

Calendar No. 400

105TH CONGRESS
2^D SESSION

S. 2069

[Report No. 105–205]

To permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment.

IN THE SENATE OF THE UNITED STATES

MAY 5, 1998

Mr. DORGAN (for himself and Mr. CONRAD) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

JUNE 5, 1998

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment.

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. LEASES OF ALLOTTED LANDS OF THE FORT**
 4 **BERTHOLD INDIAN RESERVATION.**

5 (a) IN GENERAL.—

6 (1) APPROVAL BY SECRETARY OF THE INTE-
 7 RIOR.—

8 (A) IN GENERAL.—Notwithstanding any
 9 other provision of law (including the Act of
 10 March 3, 1909 (35 Stat. 783, chapter 263; 25
 11 U.S.C. 396) and the regulations issued under
 12 that Act), the Secretary of the Interior or a
 13 designee of the Secretary may approve mineral
 14 leases of an allotment described in paragraph
 15 (2) in any case in which the Indian owners of
 16 that allotment have executed leases to more
 17 than 50 percent of the mineral estate of that al-
 18 lotment.

19 (B) BENEFITS OF LEASES.—At such time
 20 as mineral leases on an allotment have been ap-
 21 proved for all Indian ownership interests pursu-
 22 ant to this section, all Indian owners of the al-
 23 lotment shall be entitled to the benefits of the
 24 leases.

1 (2) ALLOTMENT.—An allotment described in
2 this paragraph is an allotment that—

3 (A) is located in the Fort Berthold Indian
4 Reservation, North Dakota; and

5 (B) is held in trust by the United States.

6 (b) RULE OF CONSTRUCTION.—This Act supersedes
7 the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25
8 U.S.C. 396) only to the extent provided in subsection (a).

9 **SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT**
10 **BERTHOLD INDIAN RESERVATION.**

11 (a) *IN GENERAL.*—

12 (1) *DEFINITIONS.*—*In this section:*

13 (A) *INDIAN LAND.*—*The term “Indian*
14 *land” means an undivided interest in a single*
15 *parcel of land that—*

16 (i) *is located within the Fort Berthold*
17 *Indian Reservation in North Dakota; and*

18 (ii) *is held in trust or restricted status*
19 *by the United States.*

20 (B) *INDIVIDUALLY OWNED INDIAN LAND.*—
21 *The term “individually owned Indian land”*
22 *means Indian land that is owned by 1 or more*
23 *individuals.*

24 (C) *SECRETARY.*—*The term “Secretary”*
25 *means the Secretary of the Interior.*

(2) *EFFECT OF APPROVAL BY SECRETARY OF
THE INTERIOR.*—

(A) *IN GENERAL.*—*The Secretary may approve any mineral lease or agreement that affects individually owned Indian land, if—*

(i) *the owners of a majority of the undivided interest in the Indian land that is the subject of the mineral lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under paragraph (3)) consent to the lease or agreement; and*

(ii) *the Secretary determines that approving the lease or agreement is in the best interest of the Indian owners of the Indian land.*

(B) *EFFECT OF APPROVAL.*—*Upon the approval by the Secretary under subparagraph (A), the lease or agreement shall be binding, to the same extent as if all of the Indian owners of the Indian land involved had consented to the lease or agreement, upon—*

(i) *all owners of the undivided interest in the Indian land subject to the lease or*

1 *agreement (including any interest owned by*
 2 *an Indian tribe); and*

3 (ii) *all other parties to the lease or*
 4 *agreement.*

5 (C) *DISTRIBUTION OF PROCEEDS.—The*
 6 *proceeds derived from a lease or agreement that*
 7 *is approved by the Secretary under subpara-*
 8 *graph (A) shall be distributed to all owners of*
 9 *the Indian land that is subject to the lease or*
 10 *agreement in accordance with the interest owned*
 11 *by each such owner.*

12 (3) *EXECUTION OF LEASE OR AGREEMENT BY*
 13 *SECRETARY.—The Secretary may execute a mineral*
 14 *lease or agreement that affects individually owned In-*
 15 *dian land on behalf of an Indian owner if—*

16 (A) *that owner is deceased and the heirs to,*
 17 *or devisees of, the interest of the deceased owner*
 18 *have not been determined; or*

19 (B) *the heirs or devisees referred to in sub-*
 20 *paragraph (A) have been determined, but 1 or*
 21 *more of the heirs or devisees cannot be located.*

22 (4) *PUBLIC AUCTION OR ADVERTISED SALE NOT*
 23 *REQUIRED.—It shall not be a requirement for the ap-*
 24 *proval or execution of a lease or agreement under this*

1 *subsection that the lease or agreement be offered for*
 2 *sale through a public auction or advertised sale.*

3 *(b) RULE OF CONSTRUCTION.—This Act supersedes the*
 4 *Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C.*
 5 *396) only to the extent provided in subsection (a).*

Amend the title so as to read: “A bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.”.

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