

106TH CONGRESS
2D SESSION

S. 1586

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2000

Referred to the Committee on Resources

AN ACT

To reduce the fractionated ownership of Indian lands, 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 Consoli-
5 dation Act Amendments of 2000”.

TITLE I—INDIAN LAND CONSOLIDATION

SEC. 101. FINDINGS.

Congress finds that—

(1) in the 1800's and early 1900's, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

(2) as a result of the allotment Acts and related Federal policies, over 90,000,000 acres of land have passed from tribal ownership;

(3) many trust allotments were taken out of trust status, often without their owners consent;

(4) without restrictions on alienation, allotment owners were subject to exploitation and their allotments were often sold or disposed of without any tangible or enduring benefit to their owners;

(5) the trust periods for trust allotments have been extended indefinitely;

(6) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of undivided interests, many of which represent 2 percent or less of the total interests;

1 (7) Congress has authorized the acquisition of
2 lands in trust for individual Indians, and many of
3 those lands have also become fractionated by subse-
4 quent inheritance;

5 (8) the acquisitions referred to in paragraph (7)
6 continue to be made;

7 (9) the fractional interests described in this sec-
8 tion often provide little or no return to the beneficial
9 owners of those interests and the administrative
10 costs borne by the United States for those interests
11 are inordinately high;

12 (10) in *Babbitt v. Youpee* (117 S Ct. 727
13 (1997)), the United States Supreme Court found the
14 application of section 207 of the Indian Land Con-
15 solidation Act (25 U.S.C. 2206) to the facts pre-
16 sented in that case to be unconstitutional, forcing
17 the Department of the Interior to address the status
18 of thousands of undivided interests in trust and re-
19 stricted lands;

20 (11)(A) on February 19, 1999, the Secretary of
21 Interior issued a Secretarial Order which officially
22 reopened the probate of all estates where an interest
23 in land was ordered to escheat to an Indian tribe
24 pursuant to section 207 of the Indian Land Consoli-
25 dation Act (25 U.S.C. 2206); and

1 (B) the Secretarial Order also directed appro-
2 priate officials of the Bureau of Indian Affairs to
3 distribute such interests “to the rightful heirs and
4 beneficiaries without regard to 25 U.S.C. 2206”;

5 (12) in the absence of comprehensive remedial
6 legislation, the number of the fractional interests
7 will continue to grow exponentially;

8 (13) the problem of the fractionation of Indian
9 lands described in this section is the result of a pol-
10 icy of the Federal Government, cannot be solved by
11 Indian tribes, and requires a solution under Federal
12 law.

13 (14) any devise or inheritance of an interest in
14 trust or restricted Indian lands is a matter of Fed-
15 eral law; and

16 (15) consistent with the Federal policy of tribal
17 self-determination, the Federal Government should
18 encourage the recognized tribal government that ex-
19 ercises jurisdiction over a reservation to establish a
20 tribal probate code for that reservation.

21 **SEC. 102. DECLARATION OF POLICY.**

22 It is the policy of the United States—

23 (1) to prevent the further fractionation of trust
24 allotments made to Indians;

1 (2) to consolidate fractional interests and own-
2 ership of those interests into usable parcels;

3 (3) to consolidate fractional interests in a man-
4 ner that enhances tribal sovereignty;

5 (4) to promote tribal self-sufficiency and self-
6 determination; and

7 (5) to reverse the effects of the allotment policy
8 on Indian tribes.

9 **SEC. 103. AMENDMENTS TO THE INDIAN LAND CONSOLIDA-**
10 **TION ACT.**

11 The Indian Land Consolidation Act (25 U.S.C. 2201
12 et seq.) is amended—

13 (1) in section 202—

14 (A) in paragraph (1), by striking “(1)
15 ‘tribe’” and inserting “(1) ‘Indian tribe’ or
16 ‘tribe’”;

17 (B) by striking paragraph (2) and insert-
18 ing the following:

19 “(2) ‘Indian’ means any person who is a mem-
20 ber of any Indian tribe or is eligible to become a
21 member of any Indian tribe, or any person who has
22 been found to meet the definition of ‘Indian’ under
23 a provision of Federal law if the Secretary deter-
24 mines that using such law’s definition of Indian is
25 consistent with the purposes of this Act;”;

1 (C) by striking “and” at the end of para-
2 graph (3);

3 (D) by striking the period at the end of
4 paragraph (4) and inserting “; and”; and

5 (E) by adding at the end the following:

6 “(5) ‘heirs of the first or second degree’ means
7 parents, children, grandchildren, grandparents,
8 brothers and sisters of a decedent.”;

9 (2) in section 205—

10 (A) in the matter preceding paragraph
11 (1)—

12 (i) by striking “Any Indian” and in-
13 serting “(a) IN GENERAL.—Subject to
14 subsection (b), any Indian”;

15 (ii) by striking the colon and inserting
16 the following: “. Interests owned by an In-
17 dian tribe in a tract may be included in the
18 computation of the percentage of owner-
19 ship of the undivided interests in that tract
20 for purposes of determining whether the
21 consent requirement under the preceding
22 sentence has been met.”;

23 (iii) by striking “: *Provided*, That—”;
24 and inserting the following:

1 “(b) CONDITIONS APPLICABLE TO PURCHASE.—Sub-
2 section (a) applies on the condition that—”;

3 (B) in paragraph (2)—

4 (i) by striking “If,” and inserting
5 “if”; and

6 (ii) by adding “and” at the end; and

7 (C) by striking paragraph (3) and insert-
8 ing the following:

9 “(3) the approval of the Secretary shall be re-
10 quired for a land sale initiated under this section,
11 except that such approval shall not be required with
12 respect to a land sale transaction initiated by an In-
13 dian tribe that has in effect a land consolidation
14 plan that has been approved by the Secretary under
15 section 204.”;

16 (3) by striking section 206 and inserting the
17 following:

18 **“SEC. 206. TRIBAL PROBATE CODES; ACQUISITIONS OF**
19 **FRACTIONAL INTERESTS BY TRIBES.**

20 “(a) TRIBAL PROBATE CODES.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of law, any Indian tribe may adopt a tribal
23 probate code to govern descent and distribution of
24 trust or restricted lands that are—

1 “(A) located within that Indian tribe’s res-
2 ervation; or

3 “(B) otherwise subject to the jurisdiction
4 of that Indian tribe.

5 “(2) POSSIBLE INCLUSIONS.—A tribal probate
6 code referred to in paragraph (1) may include—

7 “(A) rules of intestate succession; and

8 “(B) other tribal probate code provisions
9 that are consistent with Federal law and that
10 promote the policies set forth in section 102 of
11 the Indian Land Consolidation Act Amend-
12 ments of 2000.

