

118TH CONGRESS
2D SESSION

S. 1322

AN ACT

To amend the Act of August 9, 1955, to modify the authorized purposes and term period of tribal leases, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unlocking Native
3 Lands and Opportunities for Commerce and Key Eco-
4 nomic Developments Act of 2023”.

5 **SEC. 2. MODIFICATION OF TRIBAL LEASES AND RIGHTS-OF-**
6 **WAY ACROSS INDIAN LAND.**

7 (a) EXTENSION OF TRIBAL LEASE PERIOD.—The
8 first section of the Act of August 9, 1955 (69 Stat. 539,
9 chapter 615; 25 U.S.C. 415) (commonly known as the
10 “Long-Term Leasing Act”), is amended—

11 (1) by striking “That (a)” and all that follows
12 through the end of subsection (a) and inserting the
13 following:

14 **“SECTION 1. LEASES OF RESTRICTED LAND.**

15 “(a) AUTHORIZED PURPOSES; TERM; APPROVAL BY
16 SECRETARY.—

17 “(1) IN GENERAL.—Any restricted Indian
18 lands, regardless of whether that land is tribally or
19 individually owned, may be leased by the Indian
20 owner of the land, with the approval of the Sec-
21 retary, for—

22 “(A) a public, religious, educational, rec-
23 reational, residential, business, or grazing pur-
24 poses; or

25 “(B) a farming purpose that requires the
26 making of a substantial investment in the im-

1 provement of the land for the production of 1
 2 or more specialized crops as determined by the
 3 Secretary.

4 “(2) INCLUSIONS.—A lease under paragraph
 5 (1) may include the development or use of natural
 6 resources in connection with operations under that
 7 lease.

8 “(3) TERM.—

9 “(A) IN GENERAL.—Except as provided in
 10 subparagraph (B), a lease under paragraph (1)
 11 shall be for a term of not more than 99 years,
 12 including any renewals.

13 “(B) EXCEPTION FOR GRAZING PUR-
 14 POSES.—A lease under paragraph (1) for graz-
 15 ing purposes may be for a term of not more
 16 than 10 years, including any renewals.

17 “(4) REQUIREMENT.—Each lease and renewal
 18 under this subsection shall be made in accordance
 19 with such terms and regulations as may be pre-
 20 scribed by the Secretary.

21 “(5) CONDITIONS FOR APPROVAL.—Before the
 22 approval of any lease or renewal of an existing lease
 23 pursuant to this subsection, the Secretary shall de-
 24 termine that adequate consideration has been given
 25 to—

1 “(A) relationship between the use of the
2 leased lands and the use of neighboring land;

3 “(B) the height, quality, and safety of any
4 structures or other facilities to be constructed
5 on the leased land;

6 “(C) the availability of police and fire pro-
7 tection and other services on the leased land;

8 “(D) the availability of judicial forums for
9 all criminal and civil causes of action arising on
10 the leased land; and

11 “(E) the effects on the environment of the
12 uses to which the leased lands will be subject.”;

13 (2) in subsection (b)—

14 (A) by striking “(b) Any lease” and insert-
15 ing the following:

16 “(b) EXCEPTION FOR SECRETARY APPROVAL.—Any
17 lease”;

18 (B) by striking “of the Interior” each
19 place it appears; and

20 (C) by striking “clause (3)” and inserting
21 “paragraph”;

22 (3) by redesignating subsections (a), (b), (c),
23 and (d) as subsections (b), (c), (d), and (a), respec-
24 tively, and moving the subsections so as to appear
25 in alphabetical order;

1 (4) by striking “subsection (a)” each place it
 2 appears and inserting “subsection (b)”; and

3 (5) in subsection (h)(1)—

4 (A) in the matter preceding subparagraph
 5 (A), by striking “and the term of the lease does
 6 not exceed—” and inserting a period; and

7 (B) by striking subparagraphs (A) and
 8 (B).

9 (b) TECHNICAL CORRECTION.—Section 2 of the Act
 10 of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C.
 11 415a) (commonly known as the “Long-Term Leasing
 12 Act”), is amended by inserting “of the Interior” after
 13 “Secretary” each place it appears.

