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SENATE

{ REPORT
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AMENDING THE ACT OF AUGUST 9, 1955, TO AUTHORIZE THE COW CREEK BAND OF UMPQUA TRIBE OF INDIANS, THE COQUILLE INDIAN TRIBE, AND THE CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON TO OBTAIN 99-YEAR LEASE AUTHORITY FOR TRUST LAND

SEPTEMBER 22 (legislative day, SEPTEMBER 17), 2008.—Ordered to be printed

Mr. DORGAN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 3192]

The Committee on Indian Affairs, to which was referred the bill (S. 3192) to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Tribe of Indians, the Coquille Indian Tribe, and the Confederated Tribes of the Siletz Indians of Oregon to obtain 99-year lease authority for trust land, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title of the bill. The Committee recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 3192, as amended, is to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Indians of Oregon, the Coquille Tribe of Oregon, and the Confederated Tribes of the Siletz Reservation, Oregon, to obtain 99-year lease authority for trust land, and to authorize the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California to obtain 50-year lease authority for trust land.

BACKGROUND

Since the enactment of the Act of June 30, 1834, 4 Stat. 730, codified as 25 U.S.C. § 177, and predecessor statutes, land transactions with Indian tribes were prohibited unless specifically authorized by Congress. This law is commonly known as the Non-intercourse Act.

Congress enacted the Act of August 9, 1955, codified at 25 U.S.C. § 415, commonly known as the Long-Term Leasing Act, to overcome

the prohibition of the Nonintercourse Act. The Long-Term Leasing Act permitted some land transactions between Indian tribes and non-federal parties—specifically, the leasing of Indian lands. The Act required that leases of Indian lands be approved by the Secretary of the Interior and limited lease terms to 25 years.

As business opportunities and economic considerations changed over time, leases longer than 25 years were desired. To facilitate economic development on trust lands, over the years, a number of tribes have obtained amendments to the Long-Term Leasing Act so that they could enter into leases for terms longer than 25 years. Approximately 50 tribes have obtained these amendments and all are listed in the Long-Term Leasing Act as having authority to enter into leases for terms as long as 99 years.

S. 3192, as amended, would further amend the Long-Term Leasing Act by adding four additional tribes to the list. S. 3192, as amended, adds the Cow Creek Band of Umpqua Indians of Oregon, the Coquille Tribe of Oregon, and the Confederated Tribes of the Siletz Reservation, Oregon to the list of tribes that may enter into 99-year leases. S. 3192 also authorizes the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California to enter into 50-year leases.

SUMMARY OF THE AMENDMENTS

At its July 31, 2008 business meeting, the Committee adopted an amendment in the nature of a substitute to S. 3192 and an amendment to the title of the bill. Like the original bill, the amended bill would amend the Long-Term Leasing Act, 25 U.S.C. § 415, to provide long-term leasing authority to the tribes listed in the bill.

An amendment in the nature of a substitute was adopted for three reasons. First, the substitute amendment ensures that the names of the tribes listed in the bill match the names of the tribes as they appear on the Department of the Interior's list of federally recognized tribes. The Department's list is the official list of federally recognized tribes. The list is published annually in the Federal Register pursuant to Section 104 of the Act of November 2, 1994, Pub. L. No. 103-454, 108 Stat. 4791.

Second, the substitute amendment eliminates some formatting and technical changes that were proposed in the original text of S. 3192. The substitute amendment, lacking the proposed changes, maintains the long-standing and well-understood format of 25 U.S.C. § 415.

Third, the amendment in the nature of a substitute added authority for the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California to enter into 50-year leases. The provision regarding the Morongo Band is included in H.R. 5680 which passed the House on June 18, 2008, and was referred to the Committee on Indian Affairs. The substitute amendment to S. 3192 includes the same Morongo Band provision that is in H.R. 5680.

An amendment to the title of the bill was also adopted to accurately reflect the names of the tribes that were included in the bill.

SECTION-BY-SECTION ANALYSIS OF S. 3192 AS AMENDED

Section 1. Leases of restricted land

This section amends subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. § 415(a)), in the second sentence by inserting “, land held in trust for the Cow Creek Band of Umpqua Indians of Oregon, land held in trust for the Coquille Tribe of Oregon, and land held in trust for the Confederated Tribes of the Siletz Reservation, Oregon” after “Devils Lake Sioux Reservation”.

