

TO DIRECT THE SECRETARY OF THE INTERIOR TO PROCLAIM AS RESERVATION FOR THE BENEFIT OF THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS A PARCEL OF LAND NOW HELD IN TRUST BY THE UNITED STATES FOR THAT INDIAN 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. 2120]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2120) to direct the Secretary of the Interior to proclaim as reservation for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians a parcel of land now held in trust by the United States for that Indian 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 TO BE PROCLAIMED RESERVATION.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary of the Interior shall proclaim as reservation for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians the parcel of land now held in trust by the United States and having the legal description as follows: That portion of Section 19, Township 41 North, Range 3 West, Michigan Meridian, described as: All of the NW1/4SW1/4 and all of the S1/2SW1/4 Northerly of a line described as beginning 650 feet Northerly along the centerline of Highway “Mackinac Trail” from the intersection of said centerline with the South Section line of Section 19, Township 41 North, Range 3 West, thence Northeasterly to the Southeast corner of the NW1/4SW1/4 of said Section, containing 65 acres, more or less (except the highway right-of-way and easements of record).

(b) **APPLICABLE LAW; EFFECTIVE DATE.**—The Secretary’s proclamation shall be pursuant to section 7 of the Act of June 18, 1934 (25 U.S.C. 467) and the property shall be deemed a reservation as of April 19, 1988, for purposes of the Indian Gaming Regulatory Act.

PURPOSE OF THE BILL

The purpose of H.R. 2120 is to direct the Secretary of the Interior to proclaim as reservation for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians a parcel of land now held in trust by the United States for that Indian tribe.

BACKGROUND AND NEED FOR LEGISLATION

In 1983, 65 acres of land located in St. Ignace, Michigan (1983 Parcel) were placed into trust by the United States on behalf of the Sault Ste. Marie Tribe. These lands are within the Tribe's historic, aboriginal homeland and are approximately 47 miles from other reservation lands. Shortly after the lands were placed into trust, the Tribe requested that the Bureau of Indian Affairs (BIA) declare these lands to be part of the Tribe's existing reservation. No action was taken on this request. Similar requests were made by the Tribe in 1986 and 1988. After the final request in 1988, the Acting Superintendent notified the local governments that the Reservation Proclamation was impending.

Because the Tribe did not receive a copy of the Reservation Proclamation impending in 1988, the Tribe renewed its request in November, 1990. This time, the Assistant Secretary for Indian Affairs notified the Tribe that additional information was needed to process the Tribe's application and that once the BIA received the information, it would "process the necessary documents for the proclamation." The requested information was provided to the BIA Area Director, who later forwarded it to the BIA Central Office. On June 22, 1992, the BIA Superintendent sent a letter to the Tribe regarding the status of various lands, including the 1983 Parcel, that the Tribe holds "in both trust and reservation status."

Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)

In 1986, the Tribe opened the Kewadin Shores Casino on the 1983 Parcel and began conducting gaming. Congress enacted the Indian Gaming Regulatory Act (IGRA) in 1988, which authorizes tribes to conduct gaming on lands placed into trust prior to October 17, 1988. The IGRA prohibits gaming on lands acquired after November 17, 1988 unless such lands are located contiguous to existing reservation land. Because the 1983 Parcel was placed into trust prior to that date, the Tribe lawfully continued its gaming activities. A Tribal-State gaming compact was signed in 1993 permitting the Tribe to operate Class III gaming under the IGRA.

2000 Parcel

In 2000, 77 acres of land (2000 Parcel) adjacent to the 1983 Parcel were placed into trust by the United States on behalf of the Tribe. Because the gaming facility located on the 1983 Parcel is no longer suitable for continued use because of environmental and other concerns, the Tribe decided to build a new facility on the 2000 Parcel. The Tribe asked the United States in 2003 for concurrence that the 2000 Parcel is "Indian land" under the IGRA and that the Tribe could conduct gaming on it. In the Spring of 2004, the Tribe commenced construction of a new gaming facility on the 2000 Parcel. This new facility is approximately 200 feet from the original facility and will feature no more gaming space than the

original facility. A few months after construction commenced, the National Indian Gaming Commission requested additional information, which the Tribe provided on July 1, 2004.

In February, 2006, the Department of the Interior (Department) issued an opinion stating that the 2000 Parcel is not “Indian land” under the IGRA because the 1983 Parcel had not been proclaimed to be part of the Tribe’s Reservation by October, 1988. Because the 1992 Superintendent’s letter concerned several parcels of land, the Department interprets the letter as only meaning that some of the parcels are in reservation status. They note that the 1992 Superintendent’s letter did not specifically say that the 1983 Parcel was part of the Reservation.

Present situation

Because of the Department’s opinion, the Tribe is using a temporary facility for the gaming facility that is located entirely on the 1983 Parcel and the hotel and entertainment venue is located in the facility constructed on the 2000 Parcel. Unless the land is declared part of the Reservation, the tribe will be forced to tear down existing Indian housing on the 1983 Parcel that is currently occupied by tribal members. This bill has the support of the City of St. Ignace, Michigan.

COMMITTEE ACTION

H.R. 2120 was introduced on May 2, 2007 by Representative Stupak (D–MI). The bill was referred to the Committee on Natural Resources. On June 13, 2007, the full Natural Resources Committee held a hearing on this bill, at which the Department of the Interior testified in support of the measure with a recommended change. On July 18, 2007, the full Committee met to consider the bill. Chairman Rahall (D–WV) offered an amendment, as recommended by the Department, to clarify the date that the land would become part of the Tribe’s reservation for purposes of the Indian Gaming Regulatory Act. 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 to be proclaimed reservation

Section 1 directs the Secretary of the Interior to proclaim certain land currently held in trust by the United States for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians as part of Tribe’s reservation. The Secretary’s proclamation shall be pursuant to the Act of June 18, 1934 and the property shall be deemed a reservation as of April 19, 1988 for purpose of the Indian Gaming Regulatory Act.

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. 2120—A bill to direct the Secretary of the Interior to proclaim as reservation for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians a parcel of land now held in trust by the United States for that Indian tribe

H.R. 2120 would direct the Secretary of the Interior to proclaim as reservation a parcel of land now held in trust by the United States for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians. Under the bill, the land would be designated as reservation primarily for gaming activities. Based on information from the Bureau of Indian Affairs, CBO estimates that implementing this bill would have no significant effect on the federal budget.

H.R. 2863 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 staff contact for this estimate is Leigh Angres. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2120 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.

