejected.

(2) PENDING APPLICATIONS.—Any advance rental payments, bonuses, or other consideration tendered with or in connection with an application described in paragraph (4) that is pending on the date of enactment of this Act shall be returned to the applicant.

(3) EXCEPTION.—Paragraph (1) shall not apply to an application described in paragraph (4) if a rejection of the application would constitute a deprivation of property or an impairment of a contract between an applicant and the United States in violation of the Constitution of the United States.

(4) APPLICATION DESCRIBED.—An application referred to in paragraphs (1) through (3) is an application under the public land laws for a mineral lease, grazing lease, right-of-way, easement, or other right or interest with respect to any of the land described in subsections (a) through (e) of section 104.

## SEC. 107. ADMINISTRATION OF EXISTING LEASES; REVENUE ADMINISTRATION.

(a) Existing Lease Administration.—During the period beginning on the date of enactment of this Act and ending on the date on which an existing lease expires or is otherwise terminated, the existing lease shall continue to be administered solely under Federal laws and ~~(including~~ regulations) applicable to the interests held under the existing lease.

(b) Revenue Administration.—

(1) IN GENERAL.—Each payor under an existing lease shall continue to pay, and to report the payment of, the revenue under the existing lease exclusively to the ONRR, in accordance with the terms of the existing lease and applicable Federal laws and ~~(including~~

regulations}.

(2) AUDIT.—

(A) IN GENERAL.—The ONRR shall continue to audit the revenue received under an existing lease on behalf of the United States.

(B) NO RIGHT TO AUDIT; RIGHT TO REVIEW.—The Navajo Nation—

(i) shall have no right to audit the payment of revenue under an existing lease; but

(ii) shall be entitled to review any ONRR audit and work papers and other related information relating to an existing lease.

(3) DISTRIBUTION OF REVENUE.—

~~{(A) FEDERAL PORTION OF REVENUESMLA DISTRIBUTIONS.—~~

~~{(i) The Federal percentage of the Revenues, as computed pursuant to clause (ii), shall be transferred to the Navajo Nation. IN GENERAL.—Of the total revenue received from an existing lease, the ONRR shall distribute the revenue described in clause (ii) in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 491).}~~

~~{(ii) FEDERAL PERCENTAGE REVENUE DESCRIBED.—The Federal percentage of the Revenues shall be computed in accordance with 30 U.S.C. 191(a). If Revenue is attributable to an existing lease that encompasses both land taken or to be taken into trust for the Navajo Nation and other land not taken or to be taken into trust for the Navajo Nation, the revenues attributable to such lease and to be transferred to the Navajo Nation under clause (i) shall be decreased by a fraction, the numerator of which shall be the number of acres of land subject to the existing lease that are not taken or to be taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104, and the denominator of which shall be the total number of acres of land subject to the existing lease, revenue referred to in clause (i) is the percentage of the total revenue received from the existing lease calculated based on the proportion that —}~~

~~{(I) the number of acres of land subject to the existing lease that are not taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104; bears to}~~

~~{(II) the total number of acres of land subject to the existing lease. [SLC note: Please closely review this provision to ensure it reflects your policy intent]}~~

(B) REMAINING REVENUE.—The ONRR shall distribute the revenue received from an existing lease that remains after making the distribution to the Navajo Nation required under subparagraph (A) as follows:

(i) 50 percent shall be distributed, as applicable, to—

(I) the State of New Mexico; or

(II) in the case of an existing lease on land taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104(d), the State of

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Commented [PF3]: The originally proposed language was the formula that was successfully employed in the settlement of the Mescal v. U.S. class action, confirming the allottees' ownership of the minerals underlying the allotment surfaces notwithstanding language in the allotment trust patents purporting to reserve the minerals to the United States and the federal mineral leases issued by the BLM for the allotted minerals. This modification to the SLC language is intended to replicate that approach.

Utah; and

(ii) 50 percent shall be distributed to the Navajo Nation.

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(C) REQUIREMENT.—The Secretary shall separately identify, account for, and distribute revenue to the Navajo Nation under subparagraph (A) (B) (ii) in a manner that allows the Navajo Nation to identify the source of, and the basis of determining, the amount of the distribution.

(D) UNITIZED OR COMMUNITIZED AREAS.—

(i) IN GENERAL.—In the case of an existing lease on land included in a unitized or communitized area, the royalties for primary recovery attributable to the land taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104 shall be determined based on the proportion that—

(I) the number of acres of land taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104; bears to

(II) the total number of acres of the unitized or communitized area.

