

**RESOLUTION  
R2022-18**

**A RESOLUTION APPROVING A LETTER OF SUPPORT FOR THE  
PRAIRIE BAND POTAWATOMI NATION SHAB-EH-NAY BAND  
RESERVATION SETTLEMENT ACT OF 2021**

Be it resolved by the County Board of the County of DeKalb, Illinois as follows:

WHEREAS, Consistent with the general goals and objectives of the County and the general wellness of County residents, be it resolved by the County of DeKalb:

1. That the County Board approves the attached Exhibit "A", which a letter of support for Shab-eh-nay Band Reservation Act Settlement Legislation as requested by the Prairie Band Potawatomi Nation and its Chairman Joseph Rupnick.

NOW, THEREFORE, BE IT RESOLVED the DeKalb County Board hereby approves and directs the Chairman of the Board to sign the attached Letter of Support for S.3242, the Prairie Band Potawatomi Shab-eh-nay Band Reservation Settlement Act of 2021 to address a variety of issues associated with the Prairie Band Potawatomi Nation's Shab-eh-nay Reservation in DeKalb County, Illinois.

PASSED THIS 16TH DAY OF FEBRUARY 2022 AT SYCAMORE, ILLINOIS

ATTEST:

SIGNED:

\_\_\_\_\_  
Douglas J. Johnson  
DeKalb County Clerk

\_\_\_\_\_  
John Frieders, Chairman  
DeKalb County Board



# DeKalb County Government

Service • Pride • Integrity • Courage

John Frieders, *County Board Chair*  
Suzanne Willis, *County Board Vice-Chair*

February 16, 2022

VIA EMAIL

[Kevin\\_lefeber@durbin.senate.gov](mailto:Kevin_lefeber@durbin.senate.gov)

[Benjamin\\_Rhodeside@duckworth.senate.gov](mailto:Benjamin_Rhodeside@duckworth.senate.gov)

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Hon. Dick Durbin  
United States Senate  
711 Hart Senate Office Building  
Washington, D.C. 20510

Hon. Tammy Duckworth  
United State Senate  
524 Hart Senate Office Building  
Washington, D.C. 20510

Rep. Adam Kinzinger  
U.S. House of Representatives  
2245 Rayburn House Building  
Washington, D.C. 20515

Hon. Lauren Underwood  
U.S. House of Representatives  
1130 Longworth House Office Building  
Washington, D.C. 20515

Re: *Support for the Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act of 2021*

Dear Senators Durbin and Duckworth, and Representatives Kinzinger and Underwood:

Recently, Senator Jerry Moran of Kansas introduced S.3242, the Prairie Band Potawatomi Shab-eh-nay Band Reservation Settlement Act of 2021 to address a variety of issues associated with the Prairie Band Potawatomi Nation's Shab-eh-nay Reservation in DeKalb County, Illinois.

We understand that in 1833, this reservation was reserved for Chief Shab-eh-nay and his descendants under the Treaty of Chicago. In 1849, the United States Government illegally sold the Nation's land to non-Indians who presently continue to occupy most of the Reservation. Twenty years ago, the United State Department of Interior confirmed the Nation's ownership of the land and the Prairie Bank Potawatomi Nation, as the successors to Chief Shab-eh-nay, have been pursuing its return ever since.

We have reviewed this legislation. The Nation seeks a complete solution of all issues relating to the Reservation through Congressional recognition of its land ownership and payment of appropriate compensation for the illegal taking of land by the federal government. Importantly, the proposed legislation would also clear the title of the current reservation landowners which includes individual residents, the County of DeKalb, and the State of Illinois, and insulate them from any liability for the trespass or other damages since 1849.

Because this is a fair and just approach to address several important considerations, I, on behalf of the DeKalb County Board of DeKalb County, Illinois, request that you support the enactment of this proposed legislation.

If you have any questions, please do not hesitate to contact me.

