

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES; SUPPORTING UNITED STATES HOUSE OF REPRESENTATIVES BILL 3911 "TO MAKE TECHNICAL AMENDMENTS TO THE ACT OF DECEMBER 22, 1974, RELATING TO LANDS OF THE NAVAJO TRIBE, AND FOR OTHER PURPOSES"

WHEREAS:

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 201 (A),
- B. The Navajo Nation established the Resources and Development Committee as a Navajo Nation Council standing committee. 2 N.N.C. § 500 (A) (2012) see also CO-45-12.
- C. The Navajo Nation established the Resources and Development Committee (RDC) as a Navajo Nation Council standing committee and as such empowered RDC to review and recommend resolutions regarding land acquisitions. 2 N.N.C. §§ 164 (A) (9), 500 (C), 501 (B) (4) (a); see also CO-45-12.
- D. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to coordinate all federal programs and to assist and coordinate all requests for information, appearances and testimony relating to federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 164 (A) (9), 700 (A), 701 (A) (4), 701 (A) (6); see also CO-45-12
- E. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.

F. On November 3, 2015 House of Representatives Bill 3911 - also known as *To make technical amendments to the Act of December 22, 1974, relating to lands of the Navajo Tribe, and for other purposes* - sponsored by Representative Ann Kirkpatrick was introduced in the United States House of Representatives. A copy of the text of H.R. 3911 is attached as Exhibit A. See Text of H.R. 3911 at <https://www.congress.gov/114/bills/hr3911/BILLS-114hr3911ih.pdf>

G. The Library of Congress Bill Summary & Status, 114th Congress (2015 - 2016), H.R. 3911 summarizes the bill as follows:

1. This bill revises the area in which land may be transferred to or acquired by the Navajo Tribe to the area within 18 miles of the trust lands of the Navajo Tribe, including the bands of the tribe, as of January 2015.
2. Bureau of Land Management (BLM) lands anywhere within Arizona and New Mexico may be exchanged for lands within 18 miles of those trust lands.
3. The Navajo Tribe may exchange up to 757 acres of resettlement land selected as of January 2014 with the BLM.
4. The Department of the Interior must report on annual rents owed by the Navajo Tribe to the Hopi Tribe for each of the years 2001-2014.
5. The Navajo Tribe may designate up to 150,000 acres within specified lands as Navajo Sovereignty Empowerment Zones. Specified laws do not apply within these zones. Federal agencies responsible for implementing laws that do not apply in these zones must transfer to the Navajo Tribe the funds the agencies would have expended implementing those laws in these zones.
6. This bill amends the Navajo-Hopi Land Dispute Settlement Act of 1996 to allow Navajo heads of household or their successors to relinquish an Accommodation Agreement with the Hopi Tribe regarding their residence on Hopi lands and receive relocation benefits.

7. The Navajo Rehabilitation Trust Fund is extended through FY2019 and revised to allow it to be used for the development of Navajo Sovereignty Empowerment Zones. The Navajo Tribe is no longer required to reimburse appropriations to the fund.

H. It is in the best interest of the Navajo Nation to support the enactment of H.R. 3911.

NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation supports United States House of Representatives Bill 3911, *To make technical amendments to the Act of December 22, 1974, relating to lands of the Navajo Tribe, and for other purposes.*
- B. The Navajo Nation hereby authorizes the Navajo Nation President and the Navajo Nation Speaker, and their designees, to advocate for United States House of Representatives Bill 3911.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd 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 13 in favor, 0 oppose, this 2nd day of March, 2016.



LoRenzo Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Seth Damon
Second: Honorable Mel R. Begay

114TH CONGRESS
1ST SESSION

H. R. 3911

To make technical amendments to the Act of December 22, 1974, relating to lands of the Navajo Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2015

Mrs. KIRKPATRICK introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To make technical amendments to the Act of December 22, 1974, relating to lands of the Navajo Tribe, 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. NAVAJO RESERVATION BOUNDARY CLARIFICA-**
4 **TION.**

5 Subsection (b) of section 11 of the Act of December
6 22, 1974 (25 U.S.C. 640d-10(b)), is amended—

7 (1) by striking “present boundary of the Navajo
8 Reservation” and inserting “trust lands of the Nav-
9 ajo Tribe, including the bands of the Navajo Tribe,
10 as of January 1, 2015”; and

1 (2) by striking “present boundary of the res-
2 ervation” and inserting “trust lands of the Navajo
3 Tribe, including the bands of the Navajo Tribe, as
4 of January 1, 2015”.

