

Calendar No. 99

108TH CONGRESS
1ST SESSION

S. 521

[Report No. 108–48]

To amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2003

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

MAY 15, 2003

Reported by Mr. CAMPBELL, with an amendment

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

A BILL

To amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, 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. SHORT TITLE.**

4 This Act may be cited as the “Indian Land Leasing
5 Act of 2003”.

1 **SEC. 2. AUTHORIZATION OF 99-YEAR LEASES.**

2 (a) IN GENERAL.—Subsection (a) of the first section
3 of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amend-
4 ed in the second sentence—

5 (1) by inserting “the reservation of the Confed-
6 erated Tribes of the Umatilla Indian Reservation,”
7 before “the Burns Paiute Reservation,”;

8 (2) by inserting “the” before “Yavapai-Pres-
9 cott”;

10 (3) by striking “Washington,” and inserting
11 “Washington,”; and

12 (4) by inserting “land held in trust for the
13 Yurok Tribe, land held in trust for the Hopland
14 Band of Pomo Indians of the Hopland Rancheria,”
15 after “Pueblo of Santa Clara,”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall apply to any lease entered into or re-
18 newed after the date of enactment of this Act.

19 **SEC. 3. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE**
20 **AND SIOUX TRIBES OF THE FORT PECK RES-**
21 **ERVATION.**

22 The first section of the Act of August 9, 1955 (25
23 U.S.C. 415) is amended by adding at the end the fol-
24 lowing:

1 “(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINI-
 2 BOINE AND SIOUX TRIBES OF THE FORT PECK RESERVA-
 3 TION.—

4 “(1) IN GENERAL.—Notwithstanding subsection
 5 (a) and any regulations under part 162 of title 25,
 6 Code of Federal Regulations (or any successor regu-
 7 lation), subject to paragraph (2), the Assiniboine
 8 and Sioux Tribes of the Fort Peck Reservation may
 9 lease to the Northern Border Pipeline Company trib-
 10 ally-owned land on the Fort Peck Indian Reservation
 11 for 1 or more interstate gas pipelines.

12 “(2) CONDITIONS.—A lease entered into under
 13 paragraph (1)—

14 “(A) shall commence during fiscal year
 15 2011 for an initial term of 25 years;

16 “(B) may be renewed for an additional
 17 term of 25 years; and

18 “(C) shall specify in the terms of the lease
 19 an annual rental rate—

20 “(i) which rate shall be increased by
 21 $\frac{3}{2}$ percent per year on a cumulative basis
 22 for each 5-year period; and

23 “(ii) the adjustment of which in ac-
 24 cordance with clause (i) shall be considered
 25 to satisfy any review requirement under

1 part 162 of title 25, Code of Federal Regu-
 2 lations (or a successor regulation).”.

3 **SEC. 4. CERTIFICATION OF RENTAL PROCEEDS.**

4 Notwithstanding any other provision of law, any ac-
 5 tual rental proceeds from the lease of land acquired under
 6 section 1 of Public Law 91-229 (25 U.S.C. 488) certified
 7 by the Secretary of the Interior shall be deemed—

8 (1) to constitute the rental value of that land;
 9 and

10 (2) to satisfy the requirement for appraisal of
 11 that land.

12 **SEC. 5. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY**
 13 **PRAIRIE RURAL WATER ASSOCIATION, IN-**
 14 **CORPORATED.**

15 (a) IN GENERAL.—The Assiniboine and Sioux Tribes
 16 of the Fort Peck Indian Reservation (referred to in this
 17 section as the “Tribes”) may, with the approval of the
 18 Secretary of the Interior, enter into a lease or other tem-
 19 porary conveyance of water rights recognized under the
 20 Fort Peck-Montana Compact (Montana Code Annotated
 21 85-20-201) for the purpose of meeting the water needs
 22 of the Dry Prairie Rural Water Association, Incorporated
 23 (or any successor entity), in accordance with section 5 of
 24 the Fort Peck Reservation Rural Water System Act of
 25 2000 (114 Stat. 1454).

1 (b) ~~CONDITIONS OF LEASE.~~—With respect to a lease
 2 or other temporary conveyance described in subsection
 3 (a)—

4 (1) the term of the lease or conveyance shall
 5 not exceed 100 years; and

6 (2)(A) the lease or conveyance may be approved
 7 by the Secretary of the Interior without monetary
 8 compensation to the Tribes; and

9 (B) the Secretary of the Interior shall not be
 10 subject to liability for any claim or cause of action
 11 relating to the compensation or consideration re-
 12 ceived by the Tribes under the lease or conveyance.

