

105TH CONGRESS
1ST SESSION

S. 746

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

IN THE SENATE OF THE UNITED STATES

MAY 15, 1997

Mr. LEVIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Burt Lake Band of Ottawa and Chip-
9 pewa Indians are descendants and political succes-
10 sors to the signatories of the treaty between the

1 United States and the Ottawa and Chippewa nations
2 of Indians at Washington, D.C. on March 28, 1836
3 (7 Stat. 491 et seq.), and the treaty between the
4 United States and the Ottawa and Chippewa Indi-
5 ans of Michigan at Detroit on July 31, 1855 (11
6 Stat. 621 et seq.);

7 (2) the Grand Traverse Band of Ottawa and
8 Chippewa Indians, the Sault Ste. Marie Tribe of
9 Chippewa Indians, and the Bay Mills Band of Chip-
10 pewa Indians, whose members are also descendants
11 of the signatories to the treaties referred to in para-
12 graph (1), have been recognized by the Federal Gov-
13 ernment as distinct Indian tribes;

14 (3) the Burt Lake Band of Ottawa and Chip-
15 pewa Indians consists of over 650 eligible members
16 who continue to reside close to their ancestral home-
17 land as recognized in the reservations of lands under
18 the treaties referred to in paragraph (1) in the area
19 that is currently known as Cheboygan County,
20 Michigan;

21 (4) the Band continues to exist and carry out
22 political and social activities with a viable tribal gov-
23 ernment;

24 (5) the Band, along with other Michigan Odawa
25 and Ottawa groups, including the tribes described in

1 paragraph (2), formed the Northern Michigan Ot-
2 tawa Association in 1948;

3 (6) the Northern Michigan Ottawa Association
4 subsequently submitted a successful land claim with
5 the Indian Claims Commission;

6 (7) during the period between 1948 and 1975,
7 the Band carried out many governmental functions
8 through the Northern Michigan Ottawa Association,
9 and at the same time retained control over local de-
10 cisions;

11 (8) in 1935, the Band submitted a petition
12 under the Act of June 18, 1934 (commonly referred
13 to as the “Indian Reorganization Act”) (48 Stat.
14 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), to
15 form a government on behalf of the Band;

16 (9) in spite of the eligibility of the Band to
17 form a government under the Act referred to in
18 paragraph (8), the Bureau of Indian Affairs failed
19 to act on the petition referred to in that paragraph;
20 and

21 (10) from 1836 to the date of enactment of this
22 Act, the Federal Government, the government of the
23 State of Michigan, and political subdivisions of the
24 State have had continuous dealings with the recog-
25 nized political leaders of the Band.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **BAND.**—The term “Band” means the Burt
4 Lake Band of Ottawa and Chippewa Indians.

5 (2) **MEMBER.**—The term “member” means any
6 individual enrolled in the Band pursuant to section
7 7.

8 (3) **SECRETARY.**—The term “Secretary” means
9 the Secretary of the Interior.

10 **SEC. 4. FEDERAL RECOGNITION.**

11 (a) **FEDERAL RECOGNITION.**—Congress reaffirms
12 the Federal recognition of the Burt Lake Band of Ottawa
13 and Chippewa Indians.

14 (b) **APPLICABILITY OF FEDERAL LAWS.**—Each pro-
15 vision of Federal law (including any regulation) of general
16 application to Indians or Indian nations, tribes, or bands,
17 including the Act of June 18, 1934 (commonly referred
18 to as the “Indian Reorganization Act”) (48 Stat. 984 et
19 seq., chapter 576; 25 U.S.C. 461 et seq.), that is inconsis-
20 tent with any specific provision of this Act shall not apply
21 to the Band or any of its members.

22 (c) **FEDERAL SERVICES AND BENEFITS.**—

23 (1) **IN GENERAL.**—

24 (A) **IN GENERAL.**—The Band and its
25 members shall be eligible for all services and
26 benefits provided by the Federal Government to

Indians because of their status as federally recognized Indians.

(B) SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the services and benefits referred to in subparagraph (A) shall be provided after the date of enactment of this Act to the Band and its members without regard to—

(i) whether an Indian reservation exists for the Band; or

(ii) the location of the residence of any member on or near an Indian reservation.

(2) SERVICE AREAS.—

(A) IN GENERAL.—For purposes of the delivery of Federal services to the enrolled members of the Band, the area of the State of Michigan within a 70-mile radius of the boundaries of the reservation for the Burt Lake Band, as set forth in the seventh paragraph of Article I of the treaty between the United States and the Ottawa and Chippewa Indians of Michigan, done at Detroit on July 31, 1855 (11 Stat. 621 et seq.), shall be deemed to be within or near an Indian reservation.