(ii) SECONDARY OR TERTIARY RECOVERY.—In the case of an existing lease on land included in a unitized or communitized area, the royalties for secondary or tertiary recovery to be transferred by the United States to the Navajo Nation attributable to the land taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104 shall be established through negotiation with and agreement among the Navajo Nation, the Department of the Interior, and the owners of the leases by [the [owners/holders] and operators of the existing lease, the Navajo Nation, and the Secretary], consistent with—

(I) accepted and customary standards within the oil and gas industry in the United States; and

(II) any applicable BLM regulations.

(E) EFFECT.—Nothing in this paragraph creates—

(i) any rights, disabilities, or obligations for the Navajo Nation or the [owners/holders] or operators of the existing leases; or

(ii) any trust responsibilities of the United States on behalf of the Navajo Nation regarding the administration and regulation of the existing leases.

Commented [PF4]: This deletion is needed because of the rewording of this subparagraph since the paragraph undoubtedly creates rights to be enjoyed by the Navajo Nation.

(c) Regulation of Existing Leases Unaffected.—

(1) IN GENERAL.—Nothing in this title modifies any express or implied obligation owed to the United States by the [owners/holders] or operators of any existing lease under the terms of the existing lease or under Federal laws and (including regulations) applicable to the existing lease.

(2) NAVAJO NATION ASSURANCES.—During the term of an existing lease, the Navajo Nation shall be deemed to have conveyed to, and confirmed in, the [owner/holder] of the existing lease exclusive discretion in and control of the operations and marketing of products associated with the existing lease, including—

(A) the nature, extent, and manner of, and time spent on, all work under the existing

1 lease;

2 (B) the nature, extent, and manner of, and time spent on, exploration, development,  
3 and mining operations under the existing lease;

4 (C) the right to determine the quantity of minerals or other products to be mined or  
5 extracted, and to be left unmined, under the existing lease; and

6 (D) the suspension or termination of operations under the existing lease.

7 (3) NAVAJO NATION DISCLAIMERS.—{During the term of an existing lease,} the Navajo  
8 Nation shall be deemed to have disclaimed—

9 (A) any discretion or control described in paragraph (2);

10 (B) any imposition on the {owner/holder} or operator of the existing lease any  
11 express or implied obligation, or any duty, to divulge to the Navajo Nation any  
12 proprietary or confidential information pertaining to the existing lease; and

13 (C) any executive rights, including good faith, diligence, fair dealing, prevention of  
14 waste, duty to market, and duty to establish a product price, as against the  
15 {owner/holder} or operator of the existing lease.

16 (4) JURISDICTION PRESERVED.—

17 (A) IN GENERAL.—Nothing in this title shall be construed to create Navajo Nation  
18 civil or regulatory jurisdiction over lands subject to existing leases during the term of  
19 such existing leases as “Indian country” as defined in 18 U.S.C. 1151. {designates,  
20 during the term of an existing lease, land subject to the existing lease that is taken into  
21 trust for the benefit of, or conveyed to, the Navajo Nation under section 104 as} Indian  
22 land or Indian country {(as defined in section 1151 of title 18, United States Code)}.

23 (B) NO JURISDICTION.—Nothing in this title creates any regulatory or other  
24 jurisdiction of the Navajo Nation, over, during the term of an existing lease, over—

25 (i) land subject to the existing lease that is taken into trust for the benefit of, or  
26 conveyed to, the Navajo Nation under section 104; or

27 (ii) the {owners/holders} or operators of the existing lease.

28 (C) EXISTING NAVAJO NATION JURISDICTION UNAFFECTED.—Any  
29 governmental jurisdiction of the Navajo Nation over any lands, persons, or  
30 entities in the Eastern Navajo Agency based on other legal principles shall be  
31 unaffected by this title.

32 (5) BLM REGULATION.—

33 (A) IN GENERAL.—Except as provided in subparagraph (6) {—} or the terms of an  
34 applicable existing lease, BLM shall continue to regulate the existing leases under  
35 applicable Federal laws and (including regulations), notwithstanding any BLM  
36 regulations that exclude Indian land from the application of those laws or regulations,  
37 including 43 C.F.R. sections 3400.3–4 {and 3400.3–5} {SLC note: This section does not  
38 appear to exist. Please double check the citation.} of title 43, Code of Federal  
39 Regulations (or successor regulations).

40 (B) NO RIGHT TO INTERFERENCE.—The Navajo Nation shall not be entitled to

interfere with the regulation and administration by BLM of the existing leases.