13 (c) ~~NO PERMANENT ALIENATION OF WATER.~~—Noth-
 14 ing in this section authorizes any permanent alienation of
 15 any water by the Tribes.

16 **SEC. 6. LEASES OF RESTRICTED INDIAN LAND; NON-INDIAN**
 17 **BUSINESS PARTNERS ON INDIAN LAND.**

18 Subsection (a) of the first section of the Act of Au-
 19 gust 9, 1955 (25 U.S.C. 415(a)) is amended by adding
 20 at the end the following: “Notwithstanding any other pro-
 21 vision of law, no Indian tribe shall be required to obtain
 22 the approval of the Secretary to enter into a lease of re-
 23 stricted Indian land (not including any lease for explo-
 24 ration, development, or extraction of any mineral re-
 25 source) under this subsection for a term that does not ex-

1 exceed 99 years if the Indian tribe provides written notice
 2 in original leasing documents that the Indian tribe has the
 3 unilateral right to terminate the lease in any case in which
 4 the Indian tribe does not waive sovereign immunity from
 5 any civil action brought by a party to the lease for just
 6 compensation as a result of such a termination. Any per-
 7 son that is a party to a lease described in the preceding
 8 sentence may bring a civil action to enforce the lease.”.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Indian Land Leasing*
 11 *Act of 2003”.*

12 **SEC. 2. AUTHORIZATION OF 99-YEAR LEASES.**

13 *(a) IN GENERAL.—Subsection (a) of the first section*
 14 *of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended*
 15 *in the second sentence—*

16 *(1) by inserting “the reservation of the Confed-*
 17 *erated Tribes of the Umatilla Indian Reservation,”*
 18 *before “the Burns Paiute Reservation,”;*

19 *(2) by inserting “the” before “Yavapai-Prescott”;*

20 *(3) by striking “Washington,” and inserting*
 21 *“Washington,”;*

22 *(4) by inserting “land held in trust for the Yurok*
 23 *Tribe, land held in trust for the Hopland Band of*
 24 *Pomo Indians of the Hopland Rancheria,” after*
 25 *“Pueblo of Santa Clara,”; and*

1 (5) by inserting “the Muckleshoot Indian Res-
 2 ervation and land held in trust for the Muckleshoot
 3 Indian Tribe,” after “the Cabazon Indian reserva-
 4 tion,”.

5 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 6 section (a) shall apply to any lease entered into or renewed
 7 after the date of enactment of this Act.

8 **SEC. 3. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE**
 9 **AND SIOUX TRIBES OF THE FORT PECK RES-**
 10 **ERVATION.**

11 *The first section of the Act of August 9, 1955 (25*
 12 *U.S.C. 415) is amended by adding at the end the following:*

13 “(g) *LEASE OF TRIBALLY-OWNED LAND BY ASSINI-*
 14 *BOINE AND SIOUX TRIBES OF THE FORT PECK RESERVA-*
 15 *TION.*—

16 “(1) *IN GENERAL.*—Notwithstanding subsection
 17 (a) and any regulations under part 162 of title 25,
 18 *Code of Federal Regulations (or any successor regula-*
 19 *tion), subject to paragraph (2), the Assiniboiné and*
 20 *Sioux Tribes of the Fort Peck Reservation may lease*
 21 *to the Northern Border Pipeline Company tribally-*
 22 *owned land on the Fort Peck Indian Reservation for*
 23 *1 or more interstate gas pipelines.*

24 “(2) *CONDITIONS.*—A lease entered into under
 25 paragraph (1)—

1 “(A) shall commence during fiscal year
2 2011 for an initial term of 25 years;

3 “(B) may be renewed for an additional
4 term of 25 years; and

5 “(C) shall specify in the terms of the lease
6 an annual rental rate—

7 “(i) which rate shall be increased by 3
8 percent per year on a cumulative basis for
9 each 5-year period; and

10 “(ii) the adjustment of which in ac-
11 cordance with clause (i) shall be considered
12 to satisfy any review requirement under
13 part 162 of title 25, Code of Federal Regu-
14 lations (or a successor regulation).”.