5 **SEC. 2. RESELECTION OF LANDS TO CORRECT SURVEYING**
6 **ERROR.**

7 Section 11 of the Act of December 22, 1974 (25
8 U.S.C. 640d-10), is amended by adding at the end the
9 following:

10 “(j)(1) The Navajo Tribe may—

11 “(A) deselect not more than 757 acres of the
12 land selected under this section as of January 1,
13 2014; and

14 “(B) reselect, accordance with this section, the
15 same amount of acres of the land that is deselected
16 under subparagraph (A).

17 “(2) Any lands deselected under paragraph (1)(A)
18 that were held in trust shall be taken out of trust and
19 administered by the Bureau of Land Management.”.

20 **SEC. 3. FAIR RENTAL VALUE PAYMENTS REPORT.**

21 Not later than 90 days after the date of the enact-
22 ment of this Act, the Secretary of the Interior shall submit
23 a report to the Committee on Natural Resources in the
24 House of Representatives and the Committee on Indian
25 Affairs in the Senate a report that contains the following:

1 (1) The dates that the Secretary rendered ini-
2 tial rental decisions on annual rents owed by the
3 Navajo Tribe to the Hopi Tribe pursuant to section
4 16(a) of the Act of December 22, 1974 (25 U.S.C.
5 640d-15(a)), for each of years 2001 through 2014,
6 including an explanation for any delay longer than
7 12 months after the end of any year during that pe-
8 riod.

9 (2) The current status of all rental determina-
10 tions for each of years 2001 through 2014, and, to
11 the extent appeals are pending, where these appeals
12 are pending, and how long such appeals have been
13 pending at that locale.

14 (3) To the extent that rental determinations
15 have been delayed, the role, if any, in the delay that
16 has been the result of contracts with the Bureau of
17 Indian Affairs related to a contract under the Indian
18 Self-Determination and Education Assistance Act
19 (25 U.S.C. 450f).

20 (4) Whether contracts to perform those func-
21 tions which are otherwise the obligations of the Bu-
22 reau of Indian Affairs to carry out the requirements
23 of section 16(a) of the Act of December 22, 1974
24 (25 U.S.C. 640-15(a)), have been funded at the

1 level necessary to ensure that these functions are
2 properly performed.

3 (5) What contract provisions, if any, have been
4 included in any contract under the Indian Self-De-
5 termination and Education Assistance Act (25
6 U.S.C. 450f) between the Bureau of Indian Affairs
7 and any contractor to ensure that the contractor's
8 performance of those functions which are otherwise
9 the obligations of the Bureau of Indian Affairs to
10 carry out the requirements of section 16(a) of the
11 Act of December 22, 1974 (25 U.S.C. 640d-15(a)),
12 is free from conflicts of interest as required by part
13 900.231 through part .236 of title 25, Code of Fed-
14 eral Regulations.

15 (6) The total amount that the Navajo Tribe has
16 paid as rent and interest pursuant to section 16(a)
17 of the Act of December 22, 1974 (25 U.S.C. 640d-
18 15(a)), including the amount of prejudgment inter-
19 est paid by the Navajo Tribe and the amount of
20 post-judgment interest paid by the Navajo Tribe.

21 (7) A plan to bring initial rental determinations
22 current through the 2015 year as of April 1, 2016.

23 (8) A plan to ensure that, beginning on April
24 1, 2017, all annual rental determinations are com-

1 pleted and delivered to the Navajo Tribe and the
2 Hopi Tribe on or before April 1 of each year.

3 **SEC. 4. NAVAJO TRIBE SOVEREIGNTY EMPOWERMENT**
4 **DEMONSTRATION PROJECT.**

5 (a) NAVAJO SOVEREIGNTY EMPOWERMENT
6 ZONES.—The Navajo Tribe shall have the authority to
7 designate up to 150,000 acres within one or more of the
8 following, which shall be designated as Navajo Sovereignty
9 Empowerment Zones:

10 (1) Lands selected by the Navajo Tribe pursu-
11 ant to section 11 of the Act of December 22, 1974
12 (25 U.S.C. 640d-10).

13 (2) Lands within that portion of the Navajo
14 Reservation lying west of the Executive Order Res-
15 ervation of 1882 and bounded on the north and
16 south by westerly extensions, to the reservation line,
17 of the northern and southern boundaries of said Ex-
18 ecutive Order Reservation (formerly known as the
19 “Bennett Freeze” area).

