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REPORT
110–275

# TO AUTHORIZE THE SAGINAW CHIPPEWA TRIBE OF INDIANS OF THE STATE OF MICHIGAN TO CONVEY LAND AND INTERESTS IN LAND OWNED BY THE TRIBE

JULY 30, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

## R E P O R T

[To accompany H.R. 2952]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2952) to authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in land owned by the Tribe, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. LAND AND INTERESTS OF THE SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN.**

(a) IN GENERAL.—Subject to subsections (b) and (c), notwithstanding any other provision of law (including regulations), the Saginaw Chippewa Indian Tribe of Michigan (including any agent or instrumentality of the Tribe) (referred to in this section as the "Tribe"), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe's interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

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

(c) LIABILITY.—The United States shall not be held liable to any party (including the Tribe or any agent or instrumentality of the Tribe) for any term of, or any loss resulting from the term of any transfer, lease, encumbrance, or conveyance of land made pursuant to this Act unless the United States or an agent or instrumentality of the United States is a party to the transaction or the United States would be liable pursuant to any other provision of law. This subsection shall not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe.

59–006

## PURPOSE OF THE BILL

The purpose of H.R. 2952 is to authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in land owned by the Tribe.

## BACKGROUND AND NEED FOR LEGISLATION

The Saginaw Chippewa Indian Tribe, comprised of three bands of Ojibwe, is headquartered near the City of Mt. Pleasant in Isabella County, Michigan. Established on October 18, 1864 by treaty, the Tribe's reservation includes approximately 724 acres of allotted trust lands and 1,500 acres of tribal trust lands. Currently, there are 2,754 tribal members.

Although the Tribe is headquartered in Isabella County, it owns land in surrounding counties, including two 20-acre parcels in Arenac County. These parcels were initially purchased to develop a warehouse and advance economic development ventures. But, after a feasibility study was conducted, the Tribe decided not to pursue those plans. Now, the Tribe wishes to sell this land but is prevented from doing so by the Non-Intercourse Act. Moreover, the Tribe intends to continue investing in real estate but the Non-Intercourse Act will prevent the Tribe from being able to timely sell land bought for investment purposes. The Tribe does not want the exemption contained in this legislation to apply to trust lands.

### *Non-Intercourse Act (25 U.S.C. §177)*

Originally enacted in 1790, the Non-Intercourse Act reserved to the United States the exclusive right to acquire Indian lands. It was intended to protect Indian tribes by preventing the loss of their lands. It does so by preventing the transfer, sale, lease, or other conveyance of land owned by an Indian tribe, without federal approval. This prohibition applies to both trust and fee lands, regardless of the source of money used to obtain the lands. Finally, the Department of the Interior does not have the authority to administratively waive the Non-Intercourse Act.

## COMMITTEE ACTION

H.R. 2952 was introduced on July 10, 2007 by Representative Kildee (D–MI). The bill was referred to the Committee on Natural Resources. The full Natural Resources Committee held a hearing on this legislation on July 11, 2007. On July 18, 2007, the full Natural Resources Committee met to consider the bill. Mr. Kildee (D–MI) offered an en bloc amendment that clarified that the Tribe may lease, transfer, encumber, or otherwise convey all or any part of any real property that is not held in trust by the United States for the benefit of the Tribe. The amendment also limited the liability of the United States that may result from any transfer, lease, encumbrance, or conveyance between the Tribe and third parties made pursuant to this Act, unless otherwise liable under another provision of law. The limitation on liability does not apply to land transferred from the Tribe to the United States to be held in trust for the Tribe. It was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Land and interests of the Saginaw Chippewa Indian Tribe of Michigan*

Section 1 authorizes the Saginaw Chippewa Indian Tribe of Michigan to transfer, lease, encumber, or otherwise convey all or any part of the Tribe's interest in any real property that is not held in trust by the United States for the benefit of the Tribe. It is not intended to authorize the Tribe to transfer, lease, encumber, or otherwise convey, any lands, or any interest in any lands held in trust by the United States for the benefit of the Tribe. The United States shall not be liable to any party for any term or, or any loss resulting from the term of, any transfer, lease, encumbrance, or conveyance made pursuant to this Act unless the United States is a party to the transaction or would otherwise be liable pursuant to any other provision of law. Finally, this section does not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe nor shall it apply to any purchases of land made by the Tribe.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2952—A bill to authorize the Saginaw Chippewa Tribe of Indians of the state of Michigan to convey land and interests in land owned by the tribe*

H.R. 2952 would authorize the Saginaw Chippewa Tribe of Indians to convey or lease, without approval of the Secretary of the Interior, any land or interest in land owned by the tribe and not held in trust by the United States. Based on information from the Bureau of Indian Affairs, CBO estimates that implementing this bill would have no significant effect on the federal budget.

Currently, the Non-Intercourse Act prohibits the conveyance of an interest in land from an Indian tribe without approval by the Secretary. Because of a dispute in the federal courts, it is not clear whether the land specified under the bill is subject to this prohibition.

H.R. 2952 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, Deputy Assistance Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2952 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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