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SENATE

{ REPORT
104-29

TO REAUTHORIZE APPROPRIATIONS FOR THE NAVAJO- HOPI RELOCATION HOUSING PROGRAM

APRIL 6 (legislative day, APRIL 5), 1995.—Ordered to be printed

Mr. MCCAIN, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 349]

The Committee on Indian Affairs, to which was referred the bill (S. 349) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 349 is to amend the Navajo-Hopi Land Dispute Settlement Act, P.L. 93-531 (25 U.S.C. 640d-24(a)(8)), to extend the authorization for appropriations for the Navajo Hopi Relocation Housing program through the end of fiscal year 1997. The current authorization expires at the end of the 1995 fiscal year.

BACKGROUND

The Navajo-Hopi Land Dispute Settlement Act was enacted in 1974 in an effort to settle land disputes which had divided the Navajo and Hopi tribes for more than a century. Among other things, the 1974 Act required the partition of the disputed lands and the relocation of the members of each tribe from the lands partitioned to the other tribe. This has proven to be an extremely difficult and contentious process. The original Act was amended in 1980 and again in 1987 to try to resolve problems which arose in its implementation.

Since the enactment of the Settlement Act, 4,432 Navajo and Hopi families have applied for relocation benefits. Of those, 3,264 have been certified eligible and 1,168 have been denied benefits. Of

those who were denied benefits, 218 are engaged in active appeals. As of the end of January, 1995, a total of 2,518 had been relocated and 746 eligible families were awaiting their benefits. Of the families relocated, 2,434 are Navajo and 23 are Hopi. Of the 746 families awaiting benefits, 742 are Navajo and 4 are Hopi.

Most of the families still awaiting benefits, long ago complied with the law and voluntarily left their homes which are located on lands partitioned to the other tribe. The pace of the relocation housing program has been such that on average fewer than 200 hundred eligible families are served in any fiscal year. In addition to the eligible Navajo and Hopi families awaiting relocation, there are estimated to be between 50 and 150 Navajo families residing on lands partitioned to the Hopi tribe who have never applied for relocation benefits.

For the past three years the Court of Appeals for the Ninth Circuit has assigned a mediator to attempt to negotiate leases with the Hopi tribe for these Navajo families. The mediation effort is related to litigation pending before the court which involves the issue of whether the relocation program violates the religious freedom of the members of the Navajo Nation who are subject to relocation under the Settlement Act.

The Office of Navajo and Hopi Indian Relocation filed a report with the Congress on February 28, 1995 with its recommendations for completion of the relocation program and the phase out of the office. The report indicates that as many as 1,000 additional families may be determined to be eligible for relocation assistance after the completion of all appeals and legal challenges. The office estimates that the total time required to complete the relocation program and shut down the office will be approximately 9 years. According to the report, many factors contribute to the slow pace of the relocation program including difficulty in finding on-reservation homesites, the voluntary nature of the program, archaeological clearances, livestock grazing issues, and problems related to individual relocatees.

Under the completion and phase out plan recommended by the office, annual funding would decline from the 1995 level of \$24,888 million to \$21,771 million in 2003. The plan assumes that about 100 families would be served in each year and that some families would be provided a cash benefit instead of a replacement home. Since 1975, the Congress has appropriated about \$356 million for the relocation program. Of that amount, about \$235 million has been expended on the relocation housing benefit.

LEGISLATIVE HISTORY

S. 349 was introduced on February 2, 1995, by Senators McCain and Kyl and was referred to the Committee on Indian Affairs. A hearing was held on the bill by the Committee on Indian Affairs on March 15, 1995.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In an open business session on March 29, 1995, the Committee on Indian Affairs ordered the bill reported without amendment, with the recommendation that the Senate pass the bill as reported.

SUMMARY OF THE BILL

Section 1 of the bill amends section 25(a)(8) of Public Law 93-531 (25 U.S.C. 640d-24(a)(8)) by striking "1989," and all that follows through "1995." and inserting "1995, 1996, and 1997."

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 349, as calculated by the Congressional Budget Office is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 5, 1995.

Hon. JOHN MCCAIN,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 349, a bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program.

Enactment of S. 349 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 349.
2. Bill title: A bill reauthorize appropriations for the Navajo-Hopi Relocation Housing Program.
3. Bill status: As ordered reported by the Senate Committee on Indian Affairs on March 29, 1995.
4. Bill purpose: S. 349 would reauthorize appropriations for the Office of Navajo-Hopi Indian Relocation for fiscal years 1996 and 1997.
5. Estimated cost to the Federal Government: Assuming that the Congress appropriates the full amounts authorized for 1996 and 1997 and that outlays follow historical patterns, enacting S.349 would affect spending as shown below.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Current Law:						
Budget Authority	25	—	—	—	—	—
Estimated Outlays	26	9	—	—	—	—
Proposed Changes:						
Authorization Level	—	30	30	—	—	—
Estimated Outlays	—	20	30	10	—	—
Total Spending under S. 349:						
Authorization Level ¹	25	30	30	—	—	—
Estimated Outlays	26	29	30	10	—	—

¹ The 1995 level is the amount appropriated for that year.

The costs of this bill fall within budget function 800.

6. Pay-as-you-go considerations: None.

7. Estimated cost to state and local governments: None.
8. Estimate comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: Rachel Robertson.
11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 349 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Executive Director of the Office of Navajo and Hopi Indian Relocation appeared before the Committee at the hearing on S. 349 on March 15, 1995. The Executive Director's prepared statement on the bill follows:

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the enactment of S. 349 will result in the following changes in 25 U.S.C. 640d-24(a) (8), with existing language which is to be deleted in black brackets and the new language to be added in italics:

“(8) For the purposes of carrying out the provisions of section 640d-14 of this title, there is authorized to be appropriated not to exceed \$30,000,000 annually for fiscal years [1989, 1990, 1991, 1992, 1993, 1994, and 1995.] *1995, 1996, and 1997.*”

APPENDIX

U.S. GOVERNMENT,
OFFICE OF NAVAJO AND
HOPI INDIAN RELOCATION.