13 “(3) LIMITATIONS.—The Secretary shall not
14 approve a tribal probate code if such code prevents
15 an Indian person from inheriting an interest in an
16 allotment that was originally allotted to his or her
17 lineal ancestor.

18 “(b) SECRETARIAL APPROVAL.—

19 “(1) IN GENERAL.—Any tribal probate code en-
20 acted under subsection (a), and any amendment to
21 such a tribal probate code, shall be subject to the
22 approval of the Secretary.

23 “(2) REVIEW AND APPROVAL.—

24 “(A) IN GENERAL.—Each Indian tribe
25 that adopts a tribal probate code under sub-

1 section (a) shall submit that code to the Sec-
2 retary for review. Not later than 180 days after
3 a tribal probate code is submitted to the Sec-
4 retary under this paragraph, the Secretary shall
5 review and approve or disapprove that tribal
6 probate code.

7 “(B) CONSEQUENCE OF FAILURES TO AP-
8 PROVE OR DISAPPROVE A TRIBAL PROBATE
9 CODE.—If the Secretary fails to approve or dis-
10 approve a tribal probate code submitted for re-
11 view under subparagraph (A) by the date speci-
12 fied in that subparagraph, the tribal probate
13 code shall be deemed to have been approved by
14 the Secretary, but only to the extent that the
15 tribal probate code is consistent with Federal
16 law and promotes the policies set forth in sec-
17 tion 102 of the Indian Land Consolidation Act
18 Amendments of 2000.

19 “(C) CONSISTENCY OF TRIBAL PROBATE
20 CODE WITH ACT.—The Secretary may not ap-
21 prove a tribal probate code, or any amendment
22 to such a code, under this paragraph unless the
23 Secretary determines that the tribal probate
24 code promotes the policies set forth in section

1 102 of the Indian Land Consolidation Act
2 Amendments of 2000.

3 “(D) EXPLANATION.—If the Secretary dis-
4 approves a tribal probate code, or an amend-
5 ment to such a code, under this paragraph, the
6 Secretary shall include in the notice of dis-
7 approval to the Indian tribe a written expla-
8 nation of the reasons for the disapproval.

9 “(E) AMENDMENTS.—

10 “(i) IN GENERAL.—Each Indian tribe
11 that amends a tribal probate code under
12 this paragraph shall submit the amend-
13 ment to the Secretary for review and ap-
14 proval. Not later than 60 days after receiv-
15 ing an amendment under this subpara-
16 graph, the Secretary shall review and ap-
17 prove or disapprove the amendment.

18 “(ii) CONSEQUENCE OF FAILURE TO
19 APPROVE OR DISAPPROVE AN AMEND-
20 MENT.—If the Secretary fails to approve
21 or disapprove an amendment submitted
22 under clause (i), the amendment shall be
23 deemed to have been approved by the Sec-
24 retary, but only to the extent that the
25 amendment is consistent with Federal law

1 and promotes the policies set forth in sec-
2 tion 102 of the Indian Land Consolidation
3 Act of 2000.

4 “(3) EFFECTIVE DATES.—A tribal probate code
5 approved under paragraph (2) shall become effective
6 on the later of—

7 “(A) the date specified in section
8 207(g)(5); or

9 “(B) 180 days after the date of approval.

10 “(4) LIMITATIONS.—

11 “(A) TRIBAL PROBATE CODES.—Each trib-
12 al probate code enacted under subsection (a)
13 shall apply only to the estate of a decedent who
14 dies on or after the effective date of the tribal
15 probate code.

16 “(B) AMENDMENTS TO TRIBAL PROBATE
17 CODES.—With respect to an amendment to a
18 tribal probate code referred to in subparagraph
19 (A), that amendment shall apply only to the es-
20 tate of a decedent who dies on or after the ef-
21 fective date of the amendment.

22 “(5) REPEALS.—The repeal of a tribal probate
23 code shall—

1 “(A) not become effective earlier than the
2 date that is 180 days after the Secretary re-
3 ceives notice of the repeal; and

4 “(B) apply only to the estate of a decedent
5 who dies on or after the effective date of the re-
6 peal.

7 “(c) AUTHORITY AVAILABLE TO INDIAN TRIBES.—

8 “(1) IN GENERAL.—If the owner of an interest
9 in trust or restricted land devises an interest in such
10 land to a non-Indian under section 207(a)(6)(A), the
11 Indian tribe that exercises jurisdiction over the par-
12 cel of land involved may acquire such interest by
13 paying to the Secretary the fair market value of
14 such interest, as determined by the Secretary on the
15 date of the decedent’s death. The Secretary shall
16 transfer such payment to the devisee.

17 “(2) LIMITATION.—

18 “(A) IN GENERAL.—Paragraph (1) shall
19 not apply to an interest in trust or restricted
20 land if, while the decedent’s estate is pending
21 before the Secretary, the non-Indian devisee re-
22 nounces the interest in favor of an Indian per-
23 son.

24 “(B) RESERVATION OF LIFE ESTATE.—A
25 non-Indian devisee described in subparagraph

1 (A) or a non-Indian devisee described in section
2 207(a)(6)(B), may retain a life estate in the in-
3 terest involved, including a life estate to the
4 revenue produced from the interest. The
5 amount of any payment required under para-
6 graph (1) shall be reduced to reflect the value
7 of any life estate reserved by a non-Indian devi-
8 see under this subparagraph.

9 “(3) PAYMENTS.—With respect to payments by
10 an Indian tribe under paragraph (1), the Secretary
11 shall—

12 “(A) upon the request of the tribe, allow a
13 reasonable period of time, not to exceed 2
14 years, for the tribe to make payments of
15 amounts due pursuant to paragraph (1); or

16 “(B) recognize alternative agreed upon ex-
17 changes of consideration or extended payment
18 terms between the non-Indian devisee described
19 in paragraph (1) and the tribe in satisfaction of
20 the payment under paragraph (1).

21 “(d) USE OF PROPOSED FINDINGS BY TRIBAL JUS-
22 TICE SYSTEMS.—

23 “(1) TRIBAL JUSTICE SYSTEM DEFINED.—In
24 this subsection, the term ‘tribal justice system’ has

1 the meaning given that term in section 3 of the In-
 2 dian Tribal Justice Act (25 U.S.C. 3602).

3 “(2) REGULATIONS.—The Secretary by regula-
 4 tion may provide for the use of findings of fact and
 5 conclusions of law, as rendered by a tribal justice
 6 system, as proposed findings of fact and conclusions
 7 of law in the adjudication of probate proceedings by
 8 the Department of the Interior.”;

9 (4) by striking section 207 and inserting the
 10 following:

11 **“SEC. 207. DESCENT AND DISTRIBUTION.**

12 “(a) TESTAMENTARY DISPOSITION.—

13 “(1) IN GENERAL.—Interests in trust or re-
 14 stricted land may be devised only to—

15 “(A) the decedent’s Indian spouse or any
 16 other Indian person; or

17 “(B) the Indian tribe with jurisdiction over
 18 the land so devised.

