



2023 South Dakota Legislature

Senate Concurrent Resolution 603

Introduced by: **Senator Bordeaux**

1 **A CONCURRENT RESOLUTION, Supporting the acknowledgement of the Lake**
2 **Traverse Reservation boundaries as provided in federal law.**

3 WHEREAS, the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation is one of nine
4 federally-recognized Indian tribes located in the State of South Dakota, and is located in North
5 Dakota as well; and

6 WHEREAS, in 1975, the United States Supreme Court addressed, in DeCoteau v. District
7 Court, 420 U.S. 425, "whether the Lake Traverse Indian Reservation in South Dakota, created
8 by an 1867 Treaty between the United States and the Sisseton and Wahpeton bands of Sioux
9 Indians, was terminated and returned to the public domain, by the Act of March 3, 1891."The
10 Supreme Court held that an 1891 federal allotment law "terminated the Lake Traverse
11 Reservation, and that consequently the state courts have jurisdiction over conduct on non-
12 Indian lands within the 1867 reservation borders"; and

13 WHEREAS, in 1974, Congress was aware of the split in authority between the South
14 Dakota Supreme Court, which held that the Lake Traverse Reservation was terminated, and
15 the Eighth Circuit Court of Appeals, which held that the Lake Traverse Reservation remained
16 as it was established in 1867; and

17 WHEREAS, while DeCoteau was pending before the Supreme Court, in 1974, in 1974
18 Congress enacted Public Law 93-491 recognizing the boundaries of the Lake Traverse
19 Reservation and authorizing the Secretary of the Interior to acquire trust lands for the Tribe
20 and to consolidate the Tribe's landholdings "within the boundaries of the Lake Traverse
21 Reservation in North and South Dakota." 88 Stat. 1468 (1974); and

22 WHEREAS, in 1978, Congress amended Public Law 93-491 to permit individual members
23 to acquire new trust lands within the boundaries of the Lake Traverse Reservation and to
24 provide the Tribe with a first right of purchase when trust lands within the Lake Traverse
25 Reservation are subject to sale. Public Law 95-398, 92 Stat. 850 (1978); and

1 WHEREAS, the 1978 Act and its legislative history demonstrate, once again, Congress's
2 intent to recognize the boundaries of the Lake Traverse Reservation. In addition to the Act,
3 there are also several references in the Senate and House Reports to the Lake Traverse
4 Reservation boundaries, such as describing it as "V-shaped." S. Rep. No. 95-983, at 2 (1978);
5 H.R. Rep. No. 95-1511, at 2 (1978); and

6 WHEREAS, in 1984 Congress enacted additional legislation to protect and promote the
7 tribe's trust land within the boundaries of the Lake Traverse Reservation. Public Law 98-513,
8 98 Stat. 2411. Again, the title of the Act expressly refers to the Lake Traverse Reservation.
9 Among many other things, the Secretary is authorized to acquire additional trust land for the
10 Tribe within the Lake Traverse Reservation; and

11 WHEREAS, the 1984 Act "shall govern the right to inherit trust or restricted land located
12 with such States and within the original exterior boundaries of the Lake Traverse Indian
13 Reservation as described in article III of the Treaty of February 19, 1867." Public Law 98-513
14 98 Stat. 2411 (1984); and

15 WHEREAS, federal statutes "are the supreme Law of the Land," and we must "ascertain
16 and follow the original meaning" of these Acts of Congress. Acts of Congress control even
17 though a Tribe's history may be "long and messy," and that the land in question was "once
18 undivided and held by the Tribe, is now fractured into pieces." 140 S. Ct. at 2462:

19 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Eighth Legislature of
20 the State of South Dakota, the House of Representatives concurring therein, that three federal
21 laws, Public Law 93-491, Public Law 95-398, and Public Law 98-513, confirm that Congress
22 recognizes the boundaries of the Lake Traverse Reservation, which serves as the permanent
23 home of the Sisseton-Wahpeton Oyate as provided and promised in the Treaty of February
24 19, 1867, between the Sisseton-Wahpeton Oyate and the United States.