Statement before the Senate Select Committee on Indian Affairs.
In support of Reauthorization Legislation for the Office of Navajo
and Hopi Indian Relocation through Fiscal Year 1997.

MR. CHAIRMAN: I am pleased to be here today appearing before
this Committee to testify in support of the Reauthorization Legisla-
tion currently pending.

The legislation currently pending would reauthorize the appro-
priation of funding for construction of relocation homes for fiscal
years 1996 and 1997. There are currently 750 heads of household
who have received from the ONHIR a letter of eligibility for a fed-
eral benefit, (replacement housing, bonus, moving expenses, etc.).
The Office estimates that upon resolution of pending court cases
and administrative appeals approximately 100 additional individ-
uals will be determined to be eligible for benefits. If funding for
these benefits is not provided for the Office, individuals determined
to be eligible for benefits might sue on a claim that they have been
deprived of an entitlement to relocation benefits. In addition, some
of these individuals relocated with the expectation that they would
be receiving benefits. In order to provide housing for individuals
that have been or are likely to be determined to be eligible for ben-
efits, the Office encourages passage of this bill to, at a minimum,
provide housing funding for the next two years.

I would also like to note that the Office has been involved during
the last three years in extensive re-evaluation and assessment of
our program.

In 1993, the Office began a process of critically examining our or-
ganization and functions. Although the office was specifically ex-
empt from the Executive Order directing a reduction in staffing, we
determined that it was in the best interests of good government
and responsiveness to our clients to identify areas where we could
make savings through reducing expenditures and staffing. Indeed,
the Office had already begun to reduce staffing through attrition
and a self-imposed freeze on hiring. The staffing of the agency had
thus been reduced from a high of 97 in 1992 to a total of 91 per-
sons in 1994. This represents a 6 percent staff reduction.

From a management perspective, we viewed the National Per-
formance Review initiatives as a positive opportunity to continue to
implement those policies and activities begun in 1993, specifically
as concerns the intention to down-size. That is precisely what we
have done, and it has provided us a specific, systematic means to

accomplish an orderly reduction in spending and staffing, while continuing to provide service to our clients and conclude the relocation program.

As part of the reinvention process, the Office held several one-day, all staff sessions, during the summer and fall of 1994, dealing with any matter which any staff member felt would improve the operation of the agency. As a result of these discussions, the Office developed a list of administrative changes and improvements that fell into two categories; those which could and have been implemented immediately, and those which would require further development prior to implementation. The Office has also, as a result of the reinvention process, altered its organizational structure to establish a plan for self-directed work teams in all of the areas of office operation. This restructuring, when fully implemented during the next two to three months, will result in reduction of the number of individuals with supervisory responsibility which will be in excess of the National Performance Review goals set by the President.

Finally, we are currently in the process of conducting our customer satisfaction survey, as required by the reinvention process, and should have final results by mid-summer of this year.

In late September of 1994, the Office began preparation of a relocation completion and agency phase-out plan requested by the House Interior Appropriations Subcommittee. We utilized many of the existing elements of our reinvention process in the plan for relocation completion. New elements have been included in the relocation plan as a result of the House Interior Appropriations Subcommittee's request for a plan to finalize the relocation process and transfer the function of the agency to a successor entity. We have provided copies of this plan to your Committee.

The Office believes this plan offers the best potential for completion of relocation in the event that the mediation effort ordered by the United States Court of Appeals for the Ninth Circuit fails. The mediation effort seeks to achieve a consensual resolution under which Navajos who wish to remain on Hopi land could do so under a 75-year lease arrangement providing an option to relocation. The plan for relocation completion contains recommendations for; incentives which would assist the Hopi Tribe in re-establishing its presence on the HPL, incentives to encourage the remaining Navajos residing on the HPL to voluntarily comply with relocation, and alternative compensation strategies for non-HPL residents for whom an actual physical relocation is not feasible.

Finally, the Plan briefly addresses the issue of involuntary relocation of those individuals who do not make timely arrangements to relocate. The existing Act mandates that members of one tribe relocate from lands partitioned to the Tribe of which they are not members, regardless of whether the party wishes to move. Congress anticipated that some households would not make timely application for benefits or choose to relocate. Accordingly, the Act authorized the Office to take that household's benefits and acquire or construct a replacement home for such families off of the lands of the other tribe. The Office is charged with constructing homes off of the HPL for Navajos eligible for benefits who do not make a housing selection. Absent clarification from either Congress or the

courts as to a deadline for voluntary relocation and a timeframe for construction of housing for individuals who will not voluntarily participate in the program, this agency cannot forecast a plan or budget for completion of relocation.

I believe the plan, which also includes an update to the historical background of relocation and its statistical elements, presents a clear representation of the many issues involved, illustrates how we reached our conclusions and demonstrates an orderly means to reduce and eventually eliminate the Office.

To the extent possible we have tried to quantify information to demonstrate how conclusions were reached and assure the minimum adverse impact to those persons being relocated. In achieving down-sizing in advance of phase-out we have carefully considered and suggested means to protect employees' rights.

I believe the information in the plan demonstrates a commitment to the continuing aim of reducing the size of government, but also assures that the government can retain qualified employees to carry out the remainder of the relocation program.

I thank the Subcommittee for its attention and we will be pleased to respond to any questions you have for us.

CHRISTOPHER J. BAVASI,
Executive Director.

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