

Calendar No. 399

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 116-190

TO EXTEND THE FEDERAL RECOGNITION TO THE LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA, AND FOR OTHER PURPOSES

JANUARY 6, 2020.—Ordered to be printed

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

R E P O R T

[To accompany S. 51]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 51) to extend the Federal recognition to the Little Shell Tribe of Chippewa Indians of Montana, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purposes of S. 51 are (1) to extend Federal recognition to the Little Shell Tribe of Chippewa Indians of Montana (Little Shell), making its members eligible for all services and benefits provided by the United States to other Federally recognized Indian tribes; and (2) to effect the transfer of 200 acres of land, which the Secretary of the Interior (Secretary) shall acquire and place in trust for the benefit of the Little Shell.

BACKGROUND

Federal Recognition of Indian Tribes

The act of federally recognizing an Indian tribe is highly significant. It is an affirmation by the United States of the existence of a formal government-to-government relationship between the United States and the tribe. As part of this relationship, a tribe and its members become eligible for Federal programs and benefits. The tribal government serves as the primary governing body of the community responsible for carrying out that relationship.

Before Congress ended the practice of treaty-making with Indian tribes in 1871, treaties were the usual manner of recognizing a gov-

ernment-to-government relationship between the United States and an Indian tribe. Since the conclusion of this practice, the United States has recognized Indian tribes by legislation, executive orders, and administrative decisions. Additionally, Federal courts may clarify the status of an Indian group.

In order to provide a uniform and consistent process by which an Indian tribe may be federally recognized, the Department of the Interior (Department) developed an administrative process in 1978 to allow Indian groups to petition for formal acknowledgment of a government-to-government relationship with the United States. Standards and procedures for this process were set forth in Part 83 of Title 25 of the Code of Federal Regulations (Part 83 or the Federal acknowledgement process). These regulations, as amended in 1994, required a petitioner to satisfy seven mandatory requirements, including:

(1) The petitioner “has been identified as an American Indian entity on a substantially continuous basis since 1900”;

(2) A predominant portion of the petitioning “group comprises a distinct community and has existed as a community from historical times until the present”;

(3) The petitioner has “maintained political influence or authority over its members as an autonomous entity from historical times to the present”;

(4) The group must “provide a copy of its present governing documents and membership criteria”;

(5) The petitioner’s “membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity”;

(6) The “membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe” and do not maintain a bilateral political relationship with the acknowledge tribe; and

(7) “Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.”¹

Tribes may also seek federal recognition through an act of Congress. Since 1970, Congress has passed legislation to federally recognize or reaffirm 25 Indian tribes.² Most recently, six tribes were federally recognized when President Donald J. Trump signed H.R.984—*Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017* into law on January 29, 2018.³

¹59 Fed. Reg. 94–3934. (February 25, 1994) (to be codified at 25 C.F.R. pt. 83).

²Tonto Apache Tribe of Arizona, Pub. L. 92–470 (1972); Modoc Tribe of Oklahoma, Pub. L. 95–281 (1978); Pasqua Yaqui Tribe of Arizona, Pub. L. 95–375 (1978); Houlton Band of Maliseet Indians of Maine, Pub. L. 96–420 (1980); Cow Creek Band of Umpqua Indians of Oregon, Pub. L. 97–391; Kickapoo Traditional Tribe of Texas, Pub. L. 97–429 (1983); Mashantucket Pequot Tribe of Connecticut, Pub. L. 98–134 (1983); Ysleta Del Sur Pueblo of Texas, Pub. L. 100–89 (1987); Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan, Pub. L. 100–420 (1988); Coquille Tribe of Oregon, Pub. L. No. 101–42 (1989); Aroostook Band of Micmac Indians of Maine, Pub. L. No. 102–171 (1991); Pokagon Band of Potawatomi Indians of Michigan, Pub. L. No. 103–323 (1994); Little River Band of Ottawa Indians of Michigan, Pub. L. No. 103–324 (1994); Little Traverse Band of Odawa Indians of Michigan, Pub. L. No. 103–324 (1994); Central Council of the Tlingit & Haida Indian Tribes of Alaska, Pub. L. No. 103–454 (1994); Graton Rancheria of California, Pub. L. No. 106–568 (2000); and Loyal Shawnee Tribe of Oklahoma, Pub. L. No. 106–568 (2000); Chickahominy Indian Tribe, Chickahominy Indian Tribe—Eastern Division, Upper Mattaponi Tribe, Rappahannock Tribe, Inc., Monacan Indian Nation, and the Nansemond Indian Tribe Pub. L. No. 115–121 (2018).

