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 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 Navajo 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)[1]: *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

[1] So in original. The period followed by the designation ''(B)'' probably should not appear.

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.

(f) Termination

The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.

(Pub. L. 93–531, § 12, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96–305, § 5, July 8, 1980, 94 Stat. 932; Pub. L. 100–666, § 4(a), Nov. 16, 1988, 102 Stat. 3929; Pub. L. 100–696, title IV, § 406, Nov. 18, 1988, 102 Stat. 4592; Pub. L. 102–180, § 3(a)–(c), Dec. 2, 1991, 105 Stat. 1230.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(3), is set out in section 5315 of Title 5, Government Organization and Employees.

The Navajo and Hopi Indian Relocation Amendments of 1988, referred to in subsec. (c)(1)(A), is Pub. L. 100–666, Nov. 16, 1988, 102 Stat. 3929, which enacted sections 640d–29 and 640d–30 of this title, amended sections 640d–7, 640d–9 to 640d–14, 640d–22, 640d–24, 640d–25, and 640d–28 of this title, and enacted provisions set out as a note under sections 640d and 640d–11 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 640d of this title and Tables.

Public Law 99–190, referred to in subsec. (c)(2), is Pub. L. 99–190, Dec. 19, 1985, 99 Stat. 1185. The provisions of Pub. L. 99–190 (99 Stat. 1236) relating to the relocation of members of the Navajo Tribe are not classified to the Code. For complete classification of Pub. L. 99–190 to the Code, see Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in the subsec. (d)(1)(A), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–180, § 3(a), inserted at end ''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.''

Subsec. (b)(3). Pub. L. 102–180, § 3(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS–18 of the General Schedule under section 5332 of title 5.''

Subsec. (d)(1). Pub. L. 102–180, § 3(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Commissioner shall have the power to—

''(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 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.''

1988—Pub. L. 100–666 amended section generally, substituting subsecs. (a) to (f) relating to the Office of Navajo and Hopi Indian Relocation, for former subsecs. (a) to (j) which related to the Navajo and Hopi Relocation Commission.

1980—Subsec. (g)(1). Pub. L. 96–305, § 5(1), inserted ''an independent legal counsel,'' after ''an Executive Director,''.

Subsec. (h). Pub. L. 96–305, § 5(2), substituted provision authorizing Commission to provide for its own administrative, fiscal, and housekeeping services for provision authorizing Department of the Interior, on a nonreimbursable basis, to furnish necessary administrative and housekeeping services for Commission.

Subsecs. (i), (j). Pub. L. 96–305, § 5(3), added subsec. (i) and redesignated former subsec. (i) as (j).

SEPARATION OR REDUCTION IN GRADE OR COMPENSATION OF EMPLOYEE

Section 3(d) of Pub. L. 102–180 provided that: ''The amendments made by this section [amending this section and section 5315 of Title 5, Government Organization and Employees] shall not cause any employee of the Office of Navajo and Hopi Indian Relocation to be separated or reduced in grade or compensation for 12 months after the date of enactment of this Act [Dec. 2, 1991].''

POSITIONS IN SENIOR EXECUTIVE SERVICE

Section 3(e) of Pub. L. 102–180 provided that: ''The position of Executive Director of the Office of Navajo and Hopi Indian Relocation and Deputy Executive Director of such Office shall on and after the date of the enactment of this Act [Dec. 2, 1991], be in the Senior Executive Service.''

EMPLOYEES OF OFFICE AS GOVERNMENT EMPLOYEES

Section 3(f) of Pub. L. 102–180 provided that: ''Any employee of the Office of Navajo and Hopi Indian Relocation on the date of the enactment of this Act [Dec. 2, 1991], shall be considered an employee as defined in section 2105 of title 5, United States Code.''

