

106TH CONGRESS
2^D SESSION

S. CON. RES. 161

To correct the enrollment of H.R. 5528.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11 (legislative day, SEPTEMBER 22), 2000

Mr. CAMPBELL submitted the following concurrent resolution; which was considered and agreed to

CONCURRENT RESOLUTION

To correct the enrollment of H.R. 5528.

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That the Clerk of the House of Representa-
3 tives, in the enrollment of the bill (H.R. 5528) to author-
4 ize the construction of a Wakpa Sica Reconciliation Place
5 in Fort Pierre, South Dakota, and for other purposes,
6 shall make the following correction:

7 (1) Strike title XII and insert the following:

8 **TITLE XII—NAVAJO NATION**
9 **TRUST LAND LEASING**

10 **SEC. 1201. SHORT TITLE.**

11 This title may be cited as the “Navajo Nation Trust
12 Land Leasing Act of 2000”.

1 **SEC. 1202. CONGRESSIONAL FINDINGS AND DECLARATION**
2 **OF 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 title 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 for individual leases, except leases for exploration,
19 development, or extraction of any mineral resources.

20 (2) To authorize the Navajo Nation, pursuant
21 to 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 for the indi-
24 vidual leases, except leases for exploration, develop-
25 ment, or extraction of any mineral resources.

1 (3) To revitalize the distressed Navajo Reserva-
2 tion by promoting political self-determination, and
3 encouraging economic self-sufficiency, including eco-
4 nomic development that increases productivity and
5 the standard of living for members of the Navajo
6 Nation.

7 (4) To maintain, strengthen, and protect the
8 Navajo Nation’s leasing power over Navajo trust
9 lands.

10 (5) To ensure that the United States is faith-
11 fully executing its trust obligation to the Navajo Na-
12 tion by maintaining federal supervision through
13 oversight of and record keeping related to leases of
14 Navajo Nation tribal trust lands.

15 **SEC. 1203. LEASE OF RESTRICTED LANDS FOR THE NAVAJO**
16 **NATION.**

17 The first section of the Act of August 9, 1955 (25
18 U.S.C. 415) is amended—

19 (1) in subsection (d)—

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

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

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

1 “(3) the term ‘individually owned Navajo In-
2 dian allotted land’ means a single parcel of land
3 that—

4 “(A) is located within the jurisdiction of
5 the Navajo Nation;

6 “(B) is held in trust or restricted status by
7 the United States for the benefit of Navajo In-
8 dians or members of another Indian tribe; and

9 “(C) was—

10 “(i) allotted to a Navajo Indian; or

11 “(ii) taken into trust or restricted sta-
12 tus by the United States for an individual
13 Indian;

14 “(4) the term ‘interested party’ means an In-
15 dian or non-Indian individual or corporation, or trib-
16 al or non-tribal government whose interests could be
17 adversely affected by a tribal trust land leasing deci-
18 sion made by the Navajo Nation;

19 “(5) the term ‘Navajo Nation’ means the Nav-
20 ajo Nation government that is in existence on the
21 date of enactment of this Act or its successor;

22 “(6) the term ‘petition’ means a written request
23 submitted to the Secretary for the review of an ac-
24 tion (or inaction) of the Navajo Nation that is

1 claimed to be in violation of the approved tribal leas-
2 ing regulations;

3 “(7) the term ‘Secretary’ means the Secretary
4 of the Interior; and

5 “(8) the term ‘tribal regulations’ means the
6 Navajo Nation regulations enacted in accordance
7 with Navajo Nation law and approved by the Sec-
8 retary.”; and

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

10 “(e)(1) Any leases by the Navajo Nation for purposes
11 authorized under subsection (a), and any amendments
12 thereto, except a lease for the exploration, development,
13 or extraction of any mineral resources, shall not require
14 the approval of the Secretary if the lease is executed under
15 the tribal regulations approved by the Secretary under this
16 subsection and the term of the lease does not exceed—

17 “(A) in the case of a business or agricultural
18 lease, 25 years, except that any such lease may in-
19 clude an option to renew for up to 2 additional
20 terms, each of which may not exceed 25 years; and

21 “(B) in the case of a lease for public, religious,
22 educational, recreational, or residential purposes, 75
23 years if such a term is provided for by the Navajo
24 Nation through the promulgation of regulations.

1 “(2) Paragraph (1) shall not apply to individually
2 owned Navajo Indian allotted land.

3 “(3) The Secretary shall have the authority to ap-
4 prove or disapprove tribal regulations referred to under
5 paragraph (1). The Secretary shall approve such tribal
6 regulations if such regulations are consistent with the reg-
7 ulations of the Secretary under subsection (a), and any
8 amendments thereto, and provide for an environmental re-
9 view process. The Secretary shall review and approve or
10 disapprove the regulations of the Navajo Nation within
11 120 days of the submission of such regulations to the Sec-
12 retary. Any disapproval of such regulations by the Sec-
13 retary shall be accompanied by written documentation
14 that sets forth the basis for the disapproval. Such 120-
15 day period may be extended by the Secretary after con-
16 sultation with the Navajo Nation.

17 “(4) If the Navajo Nation has executed a lease pursu-
18 ant to tribal regulations under paragraph (1), the Navajo
19 Nation shall provide the Secretary with—

20 “(A) a copy of the lease and all amendments
21 and renewals thereto; and

22 “(B) in the case of regulations or a lease that
23 permits payment to be made directly to the Navajo
24 Nation, documentation of the lease payments suffi-
25 cient to enable the Secretary to discharge the trust

1 responsibility of the United States under paragraph
2 (5).

3 “(5) The United States shall not be liable for losses
4 sustained by any party to a lease executed pursuant to
5 tribal regulations under paragraph (1), including the Nav-
6 ajo Nation. Nothing in this paragraph shall be construed
7 to diminish the authority of the Secretary to take appro-
8 priate actions, including the cancellation of a lease, in fur-
9 therance of the trust obligation of the United States to
10 the Navajo Nation.

11 “(6)(A) An interested party may, after exhaustion of
12 tribal remedies, submit, in a timely manner, a petition to
13 the Secretary to review the compliance of the Navajo Na-
14 tion with any regulations approved under this subsection.
15 If upon such review the Secretary determines that the reg-
16 ulations were violated, the Secretary may take such action
17 as may be necessary to remedy the violation, including re-
18 scinding the approval of the tribal regulations and re-
19 assuming responsibility for the approval of leases for Nav-
20 ajo Nation tribal trust lands.

21 “(B) If the Secretary seeks to remedy a violation de-
22 scribed in subparagraph (A), the Secretary shall—

23 “(i) make a written determination with respect
24 to the regulations that have been violated;

1 “(ii) provide the Navajo Nation with a written
2 notice of the alleged violation together with such
3 written determination; and

4 “(iii) prior to the exercise of any remedy or the
5 rescission of the approval of the regulation involved
6 and the reassumption of the lease approval responsi-
7 bility, provide the Navajo Nation with a hearing on
8 the record and a reasonable opportunity to cure the
9 alleged violation.”.

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