15 **SEC. 4. CERTIFICATION OF RENTAL PROCEEDS.**

16 Notwithstanding any other provision of law, any ac-
17 tual rental proceeds from the lease of land acquired under
18 section 1 of Public Law 91–229 (25 U.S.C. 488) certified
19 by the Secretary of the Interior shall be deemed—

20 (1) to constitute the rental value of that land;
21 and

22 (2) to satisfy the requirement for appraisal of
23 that land.

1 **SEC. 5. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY**
 2 **PRAIRIE RURAL WATER ASSOCIATION, INCOR-**
 3 **PORATED.**

4 (a) *IN GENERAL.*—*The Assiniboine and Sioux Tribes*
 5 *of the Fort Peck Indian Reservation (referred to in this sec-*
 6 *tion as the “Tribes”)* may, with the approval of the Sec-
 7 *retary of the Interior, enter into a lease or other temporary*
 8 *conveyance of water rights recognized under the Fort Peck-*
 9 *Montana Compact (Montana Code Annotated 85–20–201)*
 10 *for the purpose of meeting the water needs of the Dry Prai-*
 11 *rie Rural Water Association, Incorporated (or any successor*
 12 *entity), in accordance with section 5 of the Fort Peck Res-*
 13 *ervation Rural Water System Act of 2000 (114 Stat. 1454).*

14 (b) *CONDITIONS OF LEASE.*—*With respect to a lease*
 15 *or other temporary conveyance described in subsection*
 16 *(a)—*

17 (1) *the term of the lease or conveyance shall not*
 18 *exceed 100 years; and*

19 (2)(A) *the lease or conveyance may be approved*
 20 *by the Secretary of the Interior without monetary*
 21 *compensation to the Tribes; and*

22 (B) *the Secretary of the Interior shall not be sub-*
 23 *ject to liability for any claim or cause of action relat-*
 24 *ing to the compensation or consideration received by*
 25 *the Tribes under the lease or conveyance.*

1 (c) *NO PERMANENT ALIENATION OF WATER.*—*Nothing*
 2 *in this section authorizes any permanent alienation of any*
 3 *water by the Tribes.*

4 ***SEC. 6. APPROVAL OF, AND REGULATIONS RELATING TO,***
 5 ***TRIBAL LEASES.***

6 *The first section of the Act of August 9, 1955 (25*
 7 *U.S.C. 415) is amended by adding at the end the following:*

8 “(f) *APPROVAL OF, AND REGULATIONS RELATING TO,*
 9 *TRIBAL LEASES.*—

10 “(1) *DEFINITIONS.*—*In this subsection:*

11 “(A) *INDIAN TRIBE.*—*The term ‘Indian*
 12 *tribe’ has the meaning given the term in section*
 13 *4 of the Indian Self-Determination and Edu-*
 14 *cation Assistance Act (25 U.S.C. 450b).*

15 “(B) *SECRETARY.*—*The term ‘Secretary’*
 16 *means the Secretary of the Interior.*

17 “(2) *APPROVAL OF LEASES.*—*At the discretion of*
 18 *any federally recognized Indian tribe, a lease by the*
 19 *federally recognized Indian tribe for a purpose au-*
 20 *thorized under subsection (a) (not including any lease*
 21 *for the exploration, development, or extraction of any*
 22 *mineral resource) shall not require the approval of the*
 23 *Secretary if—*

1 “(A) the lease is executed under the tribal
2 regulations approved by the Secretary under
3 paragraph (3); and

4 “(B) the term of the lease does not exceed—

5 “(i) in the case of a business or agri-
6 cultural lease, 99 years; and

7 “(ii) in the case of a lease for a public,
8 religious, educational, recreational, or resi-
9 dential purpose, 99 years, if such a term is
10 provided for by the federally recognized In-
11 dian tribe in the tribal regulations.

12 “(3) TRIBAL REGULATIONS.—

13 “(A) IN GENERAL.—The Secretary may ap-
14 prove or disapprove tribal regulations referred to
15 in paragraph (2)(B)(ii).