Sincerely,

John Frieders, Chairman  
DeKalb County Board

117TH CONGRESS  
1ST SESSION

# S. 3242

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

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Mr. MORAN introduced the following bill; which was read twice and referred  
to the Committee on Indian Affairs

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## 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 watomi Nation Shab-eh-nay Band Reservation Settlement  
6 Act of 2021”.

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 enactment of this  
3 Act;

4 (4) the Associate Solicitor of the Department of  
5 the Interior issued an opinion on July 24, 2000,  
6 that concluded that—

7 (A) “the Shab-eh-nay Band Reservation  
8 continues to exist”;

9 (B) there is no evidence that Chief Shab-  
10 eh-nay abandoned the Shab-eh-nay Band Res-  
11 ervation; and

12 (C) “even if it were true that Shab-eh-  
13 nay’s Band had abandoned the land, the Band’s  
14 treaty recognized title to that land could not be  
15 extinguished without Congressional action”;

16 (5) the Solicitor of the Department of the Inte-  
17 rior issued an opinion on January 18, 2001, that—

18 (A) confirmed the findings of the Associate  
19 Solicitor of the Department of the Interior  
20 under paragraph (4); and

21 (B) stated that—

22 (i) the Shab-eh-nay Band held recog-  
23 nized title to the Shab-eh-nay Band Res-  
24 ervation;

1           (ii) Congress never authorized the  
2           conveyance of the Shab-eh-nay Band Res-  
3           ervation;

4           (iii) the Tribe is the lawful successor  
5           in interest to Chief Shab-eh-nay and his  
6           Band; and

7           (iv) the Department of the Interior  
8           believes that the United States continues  
9           to bear a trust responsibility to the Tribe  
10          for the Shab-eh-nay Band Reservation;

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

14          (7) the Tribe is the successor in interest to  
15          Chief Shab-eh-nay and his Band and the rightful  
16          owner and occupant of the Shab-eh-nay Band Res-  
17          ervation;

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

23          (9) certain non-Indian individuals, entities, and  
24          local governments occupying land within the bound-  
25          aries of the Shab-eh-nay Band Reservation as of the

1 date of enactment of this Act, including the State  
2 and the County—

3 (A) acquired ownership interests to the  
4 land in good faith; and

5 (B) should be able to possess clear title to  
6 the land; and

7 (10) the United States has a moral and legal  
8 responsibility—

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

11 (B) to ensure protection of the ownership  
12 interests of non-Indian occupants of the Shab-  
13 eh-nay Band Reservation.

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

15 (1) to acknowledge the unlawful sale by the  
16 Federal Government of the valuable right held by  
17 the Tribe to the exclusive use and occupancy of the  
18 Shab-eh-nay Band Reservation;

19 (2) to reaffirm Federal recognition of the own-  
20 ership by the Tribe of, and jurisdiction over, land  
21 that the Tribe owns within the Shab-eh-nay Band  
22 Reservation;

23 (3) to promote the economic self-sufficiency of  
24 the Tribe and the members of the Tribe;

1           (4) to extinguish the Indian title to, and con-  
2 firm the ownership by the State, the County, and  
3 certain individuals and entities of, certain land with-  
4 in the boundaries of the Shab-eh-nay Band Reserva-  
5 tion;

6           (5) to provide stability and security to the State  
7 and residents of the State, the local governments  
8 and the areas over which the local governments exer-  
9 cise jurisdiction, and businesses regarding the own-  
10 ership and use by the Tribe of the Reaffirmed Res-  
11 ervation;

12           (6) to extinguish potential claims by the Tribe  
13 against the United States, the State, the local gov-  
14 ernments, and private individuals and entities that  
15 could be a direct consequence of not reaching a set-  
16 tlement with the Tribe;

17           (7) to require the Secretary to preserve and  
18 protect, but not manage, the Reaffirmed Reservation  
19 in furtherance of trust responsibility of the Federal  
20 Government; and

21           (8) to authorize the Secretary—

22                 (A) to execute the waiver and release of  
23 claims and compensate the Tribe; and

24                 (B) to take any other action necessary to  
25 carry out this Act.