19 “(2) LIFE ESTATE.—Any devise of an interest
 20 in trust or restricted land to a non-Indian shall cre-
 21 ate a life estate with respect to such interest.

22 “(3) REMAINDER.—

23 “(A) IN GENERAL.—Except where the re-
 24 mainder from the life estate referred to in para-
 25 graph (2) is devised to an Indian, such remain-

1 der shall descend to the decedent's Indian
2 spouse or Indian heirs of the first or second de-
3 gree pursuant to the applicable law of intestate
4 succession.

5 “(B) DESCENT OF INTERESTS.—If a dece-
6 dent described in subparagraph (A) has no In-
7 dian heirs of the first or second degree, the re-
8 mainder interest described in such subpara-
9 graph shall descend to any of the decedent's
10 collateral heirs of the first or second degree,
11 pursuant to the applicable laws of intestate suc-
12 cession, if on the date of the decedent's death,
13 such heirs were a co-owner of an interest in the
14 parcel of trust or restricted land involved.

15 “(C) DEFINITION.—For purposes of this
16 section, the term ‘collateral heirs of the first or
17 second degree’ means the brothers, sisters,
18 aunts, uncles, nieces, nephews, and first cous-
19 ins, of a decedent.

20 “(4) DESCENT TO TRIBE.—If the remainder in-
21 terest described in paragraph (3)(A) does not de-
22 scend to an Indian heir or heirs it shall descend to
23 the Indian tribe that exercises jurisdiction over the
24 parcel of trust or restricted lands involved, subject
25 to paragraph (5).

1 “(5) ACQUISITION OF INTEREST BY INDIAN CO-
2 OWNERS.—An Indian co-owner of a parcel of trust
3 or restricted land may prevent the descent of an in-
4 terest in Indian land to an Indian tribe under para-
5 graph (4) by paying into the decedent’s estate the
6 fair market value of the interest in such land. If
7 more than 1 Indian co-owner offers to pay for such
8 an interest, the highest bidder shall obtain the inter-
9 est. If payment is not received before the close of the
10 probate of the decedent’s estate, the interest shall
11 descend to the tribe that exercises jurisdiction over
12 the parcel.

13 “(6) SPECIAL RULE.—

14 “(A) IN GENERAL.—Notwithstanding para-
15 graph (2), an owner of trust or restricted land
16 who does not have an Indian spouse, Indian lin-
17 eal descendant, an Indian heir of the first or
18 second degree, or an Indian collateral heir of
19 the first or second degree, may devise his or her
20 interests in such land to any of the decedent’s
21 heirs of the first or second degree or collateral
22 heirs of the first or second degree.

23 “(B) ACQUISITION OF INTEREST BY
24 TRIBE.—An Indian tribe that exercises jurisdic-
25 tion over an interest in trust or restricted land

1 described in subparagraph (A) may acquire any
2 interest devised to a non-Indian as provided for
3 in section 206(c).

4 “(b) INTESTATE SUCCESSION.—

5 “(1) IN GENERAL.—An interest in trust or re-
6 stricted land shall pass by intestate succession only
7 to a decedent’s spouse or heirs of the first or second
8 degree, pursuant to the applicable law of intestate
9 succession.

10 “(2) LIFE ESTATE.—Notwithstanding para-
11 graph (1), with respect to land described in such
12 paragraph, a non-Indian spouse or non-Indian heirs
13 of the first or second degree shall only receive a life
14 estate in such land.

15 “(3) DESCENT OF INTERESTS.—If a decedent
16 described in paragraph (1) has no Indian heirs of
17 the first or second degree, the remainder interest
18 from the life estate referred to in paragraph (2)
19 shall descend to any of the decedent’s collateral In-
20 dian heirs of the first or second degree, pursuant to
21 the applicable laws of intestate succession, if on the
22 date of the decedent’s death, such heirs were a co-
23 owner of an interest in the parcel of trust or re-
24 stricted land involved.

1 “(4) DESCENT TO TRIBE.—If the remainder in-
2 terest described in paragraph (3) does not descend
3 to an Indian heir or heirs it shall descend to the In-
4 dian tribe that exercises jurisdiction over the parcel
5 of trust or restricted lands involved, subject to para-
6 graph (5).

7 “(5) ACQUISITION OF INTEREST BY INDIAN CO-
8 OWNERS.—An Indian co-owner of a parcel of trust
9 or restricted land may prevent the descent of an in-
10 terest in such land for which there is no heir of the
11 first or second degree by paying into the decedent’s
12 estate the fair market value of the interest in such
13 land. If more than 1 Indian co-owner makes an offer
14 to pay for such an interest, the highest bidder shall
15 obtain the interest. If no such offer is made, the in-
16 terest shall descend to the Indian tribe that exercises
17 jurisdiction over the parcel of land involved.

18 “(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—

19 “(1) TESTATE.—If a testator devises interests
20 in the same parcel of trust or restricted lands to
21 more than 1 person, in the absence of express lan-
22 guage in the devise to the contrary, the devise shall
23 be presumed to create joint tenancy with the right
24 of survivorship in the land involved.

25 “(2) INTESTATE.—

1 “(A) IN GENERAL.—Any interest in trust
2 or restricted land that—

3 “(i) passes by intestate succession to
4 more than 1 person, including a remainder
5 interest under subsection (a) or (b) of sec-
6 tion 207; and

7 “(ii) that constitutes 5 percent or
8 more of the undivided interest in a parcel
9 of trust or restricted land;

10 shall be held as tenancy in common.

11 “(B) LIMITED INTEREST.—Any interest in
12 trust or restricted land that—

13 “(i) passes by intestate succession to
14 more than 1 person, including a remainder
15 interest under subsection (a) or (b) of sec-
16 tion 207; and

17 “(ii) that constitutes less than 5 per-
18 cent of the undivided interest in a parcel of
19 trust or restricted land;

20 shall be held by such heirs with the right of
21 survivorship.

22 “(3) EFFECTIVE DATE.—

23 “(A) IN GENERAL.—This subsection (other
24 than subparagraph (B)) shall become effective
25 on the later of—

1 “(i) the date referred to in subsection
2 (g)(5); or

3 “(ii) the date that is six months after
4 the date on which the Secretary makes the
5 certification required under subparagraph
6 (B).

7 “(B) CERTIFICATION.—Upon a determina-
8 tion by the Secretary that the Department of
9 the Interior has the capacity, including policies
10 and procedures, to track and manage interests
11 in trust or restricted land held with the right of
12 survivorship, the Secretary shall certify such de-
13 termination and publish such certification in
14 the Federal Register.