14 (c) MODIFICATIONS OF RIGHTS-OF-WAY ACROSS IN-
 15 DIAN LAND.—The Act of February 5, 1948 (62 Stat. 17,
 16 chapter 45), is amended—

17 (1) in the first section (62 Stat. 17, chapter 45;
 18 25 U.S.C. 323), by striking “That the Secretary of
 19 the Interior be, and he is hereby, empowered to”
 20 and inserting the following:

21 **“SECTION 1. RIGHTS-OF-WAY FOR ALL PURPOSES ACROSS**
 22 **INDIAN LAND.**

23 “(a) RIGHTS-OF-WAY.—The Secretary of the Interior
 24 may”;

1 (2) in section 2 (62 Stat. 18, chapter 45; 25
 2 U.S.C. 324), by striking “organized under the Act
 3 of June 18, 1934 (48 Stat. 984), as amended; the
 4 Act of May 1, 1936 (49 Stat. 1250); or the Act of
 5 June 26, 1936 (49 Stat. 1967),”; and

6 (3) by adding at the end the following:

7 **“SEC. 8. TRIBAL GRANTS OF RIGHTS-OF-WAY.**

8 “(a) RIGHTS-OF-WAY.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
 10 an Indian tribe may grant a right-of-way over and
 11 across the Tribal land of the Indian tribe for any
 12 purpose.

13 “(2) AUTHORITY.—A right-of-way granted
 14 under paragraph (1) shall not require the approval
 15 of the Secretary of the Interior or a grant by the
 16 Secretary of the Interior under the section 1 if the
 17 right-of-way granted under paragraph (1) is exe-
 18 cuted in accordance with a Tribal regulation ap-
 19 proved by the Secretary of the Interior under sub-
 20 section (b).

21 “(b) REVIEW OF TRIBAL REGULATIONS.—

22 “(1) TRIBAL REGULATION SUBMISSION AND AP-
 23 PROVAL.—

24 “(A) SUBMISSION.—An Indian tribe seek-
 25 ing to grant a right-of-way under subsection (a)

1 shall submit for approval a Tribal regulation
 2 governing the granting of rights-of-way over
 3 and across the Tribal land of the Indian tribe.

4 “(B) APPROVAL.—Subject to paragraph
 5 (2), the Secretary of the Interior shall have the
 6 authority to approve or disapprove any Tribal
 7 regulation submitted under subparagraph (A).

8 “(2) CONSIDERATIONS FOR APPROVAL.—

9 “(A) IN GENERAL.—The Secretary of the
 10 Interior shall approve a Tribal regulation sub-
 11 mitted under paragraph (1)(A), if the Tribal
 12 regulation—

13 “(i) is consistent with any regulations
 14 (or successor regulations) issued by the
 15 Secretary of the Interior under section 4;

16 “(ii) provides for an environmental re-
 17 view process that includes—

18 “(I) the identification and eval-
 19 uation of any significant impacts the
 20 proposed action may have on the envi-
 21 ronment; and

22 “(II) a process for ensuring—

23 “(aa) that the public is in-
 24 formed of, and has a reasonable
 25 opportunity to comment on, any

1 significant environmental impacts
 2 of the proposed action identified
 3 by the Indian tribe under sub-
 4 clause (I); and

5 “(bb) the Indian tribe pro-
 6 vides a response to each relevant
 7 and substantive public comment
 8 on the significant environmental
 9 impacts identified by the Indian
 10 tribe under subclause (I) before
 11 the Indian tribe approves the
 12 right-of-way.

13 “(B) STATUTORY EXEMPTIONS.—The Sec-
 14 retary of the Interior, in making an approval
 15 decision under this subsection, shall not be sub-
 16 ject to—

17 “(i) the National Environmental Pol-
 18 icy Act of 1969 (42 U.S.C. 4321 et seq.);

19 “(ii) section 306108 of title 54,
 20 United States Code; or

21 “(iii) the Endangered Species Act of
 22 1973 (16 U.S.C. 1531 et seq.).

23 “(3) REVIEW PROCESS.—

24 “(A) IN GENERAL.—Not later than 180
 25 days after the date on which the Indian tribe

1 submits a Tribal regulation to the Secretary of
2 the Interior under paragraph (1)(A), the Sec-
3 retary of the Interior shall—

4 “(i) review the Tribal regulation;

5 “(ii) approve or disapprove the Tribal
6 regulation; and

7 “(iii) notify the Indian tribe that sub-
8 mitted the Tribal regulation of the ap-
9 proval or disapproval.

10 “(B) WRITTEN DOCUMENTATION.—If the
11 Secretary of the Interior disapproves a Tribal
12 regulation submitted under paragraph (1)(A),
13 the Secretary of the Interior shall include with
14 the disapproval notification under subparagraph
15 (A)(iii) written documentation describing the
16 basis for the disapproval.

17 “(C) EXTENSION.—The Secretary of the
18 Interior may, after consultation with the Indian
19 tribe that submitted a Tribal regulation under
20 paragraph (1)(A), extend the 180-day period
21 described in subparagraph (A).