1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

5 (2) LOCAL GOVERNMENT.—The term “local  
6 government” means any unit of local government ex-  
7 ercising authority over land located within the Res-  
8 ervation as of the date of enactment of this Act.

9 (3) REAFFIRMED RESERVATION.—The term  
10 “Reaffirmed Reservation” means—

11 (A) the land recognized as being under the  
12 ownership of the Tribe under section 4(a); and

13 (B) any land located within the Replace-  
14 ment Area that is acquired by the Tribe in re-  
15 stricted fee status after the date of enactment  
16 of this Act.

17 (4) REPLACEMENT AREA.—The term “Replace-  
18 ment Area” means the aboriginal territory of the  
19 Tribe, located near Shabbona, Illinois, which is con-  
20 tained within the area bounded—

21 (A) on the north by Interstate 88;

22 (B) on the west by Interstate 39;

23 (C) on the south by State Route 30 and  
24 Preserve Road; and

25 (D) on the east by South 4th Street and  
26 State Route 23.

1           (5) RESERVATION.—The term “Reservation”  
2 means the 1,280 acres of land in the State located  
3 in sec. 23, the W<sup>1</sup>/<sub>2</sub> of sec. 25, and the E<sup>1</sup>/<sub>2</sub> of sec.  
4 26 in T. 38 N., R. 3 E., Third Principal Meridian.

5           (6) RESTRICTED FEE STATUS.—The term “re-  
6 stricted fee status”, with respect to land, means that  
7 the land—

8           (A) is—

9                   (i) owned in fee by the Tribe by ab-  
10 original title or conveyance;

11                   (ii) held by the Tribe subject to a re-  
12 striction against alienation and taxation,  
13 and therefore may not be sold by the Tribe  
14 without the consent of Congress; and

15                   (iii) expressly subject to the jurisdic-  
16 tion of the Tribe; and

17           (B) is not subject to—

18                   (i) taxation by any State or local gov-  
19 ernment other than the Tribe; or

20                   (ii) any provision of law governing  
21 land use that provides for the review or ap-  
22 proval by the Secretary, directly or  
23 through agreement with another party, be-  
24 fore the Tribe may use the land for any  
25 purpose.

1           (7) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

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

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

8   **SEC. 4. REAFFIRMATION OF SHAB-EH-NAY BAND RESERVA-**  
9   **TION.**

10          (a) REAFFIRMATION OF TITLE.—Title to the 130  
11          acres of the Reservation owned in fee by the Tribe as of  
12          the date of enactment of this Act is recognized as being  
13          under the ownership of the Tribe.

14          (b) RESTRICTED FEE STATUS.—The Reaffirmed  
15          Reservation—

16                 (1) shall be considered to be owned by the  
17                 Tribe in restricted fee status;

18                 (2) is expressly subject to the jurisdiction of the  
19                 Tribe; and

20                 (3) shall not be subject to—

21                         (A) taxation by any State or local govern-  
22                         ment other than the Tribe; or

23                         (B) any provision of law governing land  
24                         use that provides for the review or approval by  
25                         the Secretary, directly or through agreement

1 with another party, before the Tribe may use  
2 the land for any purpose.

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

5 (a) EXTINGUISHMENT OF INDIAN TITLE.—Title held  
6 by the Tribe to the Reservation (other than the Re-  
7 affirmed Reservation) as of the date of enactment of this  
8 Act is extinguished.

9 (b) CONFIRMATION OF LAND OWNERSHIP.—Each  
10 title to land and right-of-way within the Reservation held  
11 by the State, the local governments, or any individual or  
12 entity as of November 5, 1849, is recognized and con-  
13 firmed.

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

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

20 (1) the United States for a breach of trust re-  
21 sponsibility associated with any sale of any portion  
22 of the Reservation; and

23 (2) the State, the local governments, and any  
24 individuals or entities occupying the Reservation for  
25 any trespass and related damages in connection with

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

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

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

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

14 **SEC. 7. SETTLEMENT FUNDS.**

15 (a) INITIAL PAYMENT.—Not later than 30 days after  
16 the date of enactment of this Act, the Secretary shall pay  
17 to the Tribe \$10,000,000 in partial settlement of the  
18 claims of the Tribe, to be managed, invested, and used  
19 by the Tribe to promote economic development and land  
20 acquisition, as determined by the Tribe in accordance with  
21 the constitution and laws of the Tribe.