³Pub. L. No. 115–121 (2018).

History of changes made to the Department's Part 83 regulations

The Federal acknowledgement process has been criticized as “broken” for decades.⁴ Nonetheless, until the Department reformed Part 83 in 2015 (discussed below), there have been only a handful of changes made to the Federal acknowledgement process since its inception.⁵

Complaints about the Department's Federal acknowledgement process have centered primarily on the high cost of gathering documentary evidence to meet the seven mandatory criteria, the length of time it takes the Department to review a petition, and the Department's inconsistent application of the listed criteria.⁶ Of the 573 federally recognized tribes, only 18 have used the Part 83 administrative process to gain recognition.

To date, the Department has issued 51 decisions under the Part 83 process, including two decisions issued after new Part 83 regulations were published in July 2015.⁷

Recent developments

On June 21, 2013, the Assistant Secretary—Indian Affairs (AS-IA) released a Discussion Draft proposing changes to Part 83. The related comment period closed on September 30, 2013. On May 29, 2014, the AS-IA published a Proposed Rule in the Federal Register. The Department received substantial input from tribes, state and local governments, and the public during the associated comment period, which closed on September 30, 2014.⁸

Ultimately, the Department published a Final Rule on July 1, 2015, which took effect on July 31, 2015.⁹ AS-IA Washburn also issued a policy statement indicating that the Department will rely on the new Part 83 process as the “sole administrative avenue” for Federal acknowledgement for tribes.¹⁰

According to the Department, the Final Rule preserves the existing standard of proof and seven mandatory criteria to “maintain the substantive rigor and integrity of the [Part 83] process.”¹¹ In order to promote timeliness and efficiency, the Final Rule provides for a two-phased review of petitions that establishes certain threshold criteria and may result in the earlier issuance of final decisions, as well as a uniform evaluation period (1900 to present) to satisfy the tribal identification, community and political authority criteria.¹² The Final Rule is intended to promote efficiency by pro-

⁴ 80 Fed. Reg. 37861, 37862 (July 1, 2015) (to be codified at 25 C.F.R. pt. 83).

⁵ Examples of changes made to the process prior to 2015 include regulations clarifying the evidence needed to support a recognition petition, 59 Fed. Reg. 94–3934 (February 25, 1994) (to be codified at 25 C.F.R. pt. 83); a notice regarding internal BIA processing of federal acknowledgement petitions, 65 Fed. Reg. 7052–53 (February 11, 2000) (to be codified at 25 C.F.R. pt. 83); and a notice providing guidance and direction to streamline the process, 73 Fed. Reg. 30146 (May 23, 2008) (to be codified at 25 C.F.R. pt. 83).

⁶ 80 Fed. Reg. 37861 (July 1, 2015) (to be codified at 25 C.F.R. pt. 83).

⁷ See 80 Fed. Reg. 39144 (July 8, 2015) (final determination recognizing the Pamunkey Indian Tribe); Fed. Reg. 61023 (December 26, 2017) (final negative determination for the Georgia Tribe of Eastern Cherokees, Inc.).

⁸ See U.S. Department of the Interior, News Release, *Department of the Interior Announces Final Federal Recognition Process to Acknowledge Indian Tribes* (June 29, 2015) (stating that more than 2,800 commenters provided input on the Discussion Draft, and that there were over 330 unique comments on the Proposed Rule). The Department also received feedback from tribes during consultations and public meetings. *Id.*

⁹ 80 Fed. Reg. 37861 (July 1, 2015) (to be codified at 25 C.F.R. pt. 83).

¹⁰ 80 Fed. Reg. 37538–37539 (July 1, 2015) (to be codified at 25 C.F.R. pt. 83).

¹¹ 80 Fed. Reg. 37861 (July 1, 2015) (to be codified at 25 C.F.R. pt. 83).