15 “(d) DESCENT OF OFF-RESERVATION LANDS.—

16 “(1) INDIAN RESERVATION DEFINED.—For
17 purposes of this subsection, the term ‘Indian res-
18 ervation’ includes lands located within—

19 “(A)(i) Oklahoma; and

20 “(ii) the boundaries of an Indian tribe’s
21 former reservation (as defined and determined
22 by the Secretary);

23 “(B) the boundaries of any Indian tribe’s
24 current or former reservation; or

1 “(C) any area where the Secretary is re-
2 quired to provide special assistance or consider-
3 ation of a tribe’s acquisition of land or interests
4 in land.

5 “(2) DESCENT.—Except in the State of Cali-
6 fornia, upon the death of an individual holding an
7 interest in trust or restricted lands that are located
8 outside the boundaries of an Indian reservation and
9 that are not subject to the jurisdiction of any Indian
10 tribe, that interest shall descend either—

11 “(A) by testate or intestate succession in
12 trust to an Indian; or

13 “(B) in fee status to any other devisees or
14 heirs.

15 “(e) APPROVAL OF AGREEMENTS.—The official au-
16 thorized to adjudicate the probate of trust or restricted
17 lands shall have the authority to approve agreements be-
18 tween a decedent’s heirs and devisees to consolidate inter-
19 ests in trust or restricted lands. The agreements referred
20 to in the preceding sentence may include trust or re-
21 stricted lands that are not a part of the decedent’s estate
22 that is the subject of the probate. The Secretary may pro-
23 mulgate regulations for the implementation of this sub-
24 section.

25 “(f) ESTATE PLANNING ASSISTANCE.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 estate planning assistance in accordance with this
3 subsection, to the extent amounts are appropriated
4 for such purpose.

5 “(2) REQUIREMENTS.—The estate planning as-
6 sistance provided under paragraph (1) shall be de-
7 signed to—

8 “(A) inform, advise, and assist Indian
9 landowners with respect to estate planning in
10 order to facilitate the transfer of trust or re-
11 stricted lands to a devisee or devisees selected
12 by the landowners; and

13 “(B) assist Indian landowners in accessing
14 information pursuant to section 217(e).

15 “(3) CONTRACTS.—In carrying out this section,
16 the Secretary may enter into contracts with entities
17 that have expertise in Indian estate planning and
18 tribal probate codes.

19 “(g) NOTIFICATION TO INDIAN TRIBES AND OWNERS
20 OF TRUST OR RESTRICTED LANDS.—

21 “(1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of the Indian Land Con-
23 solidation Act Amendments of 2000, the Secretary
24 shall notify Indian tribes and owners of trust or re-

1 stricted lands of the amendments made by the In-
2 dian Land Consolidation Act Amendments of 2000.

3 “(2) SPECIFICATIONS.—The notice required
4 under paragraph (1) shall be designed to inform In-
5 dian owners of trust or restricted land of—

6 “(A) the effect of this Act, with emphasis
7 on the effect of the provisions of this section, on
8 the testate disposition and intestate descent of
9 their interests in trust or restricted land; and

10 “(B) estate planning options available to
11 the owners, including any opportunities for re-
12 ceiving estate planning assistance or advice.

13 “(3) REQUIREMENTS.—The Secretary shall
14 provide the notice required under paragraph (1)—

15 “(A) by direct mail for those Indians with
16 interests in trust and restricted lands for which
17 the Secretary has an address for the interest
18 holder;

19 “(B) through the Federal Register;

20 “(C) through local newspapers in areas
21 with significant Indian populations, reservation
22 newspapers, and newspapers that are directed
23 at an Indian audience; and

24 “(D) through any other means determined
25 appropriate by the Secretary.

1 “(4) CERTIFICATION.—After providing notice
2 under this subsection, the Secretary shall certify
3 that the requirements of this subsection have been
4 met and shall publish notice of such certification in
5 the Federal Register.

6 “(5) EFFECTIVE DATE.—The provisions of this
7 section shall not apply to the estate of an individual
8 who dies prior to the day that is 365 days after the
9 Secretary makes the certification required under
10 paragraph (4).”;

11 (5) in section 208, by striking “section 206”
12 and inserting “subsections (a) and (b) of section
13 206”; and

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

15 **“SEC. 213. PILOT PROGRAM FOR THE ACQUISITION OF**
16 **FRACTIONAL INTERESTS.**

17 “(a) ACQUISITION BY SECRETARY.—

18 “(1) IN GENERAL.—The Secretary may acquire,
19 at the discretion of the Secretary and with the con-
20 sent of the owner, and at fair market value, any
21 fractional interest in trust or restricted lands.

22 “(2) AUTHORITY OF SECRETARY.—

23 “(A) IN GENERAL.—The Secretary shall
24 have the authority to acquire interests in trust
25 or restricted lands under this section during the

1 3-year period beginning on the date of certifi-
2 cation that is referred to in section 207(g)(5).

3 “(B) REQUIRED REPORT.—Prior to expira-
4 tion of the authority provided for in subpara-
5 graph (A), the Secretary shall submit the report
6 required under section 218 concerning whether
7 the program to acquire fractional interests
8 should be extended or altered to make resources
9 available to Indian tribes and individual Indian
10 landowners.

11 “(3) INTERESTS HELD IN TRUST.—Subject to
12 section 214, the Secretary shall immediately hold in-
13 terests acquired under this Act in trust for the rec-
14 ognized tribal government that exercises jurisdiction
15 over the land involved.

16 “(b) REQUIREMENTS.—In implementing subsection
17 (a), the Secretary—

18 “(1) shall promote the policies provided for in
19 section 102 of the Indian Land Consolidation Act
20 Amendments of 2000;

21 “(2) may give priority to the acquisition of frac-
22 tional interests representing 2 percent or less of a
23 parcel of trust or restricted land, especially those in-
24 terests that would have escheated to a tribe but for

1 the Supreme Court’s decision in *Babbitt v. Youpee*,
2 (117 S Ct. 727 (1997));

3 “(3) to the extent practicable—

4 “(A) shall consult with the tribal govern-
5 ment that exercises jurisdiction over the land
6 involved in determining which tracts to acquire
7 on a reservation;

8 “(B) shall coordinate the acquisition activi-
9 ties with the acquisition program of the tribal
10 government that exercises jurisdiction over the
11 land involved, including a tribal land consolida-
12 tion plan approved pursuant to section 204; and

13 “(C) may enter into agreements (such
14 agreements will not be subject to the provisions
15 of the Indian Self-Determination and Education
16 Assistance Act of 1974) with the tribal govern-
17 ment that exercises jurisdiction over the land
18 involved or a subordinate entity of the tribal
19 government to carry out some or all of the Sec-
20 retary’s land acquisition program; and

21 “(4) shall minimize the administrative costs as-
22 sociated with the land acquisition program.

