

106TH CONGRESS
2D SESSION

S. 2665

To establish a streamlined process to enable the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior of individual leases, except leases for exploration, development, or extraction of any mineral resources.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2000

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

A BILL

To establish a streamlined process to enable the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior of individual leases, except leases for exploration, development, or extraction of any mineral resources.

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 “Navajo Nation Trust
5 Land Leasing Act of 2000”.

1 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
2 **PURPOSES.**

3 (a) FINDINGS.—Recognizing the special relationship
4 between the United States and the Navajo nation and its
5 members, and the Federal responsibility to the Navajo
6 people, Congress finds that—

7 (1) the third clause of section 8, Article I of the
8 United States Constitution provides that “The Con-
9 gress shall have Power...to regulate Commerce...with
10 Indian tribes”, and, through this and other constitu-
11 tional authority, Congress has plenary power over
12 Indian affairs;

13 (2) Congress, through statutes, treaties, and
14 the general course of dealing with Indian tribes, has
15 assumed the responsibility for the protection and
16 preservation of Indian tribes and their resources;

17 (3) the United States has a trust obligation to
18 guard and preserve the sovereignty of Indian tribes
19 in order to foster strong tribal governments, Indian
20 self-determination, and economic self-sufficiency;

21 (4) pursuant to the first section of the Act of
22 August 9, 1955 (25 U.S.C. 415), Congress conferred
23 upon the Secretary of the Interior the power to pro-
24 mulgate regulations governing tribal leases and to
25 approve tribal leases for tribes according to regula-
26 tions promulgated by the Secretary;

1 (5) the Secretary of the Interior has promul-
2 gated the regulations described in paragraph (4) at
3 part 162 of title 25, Code of Federal Regulations;

4 (6) the requirement that the Secretary approve
5 leases for the development of Navajo trust lands has
6 added a level of review and regulation that does not
7 apply to the development of non-Indian land; and

8 (7) in the global economy of the 21st Century,
9 it is crucial that individual leases of Navajo trust
10 lands not be subject to Secretarial approval and that
11 the Navajo Nation be able to make immediate deci-
12 sions over the use of Navajo trust lands.

13 (b) PURPOSES.—The purposes of this Act are as fol-
14 lows:

15 (1) To establish a streamlined process for the
16 Navajo Nation to lease trust lands without having to
17 obtain the approval of the Secretary of the Interior
18 of individual leases, except leases for exploration, de-
19 velopment, or extraction of any mineral resources.

20 (2) To authorize the Navajo nation, pursuant to
21 tribal regulations, which must be approved by the
22 Secretary, to lease Navajo trust lands without the
23 approval of the Secretary of the Interior of the indi-
24 vidual leases, except leases for exploration, develop-
25 ment, or extraction of any mineral resources.

1 (1) in subsection (d)—

2 (A) in paragraph (1), by striking “and” at
3 the end;

4 (B) in paragraph (2), by striking the pe-
5 riod and inserting a semicolon; and

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

7 “(3) the term ‘individually owned Navajo In-
8 dian allotted lands’ means Navajo Indian allotted
9 land that is owned by 1 or more individuals located
10 within the Navajo Nation;

11 “(4) the term ‘Navajo Nation’ means the Nav-
12 ajo Nation government that is in existence on the
13 date of enactment of this Act;

14 “(5) the term ‘Secretary’ means the Secretary
15 of the Interior; and

16 “(6) the term ‘tribal regulations’ means the
17 Navajo Nation regulations as enacted by the Navajo
18 Nation Council or its standing committees and ap-
19 proved by the Secretary.”; and

20 (2) by adding at the end the following:

21 “(e)(1) Any leases by the Navajo Nation for purposes
22 authorized under subsection (a), except a lease for the ex-
23 ploration, development, or extraction of any mineral re-
24 sources, shall not require the approval of the Secretary
25 if the term of the lease does not exceed 75 years (including

1 options to renew), and the lease is executed under tribal
2 regulations that are approved by the Secretary under this
3 subsection.

4 “(2) Paragraph (1) shall not apply to individually
5 owned Navajo Indian allotted land located within the Nav-
6 ajo Nation.

7 “(3) The Secretary shall have the authority to ap-
8 prove or disapprove tribal regulations required under
9 paragraph (1). The Secretary shall not have approval au-
10 thority over individual leases of Navajo trust lands, except
11 for the exploration, development, or extraction of any min-
12 eral resources. The Secretary shall perform the duties of
13 the Secretary under this subsection in the best interest
14 of the Navajo Nation.

15 “(4) If the Navajo Nation has executed a lease pursu-
16 ant to tribal regulations required under paragraph (1), the
17 United states shall not be liable for losses sustained by
18 any party to such lease, including the Navajo Nation, ex-
19 cept that—

20 “(A) the Secretary shall continue to have a
21 trust obligation to ensure that the rights of the Nav-
22 ajo Nation are protected in the event of a violation
23 of the terms of any lease by any other party to such
24 lease, including the right to cancel the lease if re-
25 quested by the Navajo Nation; and

1 “(B) nothing in this subsection shall be con-
2 strued to absolve the United States from any re-
3 sponsibility to the Navajo Nation, including respon-
4 sibilities that derive from the trust relationship and
5 from any treaties, Executive Orders, or agreements
6 between the United States and the Navajo Nation,
7 except as otherwise specifically provided in this sub-
8 section.”.

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