22 (b) SUBSEQUENT PAYMENTS.—

23 (1) ASSESSMENT.—

24 (A) IN GENERAL.—Not later than 180  
25 days after the date of enactment of this Act,

1 the Secretary, in consultation with the Tribe,  
2 shall calculate an assessment of the total dam-  
3 ages to the Tribe associated with the liability of  
4 the United States for the illegal sale of the Res-  
5 ervation, including the current land value of all  
6 land located within the Reservation.

7 (B) REPORT.—The Secretary shall submit  
8 to the Committees on Appropriations and In-  
9 dian Affairs of the Senate and the Committees  
10 on Appropriations and Natural Resources of the  
11 House of Representatives a report describing  
12 the assessment calculated under subparagraph  
13 (A).

14 (2) FINAL SETTLEMENT AGREEMENT.—The  
15 Secretary and the Tribe shall negotiate and execute  
16 a final settlement agreement in lieu of litigation to  
17 resolve the claims of the Tribe, in a form and man-  
18 ner acceptable to the Attorney General, which shall  
19 include terms for the payment of the remaining set-  
20 tlement funds to the Tribe, as calculated under  
21 paragraph (1)(A).

22 (3) REQUIREMENT.—The Secretary shall pay to  
23 the Tribe  $\frac{1}{3}$  of the remaining settlement funds, as  
24 described in the final settlement agreement executed  
25 under paragraph (2), on each of—

1 (A) the date that is 3 years after the date  
2 of enactment of this Act;

3 (B) the date that is 6 years after that date  
4 of enactment; and

5 (C) the date that is 9 years after that date  
6 of enactment.

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

10 (a) LAND ACQUISITION.—

11 (1) IN GENERAL.—Subject to paragraph (2),  
12 after the date of enactment of this Act, the Tribe  
13 may acquire from a willing seller in restricted fee  
14 status not more than a total of 1,151 acres of land  
15 within the Reservation or the Replacement Area  
16 using the settlement funds received by the Tribe  
17 under section 7 or other funds of the Tribe.

18 (2) NOTICE.—

19 (A) IN GENERAL.—Before acquiring land  
20 under paragraph (1), the Tribe shall give notice  
21 to the Secretary.

22 (B) DEADLINE.—On the date that is 60  
23 days after receipt of the notice under subpara-  
24 graph (A), the land shall automatically—

- 1 (i) convert to ownership by the Tribe  
2 in restricted fee status; and  
3 (ii) be considered to be part of the Re-  
4 affirmed Reservation.

5 (b) RECOGNITION OF TRIBAL GOVERNMENT AU-  
6 THORITY TO ENTER INTO AGREEMENTS WITH STATE  
7 AND LOCAL GOVERNMENTS.—The Tribe shall have the  
8 authority to enter into agreements with the State and any  
9 local government regarding the Reaffirmed Reservation  
10 and activities occurring on the Reaffirmed Reservation, in-  
11 cluding agreements relating to jurisdiction, land use, and  
12 services.

13 (c) NO USE OF CONDEMNATION OR EMINENT DO-  
14 MAIN.—Land or interests in land—

15 (1) may not be acquired by condemnation or  
16 eminent domain under this Act; but

17 (2) shall be acquired by purchase by payment  
18 of fair market value.

19 (d) CULTURAL AND HISTORIC PRESERVATION OF  
20 RESERVATION.—Land owned by the State and the local  
21 governments located within the boundaries of the Reserva-  
22 tion shall be managed to protect any human or cultural  
23 remains, consistent with applicable Federal and State law  
24 and subject to consultation with the Tribe.



1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2       There is authorized to be appropriated to carry out  
3 this Act \$10,000,000.

○