23 “(c) SALE OF INTEREST TO INDIAN LANDOWNERS.—

24 “(1) CONVEYANCE AT REQUEST.—

1 “(A) IN GENERAL.—At the request of any
2 Indian who owns at least 5 percent of the undi-
3 vided interest in a parcel of trust or restricted
4 land, the Secretary shall convey an interest ac-
5 quired under this section to the Indian land-
6 owner upon payment by the Indian landowner
7 of the amount paid for the interest by the Sec-
8 retary.

9 “(B) LIMITATION.—With respect to a con-
10 veyance under this subsection, the Secretary
11 shall not approve an application to terminate
12 the trust status or remove the restrictions of
13 such an interest.

14 “(2) MULTIPLE OWNERS.—If more than one
15 Indian owner requests an interest under (1), the
16 Secretary shall convey the interest to the Indian
17 owner who owns the largest percentage of the undi-
18 vided interest in the parcel of trust or restricted
19 land involved.

20 “(3) LIMITATION.—If an Indian tribe that has
21 jurisdiction over a parcel of trust or restricted land
22 owns 10 percent or more of the undivided interests
23 in a parcel of such land, such interest may only be
24 acquired under paragraph (1) with the consent of
25 such Indian tribe.

1 **“SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL**
2 **INTERESTS, DISPOSITION OF PROCEEDS.**

3 “(a) IN GENERAL.—Subject to the conditions de-
4 scribed in subsection (b)(1), an Indian tribe receiving a
5 fractional interest under section 213 may, as a tenant in
6 common with the other owners of the trust or restricted
7 lands, lease the interest, sell the resources, consent to the
8 granting of rights-of-way, or engage in any other trans-
9 action affecting the trust or restricted land authorized by
10 law.

11 “(b) CONDITIONS.—

12 “(1) IN GENERAL.—The conditions described in
13 this paragraph are as follows:

14 “(A) Until the purchase price paid by the
15 Secretary for an interest referred to in sub-
16 section (a) has been recovered, or until the Sec-
17 retary makes any of the findings under para-
18 graph (2)(A), any lease, resource sale contract,
19 right-of-way, or other document evidencing a
20 transaction affecting the interest shall contain a
21 clause providing that all revenue derived from
22 the interest shall be paid to the Secretary.

23 “(B) Subject to subparagraph (C), the
24 Secretary shall deposit any revenue derived
25 under subparagraph (A) into the Acquisition
26 Fund created under section 216.

1 “(C) The Secretary shall deposit any rev-
2 enue that is paid under subparagraph (A) that
3 is in excess of the purchase price of the frac-
4 tional interest involved to the credit of the In-
5 dian tribe that receives the fractional interest
6 under section 213 and the tribe shall have ac-
7 cess to such funds in the same manner as other
8 funds paid to the Secretary for the use of lands
9 held in trust for the tribe.

10 “(D) Notwithstanding any other provision
11 of law, including section 16 of the Act of June
12 18, 1934 (commonly referred to as the ‘Indian
13 Reorganization Act’) (48 Stat. 987, chapter
14 576; 25 U.S.C. 476), with respect to any inter-
15 est acquired by the Secretary under section
16 213, the Secretary may approve a transaction
17 covered under this section on behalf of a tribe
18 until—

19 “(i) the Secretary makes any of the
20 findings under paragraph (2)(A); or

21 “(ii) an amount equal to the purchase
22 price of that interest has been paid into
23 the Acquisition Fund created under section
24 216.

1 “(2) EXCEPTION.—Paragraph (1)(A) shall not
2 apply to any revenue derived from an interest in a
3 parcel of land acquired by the Secretary under sec-
4 tion 213 after—

5 “(A) the Secretary makes a finding that—

6 “(i) the costs of administering the in-
7 terest will equal or exceed the projected
8 revenues for the parcel involved;

9 “(ii) in the discretion of the Secretary,
10 it will take an unreasonable period of time
11 for the parcel to generate revenue that
12 equals the purchase price paid for the in-
13 terest; or

14 “(iii) a subsequent decrease in the
15 value of land or commodities associated
16 with the land make it likely that the inter-
17 est will be unable to generate revenue that
18 equals the purchase price paid for the in-
19 terest in a reasonable time; or

20 “(B) an amount equal to the purchase
21 price of that interest in land has been paid into
22 the Acquisition Fund created under section
23 216.

24 “(c) TRIBE NOT TREATED AS PARTY TO LEASE; NO
25 EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

1 “(1) IN GENERAL.—Paragraph (2) shall apply
2 with respect to any undivided interest in allotted
3 land held by the Secretary in trust for a tribe if a
4 lease or agreement under subsection (a) is otherwise
5 applicable to such undivided interest by reason of
6 this section even though the Indian tribe did not
7 consent to the lease or agreement.

8 “(2) APPLICATION OF LEASE.—The lease or
9 agreement described in paragraph (1) shall apply to
10 the portion of the undivided interest in allotted land
11 described in such paragraph (including entitlement
12 of the Indian tribe to payment under the lease or
13 agreement), and the Indian tribe shall not be treated
14 as being a party to the lease or agreement. Nothing
15 in this section (or in the lease or agreement) shall
16 be construed to affect the sovereignty of the Indian
17 tribe.

18 **“SEC. 215. ESTABLISHING FAIR MARKET VALUE.**

19 “For purposes of this Act, the Secretary may develop
20 a system for establishing the fair market value of various
21 types of lands and improvements. Such a system may in-
22 clude determinations of fair market value based on appro-
23 priate geographic units as determined by the Secretary.
24 Such system may govern the amounts offered for the pur-

1 chase of interests in trust or restricted lands under section
2 213.

3 **“SEC. 216. ACQUISITION FUND.**

4 “(a) IN GENERAL.—The Secretary shall establish an
5 Acquisition Fund to—

6 “(1) disburse appropriations authorized to ac-
7 complish the purposes of section 213; and

8 “(2) collect all revenues received from the lease,
9 permit, or sale of resources from interests in trust
10 or restricted lands transferred to Indian tribes by
11 the Secretary under section 213 or paid by Indian
12 landowners under section 213(c).

13 “(b) DEPOSITS; USE.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 all proceeds from leases, permits, or resource sales
16 derived from an interest in trust or restricted lands
17 described in subsection (a)(2) shall—

18 “(A) be deposited in the Acquisition Fund;

19 and

20 “(B) as specified in advance in appropria-
21 tions Acts, be available for the purpose of ac-
22 quiring additional fractional interests in trust
23 or restricted lands.

