

Calendar No. 1082

110TH CONGRESS
2D SESSION**H. R. 5680****[Report No. 110-504]**

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2008

Received; read twice and referred to the Committee on Indian Affairs

SEPTEMBER 25 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. DORGAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

AN ACT

To amend certain laws relating to Native Americans, 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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

Sec. 2. Colorado River Indian Tribes.

Sec. 3. Gila River Indian Community contracts.

Sec. 4. Land and interests of the Sault Ste. Marie Tribe of Chippewa Indians
of Michigan.

Sec. 5. Morongo Band of Mission Indians Lease Extension.

Sec. 6. Cow Creek Band of Umpqua Tribe of Indians leasing authority.

Sec. 7. New Settlement Common Stock issued to descendants, left-outs, and el-
ders.

Sec. 8. Admissions policy.

Sec. 9. Indian Land Consolidation Act.

1 **SEC. 2. COLORADO RIVER INDIAN TRIBES.**

2 The Secretary of the Interior may make, subject to
3 amounts provided in subsequent appropriations Acts, an
4 annual disbursement to the Colorado River Indian Tribes.
5 Funds disbursed under this section shall be used to fund
6 the Office of the Colorado River Indian Tribes Reservation
7 Energy Development and shall not be less than \$200,000
8 and not to exceed \$350,000 annually.

9 **SEC. 3. GILA RIVER INDIAN COMMUNITY CONTRACTS.**

10 Subsection (f) of the first section of the Act of August
11 9, 1955 (25 U.S.C. 415(f)), is amended by striking “lease,
12 affecting” and inserting “lease or construction contract,
13 affecting”.

14 **SEC. 4. LAND AND INTERESTS OF THE SAULT STE. MARIE**
15 **TRIBE OF CHIPPEWA INDIANS OF MICHIGAN.**

16 (a) IN GENERAL.—Subject to subsections (b) and (c),
17 notwithstanding any other provision of law (including reg-
18 ulations), the Sault Ste. Marie Tribe of Chippewa Indians
19 of Michigan (including any agent or instrumentality of the
20 Tribe) (referred to in this section as the “Tribe”), may
21 transfer, lease, encumber, or otherwise convey, without
22 further authorization or approval, all or any part of the
23 Tribe’s interest in any real property that is not held in
24 trust by the United States for the benefit of the Tribe.

1 (b) EFFECT OF SECTION.—Nothing in this section
2 is intended to authorize the Tribe to transfer, lease, en-
3 cumber, or otherwise convey, any lands, or any interest
4 in any lands, that are held in trust by the United States
5 for the benefit of the Tribe.

6 (c) LIABILITY.—The United States shall not be held
7 liable to any party (including the Tribe or any agent or
8 instrumentality of the Tribe) for any term of, or any loss
9 resulting from the term of any transfer, lease, encum-
10 brance, or conveyance of land made pursuant to this Act
11 unless the United States or an agent or instrumentality
12 of the United States is a party to the transaction or the
13 United States would be liable pursuant to any other provi-
14 sion of law. This subsection shall not apply to land trans-
15 ferred or conveyed by the Tribe to the United States to
16 be held in trust for the benefit of the Tribe.

17 (d) EFFECTIVE DATE.—This section shall be deemed
18 to have taken effect on January 1, 2005.

19 **SEC. 5. MORONGO BAND OF MISSION INDIANS LEASE EX-**
20 **TENSION.**

21 Subsection (a) of the first section of the Act of Au-
22 gust 9, 1955 (25 U.S.C. 415(a)) is amended in the second
23 sentence by inserting “and except leases of land held in
24 trust for the Morongo Band of Mission Indians which may
25 be for a term of not to exceed 50 years,” before “and ex-

1 cept leases of land for grazing purposes which may be for
2 a term of not to exceed ten years”.