¹² *Id.*

viding for limited reconsideration of final agency determinations.¹³ The Department states that the Final Rule promotes fairness and consistency by providing that prior decisions finding evidence or methodology sufficient to satisfy any particular criterion will also be sufficient for a petitioner under the new Part 83 process.¹⁴ It also states that the Final Rule promotes transparency by providing for increased public access to petitions for Federal acknowledgment and associated public materials and, in the case of a negative proposed finding, providing petitioners the opportunity for a hearing.¹⁵

Indian tribes that applied for Federal acknowledgment prior to publication of the 2015 Final Rule may choose to have the Department evaluate their application under the previous application process or the new application process.¹⁶

Since the Final Rule was published, one Indian tribe has been federally recognized.¹⁷

Most recently, the Administration's position with regard to legislative recognition of a tribe was provided during a legislative hearing before the Committee on Natural Resources in the House of Representatives. The testimony states that affirmative Congressional recognition can more directly align with the formal recognition of tribes and the assignment of rights afforded to federally recognized tribes.¹⁸

History of Little Shell

According to the BIA Office of Federal Acknowledgment, the Little Shell Tribe satisfies criteria five of the "Part 83" administrative recognition process because of historical ties to the Pembina Band of Chippewa Indians.¹⁹ The Pembina Band was party to the Chippewa—Red Lake and Pembina Bands' 1863 treaty with the United States that was ratified by the Senate.²⁰ Some of the members of the Pembina Band settled on reservations in Minnesota, but the ancestors of the Little Shell Tribe moved westward to follow the buffalo herds into western North Dakota and Montana. By the late 1800s, these Pembina Band members settled in Montana and in the Turtle Mountains of North Dakota.²¹

The Little Shell Band has had numerous dealings with the United States. In 1892, a United States Commission was formed to negotiate cession of land from the Turtle Mountain Chippewa and provide for their removal. Chief Little Shell and his followers refused to accept the terms of the agreement and walked out on the negotiations. He was followed by a group of supporters who would become known as the "Little Shell Band."²²

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The Department of the Interior issued a final determination recognizing the Pamunkey Indian Tribe on July 2, 2015. See 80 Fed. Reg. 39144 (July 8, 2015).

¹⁸ *Tribal Recognition Act of 2017: Hearing on H.R. 3744 Before the H. Comm. on Nat. Res.* 115th Cong. 2, (2017) (Statement of John Tahsuda, Principal Deputy Assistant Secretary—Indian Affairs, US Department of the Interior).

¹⁹ 74 Fed. Reg. 56866 (Nov. 3, 2009)

²⁰ Treaty with the Chippewa—Red Lake and Pembina Bands, U.S.-Chippewa—Red Lake and Pembina Bands, October 2, 1863, 13 Stat. 667.

²¹ *Fixing the Federal Acknowledgment Process: Hearing Before the S. Comm. on Indian Affairs*, 111th Cong. 2, 2–3 (2009) (written testimony of John Sinclair, President of the Little Shell Tribe of Chippewa Indians of Montana).

²² *Id.*

Chief Little Shell and the Little Shell Band’s refusal to cede additional lands to the United States left them without a reservation.²³ Congress appropriated funds in 1908, and from 1914 through 1925, to establish a land base for the “homeless Indians in the State of Montana.”²⁴

In 1935, following the enactment of the Indian Reorganization Act (IRA),²⁵ the BIA attempted to help the Little Shell organize under that act. The Little Shell was ultimately unable to formally organize under the IRA because they lacked a land base.²⁶

The Little Shell continued its effort to obtain Federal recognition through the Department’s Federal acknowledgment process. In 1978, the year this process was created, Little Shell filed a letter of intent to petition for Federal acknowledgment. Little Shell spent approximately 14 years documenting their petition for acknowledgment, and ultimately submitted a petition in 1992.²⁷

In 1995, the BIA declared the Little Shell’s petition was complete.²⁸ In 2000, the BIA issued a positive proposed finding on the petition, stating that Little Shell had met all seven mandatory criteria for Federal acknowledgment.²⁹ However, the BIA Office of Federal Acknowledgement requested additional information from the Tribe. In response, Little Shell provided nearly 10,000 pages of additional material to the 60,000 page record. Additionally, the BIA received two comments on the positive proposed finding during the comment period.³⁰ The Department determined the comments to be immaterial or unsupported.³¹

In 2009, the Department issued a negative “final determination” against federal acknowledgment of Little Shell.³² The Department concluded that Little Shell met four of the seven mandatory criteria for federal acknowledgment, including descent from a historic tribe.³³ However, the Department found insufficient evidence to satisfy the remaining criteria,³⁴ so it recommended against recognition. Little Shell appealed the negative final determination to

²³*Id.*

²⁴*Little Shell Tribe of Chippewa Indians Restoration Act of 2007: Hearing on S. 724 Before the S. Comm. on Indian Affairs*, 110th Cong. 2, 13 (2008) (statement of the Hon. John Sinclair, Little Shell Tribe of Chippewa Indians of Montana, President); 41 Stat. 1225 (March 3, 1925).

