

Testimony of Robert L. Larsen, President Lower Sioux Indian Community in the State of Minnesota

Thank you, Chairman Schatz, Vice Chair Murkowski, members of the Committee – My name is Robert “Deuce” Larsen, and I have the privilege of serving as President of the Lower Sioux Indian Community in the State of Minnesota.

I want to thank the Committee for the opportunity to present testimony in support of Senate Bill 2868 - to accept the request to revoke the charter of incorporation of the Lower Sioux Indian Community in the State of Minnesota.

The Lower Sioux Indian Community in the State of Minnesota (the Community) has requested assistance in revoking its antiquated federal Corporate Charter pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (“IRA”). These charters were issued over 80 years ago to tribes organized under the IRA. Nearly uniformly, tribes have not operated under these charters because they are cumbersome and ineffective for dealing with Tribal resources, and many tribes have seen their charters revoked by simple legislative action by Congress as required by the charters themselves.

One of the purported purposes of the IRA was to provide a means by which tribes could function in mainstream business. Section 17 of the IRA established federal corporate charters as a means for tribes to facilitate business transactions. A Section 17 corporation provides the framework by which a tribe can segregate tribal business assets and liabilities from the assets and liability of tribal governmental assets.

A vast majority of federal charters went unused or were quickly abandoned due to the charters’ restrictive requirements for Secretary of the Interior approval, unrealistic temporal and financial limitations, and failures to update the charters’ provisions. Instead, tribes often chose to operate their enterprises through their authority as sovereign government entities—rather than engage their federal corporate charters.

A number of tribes of have requested and gained Congressional repeal of their individual federal corporate charters. By their own terms, most federal corporate charters restrict the revocation or surrender of the charter by requiring “an act of Congress.”¹

In 1996, Congress accepted the Minnesota Chippewa Tribe’s surrender of their “Corporate Charter of the Minnesota Chippewa of the Consolidated Chippewa Agency.”²

¹ See U.S. Dep’t of Interior, Corporate Charter of the Lower Sioux Indian Community in Minnesota (July 17, 1937) at § 10; Dep’t of Interior, Corporate Charter of the Minnesota Chippewa Tribe of the Consolidated Chippewa Agency (Nov. 13, 1937) at § 10; U.S. Dep’t of Interior, Corporate Charter of the Stockbridge Munsee Community of Wisconsin (May 21, 1938) at § 10, U.S. Dep’t of Interior, Corporate Charter of the Miami Tribe of Oklahoma (June 1, 1940) at § 8.

² Technical Corrections to Laws Relating to Native Americans, Pub. L. No. 104-109, 110 Stat. 763 (1996).

Later that same year, the Prairie Island Indian Community (“Prairie Island”) made a similar request of Congress.³ Considering a bill sponsored by Congressman Gil Gutknecht (R-MN), the House Committee on Resources (“Committee”) noted that Prairie Island considered the federal Corporate Charter to be “outdated, ineffective and cumbersome,” and the tribe did not engage the corporate authority, operating its businesses enterprises pursuant to its tribal constitutional authority instead.⁴ The Committee further noted that “revocation of charters of incorporation issued to tribes is a common practice by Congress.”⁵ The House passed the bill and, in the Senate, Senator John McCain (R-AZ) spoke in favor of revoking the Prairie Island Corporate Charter due to its ineffectiveness, pointing out that a number of the Prairie Island charter’s provisions were “particularly paternalistic and inappropriate for effective management of tribal resources.”⁶ On October 9, 1996, P.L. 104-261 officially revoked Prairie Island’s federal Corporate Charter.⁷

In 2000, the Stockbridge Munsee Community of Mohican Indians (“Stockbridge Munsee Community”) also pursued Congressional action in order to repeal the tribe’s federal Corporate Charter.⁸ The Stockbridge Munsee Community requested that Congress revoke its federal Corporate Charter because it was “outdated” and “never used.”⁹ In the House, Mr. James Hanson (R-Utah) pointed to the charter’s “unrealistic” limitations on the tribe’s corporate powers and urged that the Corporate Charter be revoked in order to facilitate the tribe’s economic development. On June 20, 2000, Congress passed P.L. 106-216, accepting the Stockbridge Munsee Community’s surrender of its charter of incorporation.¹⁰

In 2014, the Miami Tribe of Oklahoma requested Congressional revocation of their Corporate Charter.¹¹ The Miami Tribe noted that their charter was “archaic,” “unnecessary,” and “a relic of a bygone, more paternalistic time in federal Indian policy.”¹² Representative Markwayne Mullin (R-OK), speaking in support of the Tribe’s request at the House of Representatives, noted that the Miami Tribe created “not just jobs at a casino, but manufacturing jobs, jobs that help our national defense. Yet they are hindered constantly by the effect that they can’t simply do the work without asking Congress’ permission”¹³ Congress passed P.L. 114-28 on July 6, 2015, accepting surrender of and revoking the Miami Tribe’s charter.¹⁴

The Community’s Corporate Charter is comparable to the charters issued to the Minnesota Chippewa Tribe, Prairie Island Indian Community, the Stockbridge Munsee Community, and the Miami Tribe of Oklahoma. The charter’s language provides similar corporate powers to the

³ See H.R. REP. No. 104-584 (1996).

⁴ 142 CONG. REC. H5388-04 (May 22, 1996).

⁵ *Id.* (referring to Public Law 104-109, wherein Congress approved the Minnesota Chippewa Tribe’s request for revocation).

⁶ 142 CONG. REC. S11-53-01 (Sept. 19, 1996).

⁷ Pub. L. No. 104-261, 110 Stat. 3176 (1996).

⁸ See U.S. Dep’t of Interior, Corporate Charter of the Stockbridge Munsee Community of Wisconsin (May 21, 1938).

⁹ 145 CONG. REC. H12131-01 (Nov. 17, 1999).

¹⁰ Pub. L. No. 106-216, 114 Stat. 343 (2000).

¹¹ See U.S. Dep’t of Interior, Corporate Charter of the Miami Tribe of Oklahoma (June 1, 1940).

¹² Testimony of Douglas G. Lankford before the House Natural Resources Committee Subcommittee on Indian and Alaska Native Affairs (March 27, 2014).

¹³ 161 CONG. REC. H3588 (June 1, 2015).

¹⁴ Pub. L. No. 114-28, 129 Stat. 420 (2015).

Community. For example, the Community's charter provides that the corporation may borrow money, but not in excess of \$1000 without express approval by the Secretary of the Interior.¹⁵ The Community's charter limits the corporate entity to the assignment of future corporate income to a period of three years, limits lease terms to 10 years, and prohibits any sale of land held by the corporation. Also, the corporation's powers are heavily limited by Secretarial approval requirements.

The Community has full constitutional authority to manage the business affairs of the Community and to adopt tribal law governing the organization and operation of corporate entities, and it has done so. It can further organize corporate entities under Community law, which would be better equipped to fulfill the goals of the Community and to keep up with changes in the marketplace and at the pace of business.

It is for these reasons that I ask for support of Senate Bill 2868. Pidamaya-do.

¹⁵ *Id.* at § 5(d). Comparatively, the Minnesota Chippewa Tribe and Stockbridge Munsee charters each authorized independent borrowing up to \$5,000, and the Prairie Island charter authorized up to \$1000. The Miami Tribe of Oklahoma's Charter authorized borrowing up to \$150.