

115TH CONGRESS  
1ST SESSION

# H. R. 146

To take certain Federal lands in Tennessee into trust for the benefit of the Eastern Band of Cherokee Indians, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

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

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## A BILL

To take certain Federal lands in Tennessee into trust for the benefit of the Eastern Band of Cherokee Indians, 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 “Eastern Band Cher-  
5       okee Historic Lands Reacquisition Act”.

6       **SEC. 2. LAND TAKEN INTO TRUST FOR THE EASTERN BAND**  
7       **OF CHEROKEE INDIANS.**

8       (a) LANDS INTO TRUST.—Subject to such rights of  
9       record as may be vested in third parties to rights-of-way  
10      or other easements or rights-of-record for roads, utilities,

1 or other purposes, the following Federal lands on or above  
2 the 820-foot (MSL) contour elevation in Monroe County,  
3 Tennessee, on the shores of Tellico Reservoir, are taken  
4 into trust by the United States for the benefit of the East-  
5 ern Band of Cherokee Indians:

6           (1) SEQUOYAH MUSEUM PROPERTY.—Approximately  
7           46.0 acres of land generally depicted as  
8           “Sequoyah Museum”, “Parcel 1”, and “Parcel 2”  
9           on the map titled “Eastern Band of Cherokee His-  
10          toric Lands Reacquisition Map 1” and dated April  
11          30, 2015.

12          (2) SUPPORT PROPERTY.—Approximately 11.9  
13          acres of land generally depicted as “Support Parcel”  
14          on the map titled “Eastern Band of Cherokee His-  
15          toric Lands Reacquisition Map 2” and dated April  
16          30, 2015.

17          (3) CHOTA MEMORIAL PROPERTY AND TANASI  
18          MEMORIAL PROPERTY.—Approximately 18.2 acres of  
19          land generally depicted as “Chota Memorial 1” and  
20          “Tanasi Memorial” on the map titled “Eastern  
21          Band of Cherokee Historic Lands Reacquisition Map  
22          3” and dated April 30, 2015, and including the  
23          Chota Memorial and all land within a circle with a  
24          radius of 86 feet measured from the center of the

1 Chota Memorial without regard to the elevation of  
2 the land within the circle.

3 (b) PROPERTY ON LANDS.—In addition to the land  
4 taken into trust by subsection (a), the improvements on  
5 and appurtenances thereto, including memorials, are and  
6 shall remain the property of the Eastern Band of Cher-  
7 okee Indians.

8 (c) REVISED MAPS.—Not later than one year after  
9 the date of a land transaction made pursuant to this sec-  
10 tion, the Secretary of the Interior, after consultation with  
11 the Eastern Band of Cherokee Indians and the Tennessee  
12 Valley Authority, shall submit revised maps that depict  
13 the land taken into trust under this section, including any  
14 corrections made to the maps described in this section to  
15 the Committee on Natural Resources of the House of Rep-  
16 resentatives and the Committee on Indian Affairs of the  
17 Senate.

18 (d) CONTOUR ELEVATION CLARIFICATION.—The  
19 contour elevations referred to in this Act are based on  
20 MSL Datum as established by the NGS Southeastern  
21 Supplementary Adjustment of 1936 (NGVD29).

22 (e) CONDITIONS.—The lands taken into trust under  
23 this section shall be subject to the conditions described  
24 in section 5.

1 **SEC. 3. PERMANENT EASEMENTS TAKEN INTO TRUST FOR**  
2 **THE EASTERN BAND OF CHEROKEE INDIANS.**

3 (a) PERMANENT EASEMENTS.—The following perma-  
4 nent easements for land below the 820-foot (MSL) con-  
5 tour elevation for the following Federal lands in Monroe  
6 County, Tennessee, on the shores of Tellico Reservoir, are  
7 hereby taken into trust by the United States for the ben-  
8 efit of the Eastern Band of Cherokee Indians:

9 (1) CHOTA PENINSULA.—Approximately 8.5  
10 acres of land generally depicted as “Chota Memorial  
11 2” on the map titled “Eastern Band of Cherokee  
12 Historic Lands Reacquisition Map 3” and dated  
13 April 30, 2015.

