

118TH CONGRESS
1ST SESSION

H. R. 3144

To provide for the settlement of claims relating to the Shab-eh-nay Band
Reservation in Illinois, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2023

Mr. GARCÍA of Illinois (for himself, Ms. UNDERWOOD, Mr. LATURNER, Mr.
MANN, and Ms. DAVIDS of Kansas) introduced the following bill; which
was referred to the Committee on Natural Resources

A BILL

To provide for the settlement of claims relating to the Shab-
eh-nay Band Reservation in Illinois, 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 “Prairie Band Pota-
5 watomini Nation Shab-eh-nay Band Reservation Settlement
6 Act of 2023”.

7 **SEC. 2. FINDINGS; PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

9 (1) pursuant to the Treaty of July 29, 1829,
10 made and concluded at Prairie du Chien (7 Stat.

1 320) (commonly known as the “Second Treaty of
2 Prairie du Chien”), the Potawatomi and other af-
3 fected Indian Tribes ceded certain land in northern
4 Illinois, except for 2 parcels totaling 1,280 acres for
5 Potawatomi Chief Shab-eh-nay and his Band at
6 their village near Paw Paw Grove, Illinois;

7 (2)(A) pursuant to the Treaty of September 26,
8 1833, made at Chicago (7 Stat. 431) (commonly
9 known as the “Treaty of Chicago”), the Potawatomi
10 and other Indians ceded approximately 5,000,000
11 acres of land, including the Shab-eh-nay Band Res-
12 ervation; but

13 (B) the Senate rejected the provision that ceded
14 that reservation, with the effect of affirming the In-
15 dian-held title and boundaries of the Shab-eh-nay
16 Band Reservation;

17 (3)(A) in 1849, while Chief Shab-eh-nay was
18 visiting his relatives in Kansas, the Commissioner of
19 the General Land Office of the United States sold
20 the Shab-eh-nay Band Reservation at public auction
21 to non-Indians who erroneously believed that they
22 had acquired good title to the land on which the
23 Shab-eh-nay Band Reservation is located; and

1 (B) the Shab-eh-nay Band Reservation is ille-
2 gally occupied as of the date of the enactment of
3 this Act;

4 (4) the Shab-eh-nay Band Reservation con-
5 tinues to exist;

6 (5) there is no evidence that Chief Shab-eh-nay
7 and his band abandoned the Shab-eh-nay Band Res-
8 ervation which, even if true, could not be the basis
9 for extinguishing the treaty-recognized Indian title
10 to the Reservation;

11 (6) the Shab-eh-nay Band held recognized title
12 to the Shab-eh-nay Band Reservation;

13 (7) Congress has never acted by treaty or stat-
14 ute to extinguish the recognized Indian title to the
15 Shab-eh-nay Band Reservation;

16 (8) the Tribe is the successor in interest to
17 Chief Shab-eh-nay's Band and the rightful owner
18 and occupant of the Shab-eh-nay Band Reservation;

19 (9) the United States continues to bear a trust
20 responsibility to the Tribe for the Shab-eh-nay Band
21 Reservation;

22 (10) the Tribe pursued a claim against the
23 United States under the Act entitled "An Act to cre-
24 ate an Indian Claims Commission, to provide for the
25 powers, duties, and functions thereof, and for other

1 purposes”, approved August 13, 1946 (commonly
2 known as the “Indian Claims Commission Act”) and
3 was paid for the loss of certain lands in northern Il-
4 linois, but the Shab-eh-nay Band Reservation was
5 specifically excluded by the Commission from the
6 lands for which it awarded additional compensation;

7 (11) the Federal Government, through the ac-
8 tions of the General Land Office, has deprived the
9 Tribe of the right of exclusive use and occupancy of
10 the Shab-eh-nay Band Reservation without legal au-
11 thorization or just compensation;

12 (12) certain non-Indian individuals, entities,
13 and local governments occupying land within the
14 boundaries of the Shab-eh-nay Band Reservation as
15 of the date of the enactment of this Act, including
16 the State and the County—

17 (A) acquired ownership interests to the
18 land in good faith; and

19 (B) should be able to possess clear title to
20 the land; and

21 (13) the United States has a moral and legal
22 responsibility—

23 (A) to help secure a fair and equitable set-
24 tlement of past inequities to the Tribe; and