²⁵Indian Reorganization Act, 25 U.S.C. §§ 5101–5144 (2017).

²⁶*See* Little Shell Tribe of Chippewa Indians Restoration Act of 2011, S. 546, 112th Cong. § 2 (7) (2011).

²⁷*Id.*

²⁸*Little Shell Tribe of Chippewa Indians Restoration Act of 2013: Hearing on S. 161 Before the S. Comm. on Indian Affairs*, 113th Cong. 1, 4 (2013) (written testimony of the Assistant Secretary for Indian Affairs, U.S. Department of the Interior).

²⁹65 Fed. Reg. 45394 (July 21, 2000).

³⁰Under the current Part 83 regulations, when a petitioner receives a proposed positive finding and no negative comments are received, the BIA will “automatically issue a determination acknowledging the petitioner as a federally recognized Indian tribe.” 25 C.F.R. § 83.36(a). In fact, then Assistant Secretary—Indian Affairs testified before the House Natural Resources Committee that this provision was added because of the Little Shell Tribe’s treatment under the previous Part 83 regulations. *Little Shell Tribe of Chippewa Indians Restoration Act of 2015: Hearing on H.R. 286 Before the H. Comm. on Nat. Res.* 114th Cong. 1, (2015) (Assistant Secretary Washburn’s response to question put forth by Representative Ryan Zinke (MT)).

³¹*Summary under the Criteria and Evidence for Final Determination against the Federal Acknowledgment of the Little Shell Tribe of Chippewa Indians of Montana*, Interior Dec. 15–16 (2009).

³²74 Fed. Reg. 56861 (November 3, 2009); *Little Shell Band of Chippewa Indians Restoration Act of 2011: Hearing on S. 546 Before the S. Comm. on Indian Affairs*, 112th Cong. 1, 30 (2011) (statement of Hon. John Sinclair, Little Shell Tribe of Chippewa Indians of Montana, President).

³³*Little Shell Tribe of Chippewa Indians Restoration Act of 2013: Hearing on S. 161 Before the S. Comm. on Indian Affairs*, 113th Cong. 1, 20 (2013) (statement of the Assistant Secretary for Indian Affairs, U.S. Department of the Interior).

³⁴25 C.F.R. 83.7 (a) (external identification), (b) (community), (c) political authority. *See* 57 IBIA 101, 108–109 (2013).

the Interior Board of Indian Appeals (“IBIA”), which in turn referred several issues to the Secretary of Interior.³⁵ The Department’s negative “final determination” was stayed on appeal.

In 2013, the Secretary of the Interior referred the petition to the AS–IA for reconsideration. The AS–IA placed Little Shell’s petition on hold pending the development of new recognition regulations that became final in 2015. The Little Shell elected to proceed under the 2015 federal acknowledgement regulations, but it has not yet resubmitted its petition.³⁶

LEGISLATIVE HISTORY

On January 8, 2019, Senator Tester introduced S. 51 to federally recognize the Little Shell Tribe. Senator Steve Daines joined him as an original co-sponsor. The Senate referred the bill to the Committee on Indian Affairs, which considered the bill at a duly called business meeting held on January 29, 2019. During this business meeting, the Committee ordered the bill favorably reported, without amendment, to the full Senate by voice vote.

Also on January 8, 2019, Representative Greg Gianforte introduced a companion bill in the House of Representatives, H.R. 297. The House of Representatives referred the bill to the Committee on Natural Resources the same day. On March 26, 2019 after Natural Resource Committee Chairman Raúl Grijalva moved to suspend the rules and pass the bill, the House of Representatives voted in support of suspending the rules and passing the bill.

Members of the Montana Congressional Delegation have introduced legislation to recognize the Little Shell Tribe for the previous seven Congresses.

House actions

Rep. Dennis Rehberg, introduced the first bill (H.R. 5804) to recognize the Little Shell on July 13, 2006 during the 109th Congress.³⁷ He went on to introduce companion legislation in the 110th Congress (H.R. 1301) and the 111th Congress (H.R. 3120). No House companion was introduced in the 112th Congress. However, Representatives Steve Daines, Ryan Zinke, and Greg Gianforte each respectively introduced companion bills in the 113th Congress (H.R. 2991), 114th Congress (H.R. 286), and 115th Congress (H.R. 3764).

The House Committee on Natural Resources took no action on the bill in the 110th and 113th Congresses but held a hearing on the bill in both the 111th and 114th Congresses.³⁸ In the 115th Congress, the Committee on Natural Resources reported the bill, with an amendment, on September 10, 2018. The House of Representatives then passed the bill under suspension of the rules on September 12, 2018.