20 (3) Lands partitioned to the Navajo Tribe pur-
21 suant to sections 3 and 4 of the Act of December
22 22, 1974 (25 U.S.C. 640d-2 and 640d-3).

23 (b) APPLICABILITY OF CERTAIN LAWS.—

24 (1) IN GENERAL.—Subject to approval by the
25 appropriate regulatory bodies under Navajo law,

1 such as the Navajo Nation Environmental Protec-
2 tion Agency, the Navajo Nation Historic Preserva-
3 tion Department, and the Navajo Nation Depart-
4 ment of Fish and Wildlife, within the Navajo Sov-
5 ereignty Empowerment Zones, the Navajo Tribe
6 may choose to waive any or all of the laws in para-
7 graph (2) with regard to renewable energy develop-
8 ment, housing development, public and community
9 facilities, infrastructure development (including
10 water and wastewater development, roads, trans-
11 mission lines, gas lines, and rights-of-way), and re-
12 lated economic development.

13 (2) LAW ELIGIBLE FOR WAIVER.—The laws re-
14 ferred to in paragraph (1) are the following:

15 (A) The Wilderness Act (16 U.S.C. 1131
16 et seq.).

17 (B) The National Environmental Policy
18 Act of 1969 (42 U.S.C. 4321 et seq.).

19 (C) The Endangered Species Act of 1973
20 (16 U.S.C. 1531 et seq.).

21 (D) The Federal Land Policy and Manage-
22 ment Act of 1976 (43 U.S.C. 1701 et seq.).

23 (E) The National Wildlife Refuge System
24 Administration Act of 1966 (16 U.S.C. 668dd
25 et seq.).

1 (F) The Fish and Wildlife Act of 1956 (16
2 U.S.C. 742a et seq.).

3 (G) The Fish and Wildlife Coordination
4 Act (16 U.S.C. 661 et seq.).

5 (H) Subchapter II of chapter 5, and chap-
6 ter 7, of title 5, United States Code (commonly
7 known as the "Administrative Procedure Act").

8 (I) The provisions of title 54, United
9 States Code, derived from the Act of August
10 25, 1916 (commonly known as the "National
11 Park Service Organic Act"), Public Law 86-
12 523, and Public Law 91-383.

13 (J) Sections 401(7), 403, and 404 of the
14 National Parks and Recreation Act of 1978
15 (Public Law 95-625).

16 (K) The Arizona Desert Wilderness Act of
17 1990 (Public Law 101-628).

18 (L) Division A of subtitle III of title 54,
19 United States Code.

20 (3) GRAND CANYON EXCEPTION.—Subsection
21 (a) shall not apply to projects within the rim of the
22 natural formation commonly referred to as the
23 Grand Canyon.

24 (c) TRANSFER OF SAVINGS TO THE NAVAJO
25 TRIBE.—

1 (1) IN GENERAL.—Federal agencies responsible
2 for implementation of the laws listed in subsection
3 (b)(2) shall—

4 (A) consult in good faith with the Navajo
5 Tribe to determine the cost that the Federal
6 agency would have otherwise expended on im-
7 plementation of the laws or regulations de-
8 scribed in subsection (b) in the Navajo Em-
9 powerment Zones, and this amount shall not be
10 less than the agency would have otherwise pro-
11 vided for the operation of programs or portions
12 thereof, without regard to any organizational
13 level within the agency at which the program,
14 function, service, or activity or portion thereof,
15 including supportive administrative functions
16 and including indirect costs that are provided in
17 support of the operation of the program, func-
18 tion, service or activity or portion thereof, is op-
19 erated; and

20 (B) not later the 90 days after the begin-
21 ning of each applicable fiscal year, transfer to
22 the Navajo Tribe the amount of funds identified
23 under subparagraph (A).

24 (2) USE OF FUNDS.—The Navajo Tribe shall
25 use all monies that it receives under this subsection

1 to implement tribal law in the Navajo Sovereignty
2 Empowerment Zones.

3 (3) FINAL AGENCY ACTION.—Federal agency
4 decisions made pursuant to subparagraph (A) shall
5 be final agency action for the purposes of appeal to
6 the appropriate Federal district court pursuant to
7 chapter 7 of title 5, United States Code.

8 (d) CIVIL JURISDICTION.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, all individuals and entities oper-
11 ating within a Navajo Sovereignty Empowerment
12 Zone shall be subject to the full civil and regulatory
13 jurisdiction of the Navajo Tribe.