1 (B) to ensure protection of the ownership
2 interests of non-Indian occupants of the Shab-
3 eh-nay Band Reservation.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to acknowledge the unlawful sale by the
6 Federal Government of the valuable right held by
7 the Tribe to the exclusive use and occupancy of the
8 Shab-eh-nay Band Reservation;

9 (2) to reaffirm Federal recognition of the own-
10 ership by the Tribe of, and jurisdiction over, land
11 that the Tribe owns within the Shab-eh-nay Band
12 Reservation;

13 (3) to promote the economic self-sufficiency of
14 the Tribe and the members of the Tribe;

15 (4) to extinguish the Indian title to, and con-
16 firm the ownership by the State, the County, and
17 certain individuals and entities of, certain land with-
18 in the boundaries of the Shab-eh-nay Band Reserva-
19 tion;

20 (5) to provide stability and security to the State
21 and residents of the State, the local governments
22 and the areas over which the local governments exer-
23 cise jurisdiction, and businesses regarding the own-
24 ership and use by the Tribe of the Reaffirmed Res-
25 ervation;

1 (6) to extinguish potential claims by the Tribe
2 against the United States, the State, the local gov-
3 ernments, and private individuals and entities that
4 could be a direct consequence of not reaching a set-
5 tlement with the Tribe;

6 (7) to require the Secretary to preserve and
7 protect, but not manage, the Reaffirmed Reservation
8 in furtherance of the trust responsibility of the Fed-
9 eral Government; and

10 (8) to authorize the Secretary—

11 (A) to execute the waiver and release of
12 claims and compensate the Tribe; and

13 (B) to take any other action necessary to
14 carry out this Act.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) COUNTY.—The term “County” means
18 Dekalb County in the State.

19 (2) LOCAL GOVERNMENT.—The term “local
20 government” means any unit of local government
21 that exercises authority over land located within the
22 Reservation as of the date of the enactment of this
23 Act.

24 (3) REAFFIRMED RESERVATION.—The term
25 “Reaffirmed Reservation” means—

1 (A) the Reservation; and

2 (B) any land located within the Replace-
3 ment Area that is held in trust after being
4 taken into trust by the Secretary of the Interior
5 for the benefit of the Tribe after the date of the
6 enactment of this Act.

7 (4) REPLACEMENT AREA.—The term “Replace-
8 ment Area” means the aboriginal territory of the
9 Tribe, located in the State near Shabbona, which is
10 all of the approximated land that is bounded as fol-
11 lows:

12 (A) On the north by Interstate 88.

13 (B) On the west by Interstate 39.

14 (C) On the south by State Route 30 and
15 Preserve Road.

16 (D) On the east by South 4th Street and
17 State Route 23.

18 (5) REPURCHASED LANDS.—The term “Repur-
19 chased Lands” means the approximately 129 acres
20 of land purchased and owned by the Tribe within
21 the Reservation as of the date of the enactment of
22 this Act.

23 (6) RESERVATION.—The term “Reservation”
24 means the approximately 1,280 acres of land in the
25 State reserved in the treaty of July 29, 1829 (7

1 Stat. 320) and the Treaty of September 26, 1833 (7
2 STAT. 431) and described as follows: sec. 23, the
3 W $\frac{1}{2}$ \ of sec. 25, and the E $\frac{1}{2}$ \ of sec. 26 in T.
4 38 N., R. 3 E., Third Principal Meridian.

5 (7) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior.

7 (8) STATE.—The term “State” means the State
8 of Illinois.

9 (9) TRIBE.—The term “Tribe” means the Prai-
10 rie Band Potawatomi Nation, a federally recognized
11 Indian Tribe.

12 **SEC. 4. REAFFIRMATION OF SHAB-EH-NAY BAND RESERVA-**
13 **TION.**

14 (a) REAFFIRMATION OF RESERVATION STATUS.—
15 The Repurchased Lands is reaffirmed as Indian Country
16 (as that term is defined in section 1151 of title 18, United
17 States Code).

18 (b) TRANSFER OF LANDS INTO TRUST.—If, not later
19 than 180 days after the date of the enactment of this Act,
20 the Tribe transfers title to any or all of the Repurchased
21 Lands to the United States, the Secretary, not later than
22 180 days after such transfer, shall take the transferred
23 land into trust for the benefit of the Tribe.

24 (c) ADMINISTRATION.—Repurchased Lands trans-
25 ferred under subsection (b) shall be part of the Reaffirmed

1 Reservation and administered in accordance with the laws
2 and regulations generally applicable to land held in trust
3 by the United States for an Indian tribe.