³⁵ *Id.*

³⁶ *Petitioner #031: Little Shell Tribe of Chippewa Indians of MT*, <https://www.bia.gov/as-ia/ofa/031-1t1shl-mt> (last visited Mar. 20, 2019).

³⁷ See H.R. 5804—Little Shell Tribe of Chippewa Indians Restoration Act of 2006.

³⁸ *Legislative Hearing on H.R. 2678, H.R. 1358, H.R. 3084, and H.R. 3120 Before the H. Comm. on Nat. Res.* 111th Cong. (2009); *Hearing on H.R. 872 and H.R. 286 Before the H. Subcomm. on Indian, Insular, and Alaska Native Affairs, H. Comm. on Nat. Res.* 114th Cong. (2015).

Senate actions

Both members of the Montana Senate delegation introduced legislation to federally recognize Little Shell in the 110th Congress (S. 724), the 111th Congress (S. 1936), the 112th Congress (S. 546), the 113th Congress (S. 161), the 114th Congress (S. 35), and the 115th Congress (S. 39). During the 110th Congress, and again in the 112th and 113th Congresses,^{39 40 41} the Committee on Indian Affairs held hearings on the legislation. At that time, Little Shell’s petition for administrative recognition was in active consideration. More recently, former Assistant Secretary—Indian Affairs Washburn testified that the Department does not oppose legislation to recognize the Little Shell.⁴²

The Committee on Indian Affairs ordered the bill reported favorably by voice vote in the 112th, 113th, 114th, and 115th Congresses. The Senate took no further actions on the bill once the Committee reported the bill.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section states that the short title of the bill is the “Little Shell Tribe of Chippewa Indians Restoration Act of 2019”.

Section 2—Findings

This section lists Congressional findings.

Section 3—Definitions

This section defines terms used throughout the Act.

Section 4—Federal recognition

This section formally extends Federal recognition to Little Shell, making all Federal laws and regulations of general applicability to Indians and Indian tribes, including the IRA, applicable to Little Shell and its members.

Section 5—Federal services and benefits

This section states that, beginning on the date of enactment of this Act, the Little Shell and each member shall be eligible for all services and benefits provided by the United States to Indians and federally recognized Indian tribes, without regard to either the existence of a reservation for the tribe or the location of the residence of any member on or near an Indian reservation. This section also establishes Little Shell’s service area for service delivery and benefits purposes as Blaine, Cascade, Glacier, and Hill Counties in the State of Montana.

³⁹Hearing on H.R. 1294, S. 514, S. 724, and S. 1058 Before the S. Comm. on Indian Affairs. 110th Cong. (2008).

⁴⁰Hearing on S. 546, *Little Shell Tribe of Chippewa Indians Restoration Act of 2011*; S. 636, *A Bill to Provide the Quileute Indian Tribe Tsunami and Flood Protection, and for Other Purposes*; and S. 703, *The Helping Expedite and Advance Responsible Tribal Homeownership Act of 2011* Before the S. Comm. on Indian Affairs. 112th Cong. (2011).

⁴¹Hearing on S. 1074, *The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2013*; S. 1132, *The Lumbee Recognition Act*; and S. 161, *The Little Shell Tribe of Chippewa Indians Restoration Act of 2013* Before the S. Comm. on Indian Affairs. 113th Cong. (2013).

⁴²Hearing on H.R. 872 and H.R. 286 Before the Subcomm. on Indian, Insular, and Alaska Native Affairs, H. Comm. on Nat. Res. 114th Cong. 1 (2015) (Statement of Keven Washburn, Assistant Secretary Indian Affairs, US Department of the Interior).

Section 6—Reaffirmation of rights

This section makes clear that nothing in this Act diminishes any right or privilege of Little Shell, or members of Little Shell that existed prior to the date of enactment. The section further states that any legal or equitable claims to enforce rights or privileges reserved by or granted to Little Shell that were wrongfully denied or taken before enactment of this Act are preserved.

Section 7—Membership roll

This section mandates, as a condition of receiving recognition, services, and benefits pursuant to this Act, that Little Shell submit to the Secretary a membership roll within 18 months of enactment of this Act, and maintain such roll. This section also requires that tribal membership be determined in accordance with Little Shell's constitution dated September 10, 1977.

Section 8—Transfer of land

This section directs the Secretary to acquire trust title to 200 acres of land within the service area of the Tribe. This section also states that the Secretary may acquire additional land for the benefit of the Tribe, in accordance with the IRA.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated March 8, 2019.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 8, 2019.

