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Authorizing Enrolled Members of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak to Acquire Trust Interests in Tribal Lands of the Reservation

United States Congress

US Senate

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AUTHORIZING ENROLLED MEMBERS OF THE THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION, N. DAK., TO ACQUIRE TRUST INTERESTS IN TRIBAL LANDS OF THE RESERVATION

MARCH 9 (legislative day, MARCH 6), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1528]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1528) to authorize enrolled members of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., to acquire trust interests in tribal lands of the reservation, and for other purposes, having considered the same, report favorably thereon, and recommend that the bill as amended do pass.

The amendment is as follows:

On page 1, strike lines 3, 4, and 5, and insert in lieu thereof the following:

That notwithstanding the provisions of the constitution and charter of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, the Secretary of the Interior, with the consent of the governing body of the tribes, is

EXPLANATION OF THE BILL

Enactment of S. 1528 will authorize the Secretary of the Interior, with the consent of the Fort Berthold Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., to dispose of tribal lands on the reservation to any enrolled member of the tribes upon such terms and conditions as the Secretary may prescribe, and provides that title to any land so conveyed shall be taken in the United States in trust for the individual Indian owner.

Under the act of October 29, 1949 (63 Stat. 1026), the United States acquired approximately 152,000 acres of Indian lands for the construction of the Garrison Dam on the Missouri River in North Dakota.

The taking area consisted of 126,000 acres of trust-allotted lands and 26,000 acres of tribal lands. It was on these lands that the majority of the tribe resided and, as a result of the taking, it has been necessary for the Indians to relocate on other land within the

reservation. In many instances the individual Indians have not had sufficient funds to acquire the acreage necessary for an economic farm or ranch unit. To help the individual Indians to reestablish themselves out of the taking area, the tribal governing body has authorized the use of tribal funds to purchase Indian lands in heirship status from nonresident owners and sell them to individuals to fill out existing uneconomic farm and ranch holdings.

The Indians of the Fort Berthold Reservation are organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). Section 4 of that act (25 U. S. C. 464) prohibits the sale of tribal lands of an organized tribe, and the constitution and charter contain similar prohibitions. Enactment of S. 1528 is necessary to permit such sales of tribal lands, and the tribal council through its representative has urged the passage of the bill as amended.

The favorable reports of the Secretary of the Interior and the Bureau of the Budget on S. 1528 follow.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., July 13, 1955.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.*

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 1528, a bill to authorize enrolled members of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., to acquire trust interests in tribal lands of the reservation, and for other purposes.

We recommend that the bill be enacted if amended as suggested below.

The bill authorizes the Secretary of the Interior, with the consent of the Fort Berthold Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, to dispose of tribal lands within the reservation to any enrolled member of the tribes upon such terms and conditions as the Secretary may prescribe, and provides that title to any land so conveyed shall be taken in the United States of America in trust for the individual Indian owner.

In connection with the construction of the Garrison Dam on the Missouri River in North Dakota, the United States has acquired approximately 152,000 acres of Indian lands on the Fort Berthold Reservation under the act of October 29, 1949 (63 Stat. 1026). The area taken by the United States included approximately 126,000 acres of trust allotted lands and 26,000 acres of tribal lands. As the majority of the Indian residents of the reservation resided upon lands which were taken by the United States, it has been necessary for them to relocate and reestablish themselves on lands outside the taking area. In many instances the individual Indians have not had sufficient funds to acquire the acreage necessary for an economic farm or ranch unit. To assist the individual members to relocate and reestablish themselves outside of the taking area, the governing body of the Three Affiliated Tribes has authorized the use of tribal funds to purchase Indian lands in an heirship status and to purchase lands from nonresident Indian landowners for utilization by resident members. There are now 16,400.71 acres of land in tribal ownership and, in February 1954, the tribes were in the process of acquiring an additional 3,500 acres.

The tribal business council, which is the governing body of the Three Affiliated Tribes, wishes to sell tribal lands to the individual members who need additional acreage to provide economic units. The Indians of the Fort Berthold Reservation are organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), with a constitution approved pursuant to section 16 and a charter as a Federal corporation issued pursuant to section 17 of that act (25 U. S. C. 476 and 477, respectively). Section 4 of that act (25 U. S. C. 464) prohibits the sale of tribal lands of an organized tribe and the constitution and charter contain corresponding prohibitions. Hence, the enactment of legislation is necessary to permit such sales of tribal lands.

The bill should be amended in order to make it clear that the sale authority granted by the bill either is or is not dependent upon an appropriate amendment

to the tribal constitution and charter. Congress may follow either procedure. It may authorize the sales to be made notwithstanding the prohibitions in the tribal constitution and charter, or it may remove the statutory prohibition and leave it up to the tribe to decide whether the constitution and charter should be amended.

If the first alternative procedure is followed, lines 3, 4, and 5 on page 1 of the bill should be revised to read as follows:

"That notwithstanding the provisions of the constitution and charter of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, the Secretary of the Interior, with the consent of the governing body of the tribes, is".

If the second alternative procedure is followed, the bill should be amended by striking everything after the enacting clause and by inserting in lieu thereof the following:

"That section 4 of the Act of June 18, 1934 (48 Stat. 984), is amended by changing the period at the end of the section to a colon and by adding:

"Provided further, That to the extent permitted by the constitution and charter of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, the Secretary of the Interior, with the consent of the governing body of the tribe, is authorized to convey title to tribal lands within the boundaries of the reservation to any enrolled member of the tribe upon such terms and conditions as the Secretary may prescribe."

If the Congress wishes to make the authority of general applicability, rather than restrict it to the Fort Berthold Reservation, that may be done by striking from the preceding quotation the words "the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota," and by inserting in lieu thereof "a tribe organized hereunder,".

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., July 7, 1955.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 1528, a bill to authorize enrolled members of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., to acquire trust interests in tribal lands of the reservation, and for other purposes.

The purpose of this bill is to permit the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation to dispose of tribal lands to individual tribal members. Most of the Fort Berthold Indians have recently been relocated from that portion of their reservation which will be flooded by Garrison Dam. In some instances the relocatees have been unable to secure enough land to operate an efficient farm or ranch unit. To assist these persons, the governing body of the Three Affiliated Tribes has worked out a plan whereby the tribe would purchase Indian lands in heirship status from nonresident owners and sell them to individuals either as homesites or to fill out existing uneconomic farm and ranch holdings.

To carry out this plan, the tribal business council has already authorized the use of tribal funds to purchase heirship lands. The council has also requested the Secretary to hold a referendum on an amendment to the tribes' constitution which would permit the tribe to sell tribal lands. However, since the Fort Berthold Indians are chartered under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), and since section 4 of that act prohibits the sale of tribal lands of organized tribes, legislation such as S. 1528 is necessary before the council can finally put its plan into effect.

You are advised that the Bureau of the Budget would have no objection to the enactment of S. 1528.

Sincerely yours,

PERCY RAPPAPORT, *Assistant Director.*