4 **SEC. 5. EXTINGUISHMENT OF INDIAN TITLE; CONFIRMA-**
5 **TION OF LAND OWNERSHIP.**

6 (a) EXTINGUISHMENT OF INDIAN TITLE.—The
7 Tribe’s Indian title to all lands within the exterior bound-
8 aries of the reservation as of the date of enactment of this
9 Act, except for the Repurchased Lands, is extinguished.

10 (b) CONFIRMATION OF LAND OWNERSHIP.—Title to
11 lands and interests in lands within the exterior boundaries
12 of the Reservation held by the State, the local govern-
13 ments, or any individual or entity on November 5, 1849,
14 is recognized and confirmed.

15 **SEC. 6. WAIVER AND RELEASE OF CLAIMS.**

16 (a) CLAIMS AGAINST UNITED STATES, STATE,
17 LOCAL GOVERNMENTS, AND OTHER PARTIES.—The
18 Tribe and the Secretary shall execute appropriate docu-
19 ments providing for the relinquishment by the Tribe of
20 all claims against—

21 (1) the United States for a breach of the trust
22 responsibility associated with any sale of any portion
23 of the Reservation; and

24 (2) the State, the local governments, and any
25 individuals or entities occupying the Reservation for

1 any trespass and related damages in connection with
2 the occupation and use of the Reservation during
3 the period beginning on November 5, 1849, and end-
4 ing on the effective date described in subsection (b).

5 (b) EFFECTIVE DATE.—The relinquishment of
6 claims under subsection (a) shall take effect on the later
7 of—

8 (1) the date on which the Tribe receives pay-
9 ment of all of the settlement funds under section 7;
10 and

11 (2) the date on which the Secretary publishes in
12 the Federal Register a notice that the documents de-
13 scribed in subsection (a) have been executed by the
14 Secretary and the Tribe.

15 **SEC. 7. SETTLEMENT FUNDS.**

16 Subject to the appropriation of funds, the Secretary
17 shall pay to the Tribe \$50,000,000 over 5 years in full
18 settlement of the claims of the Tribe, to be managed, in-
19 vested, and used by the Tribe to promote economic devel-
20 opment and land acquisition, as determined by the Tribe
21 in accordance with the constitution and laws of the Tribe.

22 **SEC. 8. LAND ACQUISITION; TRIBAL AUTHORITY TO ENTER**
23 **INTO AGREEMENTS; NO USE OF CONDEMNATION OR EMINENT DOMAIN.**
24

25 (a) LAND ACQUISITION.—

1 (1) IN GENERAL.—After the date of the enact-
2 ment of this Act, the Tribe may acquire from one
3 or more willing sellers not more than a total of
4 1,151 acres of land within the exterior boundaries of
5 or abutting the Reservation, or within the exterior
6 boundaries of the Replacement Area using the settle-
7 ment funds received by the Tribe under section 7 or
8 other funds of the Tribe.

9 (2) TRANSFER OF ADDITIONAL LANDS INTO
10 TRUST.—At the request of the Tribe, the Secretary
11 shall take into trust for the benefit of the Tribe any
12 lands acquired under paragraph (1) not later than
13 180 days after the Tribe transfers title to such lands
14 to the United States.

15 (b) RECOGNITION OF TRIBAL GOVERNMENT AU-
16 THORITY TO ENTER INTO AGREEMENTS WITH STATE
17 AND LOCAL GOVERNMENTS.—The Tribe may enter into
18 agreements with the State and any local government re-
19 garding the Reaffirmed Reservation and activities occur-
20 ring on the Reaffirmed Reservation, including agreements
21 relating to jurisdiction, land use, and services.

22 (c) NO USE OF CONDEMNATION OR EMINENT DO-
23 MAIN.—Land or interests in land within the exterior
24 boundaries of the Reservation or the Replacement Area—

1 (1) may not be acquired by condemnation or
2 eminent domain under this Act; and

3 (2) shall be acquired only by purchase with pay-
4 ment of fair market value.

5 (d) **CULTURAL AND HISTORIC PRESERVATION OF**
6 **RESERVATION.**—Land owned by the State and the local
7 governments located within the boundaries of the Reserva-
8 tion shall be managed to protect any human or cultural
9 remains, consistent with applicable Federal and State law
10 and subject to the consent of the Tribe.

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated to the Sec-
13 retary to carry out this Act \$10,000,000 for each of fiscal
14 years 2024 through 2028.

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