24 “(2) MAXIMUM DEPOSITS OF PROCEEDS.—With
25 respect to the deposit of proceeds derived from an

1 interest under paragraph (1), the aggregate amount
 2 deposited under that paragraph shall not exceed the
 3 purchase price of that interest under section 213.

4 **“SEC. 217. TRUST AND RESTRICTED LAND TRANSACTIONS.**

5 “(a) POLICY.—It is the policy of the United States
 6 to encourage and assist the consolidation of land owner-
 7 ship through transactions—

8 “(1) involving individual Indians;

9 “(2) between Indians and the tribal government
 10 that exercises jurisdiction over the land; or

11 “(3) between individuals who own an interest in
 12 trust and restricted land who wish to convey that in-
 13 terest to an Indian or the tribal government that ex-
 14 ercises jurisdiction over the parcel of land involved;
 15 in a manner consistent with the policy of maintaining the
 16 trust status of allotted lands. Nothing in this section shall
 17 be construed to apply to or to authorize the sale of trust
 18 or restricted lands to a person who is not an Indian.

19 “(b) SALES, EXCHANGES AND GIFT DEEDS BE-
 20 TWEEN INDIANS AND BETWEEN INDIANS AND INDIAN
 21 TRIBES.—

22 “(1) IN GENERAL.—

23 “(A) ESTIMATE OF VALUE.—Notwith-
 24 standing any other provision of law and only
 25 after the Indian selling, exchanging, or con-

1 veying by gift deed for no or nominal consider-
2 ation an interest in land, has been provided
3 with an estimate of the value of the interest of
4 the Indian pursuant to this section—

5 “(i) the sale or exchange or convey-
6 ance of an interest in trust or restricted
7 land may be made for an amount that is
8 less than the fair market value of that in-
9 terest; and

10 “(ii) the approval of a transaction
11 that is in compliance with this section shall
12 not constitute a breach of trust by the Sec-
13 retary.

14 “(B) WAIVER OF REQUIREMENT.—The re-
15 quirement for an estimate of value under sub-
16 paragraph (A) may be waived in writing by an
17 Indian selling, exchanging, or conveying by gift
18 deed for no or nominal consideration an interest
19 in land with an Indian person who is the own-
20 er’s spouse, brother, sister, lineal ancestor of
21 Indian blood, lineal descendant, or collateral
22 heir.

23 “(2) LIMITATION.—For a period of 5 years
24 after the Secretary approves a conveyance pursuant
25 to this subsection, the Secretary shall not approve

1 an application to terminate the trust status or re-
2 move the restrictions of such an interest.

3 “(c) ACQUISITION OF INTEREST BY SECRETARY.—

4 An Indian, or the recognized tribal government of a res-
5 ervation, in possession of an interest in trust or restricted
6 lands, at least a portion of which is in trust or restricted
7 status on the date of enactment of the Indian Land Con-
8 solidation Act Amendments of 2000 and located within a
9 reservation, may request that the interest be taken into
10 trust by the Secretary. Upon such a request, the Secretary
11 shall forthwith take such interest into trust.

12 “(d) STATUS OF LANDS.—The sale, exchange, or
13 conveyance by gift deed for no or nominal consideration
14 of an interest in trust or restricted land under this section
15 shall not affect the status of that land as trust or re-
16 stricted land.

17 “(e) LAND OWNERSHIP INFORMATION.—Notwith-
18 standing any other provision of law, the names and mail-
19 ing addresses of the Indian owners of trust or restricted
20 lands, and information on the location of the parcel and
21 the percentage of undivided interest owned by each indi-
22 vidual, or of any interest in trust or restricted lands, shall,
23 upon written request, be made available to—

24 “(1) other Indian owners of interests in trust or
25 restricted lands within the same reservation;

1 “(2) the tribe that exercises jurisdiction over
2 the land where the parcel is located or any person
3 who is eligible for membership in that tribe; and

4 “(3) prospective applicants for the leasing, use,
5 or consolidation of such trust or restricted land or
6 the interest in trust or restricted lands.

7 “(f) NOTICE TO INDIAN TRIBE.—After the expiration
8 of the limitation period provided for in subsection (b)(2)
9 and prior to considering an Indian application to termi-
10 nate the trust status or to remove the restrictions on alien-
11 ation from trust or restricted land sold, exchanged or oth-
12 erwise conveyed under this section, the Indian tribe that
13 exercises jurisdiction over the parcel of such land shall be
14 notified of the application and given the opportunity to
15 match the purchase price that has been offered for the
16 trust or restricted land involved.

17 **“SEC. 218. REPORTS TO CONGRESS.**

18 “(a) IN GENERAL.—Prior to expiration of the au-
19 thority provided for in section 213(a)(2)(A), the Sec-
20 retary, after consultation with Indian tribes and other in-
21 terested parties, shall submit to the Committee on Indian
22 Affairs and the Committee on Energy and Natural Re-
23 sources of the Senate and the Committee on Resources
24 of the House of Representatives a report that indicates,
25 for the period covered by the report—

1 “(1) the number of fractional interests in trust
2 or restricted lands acquired; and

3 “(2) the impact of the resulting reduction in
4 the number of such fractional interests on the finan-
5 cial and realty recordkeeping systems of the Bureau
6 of Indian Affairs.

7 “(b) REPORT.—The reports described in subsection
8 (a) and section 213(a) shall contain findings as to whether
9 the program under this Act to acquire fractional interests
10 in trust or restricted lands should be extended and wheth-
11 er such program should be altered to make resources avail-
12 able to Indian tribes and individual Indian landowners.

13 **“SEC. 219. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND**
14 **SALES OF NATURAL RESOURCES.**

15 “(a) APPROVAL BY THE SECRETARY.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Secretary may approve any
18 lease or agreement that affects individually owned
19 allotted land or any other land held in trust or re-
20 stricted status by the Secretary on behalf of an In-
21 dian, if—

22 “(A) the owners of not less than the appli-
23 cable percentage (determined under subsection
24 (b)) of the undivided interest in the allotted
25 land that is covered by the lease or agreement

1 consent in writing to the lease or agreement;
2 and

3 “(B) the Secretary determines that approv-
4 ing the lease or agreement is in the best inter-
5 est of the owners of the undivided interest in
6 the allotted land.

7 “(2) RULE OF CONSTRUCTION.—Nothing in
8 this section shall be construed to apply to leases in-
9 volving coal or uranium.

10 “(3) DEFINITION.—In this section, the term
11 ‘allotted land’ includes any land held in trust or re-
12 stricted status by the Secretary on behalf of one or
13 more Indians.

14 “(b) APPLICABLE PERCENTAGE.—

15 “(1) PERCENTAGE INTEREST.—The applicable
16 percentage referred to in subsection (a)(1) shall be
17 determined as follows:

18 “(A) If there are 5 or fewer owners of the
19 undivided interest in the allotted land, the ap-
20 plicable percentage shall be 100 percent.