(6) NO ADDITIONAL BIA REGULATION.—

(A) IN GENERAL.—BIA shall have no regulatory role with respect to mineral extraction from, administration of, or transportation through land subject to the existing leases.

(B) EFFECT.—~~Notwithstanding~~ Subject to subparagraph (A), nothing in this title diminishes or affects any authority of BIA not predicated on this Act ~~in existence before the date of enactment of this Act~~ to regulate land taken or to be taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104, including any ~~undisputed~~ Indian surface ownership of the land.

## SEC. 108. EXTINGUISHMENT OF NAVAJO NATION CLAIMS FOR PAST PAYMENTS ON CONVEYED LAND.

(a) In General.—This title, and the conversions into trust land and conveyances implemented pursuant to this title, shall be in full satisfaction of, and shall extinguish, any claim, right, title, or interest of the Navajo Nation against the United States or any owner of an existing lease for any damages, rentals, royalties, bonus payments, or other payments that, before the date of enactment of this Act, may have been paid or ~~may have been subject to a claim for payment?~~, to any person or entity, including the United States, with respect to the land taken into trust for the benefit of, or conveyed to, the Navajo Nation under section 104 based on any claim of legal or equitable title to that land that might otherwise have been asserted by the Navajo Nation.

(b) Effect.—Nothing in subsection (a) or this title prejudices the right of the United States to enforce any right or obligation under a Federal lease or grant of right-of-way or other instrument.

## SEC. 109. SURFACE USE AGREEMENTS PRESERVED.

Nothing in this title affects, modifies, or supersedes any valid surface use agreement in effect on the date of enactment of this Act.

## TITLE II—NEW MEXICO SCHOOLS AND LAND EXCHANGE STUDY

### SEC. 201. SHORT TITLE.

This title may be cited as the “New Mexico Schools and Land Exchange Study Act of 2021”.

### SEC. 202. FINDINGS.

Congress finds that—

(1) the State of New Mexico owns approximately 153,930 acres of land and the mineral interests in approximately 191,705 acres of land within the Eastern Navajo Agency, ~~area of land administered by the Bureau of Land Management and depicted as [“Eastern Agency”] on the map, particularly within the Consolidation Area;~~

(2) of the ~~approximately~~ approximately 42,360 individuals residing in the Eastern Navajo

**Commented [PF5]:** If this clause were to remain, it would be the BIA, not the BLM.

Agency Consolidation Area—

(A) approximately 95 percent are {members of the Navajo Nation}; and

(B) most of the remaining individuals are non-Indians that are employed by Federal agencies to serve the Navajo people or are spouses of Navajo residents;

(3) the State land described in paragraph (1) is interspersed with Navajo lands (including lands held in trust for the Navajo Nation, lands held in fee status by the Navajo Nation, allotments held in trust for Navajo individuals), New Mexico state trust lands, and lands administered by federal agencies (including the Bureau of Indian Affairs, the Bureau of Land Management, and the National Park Service) ~~— [SLC note: The description of this land seems to be similar to the description of the Eastern Navajo Agency in section 102(a)(3). Do you want to use the same language here?]~~

**Commented [PF6]:** This proposed language is identical to the language proposed in title I.

~~(A) land held in trust by the United States for the benefit of the Navajo Nation;~~

~~(B) [[Federal] land [withdrawn for the benefit of the Navajo Nation]/[that is set aside for Navajo use and benefit] by Executive orders, public land orders, and Secretarial orders;~~

~~(C) individual Navajo allotment land held in trust for the benefit of individual members of the Navajo Nation;~~

~~(D) land owned in fee status by the Navajo Nation and by individual members of the Navajo Nation;~~

~~(E) Federal land administered by the Bureau of Land Management; and~~

~~(F) other land used by or held by, or for the benefit of, the Navajo Nation or individual members of the Navajo Nation;~~

(4) the State has issued grazing leases to the Navajo Nation for State land in the Eastern Navajo Agency Consolidation Area so that the Navajo Nation can collect rentals from individual Navajo ranchers and remit payment to the State;

(5) the interspersed land ownership pattern in the Eastern Navajo Agency Consolidation Area makes it extremely difficult for the State to develop and administer the land for the benefit of the school children in the State or otherwise;

(6) because the interspersed land ownership pattern in the Eastern Navajo Agency Consolidation Area results in various categories of land being governed by different laws, there are significant inefficiencies and difficulties for utility providers and pipeline owners—

(A) in serving individuals residing in the Eastern Navajo Agency Consolidation Area; and

(B) in transmitting or transporting products through the Eastern Navajo Agency Consolidation Area;

