

107TH CONGRESS
2D SESSION

S. 2921

To encourage Native contracting over the management of Federal land, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2002

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

A BILL

To encourage Native contracting over the management of
Federal land, 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. SHORT TITLE.**

4 This Act may be cited as the “Native American Con-
5 tracting and Federal Lands Management Demonstration
6 Project Act”.

7 **SEC. 2. DEFINITIONS.**

8 For the purposes of this Act, the following definitions
9 shall apply:

1 (1) FEDERAL LANDS.—The term “Federal
2 lands” means any land or interests in land owned by
3 the United States, including leasehold interests held
4 by the United States, except Indian trust lands.

5 (2) INDIAN TRIBE.—The term “Indian tribe”
6 has the meaning given such term by section 4(e) of
7 the Indian Self-Determination and Education Assist-
8 ance Act.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 **SEC. 3. PURPOSES.**

12 (a) IN GENERAL.—The purposes of this Act are—

13 (1) to expand the provisions of the Indian Self
14 Determination and Education Assistance Act, as
15 amended (25 U.S.C. 450 et seq.), in order to expand
16 Native employment and income through greater con-
17 tracting opportunities with the Federal Government;

18 (2) to encourage Native contracting on Federal
19 lands for purposes of benefiting from the knowledge
20 and expertise of Native people in order to promote
21 innovative management strategies on Federal lands
22 that will lead to greater sensitivity toward, and re-
23 spect for, Native American religious beliefs and sa-
24 cred sites;

1 (3) to better accommodate access to and cere-
 2 monial use of Indian sacred lands by Indian reli-
 3 gious practitioners; and

4 (4) to prevent significant damage to Indian sa-
 5 cred lands.

6 **SEC. 4. NATIVE AMERICAN FEDERAL LANDS MANAGEMENT**
 7 **DEMONSTRATION PROJECT.**

8 (a) IN GENERAL.—The Indian Self Determination
 9 and Education Assistance Act is amended by adding a new
 10 subsection as follows:

11 **“SEC. —. NATIVE AMERICAN FEDERAL LANDS MANAGE-**
 12 **MENT DEMONSTRATION PROJECT.**

13 “(a) IN GENERAL.—The Secretary of the Interior
 14 shall establish the ‘Native American Federal Lands Man-
 15 agement Demonstration Project’ to enter contracts with
 16 Indian tribes or tribal organizations to perform functions
 17 including, but not limited to, archeological, anthropo-
 18 logical and cultural surveys and analyses, and activities
 19 related to the identification, maintenance, or protection of
 20 lands considered to have religious, ceremonial or cultural
 21 significance to Indian tribes.

22 “(b) PARTICIPATION.—During each of the 2 fiscal
 23 years immediately following the date of the enactment, the
 24 Secretary shall select not less than 12 eligible Indian

1 tribes or tribal organizations to participate in the dem-
2 onstration project.

3 “(c) ELIGIBILITY.—To be eligible to participate in
4 the demonstration project, an Indian tribe or tribal orga-
5 nization, shall—

6 “(1) request participation by resolution or other
7 official action of the governing body of the Indian
8 tribe or tribal organization;

9 “(2) demonstrate financial and management
10 stability and capability, as evidenced by the Indian
11 tribe or tribal organization having no unresolved sig-
12 nificant and material audit exceptions for the pre-
13 vious 3 fiscal years; and

14 (3) demonstrate significant use of or depend-
15 ency upon the relevant conservation system unit or
16 other public land unit for which programs, functions,
17 services, and activities are requested to be placed
18 under contract.

19 “(d) PLANNING PHASE.—Each Indian tribe and trib-
20 al organization selected by the Secretary to participate in
21 the demonstration project shall complete a planning phase
22 prior to negotiating and entering into a conservation sys-
23 tem unit management contract. The planning phase shall
24 be conducted to the satisfaction of the Indian tribe or trib-
25 al organization and shall include—

1 “(1) legal and budgetary research; and

2 “(2) internal tribal planning and organizational
3 preparation.

4 “(e) CONTRACTS.—

5 “(1) IN GENERAL.—Upon request of a partici-
6 pating Indian tribe or tribal organization that has
7 completed the planning phase pursuant to subsection
8 (e), the Secretary shall negotiate and enter into a
9 contract with the Indian tribe or tribal organization
10 for the Indian tribe or tribal organization to plan,
11 conduct, and administer programs, services, func-
12 tions, and activities, or portions thereof, requested
13 by the Indian tribe or tribal organization and related
14 to archeological, anthropological and cultural surveys
15 and analyses, and activities related to the identifica-
16 tion, maintenance or protection of lands considered
17 to have religious, ceremonial or cultural significance
18 to Indian tribes.

19 “(2) TIME LIMITATION FOR NEGOTIATION OF
20 CONTRACTS.—Not later than 90 days after a partici-
21 pating Indian tribe or tribal organization has noti-
22 fied the Secretary that it has completed the planning
23 phase required by subsection (e), the Secretary shall
24 initiate and conclude negotiations, unless an alter-
25 native negotiation and implementation schedule is

1 otherwise agreed to by the parties. The declination
2 and appeals provisions of the Indian Self-Determina-
3 tion and Education Assistance Act, including section
4 110 of such Act, shall apply to contracts and agree-
5 ments requested and negotiated under this Act.