This section also amends subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. § 415(a)), in the second sentence by inserting “and except leases of land held in trust for the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California, which may be for a term not to exceed 50 years,” before “and except”.

LEGISLATIVE HISTORY

S. 3192 was introduced by Senator Wyden on June 25, 2008. Senator Smith is an original cosponsor of the bill. The bill was referred to the Committee on Indian Affairs. At an open business meeting on July 31, 2008, the Committee approved S. 3192, with an amendment in the nature of a substitute and an amendment to the title of the bill.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

At an open business meeting held July 31, 2008, the Committee on Indian Affairs, by a voice vote, adopted S. 3192, with an amendment in the nature of a substitute and an amendment to the title of the bill. The Committee ordered the bill reported to the Senate with the recommendation that the Senate do pass S. 3192 as amended.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 3192, as calculated by the Congressional Budget Office, is set forth below:

S. 3192—A bill to amend the act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Tribe of Indians, the Coquille Indian Tribe, and the Confederated Tribes of Siletz Indians of Oregon to obtain 99-year lease authority for trust land

S. 3192 would authorize the Cow Creek Band of Umpqua Tribe of Indians, the Coquille Indian Tribe, and the Confederated Tribes of Siletz Indians of Oregon to lease lands held in trust for up to 99 years. The bill also would authorize the Morongo Band of Mission Indians to lease trust lands for up to 50 years. Under current law, the tribes can lease trust lands to schools, businesses, and public entities for 25-year terms, subject to the approval of the Bureau of Indian Affairs (BIA).

CBO estimates that implementing S. 3192 would have no significant impact on the federal budget. Any additional proceeds from such leases would accrue to the owners of the trust land and would have no effect on the federal budget. CBO also estimates that implementing the bill would have a negligible effect on BIA’s work-

load. Enacting S. 3192 would not affect direct spending or revenues.

S. 3192 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Leigh Angres. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee has concluded that the regulatory and paperwork impacts of S. 3192 should be de minimis.

EXECUTIVE COMMUNICATION

The Committee has received no official communication from the Administration on the provisions of S. 3192.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 3192, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new language to be added in italic, existing law to which no change is proposed is shown in roman):

* * * * *

ACT OF AUGUST 9, 1955

AN ACT To authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, except leases of land located outside the boundaries of Indian reservations in the State of New Mexico, leases of land on the Agua Caliente (Palm Springs) Reservation, the Dania Reservation, the Pueblo of Santa Ana (with the exception of the lands known as the "Santa Ana Pueblo Spanish Grant"), the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon, the Moapa Indian reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave Reservation, the reservation of the Confederated

Tribes of the Umatilla Indian Reservation, the Burns Paiute Reservation, the Kalispel Indian Reservation, the pueblo of Cochiti, the pueblo of Pojoaque, the pueblo of Tesuque, the pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, the Yavapai-Prescott Community Reservations, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Viejas Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, the Cabazon Indian Reservation, the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe, the Mille Lacs Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society, leases of the lands comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington, and lands held in trust for the Las Vegas Paiute Tribe of Indians, and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and lands held in trust for the Reno Sparks Indian Colony, lands held in trust for the Torres Martinez Desert Cahuilla Indians, lands held in trust for the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, lands held in trust for the Confederated Tribes of the Umatilla Indian Reservation, lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon, lands held in trust for the Cherokee Nation of Oklahoma, lands held in trust for the Fallon Paiute Shoshone Tribes, lands held in trust for the Pueblo of Santa Clara, land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria, lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California, lands held in trust for the confederated Tribes of the Grand Ronde Community of Oregon, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation, *land held in trust for the Cow Creek Band of Umpqua Indians of Oregon, land held in trust for the Coquille Tribe of Oregon, and land held in trust for the Confederated Tribes of the Siletz Reservation, Oregon*, which may be for a term of not to exceed ninety-nine years, *and except leases of land held in trust for the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California, which may be for a term not to exceed 50 years*, and except leases of land for grazing purposes which may be for a term not to exceed ten years. Leases for public, religious, educational, recreational, residential, or business purposes with the consent of both parties may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior. Prior to approval of any lease or extension of an existing lease pursuant to this section, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other fa-

ilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