22 “(4) FEDERAL ENVIRONMENTAL REVIEW.—
23 Notwithstanding paragraphs (2) and (3), if an In-
24 dian tribe carries out a project or activity funded by
25 a Federal agency, the Indian tribe may rely on the

1 environmental review process of the applicable Fed-
2 eral agency rather than any Tribal environmental re-
3 view process required under this subsection.

4 “(c) DOCUMENTATION.—An Indian tribe granting a
5 right-of-way under subsection (a) shall provide to the Sec-
6 retary of the Interior—

7 “(1) a copy of the right-of-way, including any
8 amendments or renewals; and

9 “(2) if the right-of-way allows for compensation
10 to be made directly to the Indian tribe, documenta-
11 tion of payments that are sufficient, as determined
12 by the Secretary of the Interior, as to enable the
13 Secretary of the Interior to discharge the trust re-
14 sponsibility of the United States under subsection
15 (d).

16 “(d) TRUST RESPONSIBILITY.—

17 “(1) IN GENERAL.—The United States shall
18 not be liable for losses sustained by any party to a
19 right-of-way granted under subsection (a).

20 “(2) AUTHORITY OF THE SECRETARY.—

21 “(A) IN GENERAL.—Pursuant to the au-
22 thority of the Secretary of the Interior to fulfill
23 the trust obligation of the United States to the
24 applicable Indian tribe under Federal law (in-
25 cluding regulations), the Secretary of the Inte-

rior may, on reasonable notice from the applicable Indian tribe and at the discretion of the Secretary of the Interior, enforce the provisions of, or cancel, any right-of-way granted by the Indian tribe under subsection (a).

“(B) AUTHORITY.—The enforcement or cancellation of a right-of-way under subparagraph (A) shall be conducted using regulatory procedures issued under section 6.

“(e) COMPLIANCE.—

“(1) IN GENERAL.—An interested party, after exhaustion of any applicable Tribal remedies, may submit a petition to the Secretary of the Interior, at such time and in such form as determined by the Secretary of the Interior, to review the compliance of an applicable Indian tribe with a Tribal regulation approved by the Secretary of the Interior under subsection (b).

“(2) VIOLATIONS.—If the Secretary of the Interior determines that a Tribal regulation was violated after conducting a review under paragraph (1), the Secretary of the Interior may take any action the Secretary of the Interior determines to be necessary to remedy the violation, including rescinding the approval of the Tribal regulation and reassuming re-

1 sponsibility for approving rights-of-way through the
2 trust land of the applicable Indian tribe.

3 “(3) DOCUMENTATION.—If the Secretary of the
4 Interior determines that a Tribal regulation was vio-
5 lated after conducting a review under paragraph (1),
6 the Secretary of the Interior shall—

7 “(A) provide written documentation, with
8 respect to the Tribal regulation that has been
9 violated, to the appropriate interested party and
10 Indian tribe;

11 “(B) provide the applicable Indian tribe
12 with a written notice of the alleged violation;
13 and

14 “(C) prior to the exercise of any remedy,
15 including rescinding the approval for the appli-
16 cable Tribal regulation or reassuming responsi-
17 bility for approving rights-of-way through the
18 trust land of the applicable Indian tribe, pro-
19 vide the applicable Indian tribe with—

20 “(i) a hearing that is on the record;
21 and

22 “(ii) a reasonable opportunity to cure
23 the alleged violation.

1 “(f) SAVINGS CLAUSE.—Nothing in this section af-
 2 fects the application of any Tribal regulations issued
 3 under Federal environmental law.

4 “(g) EFFECT OF TRIBAL REGULATIONS.—An ap-
 5 proved Tribal regulation under subsection (b) shall not
 6 preclude an Indian tribe from, in the discretion of the In-
 7 dian tribe, consenting to the grant of a right-of-way by
 8 the Secretary of the Interior under the section 1.

9 “(h) TERMS OF RIGHT-OF-WAY.—The compensation
 10 for, and terms of, a right-of-way granted under subsection
 11 (a) will be determined by—

12 “(1) negotiations by the Indian tribe; or

13 “(2) the regulations of the Indian tribe.

14 “(i) JURISDICTION.—The grant of a right-of-way
 15 under subsection (a) does not waive the sovereign immu-
 16 nity of the Indian tribe or diminish the jurisdiction of that
 17 Indian tribe over the Tribal land subject to the right-of-
 18 way, unless otherwise provided in—

19 “(1) the grant of the right-of-way; or

20 “(2) the regulations of the Indian tribe.”.

Passed the Senate November 21, 2024.

Attest:

Secretary.

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