14 (2) FULL FAITH AND CREDIT.—Any judgment
15 issued by the Navajo Tribe consistent with this sec-
16 tion shall be accorded full faith and credit by the
17 court of another State, Indian tribe, or territory and
18 by Federal district courts.

19 (e) TRIBAL SOVEREIGNTY.—Nothing in this section
20 supersedes, replaces, negates, or diminishes—

21 (1) the laws and regulations of the Navajo Na-
22 tion, which shall remain in full force and effect with-
23 in the Navajo Sovereignty Empowerment Zones; or

24 (2) the treaties or other agreements between
25 the United States and the Navajo Tribe.

1 (d) NAVAJO-HOPI DISPUTE SETTLEMENT ACT.—

2 Nothing in this section waives the provisions of the Nav-
3 ajo-Hopi Dispute Settlement Act of 1996 (25 U.S.C. 640d
4 note).

5 (e) FUNDING AND GRANTS.—Nothing in this section
6 negates or diminishes the eligibility of the Navajo Tribe
7 to receive or continue to receive funding and grants under
8 the Navajo-Hopi Dispute Settlement Act of 1996 or any
9 other laws of the United States.

10 **SEC. 5. RELINQUISHMENT OF ACCOMMODATION AGREE-**
11 **MENT AND ELIGIBILITY FOR RELOCATION**
12 **BENEFITS.**

13 The Navajo-Hopi Land Dispute Settlement Act of
14 1996 (25 U.S.C. 640d note) is amended by adding at the
15 end the following:

16 **“SEC. 13. RELINQUISHMENT OF ACCOMMODATION AGREE-**
17 **MENT AND ELIGIBILITY FOR RELOCATION**
18 **BENEFITS.**

19 “(a) IN GENERAL.—Notwithstanding any other pro-
20 vision of this Act, the Settlement Agreement, or the Ac-
21 commodation Agreement, any Navajo head of household,
22 or the successor thereto if such person is no longer the
23 head of household, who has entered into an Accommoda-
24 tion Agreement shall have the following rights:

1 “(1) To relinquish that Agreement for up to
2 two years after the effective date of this section.

3 “(2) After a relinquishment under paragraph
4 (1), to receive the full relocation benefits to which
5 the Navajo head of household would otherwise have
6 been entitled had the head of household not signed
7 the Accommodation Agreement, including relocation
8 housing, counseling, and other services. In the event
9 that the Navajo head of household is no longer the
10 head of household, the successor thereto shall be en-
11 titled to receive the full relocation benefits.

12 “(b) TIMING.—A relinquishment under subsection
13 (a) shall not go into effect until the Office of Navajo and
14 Hopi Indian Relocation provides the full relocation bene-
15 fits to the Navajo head of household, or successor there-
16 to.”.

17 **SEC. 6. NAVAJO REHABILITATION TRUST FUND.**

18 Section 32 of Public Law 93-531 (25 U.S.C. 640d-
19 30) is amended—

20 (1) in subsection (d)—

21 (A) in paragraph (2), by striking “or”;

22 (B) in paragraph (3), by striking the pe-
23 riod at the end and inserting “; or”; and

24 (C) by adding at the end the following:

1 “(4) at the discretion of the Navajo Tribe, to
2 use for development in the Navajo Sovereignty Em-
3 powerment Zones established pursuant to section
4 104.”;

5 (2) in the first sentence of subsection (f), by
6 striking “and the United States has been reimbursed
7 for funds appropriated under subsection (f) of this
8 section”; and

9 (3) in subsection (g)—

10 (A) in the first sentence, by striking
11 “1990, 1991, 1992, 1993, and 1994” and all
12 that follows through the final period and insert-
13 ing “2015, 2016, 2017, 2018, and 2019.”; and

14 (B) by striking the second sentence.

○

NAVAJO NATION

RCS# 334

3/2/2016

Naa'bik'iyati Committee

07:42:41 PM

Amd# to Amd#

Legislation No. 0036-16

PASSED

MOT Damon

Supporting United States House

SEC Begay, M

of Representatives Bill 3911

To make technical amendments

Yea : 13

Nay : 0

Not Voting : 11

Yea : 13

Begay, K
Begay, M
Bennett
Chee

Damon
Filfred
Perry

Phelps
Shepherd
Slim

Smith
Tso
Tsosie

Nay : 0

Not Voting : 11

Bates
Begay, NM
BeGaye, N

Brown
Crotty
Daniels

Hale
Jack
Pete

Witherspoon
Yazzie