21 “(B) If there are more than 5 such own-
22 ers, but fewer than 11 such owners, the applica-
23 ble percentage shall be 80 percent.

1 “(C) If there are more than 10 such own-
2 ers, but fewer than 20 such owners, the applica-
3 ble percentage shall be 60 percent.

4 “(D) If there are 20 or more such owners,
5 the applicable percentage shall be a majority of
6 the interests in the allotted land.

7 “(2) DETERMINATION OF OWNERS.—

8 “(A) IN GENERAL.—For purposes of this
9 subsection, in determining the number of own-
10 ers of, and their interests in, the undivided in-
11 terest in the allotted land with respect to a
12 lease or agreement, the Secretary shall make
13 such determination based on the records of the
14 Department of the Interior that identify the
15 owners of such lands and their interests and the
16 number of owners of such land on the date on
17 which the lease or agreement involved is sub-
18 mitted to the Secretary under this section.

19 “(B) RULE OF CONSTRUCTION.—Nothing
20 in subparagraph (A) shall be construed to au-
21 thorize the Secretary to treat an Indian tribe as
22 the owner of an interest in allotted land that
23 did not escheat to the tribe pursuant to section
24 207 as a result of the Supreme Court’s decision
25 in *Babbitt v. Youpee*, (117 S Ct. 727 (1997)).

1 “(c) AUTHORITY OF SECRETARY TO SIGN LEASE OR
 2 AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The
 3 Secretary may give written consent to a lease or agree-
 4 ment under subsection (a)—

5 “(1) on behalf of the individual Indian owner if
 6 the owner is deceased and the heirs to, or devisees
 7 of, the interest of the deceased owner have not been
 8 determined; or

9 “(2) on behalf of any heir or devisee referred to
 10 in paragraph (1) if the heir or devisee has been de-
 11 termined but cannot be located

12 “(d) EFFECT OF APPROVAL.—

13 “(1) APPLICATION TO ALL PARTIES.—

14 “(A) IN GENERAL.—Subject to paragraph
 15 (2), a lease or agreement approved by the Sec-
 16 retary under subsection (a) shall be binding on
 17 the parties described in subparagraph (B), to
 18 the same extent as if all of the owners of the
 19 undivided interest in allotted land covered
 20 under the lease or agreement consented to the
 21 lease or agreement.

22 “(B) DESCRIPTION OF PARTIES.—The par-
 23 ties referred to in subparagraph (A) are—

24 “(i) the owners of the undivided inter-
 25 est in the allotted land covered under the

1 lease or agreement referred to in such sub-
2 paragraph; and

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

5 “(2) TRIBE NOT TREATED AS PARTY TO LEASE;
6 NO EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

7 “(A) IN GENERAL.—Subparagraph (B)
8 shall apply with respect to any undivided inter-
9 est in allotted land held by the Secretary in
10 trust for a tribe if a lease or agreement under
11 subsection (a) is otherwise applicable to such
12 undivided interest by reason of this section even
13 though the Indian tribe did not consent to the
14 lease or agreement.

15 “(B) APPLICATION OF LEASE.—The lease
16 or agreement described in subparagraph (A)
17 shall apply to the portion of the undivided in-
18 terest in allotted land described in such para-
19 graph (including entitlement of the Indian tribe
20 to payment under the lease or agreement), and
21 the Indian tribe shall not be treated as being a
22 party to the lease or agreement. Nothing in this
23 section (or in the lease or agreement) shall be
24 construed to affect the sovereignty of the In-
25 dian tribe.

1 “(e) DISTRIBUTION OF PROCEEDS.—

2 “(1) IN GENERAL.—The proceeds derived from
3 a lease or agreement that is approved by the Sec-
4 retary under subsection (a) shall be distributed to all
5 owners of undivided interest in the allotted land cov-
6 ered under the lease or agreement.

7 “(2) DETERMINATION OF AMOUNTS DISTRIB-
8 UTED.—The amount of the proceeds under para-
9 graph (1) that are distributed to each owner under
10 that paragraph shall be determined in accordance
11 with the portion of the undivided interest in the al-
12 lotted land covered under the lease or agreement
13 that is owned by that owner.

14 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to amend or modify the provisions
16 of Public Law 105-188 (25 U.S.C. 396 note), the Amer-
17 ican Indian Agricultural Resources Management Act (25
18 U.S.C. 3701 et seq.), title II of the Indian Land Consoli-
19 dation Act Amendments of 2000, or any other Act that
20 provides specific standards for the percentage of owner-
21 ship interest that must approve a lease or agreement on
22 a specified reservation.

23 **“SEC. 220. APPLICATION TO ALASKA.**

24 “(a) FINDINGS.—Congress find that—

1 “(1) numerous academic and governmental or-
2 ganizations have studied the nature and extent of
3 fractionated ownership of Indian land outside of
4 Alaska and have proposed solutions to this problem;
5 and

6 “(2) despite these studies, there has not been a
7 comparable effort to analyze the problem, if any, of
8 fractionated ownership in Alaska.

9 “(b) APPLICATION OF ACT TO ALASKA.—Except as
10 provided in this section, this Act shall not apply to land
11 located within Alaska.

12 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to constitute a ratification of any
14 determination by any agency, instrumentality, or court of
15 the United States that may support the assertion of tribal
16 jurisdiction over allotment lands or interests in such land
17 in Alaska.”.

18 **SEC. 104. JUDICIAL REVIEW.**

19 Notwithstanding section 207(g)(5) of the Indian
20 Land Consolidation Act (25 U.S.C. 2206(f)(5)), after the
21 Secretary of Interior provides the certification required
22 under section 207(g)(4) of such Act, the owner of an inter-
23 est in trust or restricted land may bring an administrative
24 action to challenge the application of such section 207 to
25 the devise or descent of his or her interest or interests

1 in trust or restricted lands, and may seek judicial review
2 of the final decision of the Secretary of Interior with re-
3 spect to such challenge.

4 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated not to exceed
6 \$8,000,000 for fiscal year 2001 and each subsequent fiscal
7 year to carry out the provisions of this title (and the
8 amendments made by this title) that are not otherwise
9 funded under the authority provided for in any other pro-
10 vision of Federal law.

11 **SEC. 106. CONFORMING AMENDMENTS.**

12 (a) PATENTS HELD IN TRUST.—The Act of Feb-
13 ruary 8, 1887 (24 Stat. 388) is amended—

14 (1) by repealing sections 1, 2, and 3 (25 U.S.C.
15 331, 332, and 333); and

16 (2) in the second proviso of section 5 (25
17 U.S.C. 348)—

18 (A) by striking “and partition”; and

19 (B) by striking “except” and inserting “ex-
20 cept as provided by the Indian Land Consolida-
21 tion Act or a tribal probate code approved
22 under such Act and except”.

