

**STATEMENT OF  
BRYAN NEWLAND  
ASSISTANT SECRETARY – INDIAN AFFAIRS  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE FOR INDIAN AND INSULAR AFFAIRS**

**March 24, 2023**

Aanii (Hello)! Good afternoon, Chair Hageman, Ranking Member Leger Fernández, and Members of the Subcommittee. My name is Bryan Newland. I am the Assistant Secretary for Indian Affairs at the Department of the Interior (Department).

Thank you for the opportunity to present testimony regarding H.R. 1246, a bill to authorize leases of up to 99 years for land held in trust for federally recognized Indian Tribes, and H.R. 1532, a bill to authorize any Indian Tribe to lease, sell, convey, warrant, or otherwise transfer real property to which that Indian Tribe holds fee title without the consent of the Federal Government, and for other purposes.

**H.R. 1246, a bill to authorize leases of up to 99 years for land held in trust for federally recognized Indian Tribes**

Since the enactment of the Non-Intercourse Act of June 30, 1834, and predecessor statutes, land transactions with Indian Tribes were prohibited unless specifically authorized by Congress. The Act of August 9, 1955, or the Long-Term Leasing Act (LTLA) provides the authority for Indian Tribes to enter into surface leases with third parties with the approval of the Secretary of the Interior. The LTLA limits lease agreement to 25-year terms with an option to renew for an additional 25 years.

Since 1955, Indian Tribes have engaged in a diverse array of activities to facilitate economic development, and many have required lease agreements for terms longer than 50 years on their lands. Authorizing Indian Tribes to lease their trust lands for terms longer than the 50-year maximum requires Congress to amend the LTLA to add Tribes' names to it. Since its enactment in 1955, Congress has added 60 Indian Tribes to the LTLA for this purpose. Each addition has required separate legislation, which is time consuming and resource draining for Tribes.

H.R. 1246 amends the LTLA to add all Indian Tribes on the list published by the Secretary of the Interior as required by the Federally Recognized Indian Tribe List Act to enter into agreements for up to 99 years. The inclusion of all Indian Tribes will be in addition to the 60 Indian Tribes already listed through previously enacted legislation.

In addition to legislation allowing certain Tribes to enter into leases of up to 99 years, Congress amended the LTLA in 2012, by passing the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act), which restored Indian Tribes ability to control and lease their land under their approved HEARTH Act regulations without further approval from the Department. So far, 82 Tribes have adopted and regulate the leasing of their Tribal trust

lands. The implementation of this program has been a success, and a great help to Indian Tribes in facilitating economic development.

The Department supports the goal of H.R. 1246 to authorize any Indian Tribe to lease lands for up to 99 years as it would facilitate economic development opportunities and avoid individual Tribes having to acquire separate legislation for this purpose. The Department looks forward to continuing working with the Subcommittee and sponsors of the legislation to ensure the language in the bill achieves the goal of removing barriers to economic development.

**H.R. 1532, a bill to authorize any Indian Tribe to lease, sell, convey, warrant, or otherwise transfer real property to which that Indian Tribe holds fee title without the consent of the Federal Government, and for other purposes**

H.R. 1532 would expressly allow Indian Tribes to lease, sell, convey, warrant, or otherwise transfer all or part of the Tribe's real property that is not held in trust by the United States without further approval, ratification, or authorization by the United States. Under H.R. 1532, action by the United States is not required to validate the Tribe's land transactions for Tribally owned fee land. The legislation clearly states that H.R. 1532 does not authorize the Tribe to lease, sell, convey, warrant, or otherwise transfer lands held in trust or affect the operation of any law governing such transactions.

The Department does not support H.R. 1532. While H.R. 1532 does not directly amend the Non-Intercourse Act, 25 U.S.C. §177, the bill expressly exempts land from restrictions in the Non-Intercourse Act and may have unintended consequences. The Department understands that some Tribes may ask for legislative relief as commercial lenders and title companies are asking Tribes to confirm that the Non-Intercourse Act is inapplicable to Tribally-owned fee land. This is an unnecessary step which, unfortunately, can raise the cost of business deals for Tribes.

The Non-Intercourse Act was passed to ensure that the Federal Government had an orderly process to acquire lands from Indians, and over the past two centuries, a significant amount of case law has been built on this Act. Any legislation that would change the operation of the Non-Intercourse Act, however well-intentioned, may create more confusion around the status of Indian lands and inadvertently harm Tribes in the process.

The Department appreciates the opportunity to present its views on H.R. 1532.

**Conclusion**

Chair Hageman, Ranking Member Leger Fernández, and Members of the Subcommittee, thank you for the opportunity to provide the Department's views on these important bills. I look forward to answering any questions that you may have.