3 **SEC. 6. COW CREEK BAND OF UMPQUA TRIBE OF INDIANS**
4 **LEASING AUTHORITY.**

5 (a) AUTHORIZATION FOR 99-YEAR LEASES.—Sub-
6 section (a) of the first section of the Act of August 9,
7 1955 (25 U.S.C. 415(a)), is amended in the second sen-
8 tence by inserting “and lands held in trust for the Cow
9 Creek Band of Umpqua Tribe of Indians,” after “lands
10 held in trust for the Confederated Tribes of the Warm
11 Springs Reservation of Oregon,”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to any lease entered into or re-
14 newed after the date of the enactment of this Act.

15 **SEC. 7. NEW SETTLEMENT COMMON STOCK ISSUED TO DE-**
16 **SCENDANTS, LEFT-OUTS, AND ELDERS.**

17 Section 7 of the Alaska Native Claims Settlement
18 Act, (Public Law 92-203; 85 Stat. 691), is amended—

19 (1) by amending subsection (g)(1)(B)(iii) (43
20 U.S.C. 1606(g)(1)(B)(iii)), to read as follows:

21 “(iii) The amendment authorized by clause (i) may
22 provide that Settlement Common Stock issued to a Native
23 pursuant to such amendment (or stock issued in exchange
24 for such Settlement Common Stock pursuant to sub-

1 section ~~(h)(3)~~ of this section or section 1626e(d) of this
 2 title) shall be subject to one or more of the following:

3 ~~“(I) Such stock shall be deemed canceled upon~~
 4 ~~the death of such Native, and no compensation for~~
 5 ~~this cancellation shall be paid to the estate of the de-~~
 6 ~~ceased Native or to any person holding stock.~~

7 ~~“(II) Such stock shall carry limited or no voting~~
 8 ~~rights.~~

9 ~~“(III) Such stock shall not be transferred by~~
 10 ~~gift as provided in subparagraph (h)(1)(C)(iii).”;~~
 11 ~~and~~

12 ~~(2) in subsection (h)(1)(C) (43 U.S.C.~~
 13 ~~1606(h)(1)(C)); by striking “Notwithstanding the~~
 14 ~~restrictions” and inserting “Except as otherwise ex-~~
 15 ~~pressly provided in this chapter and”.~~

16 **SEC. 7. NEW SETTLEMENT COMMON STOCK ISSUED TO DE-**
 17 **SCENDANTS, LEFT-OUTS, AND ELDERS.**

18 *Section 7(g)(1)(B) of the Alaska Native Claims Settle-*
 19 *ment Act (43 U.S.C. 1606(g)(1)(B)) is amended by striking*
 20 *clause (iii) and inserting the following:*

21 ~~“(iii) CONDITIONS ON CERTAIN~~
 22 ~~STOCK.—~~

23 ~~“(I) IN GENERAL.—An amend-~~
 24 ~~ment under clause (i) may provide~~
 25 ~~that Settlement Common Stock issued~~

1 to a Native pursuant to the amend-
2 ment (or stock issued in exchange for
3 that Settlement Common Stock pursu-
4 ant to subsection (h)(3) or section
5 29(c)(3)(D)) shall be subject to 1 or
6 more of the conditions described in
7 subclause (II).

8 “(II) CONDITIONS.—A condition
9 referred to in subclause (I) is a condi-
10 tion that—

11 “(aa) the stock described in
12 that subclause shall be deemed to
13 be canceled on the death of the
14 Native to whom the stock is
15 issued, and no compensation for
16 the cancellation shall be paid to
17 the estate of the deceased Native or
18 any person holding the stock;

19 “(bb) the stock shall carry
20 limited or no voting rights; and

21 “(cc) the stock shall not be
22 transferred by gift under sub-
23 section (h)(1)(C)(iii).”.

