

Calendar No. 685

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 115-396

TO PROVIDE FOR THE TRANSFER OF CERTAIN FEDERAL LAND IN THE STATE OF MINNESOTA FOR THE BEN- EFIT OF THE LEECH LAKE BAND OF OJIBWE

NOVEMBER 28, 2018.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 2599]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 2599) to provide for the transfer of certain Federal land in the State of Minnesota for the benefit of the Leech Lake Band of Ojibwe, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

PURPOSE

The bill, S. 2599, intends to transfer 11,760 acres of federal land from the U.S. Department of Agriculture (USDA) to the U.S. Department of the Interior (DOI) for the benefit of the Leech Lake Band of Ojibwe Indian tribe (Tribe or Tribal).

BACKGROUND

The bill, S. 2599, would restore Tribal land that was lost during the termination era when many of its members were illegally dispossessed of their land via “secretarial transfers,” a transaction where the DOI approved the sale or transfer of tribal land and/or individually owned Indian allotments without the consent of the tribe or the individual Indian allottees. The Tribe maintains that this practice by the DOI resulted in the Tribe having an insufficient land base to meet the current needs of its membership.¹ The Tribe is seeking the return of the described land in S. 2599 to help restore its land base, to protect tribal sacred sites, and to build

¹The Tribe has the largest population out of the State of Minnesota tribes (about 10,660 as of the 2010 census), the Tribe has the smallest amount of land available for its use, as much of its reservation is submerged under the area’s lakes.

housing on some of the tracts of land near the Tribe's existing communities.

SUMMARY OF THE BILL AND NEED FOR LEGISLATION

The federally recognized Tribe has a membership of approximately 10,660 members and its reservation is located within the National Chippewa Forest in Cass County, Minnesota. The Tribe is part of the greater Minnesota Chippewa tribes, which is comprised of the Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth.

Under the provisions of S. 2599, approximately 11,760 acres of federal land, located in Cass County, Minnesota would be transferred from the USDA to the DOI. The federal land described in S. 2599 is located within the Chippewa National Forest and contains utility easements, rights-of-way for roads, and flowage and reservoir rights. No cabins, campgrounds, lodges, or resorts are located on the land.

The land described in S. 2599 will be considered a part of the Tribe's reservation. Following a survey, mapping, and legal description of the land by the Secretary of the USDA, the land shall be transferred to the Secretary of the DOI, including all right, title, and interest of the federal land described in the bill.

The Tribe intends to respect all existing easements, rights-of-way and other encumbrances on the land and does not intend to immediately modify the current land uses. The federal land will stay in tax-exempt fee status as part of the Chippewa National Forest until the Tribe develops a plan to allow for economic and residential use.

LEGISLATIVE HISTORY

On March 22, 2018, Senator Smith introduced the Leech Lake Band of Ojibwe Reservation Restoration Act. The bill, S. 2599, was referred to the Committee on Indian Affairs of the Senate on the same day.

On July 11, 2018, the Committee held a legislative hearing on S. 2599. At this hearing, Ms. Leslie Weldon, Deputy Chief for National Forest System, Forest Service, USDA, and the Honorable Faron Jackson, Sr., Chairman, Leech Lake Band of Ojibwe, both positively testified regarding the legislation. On September 17, 2018, Senator Klobuchar was added as a cosponsor.

On September 26, 2018, the Committee held a duly called business meeting to consider S. 2599. Senator Smith filed a timely amendment in the nature of a substitute, which addresses comments provided by the Forest Service of the USDA. The Committee passed S. 2599 by voice vote and ordered the bill, as amended, to be favorably reported.

A House companion bill, H.R. 5529, was introduced by Representative Nolan on April 17, 2018. On April 20, 2018, the bill, H.R. 5529, was referred to the Committee on Natural Resources of the House of Representatives, Subcommittees on Indian, Insular, and Alaska Native Affairs, and on Federal Lands. On July 26, 2018, Representative McCollum was added as a cosponsor. No further action has been taken on H.R. 5529.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the bill as the “Leech Lake Band of Ojibwe Reservation Restoration Act”.

Sec. 2. Leech Lake Band of Ojibwe Reservation Restoration

This section:

- Provides the Congressional Findings and Definitions used in the bill.

- Requires that the federal land transferred between the Department of Agriculture and the Department of the Interior for the benefit of the Leech Lake Band of Ojibwe be held in trust by the United States and considered to be part of the Tribe’s reservation.

- Directs the Secretary of Agriculture to complete, within 180 days after date of enactment of this Act, a plan of survey to establish boundaries of the land; and submit a map and legal description of the land to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, and be made available to the public. The map and legal description of the land may be updated for any clerical or typographical errors, by the Secretary of Agriculture.

- Provides that nothing in this section affects any right or claim of the tribe, unless expressly provided in this section, in existence on the date of enactment of this Act, to any land or interest in land.

- Applies federal law, including regulations relating to the export of unprocessed logs harvested from federal land, to any unprocessed logs that are harvested from the federal land.

- Prohibits that the federal land transferred in this Act from being eligible or used for any gaming activity carried out under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated November 7, 2018, was prepared for S. 2599:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 7, 2018.

Hon. JOHN HOEVEN,
*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. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 2599—Leech Lake Band of Ojibwe Reservation Restoration Act

S. 2599 would take into trust for the benefit of the Leech Lake Band of Ojibwe Indians approximately 12,000 acres of land in the Chippewa National Forest currently administered by the Forest Service. The bill would prohibit certain types of gaming on the land and require that commercial forestry on the land be managed in accordance with federal law. Using information from the Forest Service, CBO estimates that taking the land into trust would cost less than \$500,000. Any such spending would be subject to the availability of appropriated funds.

The land that would be taken into trust generates offsetting receipts, which are treated as reductions in direct spending, from the sale of timber, and minerals and from other special uses. A portion of those receipts can be spent without further appropriation. Using information from the Forest Service, CBO estimates enacting S. 2599 would reduce offsetting receipts from those collections by about \$1 million over the 2019–2028 period.

Because enacting S. 2599 would affect direct spending, pay-as-you-go procedures apply. However, because under current law, some receipts would be spent, CBO estimates that enacting S. 2599 would have no significant net effect on direct spending in any year or over the 2019–2028 period. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 2599 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2599 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Robert Reese. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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 S. 2599 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 2599.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite business of the Senate.