

1988—Subsec. (f). Pub. L. 100-666 designated existing provisions as par. (1) and added pars. (2) and (3).

1980—Subsecs. (c) to (f). Pub. L. 96-305 added subsecs. (c) to (f).

#### **§ 640d-10. Resettlement lands for Navajo Tribe**

##### **(a) Transfer of lands under jurisdiction of Bureau of Land Management; State and private land exchanges; valuation; acquired private lands; lands to be held in trust**

The Secretary is authorized and directed to—

(1) transfer not to exceed two hundred and fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State<sup>1</sup> of Arizona and New Mexico to the Navajo Tribe: *Provided*, That, in order to facilitate such transfer, the Secretary is authorized to exchange such lands for State or private lands of equal value or, if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. The Secretary shall try to reduce the payment to as small an amount as possible.

(2)<sup>2</sup> on behalf of the United States, accept title to not to exceed one hundred and fifty thousand acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation.

Subject to the provisions of the following sentences of this subsection, all rights, title and interests of the United States in the lands described in paragraph (1), including such interests the United States as lessor has in such lands under the Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], will, subject to existing leasehold interests, be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation. So long as selected lands coincide with pending noncompetitive coal lease applications under the Mineral Leasing Act of 1920, as amended, the Secretary may not transfer any United States interests in such lands until the noncompetitive coal lease applications have been fully adjudicated. If such adjudication results in issuance of Federal coal leases to the applicants, such transfer shall be subject to such leases. The leaseholders rights and interests in such coal leases will in no way be diminished by the transfer of the rights, title and interests of the United States in such lands to the Navajo Tribe. If any selected lands are subject to valid claims located under the Mining Law of 1872 the transfer of the selected lands may be made subject to those claims.

(2)<sup>2</sup> Those interests in lands acquired in the State of New Mexico by the Navajo Tribe pursuant to subsection 2<sup>3</sup> of this section shall be subject to the right of the State of New Mex-

ico to receive the same value from any sales, bonuses, rentals, royalties and interest charges from the conveyance, sale, lease, development, and production of coal as would have been received had the subsurface interest in such lands remained with the United States and been leased pursuant to the Mineral Lands Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], or any successor Act; or otherwise developed. The State's interest shall be accounted for in the same manner as it would have been if a lease had issued pursuant to the Mineral Lands Leasing Act of 1920, as amended.

##### **(b) Proximity of lands to be transferred or acquired to Navajo Reservation; lands to be used for exchanges**

A border of any parcel of land so transferred or acquired shall be within eighteen miles of the present boundary of the Navajo Reservation: *Provided*, That, except as limited by subsection (g) of this section, Bureau of Land Management lands anywhere within the States of Arizona and New Mexico may be used for the purpose of exchanging for lands within eighteen miles of the present boundary of the reservation.

##### **(c) Selection of lands to be transferred or acquired; time period; consultation; restriction of New Mexico lands**

Lands to be so transferred or acquired shall, for a period of three years after July 8, 1980, be selected by the Navajo Tribe after consultation with the Commissioner: *Provided*, That, at the end of such period, the Commissioner shall have the authority to select such lands after consultation with the Navajo Tribe: *Provided further*, That not to exceed thirty-five thousand acres of lands so transferred or acquired shall be selected within the State of New Mexico.

##### **(d) Progress and status of land transfer program; reports to Congressional committees**

The Commissioner, in consultation with the Secretary, shall within sixty days following the first year of enactment of this subsection report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs, on the progress of the land transfer program authorized in subsection (a) of this section. Sixty days following the second year of enactment of this subsection the Commissioner, in consultation with the Secretary, shall submit a report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs giving the status of the land transfer program authorized in subsection (a) of this section, making any recommendations that the Commissioner deems necessary to complete the land transfer program.

##### **(e) Entitlement lands payments**

Payments being made to any State or local government pursuant to the provisions of chapter 69 of title 31, on any lands transferred pursuant to subsection (a)(1) of this section shall continue to be paid as if such transfer had not occurred.

<sup>1</sup> So in original. Probably should be "States".

<sup>2</sup> So in original. Two pars. designated (2) have been enacted.

<sup>3</sup> So in original. Probably should be "paragraph (1)".

**(f) Acquisition of title to surface and subsurface interest; time period; public notice; report to Congressional committees; rights of subsurface owner**

(1) For a period of three years after July 8, 1980, the Secretary shall not accept title to lands acquired pursuant to subsection (a)(2)<sup>4</sup> of this section unless fee title to both surface and subsurface has been acquired or the owner of the subsurface interest consents to the acceptance of the surface interest in trust by the Secretary.

(2) If, ninety days prior to the expiration of such three year period, the full entitlement of private lands has not been acquired by the Navajo Tribe and accepted by the Secretary in trust for the Navajo Tribe under the restrictions of paragraph (1) of this subsection, the Commissioner, after public notice, shall, within thirty days, make a report thereon to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs.

(3) In any case where the Secretary accepts, in trust, title to the surface of lands acquired pursuant to subsection (a)(2)<sup>4</sup> of this section where the subsurface interest is owned by third parties, the trust status of such surface ownership and the inclusion of the land within the Navajo Reservation shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

**(g) Lands not available for transfer**

No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer under this section.

**(h) Administration of lands transferred or acquired**

The lands transferred or acquired pursuant to this section shall be administered by the Commissioner until relocation under the Commissioner's<sup>5</sup> plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of December 22, 1974: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this chapter.

**(i) Negotiations regarding land exchanges or leases**

The Commissioner shall have authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes; and lands which may be acquired or transferred pursuant to this section may, with the approval of the Commissioner, be included in any land exchange between the tribes authorized under section 640d-22 of this title.