(7) problems similar to the problems described in {paragraphs (5) and (6)} were encountered and overcome with respect to land within the Utah portion of the Navajo Reservation of the Navajo Nation located in the State of Utah through the enactment of the Utah Schools and Lands Exchange Act of 1998 (Public Law 105–335; 112 Stat. 3139),

under which Congress ratified a land exchange agreement between the State of Utah and the United States;

(8) section 3(a) of that Act (Public Law 105–335; 112 Stat. 3141) states that, “The State of Utah and the Department of the Interior have agreed to exchange certain Federal lands, Federal mineral interests, and payment of money for lands and mineral interests managed by the Utah School and Institutional Trust Lands Administration, lands and mineral interests of approximately equal value inheld within...the Navajo Indian Reservation[ ]s”, among other federally administered land;

(9) the land and mineral interests of the State of Utah described in paragraph (8) were, after conveyance to the United States, taken into trust for the benefit of the Navajo Nation; and

(10)(A) the Utah Schools and Lands Exchange Act of 1998 (Public Law 105–335; 112 Stat. 3139) provides a useful model for addressing the land tenure issues in the Eastern Navajo Agency Consolidation Area; and

(B) the Secretary should seek an analogous agreement with the State of New Mexico.

## SEC. 203. DEFINITIONS.

In this title:

[(1) EASTERN NAVAJO AGENCY CONSOLIDATION AREA.—The term “Eastern Navajo Agency Consolidation Area” means the administrative agency of the Bureau of Indian Affairs that includes the three satellite Navajo communities of Alamo, Ramah and To Hahjilee, and is depicted on the map entitled “Eastern Navajo Agency (Nov. 2021)” prepared by the Navajo Nation and on file with the Bureau of Indian Affairs, the [approximately — acres of] land depicted as [“Proposed NELI” (other than the land depicted as “Special Designated Areas”)] on the map.]

Commented [PF7]: This language is identical to the definition found in title I.

(2) MAP.—The term “map” means the map entitled “State of New Mexico Lands”, dated December 2020, revised November July 2021, and on file with the Bureau of Indian Affairs in [—].

[(3) NAVAJO NATION.—The term “Navajo Nation” means the Navajo Nation, a federally recognized Indian Tribe, also known as the “Navajo Tribe of Indians.”; [SLC note: If this is correct, we will move this definition to section 2 of the bill.]]

Commented [PF8]: It is correct, and identical to the definition found in title I, but I do not know where this definition would be moved to (or why it would be moved).

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

(5) STATE.—The term “State” means the State of New Mexico.

## SEC. 204. NEGOTIATIONS; REPORTS.

(a) In General.—The Secretary shall make good faith efforts to negotiate with the State to enter into an agreement to exchange—

(1) ~~the certain State lands and mineral interests in land within the Eastern Navajo Agency as depicted on the map defined in Section 203(2) Consolidation Area [SLC note: Is the State land intended to be exchanged actually depicted on the map?];~~ for

(2) Federal land and mineral interests in land of approximately equal value, outside of the



1 Eastern Navajo Agency Consolidation Area.

2 {(b) Requirement.—Any agreement reached under subsection (a) shall be subject to the  
3 approval of Congress.}

4 (c) Reports.—Not later than 1 year after the date of enactment of this Act, and annually  
5 thereafter {until an agreement is submitted to Congress for approval under subsection (b) and  
6 ratified by Congress}, the Secretary shall submit to Congress a report on—

7 (1) the status of the negotiations under subsection (a); and

8 (2) if applicable, any agreement reached under that subsection.

9 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to carry out this title such sums as are necessary.

# NAVAJO NATION

1372

11/10/2022

Naa'bik'iyati' Committee Regular Meeting

12:16:48 PM

Amd# to Amd#

New Business: CONSENT AGENDA

PASSED

MOT Freeland, M

Item A. -Legislations: 0117-22,

SEC Smith

0203-22, 0195-22, 0186-22,

0189-22, 0175-22, 0204-22

Yeas : 18

Nays : 1

Excused : 3

Not Voting : 1

Yea : 18

Begay, E

Daniels

Smith

Tso, O

Begay, K

Freeland, M

Stewart, W

Walker, T

Begay, P

Halona, P

Tso, C

Wauneka, E

Brown

Henio, J

Tso, E

Yellowhair

Charles-Newton

Nez, R

Nay : 1

James, V

Excused : 3

Crotty

Damon

Slater, C

Not Voting : 1

Yazzie

Presiding Speaker: Tso, D