CONTINUATION OF RELOCATION COMMISSION AND RETENTION OF EXISTING COMMISSIONERS PENDING CONFIRMATION OF COMMISSIONER; TRANSFER OF EXISTING PERSONNEL; CHANGE OF NAME

Section 4(c) of Pub. L. 100–666 provided that:

''(1) Notwithstanding any other provisions of law or any amendment made by this Act [see Short Title of 1988 Amendment note under section 640d of this title]—

''(A) the Navajo and Hopi Indian Relocation Commission shall—

''(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

''(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act [Nov. 16, 1988], and

''(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93–531 [25 U.S.C. 640d–11(c)(2)], as amended by this Act, until the Commissioner is confirmed,

''(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

''(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

''(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.''

§ 640d–12. Report concerning relocation of households and members of each tribe

(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this subchapter.

(b) The report required under subsection (a) of this section shall contain, among other matters, the following:

(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this subchapter and who have not received all the benefits for which such members are eligible under this subchapter; and

(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is[1] being among the persons named in clause (1) of this subsection.

(Pub. L. 93–531, § 13, Dec. 22, 1974, 88 Stat. 1717; Pub. L. 96–305, § 6, July 8, 1980, 94 Stat. 932; Pub. L. 100–666, § 4(d), Nov. 16, 1988, 102 Stat. 3931; Pub. L. 101–121, title I, § 120, Oct. 23, 1989, 103 Stat. 722.)

AMENDMENTS

1989—Subsec. (b)(4). Pub. L. 101–121 struck out cl. (4) which required a report on how funds in the Navajo Rehabilitation Trust Funds would be expended to carry out the purposes described in section 640d–30(d) of this title.

1988—Pub. L. 100–666 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (c).

1980—Subsec. (c)(5). Pub. L. 96–305 substituted ''ninety'' for ''thirty''.

[1] So in original. Probably should be ''as''.

§ 640d–13. Relocation of households and members

(a) Authorization; time of completion; prohibition of further settlement of nonmembers without written approval; limit on grazing of livestock

Consistent with section 640d–7 of this title and the order of the District Court issued pursuant to section 640d–2 or 640d–3 of this title, the Commissioner is authorized and directed to relocate pursuant to section 640d–7 of this title and such order all households and members thereof and their personal property, including livestock, from any lands partitioned to the tribe of which they are not members. The relocation shall take place in accordance with the relocation plan and shall be completed by the end of five years from the date on which the relocation plan takes effect. No further settlement of Navajo individuals on the lands partitioned to the Hopi Tribe pursuant to this subchapter or on the Hopi Reservation shall be permitted unless advance written approval of the Hopi Tribe is obtained. No further settlement of Hopi individuals on the lands partitioned to the Navajo Tribe pursuant to this subchapter or on the Navajo Reservation shall be permitted unless advance written approval of the Navajo Tribe is obtained. No individual shall hereafter be allowed to increase the number of livestock he grazes on any area partitioned pursuant to this subchapter to the tribe of which he is not a member, nor shall he retain any grazing rights in any such area subsequent to his relocation therefrom.

(b) Additional payments to heads of household; time

In addition to the payments made pursuant to section 640d–14 of this title, the Commissioner shall make payments to heads of households identified in the report prepared pursuant to section 640d–12 of this title upon the date of relocation of such households, as determined by the Commissioner, in accordance with the following schedule:

(1) the sum of $5,000 to each head of a household who, prior to the expiration of one year after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(2) the sum of $4,000 to each head of a household who is not eligible for the payment provided for in clause (1) of this subsection but who, prior to the expiration of two years after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(3) the sum of $3,000 to each head of a household who is not eligible for the payments provided for in clause (1) or (2) of this subsection but who, prior to the expiration of three years after the effective date of the relocation plan, contracts with the Commissioner to relocate; and

(4) the sum of $2,000 to each head of a household who is not eligible for the payments provided for in clause (1), (2), or (3) of this subsection but who, prior to the expiration of four years after the effective date of the relocation plan, contracts with the Commissioner to relocate.