

Union Calendar No. 203

105TH CONGRESS
1ST Session

H. R. 948

[Report No. 105-351]

A BILL

To reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes.

OCTOBER 28, 1997

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1997

Mr. KILDEE introduced the following bill; which was referred to the Committee on Resources

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A BILL

To reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, 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 “Burt Lake Band of
5 Ottawa and Chippewa Indians Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Burt Lake Band of Ottawa and Chip-
4 pewa Indians are descendants and political succes-
5 sors to the signatories of the 1836 Treaty of Wash-
6 ington and the 1855 Treaty of Detroit.

7 (2) The Grand Traverse Band of Ottawa and
8 Chippewa Indians, Little Traverse Bay Band of
9 Odawa Indians, the Little River Band of Ottawa,
10 the Sault Ste. Marie Tribe of Chippewa Indians, and
11 the Bay Mills Band of Chippewa Indians, whose
12 members are also descendants of the signatories to
13 the 1836 Treaty of Washington and the 1855 Trea-
14 ty of Detroit, have been recognized by the Federal
15 Government as distinct Indian tribes.

16 (3) The Burt Lake Band of Ottawa and Chip-
17 pewa Indians consists of over 650 eligible members
18 who continue to reside close to their ancestral home-
19 land as recognized in the Cheboygan Reservation in
20 the 1836 Treaty of Washington and 1855 Treaty of
21 Detroit, which area is now known as Cheboygan
22 County, Michigan.

23 (4) The Band continues its political and social
24 existence with a viable tribal government. The Band,
25 along with other Michigan Odawa/Ottawa groups,
26 including the tribes described in paragraph (2),

1 formed the Northern Michigan Ottawa Association
2 in 1948. The Association subsequently pursued a
3 successful land claim with the Indian Claims Com-
4 mission.

5 (5) Between 1948 and 1975, the Band carried
6 out many of their governmental functions through
7 the Northern Michigan Ottawa Association, while re-
8 taining individual Band control over local decisions.

9 (6) In 1935, the Band petitioned under the Act
10 of June 18, 1934 (25 U.S.C. 461 et seq.; commonly
11 referred to as the “Indian Reorganization Act”), to
12 form a government on behalf of the Band. Again, in
13 spite of the Band’s eligibility, the Bureau of Indian
14 Affairs failed to act.

15 (7) The United States Government, the govern-
16 ment of the State of Michigan, and local govern-
17 ments have had continuous dealings with the recog-
18 nized political leaders of the Band from 1836 to the
19 present.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act—

22 (1) the term “Band” means the Burt Lake
23 Band of Ottawa and Chippewa Indians;

24 (2) the term “member” means those individuals
25 enrolled in the Band pursuant to section 7; and

1 (3) the term “Secretary” means the Secretary
2 of the Interior.

3 **SEC. 4. FEDERAL RECOGNITION.**

4 (a) FEDERAL RECOGNITION.—Federal recognition of
5 the Burt Lake Band of Ottawa and Chippewa Indians is
6 hereby reaffirmed. All laws and regulations of the United
7 States of general application to Indians or nations, tribes,
8 or bands of Indians, including the Act of June 18, 1934
9 (25 U.S.C. 461 et seq., commonly referred to as the “In-
10 dian Reorganization Act”), which are inconsistent with
11 any specific provision of this Act shall not be applicable
12 to the Band and its members.

13 (b) FEDERAL SERVICES AND BENEFITS.—

14 (1) IN GENERAL.—The Band and its members
15 shall be eligible for all services and benefits provided
16 by the Federal Government to Indians because of
17 their status as federally recognized Indians, and not-
18 withstanding any other provision of law, such serv-
19 ices and benefits shall be provided after the date of
20 the enactment of this Act to the Band and its mem-
21 bers without regard to the existence of a reservation
22 or the location of the residence of any member on
23 or near any Indian reservation.

24 (2) SERVICE AREAS.—For purposes of the de-
25 livery of Federal services to the enrolled members of

1 the Band, the area of the State of Michigan within
2 70 miles of the boundaries of the reservation for the
3 Burt Lake Band as set out in Article I, paragraph
4 “seventh” of the Treaty of 1855 (11 Stat. 621),
5 shall be deemed to be within or near a reservation,
6 notwithstanding the establishment of a reservation
7 for the tribe after the date of the enactment of this
8 Act. Services may be provided to members outside
9 the named service area unless prohibited by law or
10 regulation.

11 **SEC. 5. REAFFIRMATION OF RIGHTS.**

12 (a) IN GENERAL.—All rights and privileges of the
13 Band and its members, which may have been abrogated
14 or diminished before the date of the enactment of this Act
15 are hereby reaffirmed.

16 (b) EXISTING RIGHTS OF TRIBE.—Nothing in this
17 Act shall be construed to diminish any right or privilege
18 of the Band or of its members that existed before the date
19 of the enactment of this Act. Except as otherwise specifi-
20 cally provided in any other provision of this Act, nothing
21 in this Act shall be construed as altering or affecting any
22 legal or equitable claim the Band may have to enforce any
23 right or privilege reserved by or granted to the Band which
24 was wrongfully denied to or taken from the Band before
25 the enactment of this Act.

1 **SEC. 6. TRIBAL LANDS.**

2 The Band's tribal lands shall consist of all real prop-
3 erty, now or hereafter held by, or in trust for, the Band.
4 The Secretary shall acquire real property for the Band.
5 Any such property shall be taken by the Secretary in the
6 name of the United States in trust for the benefit of the
7 Band and shall become part of the Band's reservation.

8 **SEC. 7. MEMBERSHIP.**

9 Not later than 18 months after the date of the enact-
10 ment of this Act, the Band shall submit to the Secretary
11 a membership roll consisting of all individuals currently
12 enrolled for membership in the Band. The qualifications
13 for inclusion on the membership roll of the Band shall be
14 determined by the membership clauses in the Band's gov-
15 erning document, in consultation with the Secretary. Upon
16 completion of the roll, the Secretary shall immediately
17 publish notice of such in the Federal Register. The Band
18 shall ensure that such roll is maintained and kept current.

19 **SEC. 8. CONSTITUTION AND GOVERNING BODY.**

20 (a) CONSTITUTION.—

21 (1) ADOPTION.—Not later than 24 months
22 after the date of the enactment of this Act, the Sec-
23 retary shall conduct by secret ballot elections for the
24 purpose of adopting a new constitution for the
25 Band. The elections shall be held according to the
26 procedures applicable to elections under section 16

1 of the Act of June 18, 1934 (25 U.S.C. 476; com-
2 monly referred to as the “Indian Reorganization
3 Act”).

4 (2) INTERIM GOVERNING DOCUMENTS.—Until
5 such time as a new constitution is adopted under
6 paragraph (1), the governing documents in effect on
7 the date of the enactment of this Act shall be the
8 interim governing documents for the Band.

9 (b) OFFICIALS.—

10 (1) ELECTIONS.—Not later than 6 months
11 after the Band adopts their constitution and bylaws
12 pursuant to subsection (a), the Band shall conduct
13 elections by secret ballot for the purpose of electing
14 officials for the Band as provided in the Band’s gov-
15 erning constitution. The elections shall be conducted
16 according to the procedures described in the Band’s
17 constitution and bylaws.

18 (2) INTERIM GOVERNMENTS.—Until such time
19 as the Band elects new officials pursuant to para-
20 graph (1), the Band’s governing bodies shall be
21 those bodies in place on the date of the enactment
22 of this Act, or any new governing bodies selected
23 under the election procedures specified in the respec-
24 tive interim governing documents of the Band.