6 “(f) CONTRACT ADMINISTRATION.—

7 “(1) INCLUSION OF CERTAIN TERMS.—At the
8 request of the contracting Indian tribe or tribal or-
9 ganization, the benefits, privileges, terms, and condi-
10 tions of agreements entered into pursuant to titles
11 I and IV of the Indian Self-Determination and Edu-
12 cation Assistance Act may be included in a contract
13 entered into under this Act. If any provisions of the
14 Indian Self-Determination and Education Assistance
15 Act are incorporated, they shall have the same force
16 and effect as if set out in full in this Act and shall
17 apply notwithstanding any other provision of law.
18 The parties may include such other terms and condi-
19 tions as are mutually agreed to and not otherwise
20 contrary to law.

21 “(2) AUDIT.—Contracts entered into under this
22 Act shall provide for a single-agency audit report to
23 be filed as required by chapter 75 of title 31, United
24 States Code.

1 “(3) TRANSFER OF EMPLOYEES.—Any career
2 Federal employee employed at the time of the trans-
3 fer of an operation or program to an Indian tribe or
4 tribal organization shall not be separated from Fed-
5 eral service by reason of such transfer. Intergovern-
6 mental personnel actions may be used to transfer su-
7 pervision of such employees to the contracting In-
8 dian tribe or tribal organization. Such transferred
9 employees shall be given priority placement for any
10 available position within their respective agency, not-
11 withstanding any priority reemployment lists, direc-
12 tives, rules, regulations, or other orders from the
13 Department of the Interior, the Office of Manage-
14 ment and Budget, or other Federal agencies.

15 “(g) AVAILABLE FUNDING; PAYMENT.—Under the
16 terms of a contract negotiated pursuant to subsection (f),
17 the Secretary shall provide each Indian tribe or tribal or-
18 ganization funds in an amount not less than the Secretary
19 would have otherwise provided for the operation of the re-
20 quested programs, services, functions, and activities. Con-
21 tracts entered into under this Act shall provide for ad-
22 vance payments to the tribal organizations in the form of
23 annual or semiannual installments.

24 “(h) TIMING; CONTRACT AUTHORIZATION PERIOD.—
25 An Indian tribe or tribal organization selected to partici-

1 pate in the demonstration project shall complete the plan-
 2 ning phase required by subsection (c) not later than 1 cal-
 3 endar year after the date that it was selected for participa-
 4 tion and may begin implementation of its requested con-
 5 tract no later than the first day of the next fiscal year.
 6 The Indian tribe or tribal organization and the Secretary
 7 may agree to an alternate implementation schedule. Con-
 8 tracts entered into pursuant to this Act are authorized to
 9 remain in effect for 5 consecutive fiscal years, starting
 10 from the fiscal year the participating Indian tribe or tribal
 11 organization first entered into its contract under this Act.

12 “(i) REPORT.—Not later than 90 days after the close
 13 of each of fiscal years 2003 and 2006, the Secretary shall
 14 present to the Congress detailed reports, including a nar-
 15 rative, findings, and conclusions on the costs and benefits
 16 of this demonstration project.

17 “(j) PLANNING GRANTS.—

18 “(1) IN GENERAL.—Subject to the availability
 19 of appropriated funds, upon application the Sec-
 20 retary shall award a planning grant in the amount
 21 of \$100,000 to any Indian tribe or tribal organiza-
 22 tion selected for participation in the demonstration
 23 project to enable it to plan for the contracting of
 24 programs, functions, services, and activities as au-
 25 thorized under this Act and meet the planning phase

1 requirement of subsection (e). An Indian tribe or
 2 tribal organization may choose to meet the planning
 3 phase requirement without applying for a grant
 4 under this subsection. No Indian tribe or tribal or-
 5 ganization may receive more than 1 grant under this
 6 subsection.

7 “(2) AUTHORIZATION OF APPROPRIATIONS.—
 8 There is authorized to be appropriated such sums as
 9 are necessary for each of the 2 fiscal years imme-
 10 diately following the date of the enactment of this
 11 Act to fund planning grants under this section.”.

12 **SEC. 5. TRIBAL PROCUREMENT CONTRACTING AND RES-**
 13 **ERVATION DEVELOPMENT.**

14 (a) IN GENERAL.—Section 7 of the Indian Self-De-
 15 termination and Education Assistance Act (25 U.S.C.
 16 450e) is amended by adding at the end thereof the fol-
 17 lowing new subsection (d):

18 “(d) FOSTERING TRIBAL PROCUREMENT CON-
 19 TRACTING AND RESERVATION DEVELOPMENT.—

20 “(1) Upon the request and application of an In-
 21 dian tribe to provide certain services or deliverables
 22 which the Secretary of the Interior would otherwise
 23 procure from a private sector entity, and absent a
 24 request to contract those services or deliverables
 25 pursuant to section 102 of this Act (25 U.S.C. 450f)

1 made by the tribe or tribes to be directly benefited
2 by said services or deliverables, the Secretary of the
3 Interior shall contract for such services or
4 deliverables through the applicant Indian tribe pur-
5 suant to section 102 of this Act (25 U.S.C. 450f).

6 “(2) Subsection (1) shall not apply unless the
7 applicant tribe provides assurances to the Secretary
8 that the principal beneficiary of the contracted serv-
9 ices remains the tribe or tribes originally intended to
10 benefit from the services or deliverables. For pur-
11 poses of this subsection, the contracting tribe shall
12 enjoy no less than the same rights and privileges
13 under this Act as would the beneficiary tribe if the
14 beneficiary tribe exercised its rights to contract
15 under section 102 of this Act. If at any time the
16 beneficiary tribe (or tribes) seeks to contract services
17 being provided by the contracting tribe, the bene-
18 ficiary tribe (or tribes) shall give the contracting
19 tribe and the Secretary of the Interior no less than
20 180 days’ notice.”.

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