1 (B) EFFECT OF ESTABLISHMENT OF AN
 2 INDIAN RESERVATION AFTER THE DATE OF EN-
 3 ACTMENT OF THIS ACT.—If an Indian reserva-
 4 tion is established for the Band after the date
 5 of enactment of this Act, subparagraph (A)
 6 shall continue to apply on and after the date of
 7 the establishment of that reservation.

8 (C) PROVISION OF SERVICES AND BENE-
 9 FITS OUTSIDE THE SERVICE AREA.—Unless
 10 prohibited by Federal law, the services and ben-
 11 efits referred to in paragraph (1) may be pro-
 12 vided to members outside the service area de-
 13 scribed in subparagraph (A).

14 **SEC. 5. REAFFIRMATION OF RIGHTS.**

15 (a) IN GENERAL.—To the extent consistent with the
 16 reaffirmation of the recognition of the Band under section
 17 4(a), all rights and privileges of the Band and its mem-
 18 bers, which may have been abrogated or diminished before
 19 the date of enactment of this Act, are reaffirmed.

20 (b) EXISTING RIGHTS OF TRIBE.—Nothing in this
 21 Act may be construed to diminish any right or privilege
 22 of the Band or its members that existed before the date
 23 of enactment of this Act. Except as otherwise specifically
 24 provided, nothing in this Act may be construed as altering
 25 or affecting any legal or equitable claim the Band may

1 have to enforce any right or privilege reserved by or grant-
2 ed to the Band that was wrongfully denied to the Band
3 or taken from the Band before the date of enactment of
4 this Act.

5 **SEC. 6. TRIBAL LANDS.**

6 The tribal lands of the Band shall consist of all real
7 property held by, or in trust for, the Band. The Secretary
8 shall acquire real property for the Band. Any property ac-
9 quired by the Secretary pursuant to this section shall be
10 held in trust by the United States for the benefit of the
11 Band and shall become part of the reservation of the
12 Band.

13 **SEC. 7. MEMBERSHIP.**

14 (a) IN GENERAL.—Not later than 18 months after
15 the date of enactment of this Act, the Band shall submit
16 to the Secretary a membership roll consisting of all indi-
17 viduals currently enrolled for membership in the Band at
18 the time of the submission of the membership roll.

19 (b) QUALIFICATIONS.—The Band shall, in consulta-
20 tion with the Secretary, determine, pursuant to applicable
21 laws (including ordinances) of the Band, the qualifications
22 for including an individual on the membership roll.

23 (c) PUBLICATION OF NOTICE.—The Secretary shall
24 publish notice of receipt of the membership roll in the Fed-

1 eral Register as soon as practicable after receiving the
2 membership roll pursuant to subsection (a).

3 (d) MAINTENANCE OF ROLL.—The Band shall main-
4 tain the membership roll of the Band prepared pursuant
5 to this section in such manner as to ensure that the mem-
6 bership roll is current.

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

8 (a) CONSTITUTION.—

9 (1) ADOPTION.—Not later than 2 years after
10 the date of enactment of this Act, the Secretary
11 shall conduct, by secret ballot, elections for the pur-
12 pose of adopting a new constitution for the Band.
13 The elections shall be held according to the proce-
14 dures applicable to elections under section 16 of the
15 Act of June 18, 1934 (commonly referred to as the
16 “Indian Reorganization Act”) (48 Stat. 987, chapter
17 576; 25 U.S.C. 476).

18 (2) INTERIM GOVERNING DOCUMENTS.—Until
19 such time as a new constitution is adopted under
20 paragraph (1), the governing documents in effect on
21 the date of enactment of this Act shall be the in-
22 terim governing documents for the Band.

23 (b) OFFICIALS.—

24 (1) ELECTIONS.—Not later than 180 days after
25 the Band adopts a constitution and bylaws pursuant

1 to subsection (a), the Band shall conduct elections
2 by secret ballot for the purpose of electing officials
3 for the Band as provided in the governing constitu-
4 tion of the Band. The elections shall be conducted
5 according to the procedures described in the govern-
6 ing constitution and bylaws of the Band.

7 (2) INTERIM GOVERNMENTS.—Until such time
8 as the Band elects new officials under paragraph
9 (1), the governing bodies of the Band shall include
10 each governing body of the Band in effect on the
11 date of the enactment of this Act, or any succeeding
12 governing body selected under the election proce-
13 dures specified in the applicable interim governing
14 documents of the Band.

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