14 (2) CHOTA-TANASI TRAIL.—Approximately 11.4  
15 acres of land generally depicted as “Chota-Tanasi  
16 Trail” on the map titled “Eastern Band of Cherokee  
17 Historic Lands Reacquisition Map 3” and dated  
18 April 30, 2015.

19 (b) REVISED MAPS.—Not later than one year after  
20 the date of a land transaction made pursuant to this sec-  
21 tion, the Secretary of the Interior, after consultation with  
22 the Eastern Band of Cherokee Indians and the Tennessee  
23 Valley Authority, shall submit to the Subcommittee on In-  
24 dian, Insular and Alaska Native Affairs of the House of  
25 Representatives and the Committee on Indian Affairs of  
26 the Senate revised maps that depict the lands subject to

1 easements taken into trust under this section, including  
2 any corrections necessary to the maps described in this  
3 section.

4 (c) CONDITIONS.—The lands subject to easements  
5 taken into trust under this section shall be subject to the  
6 use rights and conditions described in section 5.

7 **SEC. 4. TRUST ADMINISTRATION AND PURPOSES.**

8 (a) APPLICABLE LAWS.—Except as described in sec-  
9 tion 5, the lands subject to this Act shall be administered  
10 under the laws and regulations generally applicable to  
11 lands and interests in lands held in trust on behalf of In-  
12 dian Tribes.

13 (b) USE OF LAND.—Except the lands described in  
14 section 2(a)(2), the lands subject to this Act shall be used  
15 principally for memorializing and interpreting the history  
16 and culture of Indians and recreational activities, includ-  
17 ing management, operation, and conduct of programs of  
18 and for—

19 (1) the Sequoyah birthplace memorial and mu-  
20 seum;

21 (2) the memorials to Chota and Tanasi as  
22 former capitals of the Cherokees;

23 (3) the memorial and place of reinterment for  
24 remains of the Eastern Band of Cherokee Indians  
25 and other Cherokee tribes, including those human

1 remains and cultural items that are repatriated by  
2 the Tennessee Valley Authority to those Cherokee  
3 tribes under the National Graves Protection and Re-  
4 patriation Act; and

5 (4) interpreting the Trail of Tears National  
6 Historic Trail.

7 (c) USE OF SUPPORT PROPERTY.—The land de-  
8 scribed in section 2(a)(2) shall be used principally for the  
9 support of lands subject to this Act and the programs of-  
10 fered by the Tribe relating to such lands and their pur-  
11 poses including—

12 (1) classrooms and conference rooms;

13 (2) cultural interpretation and education pro-  
14 grams;

15 (3) temporary housing of guests participating  
16 in such programs or the management of the prop-  
17 erties and programs; and

18 (4) headquarters offices and support space for  
19 the trust properties and programs.

20 (d) LAND USE.—The principal purposes of the use  
21 of the land described in section 3(a)—

22 (1) paragraph (1), shall be for a recreational  
23 trail from the general vicinity of the parking lot to  
24 the area of the Chota Memorial and beyond to the  
25 southern portion of the peninsula, including inter-

1       pretive signs, benches, and other compatible im-  
2       provements; and

3               (2) paragraph (2), shall be for a recreational  
4       trail between the Chota and Tanasi Memorials, in-  
5       cluding interpretive signs, benches, and other com-  
6       patible improvements.

7       **SEC. 5. USE RIGHTS, CONDITIONS.**

8               (a) FLOODING OF LAND AND ROADS.—The Ten-  
9       nessee Valley Authority may temporarily and intermit-  
10      tently flood the lands subject to this Act that lie below  
11      the 824-foot (MSL) contour elevation and the road access  
12      to such lands that lie below the 824-foot (MSL) contour  
13      elevation.