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. 51, the Little Shell Tribe of Chippewa Indians Restoration Act of 2019.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

At a Glance				
, Little Shell Tribe of Chippewa Indians Restoration Act of 2019				
As on January 29, 2019				
Millions of Dollars	Direct Spending	Revenues	Deficit Effect	Spending Subject to Appropriation
2019	0	0	0	0
2019-2024	0	0	0	41
2019-2029	0	0	0	n.a.
Pay-as-you-go procedures apply?	No	Mandate Effects		
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?		Yes, Under Threshold
		Contains private-sector mandate?		No
n.a. = not applicable				
The bill would				
<ul style="list-style-type: none"> • Provide federal recognition to the Little Shell Tribe of Chippewa Indians in Montana • Extend services and benefits to the tribe provided by various federal agencies, including the Department of the Interior and the Indian Health Service • Direct the Secretary of the Interior to take 200 acres of land into trust for the benefit of the tribe 				
Estimated budgetary effects would primarily stem from				
<ul style="list-style-type: none"> • Providing benefits to the newly recognized tribe 				
Detailed estimate begins on the next page.				

Bill summary: S. 51 would provide federal recognition to the Little Shell Tribe of Chippewa Indians of Montana. That recognition would make the tribe eligible to receive benefits from various federal programs.

Estimated Federal cost: The estimated budgetary effect of S. 51 is shown in Table 1. The costs of the legislation fall within budget functions 450 (community and regional development) and 550 (health).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 51

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019–2024
Department of the Interior:							
Estimated Authorization	0	3	3	4	4	4	18
Estimated Outlays	0	2	3	4	4	4	17
Indian Health Service:							
Estimated Authorization	0	4	5	5	5	5	24
Estimated Outlays	0	4	5	5	5	5	24
Total Changes:							
Estimated Authorization	0	7	8	9	9	9	42

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 51—
Continued

	By fiscal year, millions of dollars—						2019– 2024
	2019	2020	2021	2022	2023	2024	
Estimated Outlays	0	6	8	9	9	9	41

Basis of estimate: For this estimate, CBO assumes that S. 51 will be enacted in fiscal year 2019 and that the necessary amounts will be appropriated for each fiscal year.

Providing federal recognition to the Little Shell Tribe of Chippewa Indians of Montana would allow the tribe and about 2,600 tribal members to receive benefits under various programs administered by the Department of the Interior (DOI) and the Indian Health Service (IHS).

Department of the Interior: DOI, primarily through the Bureau of Indian Affairs, provides funding to federally recognized tribes for various purposes, including child welfare services, adult care, community development, and general assistance. Based on current per capita expenditures of around \$1,200 for other federally recognized tribes in the central states and accounting for anticipated inflation, CBO estimates that providing those services to the Little Shell Tribe would cost \$17 million over the 2019–2024 period.

Indian Health Service: The IHS also provides members of federally recognized tribes with health benefits. Using information from the IHS, CBO estimates that about 55 percent of the tribe’s members—or about 1,400 people—would receive benefits each year. CBO expects that the per capita cost would be similar to the costs for current IHS beneficiaries—about \$2,875 in 2019. Accounting for anticipated inflation, CBO estimates, providing those benefits would cost \$24 million over the 2019–2024 period.

Other Federal agencies: Certain Indian tribes also receive support from other federal programs within the Departments of Agriculture, Education, Housing and Urban Development, and Labor. Because the tribe is currently recognized by the state of Montana, the tribe already receives funding from those departments. Thus, CBO estimates that enacting S. 51 would not increase costs under those programs.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: None.

Mandates: S. 51 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would authorize the Secretary of Interior to acquire and take into trust 200 acres of land for the Little Shell Tribe. Because that land would be exempt from state and local taxes, the provision would impose an intergovernmental mandate. Given the small amount of land, CBO estimates that the forgone tax revenue to state and local governments would be small and well below the threshold established for intergovernmental mandates (\$82 million in 2019, adjusted annually for inflation).

S. 51 contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Jon Sperl (Department of the Interior); Robert Stewart (Indian Health Service); Mandates: Rachel Austin.

Estimate reviewed by: Kim Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; Susan Willie, Chief, Mandates Unit; 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 that S. 51 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 51.

CHANGES IN EXISTING LAW

On February 6, 2019, the Committee on Indian Affairs unanimously approved a motion to waive the Cordon rule. In the opinion of the Committee, it was necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

