

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1182

Entitled the “Burt Lake Band of Ottawa and Chippewa Indians Act of 1995”.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, July 10), 1995

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

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## A BILL

Entitled the “Burt Lake Band of Ottawa and Chippewa Indians Act of 1995”.

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 of 1995”.

6        **SEC. 2. FINDINGS.**

7        The 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 Indians that signed the treaty between

1 the United States and the Ottawa and Chippewa na-  
2 tions of Indians at Washington, D.C. on March 28,  
3 1836, and the treaty between the United States and  
4 the Ottawa and Chippewa Indians of Michigan at  
5 Detroit on July 31, 1855;

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

13 (3) the Burt Lake Band of Ottawa and Chip-  
14 pewa Indians consists of over 600 eligible members  
15 who continue to reside close to their ancestral home-  
16 land as recognized in the reservations of lands under  
17 the treaties referred to in paragraph (1) in the area  
18 that is currently known as Cheboygan County,  
19 Michigan;

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

23 (5) the Band, along with other Michigan Odawa  
24 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 1975, the Northern Michigan Ottawa As-  
12 sociation submitted a petition under the Act of June  
13 18, 1934 (commonly referred to as the “Indian Re-  
14 organization Act”) (48 Stat. 984 et seq., chapter  
15 576; 25 U.S.C. 461 et seq.), to form a government  
16 on behalf of the Band;

17 (9) in spite of the eligibility of the Band to  
18 form a government under the Act of June 18, 1934,  
19 the Bureau of Indian Affairs failed to act on the pe-  
20 tition referred to in paragraph (8); 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 For purposes of this Act, the following definitions  
3 shall apply:

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

6 (2) **MEMBER.**—The term “member” means any  
7 individual enrolled in the Band pursuant to section  
8 7.

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

11 **SEC. 4. FEDERAL RECOGNITION.**

12 (a) **FEDERAL RECOGNITION.**—Congress hereby reaf-  
13 firms the Federal recognition of the Burt Lake Band of  
14 Ottawa and Chippewa Indians.

15 (b) **APPLICABILITY OF FEDERAL LAWS.**—Notwith-  
16 standing any other provision of law, each provision of Fed-  
17 eral law (including any regulation) of general application  
18 to Indians or Indian nations, tribes, or bands, including  
19 the Act of June 18, 1934 (commonly referred to as the  
20 “Indian Reorganization Act”) (48 Stat. 984 et seq., chap-  
21 ter 576; 25 U.S.C. 461 et seq.), that is inconsistent with  
22 any specific provision of this Act shall not apply to the  
23 Band or any of its members.

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

25 (1) **IN GENERAL.**—The Band and its members  
26 shall be eligible for all services and benefits provided

1 by the Federal Government to Indians because of  
2 their status as federally recognized Indians. Not-  
3 withstanding any other provision of law, those serv-  
4 ices and benefits shall be provided after the date of  
5 the enactment of this Act to the Band and its mem-  
6 bers without regard to—

7 (A) whether or not there is an Indian res-  
8 ervation for the Band; or

9 (B) whether or not a member resides on or  
10 near an Indian reservation.

11 (2) SERVICE AREAS.—

12 (A) IN GENERAL.—For purposes of the de-  
13 livery of Federal services to the enrolled mem-  
14 bers of the Band, the area of the State of  
15 Michigan within a 70-mile radius of the bound-  
16 aries of the reservation for the Burt Lake  
17 Band, as set forth in the seventh paragraph of  
18 Article I of the treaty between the United  
19 States and the Ottawa and Chippewa Indians of  
20 Michigan (done at Detroit on July 31, 1855)  
21 shall be deemed to be within or near an Indian  
22 reservation.

23 (B) EFFECT OF ESTABLISHMENT OF AN  
24 INDIAN RESERVATION AFTER THE DATE OF EN-  
25 ACTMENT OF THIS ACT.—If an Indian reserva-

1           tion is established for the Band after the date  
2           of enactment of this Act, subparagraph (A)  
3           shall continue to apply on and after the date of  
4           the establishment of that reservation.

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

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

12          (a) IN GENERAL.—To the extent consistent with the  
13 reaffirmation of the recognition of the Band under section  
14 4(a), all rights and privileges of the Band and its mem-  
15 bers, which may have been abrogated or diminished before  
16 the date of the enactment of this Act, are hereby  
17 reaffirmed.

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

1 Band or taken from the Band before the date of enact-  
2 ment of this Act.

3 **SEC. 6. TRIBAL LANDS.**

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

11 **SEC. 7. MEMBERSHIP.**

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

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

21 (c) PUBLICATION OF NOTICE.—The Secretary shall  
22 publish notice of receipt of the membership roll in the Fed-  
23 eral Register as soon as practicable after receiving the  
24 membership roll pursuant to subsection (a).

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

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

6 (a) CONSTITUTION.—

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

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

21 (b) OFFICIALS.—

22 (1) ELECTIONS.—Not later than 180 days after  
23 the Band adopts a constitution and bylaws pursuant  
24 to subsection (a), the Band shall conduct elections  
25 by secret ballot for the purpose of electing officials



1 for the Band as provided in the governing constitu-  
2 tion of the Band. The elections shall be conducted  
3 according to the procedures described in the govern-  
4 ing constitution and bylaws of the Band.

5 (2) INTERIM GOVERNMENTS.—Until such time  
6 as the Band elects new officials pursuant to para-  
7 graph (1), the governing bodies of the Band shall in-  
8 clude each governing body of the Band in effect on  
9 the date of the enactment of this Act, or any suc-  
10 ceeding governing body selected under the election  
11 procedures specified in the applicable interim gov-  
12 erning documents of the Band.

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