16 “(B) APPROVAL AND DISAPPROVAL.—Not
17 later than 90 days after the date on which the
18 Secretary receives tribal regulations described in
19 paragraph (2)(B)(ii) from a federally recognized
20 Indian tribe (or such later date as may be estab-
21 lished by the Secretary, after consultation with
22 the Indian tribe), the Secretary shall—

23 “(i) review the tribal regulations; and

24 “(ii)(I) if the Secretary determines
25 that the tribal regulations are consistent

1 *with the regulations of the Secretary pro-*
 2 *mulgated under subsection (a)—*

3 “*(aa) approve the regulations;*
 4 *and*

5 “*(bb) provide for an environ-*
 6 *mental review process with respect to*
 7 *the regulations; or*

8 “*(II) if the Secretary determines that*
 9 *the regulations are not consistent with the*
 10 *regulations of the Secretary promulgated*
 11 *under subsection (a)—*

12 “*(aa) disapprove the regulations;*
 13 *and*

14 “*(bb) provide to the Indian tribe*
 15 *that submitted the tribal regulations a*
 16 *written explanation that describes the*
 17 *basis for the disapproval.*

18 “*(4) EXECUTED LEASES.—If a federally recog-*
 19 *nized Indian tribe has executed a lease under para-*
 20 *graph (2) in accordance with tribal regulations ap-*
 21 *proved under paragraph (3), the Indian tribe shall*
 22 *provide to the Secretary—*

23 “*(A) a copy of the lease (including all*
 24 *amendments to and renewals of the lease); and*

1 “(B) *in the case of a tribal regulation or*
 2 *lease that permits payments for the lease to be*
 3 *made directly to the Indian tribe, documentation*
 4 *of the payments that is sufficient to enable the*
 5 *Secretary to discharge the trust responsibility of*
 6 *the United States under paragraph (5)(B).*

7 “(5) *LIABILITY AND TRUST RESPONSIBILITY.*—

8 “(A) *LIABILITY.*—*The United States shall*
 9 *not be liable for any loss sustained by any party*
 10 *to a lease approved under paragraph (2) in ac-*
 11 *cordance with tribal regulations approved under*
 12 *paragraph (3) (including any loss by an Indian*
 13 *tribe).*

14 “(B) *TRUST RESPONSIBILITY.*—*Nothing in*
 15 *this paragraph diminishes or otherwise affects*
 16 *the authority of the Secretary to take appro-*
 17 *priate actions, including the cancellation of a*
 18 *lease, in furtherance of the trust obligation of the*
 19 *United States to an Indian tribe.*

20 “(6) *COMPLIANCE REVIEW.*—

21 “(A) *IN GENERAL.*—*After exhaustion of*
 22 *tribal remedies, any person may submit to the*
 23 *Secretary, in a timely manner, a petition to re-*
 24 *view compliance of an Indian tribe with tribal*

1 *regulations of the Indian tribe approved under*
2 *paragraph (3).*

3 “(B) ACTION BY SECRETARY.—The Sec-
4 *retary shall—*

5 “(i) *review compliance of an Indian*
6 *tribe described in subparagraph (A); and*

7 “(ii) *on completion of the review, if the*
8 *Secretary determines that an Indian tribe*
9 *is not in compliance with tribal regulations*
10 *approved under this subsection, take such*
11 *action as is necessary to compel compliance,*
12 *including—*

13 “(I) *rescinding a lease approved*
14 *under paragraph (2); or*

15 “(II)(aa) *suspending a lease ap-*
16 *proved under paragraph (2) until an*
17 *Indian tribe is in compliance with*
18 *tribal regulations; and*

19 “(bb) *rescinding approval of the*
20 *tribal regulations and reassuming the*
21 *responsibility for approval of leases*
22 *under paragraph (2).*

23 “(C) COMPLIANCE.—*If the Secretary seeks*
24 *to compel compliance of an Indian tribe with*

1 *tribal regulations under subparagraph (B)(ii),*
2 *the Secretary shall—*

3 *“(i) make a written determination that*
4 *describes the manner in which the tribal*
5 *regulations have been violated;*

6 *“(ii) provide the Indian tribe with a*
7 *written notice of the violation together with*
8 *the written determination; and*

9 *“(iii) before taking any action de-*
10 *scribed in subparagraph (B)(ii) or seeking*
11 *any other remedy, provide the Indian tribe*
12 *with a hearing and a reasonable oppor-*
13 *tunity to attain compliance with the tribal*
14 *regulations.*

15 *“(7) APPLICABILITY.—This subsection shall not*
16 *apply to individually owned Indian allotted land.”.*

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[Report No. 108-48]

A BILL

To amend the Act of August 9, 1955, to extend the
terms of leases of certain restricted Indian land,
and for other purposes.

MAY 15, 2003

Reported with an amendment