

Calendar No. 80

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 114-40

TO REVOKE THE CHARTER OF INCORPORATION OF THE MIAMI TRIBE OF OKLAHOMA AT THE REQUEST OF THAT TRIBE, AND FOR OTHER PURPOSES

—————
MAY 11, 2015.—Ordered to be printed
—————

Mr. BARRASSO, from the Senate Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 321]

The Committee on Indian Affairs, to which was referred the bill (S. 321) to revoke the charter of incorporation of the Miami Tribe of Oklahoma at the request of that Tribe, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 321 is to revoke the charter of incorporation of the Miami Tribe of Oklahoma issued to the Tribe and ratified on June 1, 1940, as requested by the Tribe.

NEED FOR LEGISLATION

The Miami Tribe of Oklahoma does not operate under the charter and believes it to be outdated for operating current business activities. The continued existence of the charter, even if unused, inhibits the Tribe's ability to secure financing or enter business arrangements. However, the charter may be revoked only by an Act of Congress. This bill, S. 321, would allow Congress to officially revoke this charter for the Tribe.

BACKGROUND

The Miami Tribe of Oklahoma is a Federally recognized Indian tribe. The Tribe voted to adopt its governing Constitution and By-laws on October 10, 1939, pursuant to the *Oklahoma Indian Welfare Act of 1936* (49 Stat. 1967). On June 1, 1940, the Department

of the Interior ratified the Tribe's corporate charter. The charter allows the Tribe to create a Federally chartered corporation with specific powers, such as

“to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange for therefore interests in corporate property, and such further powers as may be incidental to the conduct of corporate business.”

However, the charter limits the sale, lease, and permitting of tribal lands and future corporate income to five years. The charter also requires approval from the Secretary of the Interior for attorney contracts, and requires the Tribe to pay off debts before corporate property can be distributed. The Tribe has stated these restrictions have limited its ability to conduct business in contemporary times.

These provisions hinder tribal economic development despite the steps the Tribe has taken to develop a workable business environment. For example, in lieu of the charter, the Tribe has enacted the Miami Nation Enterprises Act and the Miami Nation Business Development Act, which govern their Tribal corporate entities. However, the existence of the charter raises questions regarding its ongoing applicability to business arrangements that the Tribe may wish to pursue.

The Miami Tribe operates and conducts business through its Constitution and not the charter. The Tribe adopted Tribal Resolution 13-60, dated October 8, 2013, to surrender its charter and authorize its Chief and legal counsel to take all steps necessary to effect prompt Congressional action to authorize and accept the surrender of the charter.

Revoking the charter would clarify the Tribe's authority and eliminate uncertainty and risk due to the existence of this charter. Congressional revocation has been used for other Federally approved tribal charters. For example, charters for the Prairie Island Indian Community and the Stockbridge Munsee Community Band of Mohican Indians have been revoked by Congressional action (see Pub. L. No. 104-26; and Pub. L. No. 106-216), respectively. These types of measures comport with the Federal Indian policy of self-determination and assist in reducing bureaucracy related to economic development.

LEGISLATIVE HISTORY

On January 29, 2015, Senator Lankford introduced S. 321. The bill was referred to the Senate Committee on Indian Affairs. No hearing was held on the bill. On February 25, 2015, the Committee met at a business meeting to consider the bill. The bill was ordered to be reported favorably without amendment to the Senate by voice vote.

An identical House companion bill, H.R. 533, was introduced on January 26, 2015, by Representatives Mullin, Cole, and Don Young. On April 13, 2015, Representative Nolan was added as a co-sponsor. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. On March 24, 2015, the Com-

mittee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered and on March 25, 2015, the bill was ordered favorably reported to the House by unanimous consent (H.R. Rep. No. 114–77).

In the 113th Congress, Representative Mullin introduced an identical bill, H.R. 4002. On June 23, 2014, the bill was passed by the House of Representatives. H.R. 4002 was then received in the Senate and referred to the Senate Committee on Indian Affairs. On July 30, 2014, the Committee met to consider the bill, and the bill was ordered to be reported favorably without amendment to the Senate by voice vote. No further action was taken on the bill.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Section 1—Revocation of charter of incorporation

This section revokes the corporate charter of the Miami Tribe of Oklahoma ratified on June 1, 1940, at the request of the Tribe.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated March 2, 2015, was prepared for S. 321:

MARCH 2, 2015.

Hon. JOHN BARRASSO,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 321, a bill to revoke the charter of incorporation of the Miami Tribe of Oklahoma at the request of that tribe, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Martin von Gnechten.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 321—A bill to revoke the charter of incorporation of the Miami Tribe of Oklahoma at the request of that tribe, and for other purposes

S. 321 would revoke the charter of incorporation of the Miami Tribe of Oklahoma. Based on information provided by the Bureau of Indian Affairs, CBO estimates that implementing the legislation would have no effect on the federal budget. The tribe has not been operating under the charter for the last several decades. Enacting S. 321 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 321 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 321.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 321 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 321 would make no changes in existing law.