1 **SEC. 8. ADMISSIONS POLICY.**

2 (a) *IN GENERAL.*—*To encourage private support to*
3 *supplement public efforts to improve the historically low*
4 *educational achievement of Native Americans (as defined*
5 *in section 736(g) of the Public Health Service Act (42*
6 *U.S.C. 293(g)), and in consideration of the trust responsi-*
7 *bility of the United States, as identified in section 7202*
8 *of the Elementary and Secondary Education Act of 1965*
9 *(20 U.S.C. 7512), notwithstanding any other provision of*
10 *Federal or State law, it shall be lawful for the private orga-*
11 *nization identified in paragraph (16) of that section (20*
12 *U.S.C. 7512(16)) to maintain the admissions policy for the*
13 *provision of educational programs and services that was*
14 *upheld in the decision in case number 04–15044 of the*
15 *United States Court of Appeals for the Ninth Circuit (De-*
16 *cember 5, 2006).*

17 (b) *EFFECTIVE DATE.*—*This section takes effect on De-*
18 *cember 5, 2006.*

19 **SEC. 9. INDIAN LAND CONSOLIDATION ACT.**

20 (a) *DEFINITIONS.*—*Section 202 of the Indian Land*
21 *Consolidation Act (25 U.S.C. 2201) is amended—*

22 (1) *in paragraph (4)—*

23 (A) *by inserting “(i)” after “(4)”;*

24 (B) *by striking “trust or restricted interest*
25 *in land’ or” and inserting the following:*

1 “(ii) ‘trust or restricted interest in land’ or”;

2 *and*

3 (C) *in clause (ii) (as designated by sub-*
4 *paragraph (B)), by striking “an interest in land,*
5 *title to which” and inserting “an interest in*
6 *land, the title to which interest”;* *and*

7 (2) *by striking paragraph (7) and inserting the*
8 *following:*

9 “(7) *the term ‘land’ means any real property;*”.

10 (b) *PARTITION OF HIGHLY FRACTIONATED INDIAN*
11 *LANDS.—Section 205(c)(2)(D)(i) of the Indian Land Con-*
12 *solidation Act (25 U.S.C. 2204(c)(2)(D)(i)) is amended in*
13 *the matter following subclause (III) by striking “by Sec-*
14 *retary” and inserting “by the Secretary”.*

15 (c) *DESCENT AND DISTRIBUTION.—Section 207 of the*
16 *Indian Land Consolidation Act (25 U.S.C. 2206) is amend-*
17 *ed—*

18 (1) *in subsection (a)—*

19 (A) *in paragraph (2)(D)—*

20 (i) *in clause (i), by striking “clauses*
21 *(ii) through (iv)” and inserting “clauses*
22 *(ii) through (v)”;*

23 (ii) *in clause (iv)(II), by striking “de-*
24 *cedent” and inserting “descent”;* *and*

1 (iii) by striking clause (v) and insert-
2 ing the following:

3 “(v) *EFFECT OF SUBPARAGRAPH.*—
4 Nothing in this subparagraph limits the
5 right of any person to devise any trust or
6 restricted interest pursuant to a valid will
7 in accordance with subsection (b).”; and

8 (B) by adding at the end the following:

9 “(6) *INTESTATE DESCENT OF PERMANENT IM-*
10 *PROVEMENTS.*—

11 “(A) *DEFINITION OF COVERED PERMANENT*
12 *IMPROVEMENT.*—In this paragraph, the term
13 ‘covered permanent improvement’ means a per-
14 manent improvement (including an interest in
15 such an improvement) that is—

16 “(i) included in the estate of a dece-
17 dent; and

18 “(ii) attached to a parcel of trust or re-
19 stricted land that is also, in whole or in
20 part, included in the estate of that decedent.

21 “(B) *RULE OF DESCENT.*—Except as other-
22 wise provided in a tribal probate code approved
23 under section 206 or a consolidation agreement
24 approved under subsection (j)(9), a covered per-

1 *manent improvement in the estate of a decedent*
2 *shall—*

3 “(i) *descend to each eligible heir to*
4 *whom the trust or restricted interest in land*
5 *in the estate descends pursuant to this sub-*
6 *section; or*

7 “(ii) *pass to the recipient of the trust*
8 *or restricted interest in land in the estate*
9 *pursuant to a renunciation under sub-*
10 *section (j)(8).*

11 “(C) *APPLICATION AND EFFECT.—The pro-*
12 *visions of this paragraph apply to a covered per-*
13 *manent improvement—*

