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111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-245

TO AMEND THE ACT OF AUGUST 9, 1955, TO AUTHORIZE THE COQUILLE INDIAN TRIBE, THE CONFEDERATED TRIBES OF THE SILETZ INDIANS, THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW, THE KLAMATH TRIBES, AND THE BURNS PAIUTE TRIBE TO OBTAIN 99-YEAR LEASE AUTHORITY FOR TRUST LAND

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AUGUST 3, 2010.—Ordered to be printed
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Mr. DORGAN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1448]

The Committee on Indian Affairs, to which was referred the bill (S. 1448) to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land, having considered the same, reports favorably thereon, and recommends that the bill do pass.

PURPOSE

The purpose of S. 1448 is to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-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 Non-intercourse Act. The Long-Term Leasing Act permitted some land transactions between Indian tribes and nonfederal 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. 1448 would further amend the Long-Term Leasing Act by adding five additional tribes to the list. H.R. 1448 adds the Coquille Indian Tribe, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to the list of tribes that may enter into 99 years leases.

LEGISLATIVE HISTORY

S. 1448 was introduced on July 14, 2009, by Senator Merkley for himself and Senator Wyden. The bill was referred to the Committee on Indian Affairs and a business meeting was held on June 10, 2010. House companion bills were introduced in the 111th Congress and both were referred to the House Natural Resources Committee. H.R. 4010 was introduced on November 3, 2009, by Representative Schrader of Oregon and H.R. 4916 was introduced on March 3, 2010, by Representative DeFazio of Oregon.

SECTION-BY-SECTION ANALYSIS OF S. 1448 AS AMENDED

Section 1. Leases of restricted land

This section amends subsection (a) of the first section of the Act of August 9, 1955, in the second sentence by inserting “land held in trust for the Coquille Indian Tribe, land held in trust for the Confederated Tribes of Siletz Indians, land held in trust for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, land held in trust for the Klamath Tribes, and land held in trust for the Burns Paiute Tribe” after “lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon,”.

COMMITTEE RECOMMENDATION

On June 10, 2010, at an open business meeting, the Committee approved S. 1448 without amendment by voice vote. The Committee ordered the bill reported to the full Senate with the recommendation that it do pass.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated June 24, 2010, was prepared for S. 1448:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1448—A bill to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land

S. 1448 would authorize the Coquille Indian Tribe, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to lease lands held in trust for up to 99 years. In general, 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). The Burns Paiute Tribe currently has the authority to lease its reservation land for up to 99 years.

CBO estimates that implementing S. 1448 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 workload. Enacting S. 1448 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

S. 1448 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 Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy 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 impact of S. 1448 should be de minimis.

EXECUTIVE COMMUNICATIONS

The Committee has received no official communication from the Administration on the provisions of S. 1448.

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 S. 1448, as ordered to be 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):

25 U.S.C. 415(a). Authorized purposes; term; approval by Secretary.

ACT OF AUGUST 9, 1955

(a) Authorized purposes; term; approval by Secretary

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, *land held in trust for the Coquille Indian Tribe, land held in trust for the Confederated Tribes of Siletz Indians, land held in trust for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, land held in trust for the Klamath Tribes, and land held in trust for the Burns Paiute Tribe*, the Moapa Indian Reservation, the Swinomish Indian Reservation, . . .

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