14              (b) FACILITIES AND STRUCTURES.—The Eastern  
15      Band of Cherokee Indians may construct, own, operate,  
16      and maintain—

17                      (1) water use facilities and nonhabitable struc-  
18      tures, facilities, and improvements not subject to se-  
19      rious damage if temporarily flooded on the land ad-  
20      joining the Tellico Reservoir side of the lands subject  
21      to this Act that lie between the 815-foot and 820-  
22      foot (MSL) contour elevations, but only after having  
23      received written consent from the Tennessee Valley  
24      Authority and subject to the terms of such approval;  
25      and

1           (2) water use facilities between the 815-foot  
2           (MSL) contour elevations on the Tellico Reservoir  
3           side of the lands subject to this Act and the adjacent  
4           waters of Tellico Reservoir and in and on such  
5           waters after having received written consent from  
6           the Tennessee Valley Authority and subject to the  
7           terms of such approval, but may not construct, own,  
8           operate, or maintain other nonhabitable structures,  
9           facilities, and improvements on such lands.

10          (c) INGRESS AND EGRESS.—The Eastern Band of  
11 Cherokee Indians may use the lands subject to this Act  
12 and Tellico Reservoir for ingress and egress to and from  
13 such land and the waters of the Tellico Reservoir and to  
14 and from all structures, facilities, and improvements main-  
15 tained in, on, or over such land or waters.

16          (d) RIVER CONTROL AND DEVELOPMENT.—The use  
17 rights under this section may not be exercised so as to  
18 interfere in any way with the Tennessee Valley Authority’s  
19 statutory program for river control and development.

20          (e) TVA AUTHORITIES.—Nothing in this Act shall be  
21 construed to affect the right of the Tennessee Valley Au-  
22 thority to—

23               (1) draw down Tellico Reservoir;

24               (2) fluctuate the water level thereof as may be  
25           necessary for its management of the Reservoir; or



1           (3) permanently flood lands adjacent to lands  
2           subject to this Act that lie below the 815-foot (MSL)  
3           contour elevation.

4           (f) RIGHT OF ENTRY.—The lands subject to this Act  
5           shall be subject to a reasonable right of entry by the per-  
6           sonnel of the Tennessee Valley Authority and agents of  
7           the Tennessee Valley Authority operating in their official  
8           capacities as necessary for purposes of carrying out the  
9           Tennessee Valley Authority’s statutory program for river  
10          control and development.

11          (g) ENTRY ONTO LAND.—To the extent that the  
12          Tennessee Valley Authority’s operations on the lands sub-  
13          ject to this Act do not unreasonably interfere with the  
14          Eastern Band of Cherokee Indians’ maintenance of an ap-  
15          propriate setting for the memorialization of Cherokee his-  
16          tory or culture on the lands and its operations on the  
17          lands, the Eastern Band of Cherokee Indians shall allow  
18          the Tennessee Valley Authority to enter the lands to clear,  
19          ditch, dredge, and drain said lands and apply larvicides  
20          and chemicals thereon or to conduct bank protection work  
21          and erect structures necessary in the promotion and fur-  
22          therance of public health, flood control, and navigation.

23          (h) LOSS OF HYDROPOWER CAPACITY.—All future  
24          development of the lands subject to this Act shall be sub-  
25          ject to compensation to the Tennessee Valley Authority

1 for loss of hydropower capacity as provided in the Ten-  
2 nessee Valley Authority Flood Control Storage Loss  
3 Guideline, unless agreed to otherwise by the Tennessee  
4 Valley Authority.

5 (i) PROTECTION FROM LIABILITY.—The Tennessee  
6 Valley Authority shall not be liable for any loss or damage  
7 resulting from—

8 (1) the temporary and intermittent flooding of  
9 lands subject to this Act;

10 (2) the permanent flooding of adjacent lands as  
11 provided in this section;

12 (3) wave action in Tellico Reservoir; or

13 (4) fluctuation of water levels for purposes of  
14 managing Tellico Reservoir.

15 **SEC. 6. LANDS SUBJECT TO THE ACT.**

16 For the purposes of this Act, the term “lands subject  
17 to this Act” means lands and interests in lands (including  
18 easements) taken into trust for the benefit of the Eastern  
19 Band of Cherokee Indians pursuant to or under this Act.

20 **SEC. 7. GAMING PROHIBITION.**

21 No class II or class III gaming, as defined in the In-  
22 dian Gaming Regulatory Act (25 U.S.C. 2701 et seq.),  
23 shall be conducted on lands subject to this Act.

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