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Calendar No. 244

116TH CONGRESS
1st Session

SENATE

REPORT
116–130

TO REPEAL THE ACT ENTITLED "AN ACT TO CONFER JURISDICTION ON THE STATE OF NORTH DAKOTA OVER OFFENSES COMMITTED BY OR AGAINST INDIANS ON THE DEVILS LAKE INDIAN RESERVATION"

OCTOBER 16, 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. 2159]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 2159) to repeal the Act entitled "An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation", having considered the same, reports favorably thereon without amendment and recommends the bill do pass.

PURPOSE

The purpose of S. 2159 is to repeal a federal law that grants criminal jurisdiction to the State of North Dakota over offenses committed by or against Indians on the Devils Lake Reservation, currently known as the Spirit Lake Reservation.[1]

SUMMARY OF THE BILL

The bill, S. 2159, repeals the Act entitled "*An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation*" in its entirety.

In 1944, the Devils Lake Sioux Tribal Council passed a resolution to continue state jurisdiction over misdemeanor crimes occurring within their reservation boundaries. This was due to a lack of

[1] In May 1995, by general referendum, the Tribe made a constitutional revision to change its name from the "Devils Lake Sioux" to the "Spirit Lake Tribe." The name refers to the location of the reservation, which was first established as the Devils Lake settlement and later changed to reservation, as named in the bill. The tribal members have always called themselves Mni Wakan Oyate (Spirit Lake People).

Tribal judicial resources, such as no law enforcement officers, or a formally established Tribal court. In 1946, Congress delegated arrest and prosecution authority to the State of North Dakota for all crimes committed on the Devils Lake Reservation.[2] The Spirit Lake Tribe has since established a Tribal law enforcement agency, a comprehensive criminal code, and a Tribal court system which adjudicates both criminal and civil matters on the reservation.

According to testimony received by the Committee in the 115th Congress, the State of North Dakota rarely exercises its delegated authority to prosecute crimes committed by or against Indians on the reservation. In the 116th Congress, the Governor of North Dakota, as well as Spirit Lake Tribe of North Dakota, have submitted letters of support for S. 2159.

LEGISLATIVE HISTORY

On July 18, 2019, Senator Hoeven introduced *A bill to repeal the Act entitled "An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation.*" Senator Cramer joined as an original cosponsor. The bill was referred to the Indian Affairs Committee. On July 24, 2019, S. 2159 was reported favorably without amendment.

On July 18, 2019, a companion bill, H.R. 3831, was introduced by Representative Kelly Armstrong in the House of Representatives. On August 2, 2019, the House companion bill was referred to the House Natural Resources Subcommittee for Indigenous Peoples of the United States. No further action has been taken.

In the 115th Congress, on April 26, 2018, Senator Heidi Heitkamp introduced legislation identical to S. 2159. A legislative hearing was held on November 14, 2018. Mr. Darryl LaCounte, Acting Director of the Bureau of Indian Affairs, U.S. Department of the Interior, and the Honorable Douglas Yankton, Sr., Vice Chairman of the Spirit Lake Tribe, both testified in support of the bill. On November 28, 2018, the Committee met to consider the bill, which was reported favorably without amendment to the Senate. No further action was taken.

SECTION-BY-SECTION ANALYSIS

Section 1. Repeal

• This section repeals, in its entirety, the federal statute (60 Stat. 229) entitled "*An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation*" which was signed into law on May 31, 1946.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated August 2, 2019, was prepared for S. 2159:

[2] Act of May 31, 1946, Pub. L. No. 79–394, 60 Stat. 229 (1946).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 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. 2159, a bill to repeal the Act entitled "An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation."

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

Bill #, a bill to repeal the Act entitled "An Act to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation"

As [Manager] **on July 24, 2019**

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0

		Mandate Effects	
Statutory pay-as-you-go procedures apply?	No	Contains intergovernmental mandate?	Yes, Under Threshold
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains private-sector mandate?	No

S. 2159 would repeal a law enacted in 1946 that gave the state of North Dakota jurisdiction over crimes committed by or against Indians on the Devils Lake Indian Reservation. Under current law, the Bureau of Indian Affairs (BIA) provides assistance to the tribe for law enforcement and detention services. Because enacting S. 2159 would not affect the amount of assistance the tribe is receiving from BIA, CBO estimates that implementing S. 2159 would have no cost to the federal government.

The bill also would prohibit the state of North Dakota from exercising jurisdiction over crimes committed by or against Indians on the Devil's Lake Indian Reservation. That prohibition would be a mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandate, in the form of forgone monetary penalties, would be minimal and would not exceed the threshold established in UMRA ($82 million in 2019, adjusted annually for inflation).

S. 2159 contains no private-sector mandates as defined in UMRA.

The CBO staff contact for this estimate is Jon Sperl (for federal costs) and Rachel Austin (for mandates). 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 that S. 2159 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

Except as otherwise noted, the Committee has received no communications from the Executive Branch regarding S. 2159.

CHANGES IN EXISTING LAW

On February 6, 2019, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. 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.

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