14 “(i) *even though that covered perma-*
15 *nent improvement is not held in trust; and*

16 “(ii) *without altering or otherwise af-*
17 *fecting the non-trust status of such a cov-*
18 *ered permanent improvement.”;*

19 (2) *in subsection (b)(2)(B)—*

20 (A) *by redesignating clauses (i) through*
21 *(iii) as subclauses (I) through (III), respectively,*
22 *and indenting the subclauses appropriately;*

23 (B) *by striking “Any interest” and insert-*
24 *ing the following:*

1 “(i) *IN GENERAL*.—Subject to clauses
2 (ii) and (iii), any interest”;

3 (C) in subclause (III) of clause (i) (as des-
4 ignated by subparagraphs (A) and (B)), by
5 striking the semicolon and inserting a period;

6 (D) by striking “provided that nothing”
7 and inserting the following:

8 “(iii) *EFFECT*.—Except as provided in
9 clause (i), nothing”; and

10 (E) by inserting after clause (i) (as des-
11 ignated by subparagraph (B)) the following:

12 “(ii) *EXCEPTION*.—

13 “(I) *IN GENERAL*.—Notwith-
14 standing clause (i), in any case in
15 which a resolution, law, or other duly
16 adopted enactment of the Indian tribe
17 with jurisdiction over the land of
18 which an interest described in clause
19 (i) is a part requests the Secretary to
20 apply subparagraph (A)(ii) to devises
21 of trust or restricted land under the ju-
22 risdiction of the Indian tribe, the in-
23 terest may be devised in fee in accord-
24 ance with subparagraph (A)(ii).

1 “(II) *EFFECT.*—Subclause (I)
2 shall apply with respect to a devise of
3 a trust or restricted interest in land by
4 any decedent who dies on or after the
5 date on which the applicable Indian
6 tribe adopts the resolution, law, or
7 other enactment described in subclause
8 (I), regardless of the date on which the
9 devise is made.

10 “(III) *NOTICE OF REQUEST.*—An
11 Indian tribe shall provide to the Sec-
12 retary a copy of any resolution, law,
13 or other enactment of the Indian tribe
14 that requests the Secretary to apply
15 subparagraph (A)(ii) to devises of trust
16 or restricted land under the jurisdic-
17 tion of the Indian tribe.”;

18 (3) in subsection (h)(1)—

19 (A) by striking “A will” and inserting the
20 following:

21 “(A) *IN GENERAL.*—A will”; and

22 (B) by adding at the end the following:

23 “(B) *PERMANENT IMPROVEMENTS.*—Except
24 as otherwise expressly provided in the will, a de-
25 vise of a trust or restricted interest in a parcel

1 *of land shall be presumed to include the interest*
 2 *of the testator in any permanent improvements*
 3 *attached to the parcel of land.*

4 “(C) *APPLICATION AND EFFECT.*—*The pro-*
 5 *visions of this paragraph apply to a covered per-*
 6 *manent improvement—*

7 “(i) *even though that covered perma-*
 8 *nent improvement is not held in trust; and*

9 “(ii) *without altering or otherwise af-*
 10 *fecting the non-trust status of such a cov-*
 11 *ered permanent improvement.”;*

12 (4) *in subsection (i)(4)(C), by striking “interest*
 13 *land” and inserting “interest in land”;*

14 (5) *in subsection (j)(2)(A)(ii), by striking “inter-*
 15 *est land” and inserting “interest in land”;*

16 (6) *in subsection (k), in the matter preceding*
 17 *paragraph (1), by inserting “a” after “receiving”;*
 18 *and*

19 (7) *in subsection (o)—*

20 (A) *in paragraph (3)—*

21 (i) *by redesignating subparagraphs (A)*
 22 *and (B) as clauses (i) and (ii) and indent-*
 23 *ing the clauses appropriately;*

1 (ii) by striking “(3)” and all that fol-
 2 lows through “No sale” and inserting the
 3 following:

4 “(3) *REQUEST TO PURCHASE; CONSENT RE-*
 5 *QUIREMENTS; MULTIPLE REQUESTS TO PURCHASE.—*

6 “(A) *IN GENERAL.—No sale*”; and

7 (iii) by striking the last sentence and
 8 inserting the following:

9 “(B) *MULTIPLE REQUESTS TO PUR-*
 10 *CHASE.—Except for interests purchased pursu-*
 11 *ant to paragraph (5), if the Secretary receives a*
 12 *request with respect to an interest from more*
 13 *than 1 eligible purchaser under paragraph (2),*
 14 *the Secretary shall sell the interest to the eligible*
 15 *purchaser that is selected by the applicable heir,*
 16 *devisee, or surviving spouse.”;*

17 (B) in paragraph (4)—

18 (i) in subparagraph (A), by adding
 19 “and” at the end;

20 (ii) in subparagraph (B), by striking
 21 “; and” and inserting a period; and

22 (iii) by striking subparagraph (C);
 23 and

24 (C) in paragraph (5)—

25 (i) in subparagraph (A)—

1 (I) in the matter preceding clause

2 (i)—

3 (aa) by inserting “or sur-
4 viving spouse” after “heir”;

5 (bb) by striking “paragraph
6 (3)(B)” and inserting “paragraph
7 (3)(A)(ii)”; and

8 (cc) by striking “auction
9 and”;

10 (II) in clause (i), by striking
11 “and” at the end;

12 (III) in clause (ii)—

13 (aa) by striking “auction”
14 and inserting “sale”;

15 (bb) by striking “the interest
16 passing to such heir represents”
17 and inserting “, at the time of
18 death of the applicable decedent,
19 the interest of the decedent in the
20 land represented”; and

21 (cc) by striking the period at
22 the end and inserting “; and”;
23 and

24 (IV) by adding at the end the fol-
25 lowing:

1 “(iii)(I) *the Secretary is purchasing*
2 *the interest under the program authorized*
3 *under section 213(a)(1); or*

4 “(II) *after receiving a notice under*
5 *paragraph (4)(B), the Indian tribe with ju-*
6 *risdiction over the interest is proposing to*
7 *purchase the interest from an heir or sur-*
8 *living spouse who is not residing on the*
9 *property in accordance with clause (i), and*
10 *who is not a member, and is not eligible to*
11 *become a member, of that Indian tribe.”;*
12 *and*

13 *(ii) in subparagraph (B)—*

14 *(I) by inserting “or surviving*
15 *spouse” after “heir” each place it ap-*
16 *pears; and*

17 *(II) by striking “heir’s interest”*
18 *and inserting “interest of the heir or*
19 *surviving spouse”.*

20 (d) *CONFORMING AMENDMENT.—Section 213(a)(1) of*
21 *the Indian Land Consolidation Act (25 U.S.C. 2212(a)(1))*
22 *is amended by striking “section 207(p)” and inserting “sec-*
23 *tion 207(o)”.*

1 (e) *OWNER-MANAGED INTERESTS.*—Section 221(a) of
2 *the Indian Land Consolidation Act (25 U.S.C. 2220(a)) is*
3 *amended by inserting “owner or” before “co-owners”.*

4 (f) *EFFECTIVE DATES.*—

5 (1) *TESTAMENTARY DISPOSITION.*—The amend-
6 *ments made by subsection (c)(2) of this section to sec-*
7 *tion 207(b) of the Indian Land Consolidation Act (25*
8 *U.S.C. 2206(b)) shall not apply to any will executed*
9 *before the date that is 1 year after the date of enact-*
10 *ment of this Act.*

11 (2) *SMALL UNDIVIDED INTERESTS IN INDIAN*
12 *LANDS.*—The amendments made by subsection
13 *(c)(7)(C) of this section to subsection (o)(5) of section*
14 *207 of the Indian Land Consolidation Act (25 U.S.C.*
15 *2206) shall not apply to or affect any sale of an in-*
16 *terest under subsection (o)(5) of that section that was*
17 *completed before the date of enactment of this Act.*

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