23 (b) ASCERTAINMENT OF HEIRS AND DISPOSAL OF
24 ALLOTMENTS.—The Act of June 25, 1910 (36 Stat. 855)
25 is amended—

1 (1) in the first sentence of section 1 (25 U.S.C.
2 372), by striking “under” and inserting “under the
3 Indian Land Consolidation Act or a tribal probate
4 code approved under such Act and pursuant to”;
5 and

6 (2) in the first sentence of section 2 (25 U.S.C.
7 373), by striking “with regulations” and inserting
8 “with the Indian Land Consolidation Act or a tribal
9 probate code approved under such Act and regula-
10 tions”.

11 (c) TRANSFER OF LANDS.—Section 4 of the Act of
12 June 18, 1934 (25 U.S.C. 464) is amended by striking
13 “member or:” and inserting “member or, except as pro-
14 vided by the Indian Land Consolidation Act,”.

15 **TITLE II—LEASES OF NAVAJO**
16 **INDIAN ALLOTTED LANDS**

17 **SEC. 201. LEASES OF NAVAJO INDIAN ALLOTTED LANDS.**

18 (a) DEFINITIONS.—In this section:

19 (1) INDIAN TRIBE.—The term “Indian tribe”
20 has the meaning given the term in section 4(e) of
21 the Indian Self-Determination and Education Assist-
22 ance Act (25 U.S.C. 450b(e)).

23 (2) INDIVIDUALLY OWNED NAVAJO INDIAN AL-
24 LOTTED LAND.—The term “individually owned Nav-
25 ajo Indian allotted land” means Navajo Indian allot-

1 ted land that is owned in whole or in part by 1 or
2 more individuals.

3 (3) NAVAJO INDIAN.—The term “Navajo In-
4 dian” means a member of the Navajo Nation.

5 (4) NAVAJO INDIAN ALLOTTED LAND.—The
6 term “Navajo Indian allotted land” means a single
7 parcel of land that—

8 (A) is located within the jurisdiction of the
9 Navajo Nation; and

10 (B)(i) is held in trust or restricted status
11 by the United States for the benefit of Navajo
12 Indians or members of another Indian tribe;
13 and

14 (ii) was—

15 (I) allotted to a Navajo Indian; or

16 (II) taken into trust or restricted sta-
17 tus by the United States for a Navajo In-
18 dian.

19 (5) OWNER.—The term “owner” means, in the
20 case of any interest in land described in paragraph
21 (4)(B)(i), the beneficial owner of the interest.

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (b) APPROVAL BY THE SECRETARY.—

1 (1) IN GENERAL.—The Secretary may approve
2 an oil or gas lease or agreement that affects individ-
3 ually owned Navajo Indian allotted land, if—

4 (A) the owners of not less than the appli-
5 cable percentage (determined under paragraph
6 (2)) of the undivided interest in the Navajo In-
7 dian allotted land that is covered by the oil or
8 gas lease or agreement consent in writing to the
9 lease or agreement; and

10 (B) the Secretary determines that approv-
11 ing the lease or agreement is in the best inter-
12 est of the owners of the undivided interest in
13 the Navajo Indian allotted land.

14 (2) PERCENTAGE INTEREST.—The applicable
15 percentage referred to in paragraph (1)(A) shall be
16 determined as follows:

17 (A) If there are 10 or fewer owners of the
18 undivided interest in the Navajo Indian allotted
19 land, the applicable percentage shall be 100
20 percent.

21 (B) If there are more than 10 such own-
22 ers, but fewer than 51 such owners, the applica-
23 ble percentage shall be 80 percent.

24 (C) If there are 51 or more such owners,
25 the applicable percentage shall be 60 percent.

1 (3) AUTHORITY OF SECRETARY TO SIGN LEASE
2 OR AGREEMENT ON BEHALF OF CERTAIN OWN-
3 ERS.—The Secretary may give written consent to an
4 oil or gas lease or agreement under paragraph (1)
5 on behalf of an individual Indian owner if—

6 (A) the owner is deceased and the heirs to,
7 or devisees of, the interest of the deceased
8 owner have not been determined; or

9 (B) the heirs or devisees referred to in
10 subparagraph (A) have been determined, but 1
11 or more of the heirs or devisees cannot be lo-
12 cated.

13 (4) EFFECT OF APPROVAL.—

14 (A) APPLICATION TO ALL PARTIES.—

15 (i) IN GENERAL.—Subject to subpara-
16 graph (B), an oil or gas lease or agreement
17 approved by the Secretary under para-
18 graph (1) shall be binding on the parties
19 described in clause (ii), to the same extent
20 as if all of the owners of the undivided in-
21 terest in Navajo Indian allotted land cov-
22 ered under the lease or agreement con-
23 sented to the lease or agreement.

24 (ii) DESCRIPTION OF PARTIES.—The
25 parties referred to in clause (i) are—

1 (I) the owners of the undivided
2 interest in the Navajo Indian allotted
3 land covered under the lease or agree-
4 ment referred to in clause (i); and

5 (II) all other parties to the lease
6 or agreement.

7 (B) EFFECT ON INDIAN TRIBE.—If—

8 (i) an Indian tribe is the owner of a
9 portion of an undivided interest in Navajo
10 Indian allotted land; and

11 (ii) an oil or gas lease or agreement
12 under paragraph (1) is otherwise applica-
13 ble to such portion by reason of this sub-
14 section even though the Indian tribe did
15 not consent to the lease or agreement,

16 then the lease or agreement shall apply to such
17 portion of the undivided interest (including en-
18 titlement of the Indian tribe to payment under
19 the lease or agreement), but the Indian tribe
20 shall not be treated as a party to the lease or
21 agreement and nothing in this subsection (or in
22 the lease or agreement) shall be construed to
23 affect the sovereignty of the Indian tribe.

24 (5) DISTRIBUTION OF PROCEEDS.—

1 (A) IN GENERAL.—The proceeds derived
2 from an oil or gas lease or agreement that is
3 approved by the Secretary under paragraph (1)
4 shall be distributed to all owners of the undi-
5 vided interest in the Navajo Indian allotted land
6 covered under the lease or agreement.

7 (B) DETERMINATION OF AMOUNTS DIS-
8 TRIBUTED.—The amount of the proceeds under
9 subparagraph (A) distributed to each owner
10 under that subparagraph shall be determined in
11 accordance with the portion of the undivided in-
12 terest in the Navajo Indian allotted land cov-
13 ered under the lease or agreement that is owned
14 by that owner.

Passed the Senate July 26, 2000.

Attest:

GARY SISCO,
Secretary.