(Pub. L. 93-531, §11, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96-305, §4, July 8, 1980, 94 Stat. 930; Pub. L. 98-603, title I, §106, Oct. 30, 1984, 98 Stat. 3157;

Pub. L. 100-666, §4(b), 8, Nov. 16, 1988, 102 Stat. 3930, 3933.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, as amended, and the Mineral Lands Leasing Act of 1920, as amended, referred to in subsec. (a), are act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Mining Law of 1872, referred to in subsec. (a), is act May 10, 1872, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30. For complete classification of R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

The first year of enactment of this subsection and the second year of enactment of this subsection, referred to in subsec. (d), probably mean the first and second year after the date of enactment of this subsection, which was July 8, 1980.

Subsection (a)(2) of this section, referred to in subsec. (f)(1), (3), means the first paragraph (2) of subsec. (a), relating to acceptance of title to private lands.

CODIFICATION

In subsec. (e), "chapter 69 of title 31" substituted for "the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601 et seq.)" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1988—Subsecs. (c), (d), (f)(2). Pub. L. 100-666, §4(b), substituted "Commissioner" for "Commission" wherever appearing.

Subsec. (h). Pub. L. 100-666, §4(b), 8, substituted "by the Commissioner" for "by the Commission" and "December 22, 1974: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this subchapter" for "July 8, 1980, who are awaiting relocation under this subchapter".

Subsec. (i). Pub. L. 100-666, §4(b), substituted "Commissioner" for "Commission" in two places.

1984—Subsec. (a). Pub. L. 98-603, §106(2), inserted provisions relating to transfer without cost to the Navajo Tribe with title taken by the United States in trust for the benefit of the Navajo Tribe as part of the Navajo Reservation of all rights, title, and interests of the United States in the lands described in par. (1), subject to existing leaseholds.

Subsec. (a)(1). Pub. L. 98-603, §106(1), struck out provisions requiring transfer of lands without cost to the Navajo Tribe with title taken by the United States in trust for the benefit of the Navajo Tribe as part of the Navajo Reservation.

Subsec. (a)(2). Pub. L. 98-603, §106(3), added the par. (2) relating to interests in lands acquired in New Mexico.

1980—Subsec. (a). Pub. L. 96-305 substituted provision authorizing the Secretary to transfer not more than 250,000 acres of land under the jurisdiction of the Bureau of Land Management to the Navajo Tribe, at no cost to the Navajo Tribe, and in order to facilitate this transfer, exchange Bureau of Land Management land, at equal valuation, for State and private land, and to accept title to not more than 150,000 acres of private lands acquired by the Navajo Tribe, with title to both the transferred and privately acquired lands to be held by the United States in trust for the benefit of the Navajo Tribe for provision authorizing the Secretary to

<sup>4</sup> See References in Text note below.

<sup>5</sup> So in original. Probably should be "Commissioner's".

transfer not more than 250,000 acres of land under the jurisdiction of the Bureau of Land Management to the Navajo Tribe providing the Navajo Tribe pay the fair market value of the land transferred and providing that title to the transferred land be held by the United States for the benefit of the Navajo Tribe.

Subsec. (b). Pub. L. 96-305 substituted provision requiring a border of any parcel of land transferred or acquired to be within 18 miles of the present boundary of the Navajo Reservation and providing that, with the exception of the lands unavailable for transfer, any Bureau of Land Management lands within Arizona and New Mexico be available for exchange for lands within 18 miles of the present boundary of the reservation for provision authorizing the United States to take in trust for the benefit of the Navajo Tribe any private lands acquired by the Navajo Tribe which are contiguous or adjacent to the Navajo Reservation and restricting the total acreage of lands transferred or acquired to not more than 250,000 acres.

Subsecs. (c) to (i). Pub. L. 96-305 added subsecs. (c) to (i).

#### CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

Select Committee on Indian Affairs of the Senate redesignated Committee on Indian Affairs of the Senate by section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress.

### § 640d-11. Office of Navajo and Hopi Indian Relocation

#### (a) Establishment; Commissioner

There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this subchapter referred to as the "Commissioner").

#### (b) Appointment; term of office; compensation

(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term. The Commissioner serving at the end of a term shall continue to serve until his or her successor has been confirmed in accordance with paragraph (1) of this subsection.

(3) The Commissioner shall be a full-time employee of the United States, and shall be compensated at the rate of basic pay payable for level IV of the Executive Schedule.

#### (c) Transfer of powers, duties, and funds to Commissioner

(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Indian Relocation Commission had before November 16, 1988.

(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Nav-

ajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

(2) There are hereby transferred to the Commissioner, on January 31, 1989—

(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs. (B)<sup>1</sup>: *Provided further*, That for administrative purposes such funds shall be maintained in a separate account.

#### (d) Powers of Commissioner

(1) Subject to such rules and regulations as may be adopted by the Office of Navajo and Hopi Indian Relocation, the Commissioner shall have the power to—

(A) appoint and fix the compensation of such staff and personnel as the Commissioner deems necessary in accordance with the provisions of title 5 governing appointments in the competitive service, but at rates not in excess of a position classified above a GS-15 of the General Schedule under section 5108 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, but at rates not to exceed \$200 a day for individuals.

(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

(3) There are authorized to be appropriated for each fiscal year \$100,000 to fund contracts described in paragraph (2).

#### (e) Administrative, fiscal, and housekeeping services; implementation of relocation plan; reasonable assistance by Federal departments or agencies; report to Congress

(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

<sup>1</sup> So in original. The period followed by the designation "(B)" probably should not appear.