

Calendar No. 33

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-3

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

MARCH 7, 2019.—Ordered to be printed

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

R E P O R T

[To accompany S. 199]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 199) to provide for the transfer of certain Federal land in the State of Minnesota for the benefit of the Leech Lake Band of Ojibwe, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The bill, S. 199, transfers 11,760 acres of Federal land from the Department of Agriculture (USDA) to the Department of the Interior (DOI) for the benefit of the Leech Lake Band of Ojibwe Indian Tribe (Tribe).

BACKGROUND

The bill, S. 199, would restore Tribal land that was lost when many of its members were illegally dispossessed of their land via “secretarial transfers” during the 1950s. Secretarial transfers were 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 mem-

bership.¹ The Tribe is seeking the return of the described land in S. 199 to help restore its land base, to protect tribal sacred sites, and to build housing on some of the tracts of land near the Tribe's existing communities.

SUMMARY OF THE BILL AND NEED FOR LEGISLATION

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

Under the provisions of S. 199, approximately 11,760 acres of Federal land located within the Chippewa National Forest would be transferred from the USDA to the DOI. This land 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 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 for future economic and residential use.

The land described in S. 199 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 Interior, including all right, title, and interest of the Federal land described in the bill, in trust status, for the benefit of the Tribe.

LEGISLATIVE HISTORY

On January 29, 2019, Senator Smith with Senator Klobuchar introduced the *Leech Lake Band of Ojibwe Reservation Restoration Act*. The bill, S. 199, was referred to the Committee on Indian Affairs of the Senate on the same day. On January 29, 2019, the Committee held a duly called business meeting to consider twelve bills, including S. 199. No amendments were filed to S. 199. The Committee passed all twelve bills, including S. 199, en bloc by voice vote and ordered the bills to be favorably reported.

115th Congress. 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 Indian Tribe, both testified in support of the legislation. On September 17, 2018, Senator Klobuchar was added as a cosponsor.

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.

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 that addressed 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. On December 13, 2018, the Senate passed S. 2599 with amendments by voice vote. The bill was received in the House where it was held at the desk on December 19, 2018. No further action was taken on the bill.

A companion bill, H.R. 5529, was introduced by Representative Nolan in the House of Representatives 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 to be held in trust by the United States for the benefit of the Leech Lake Band of Ojibwe and considered to be part of the Tribe’s reservation.
- Directs the Secretary of Agriculture to complete, within 180 days after the 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 February 8, 2019, was prepared for S. 199:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 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. 199, 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 Jon Sperl.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 199—Leech Lake Band of Ojibwe Reservation Restoration Act

S. 199 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. Using information from the Forest Service, CBO estimates enacting S. 199 would reduce offsetting receipts by about \$1 million over the 2019–2029 period. However, because under current law, some receipts would be spent without further appropriation, CBO estimates that enacting S. 199 would have no significant net effect on direct spending in any year or over the 2019–2029 period. Enacting the bill would not affect revenues.

The CBO staff contact for this estimate is Jon Sperl. 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. 199 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 199.

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 the business of the Senate.

