

Union Calendar No. 424

105TH CONGRESS
2^D Session

H. R. 1154

[Report No. 105-737]

A BILL

To provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.

SEPTEMBER 23, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

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

SEPTEMBER 23, 1998

Additional sponsors: Mr. MCINTYRE, Mr. FILNER, Ms. LOFGREN, Mr. MARTINEZ, Ms. CHRISTIAN-GREEN, Mr. HEFNER, and Ms. SANCHEZ

SEPTEMBER 23, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 20, 1997]

A BILL

To provide for administrative procedures to extend Federal recognition to certain Indian groups, 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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Indian Federal Recogni-*
3 *tion Administrative Procedures Act of 1998”.*

4 **SEC. 2. PURPOSES.**

5 *The purposes of this Act are—*

6 (1) *to establish an administrative procedure to*
7 *extend Federal recognition to certain Indian groups;*

8 (2) *to extend to Indian groups which are deter-*
9 *mined to be Indian tribes the protection, services, and*
10 *benefits available from the Federal Government pur-*
11 *suant to the Federal trust responsibility;*

12 (3) *to extend to Indian groups which are deter-*
13 *mined to be Indian tribes the immunities and privi-*
14 *leges available to other acknowledged Indian tribes by*
15 *virtue of their status as Indian tribes with a govern-*
16 *ment-to-government relationship with the United*
17 *States;*

18 (4) *to ensure that when the Federal Government*
19 *extends acknowledgment to an Indian tribe, it does so*
20 *with a consistent legal, factual, and historical basis;*

21 (5) *to establish a commission which will act in*
22 *a supporting role to petitioning groups applying for*
23 *recognition;*

24 (6) *to provide clear and consistent standards of*
25 *administrative review of documented petitions for ac-*
26 *knowledge;*

1 (7) to clarify evidentiary standards and expedite
2 the administrative review process by providing ade-
3 quate resources to process petitions; and

4 (8) to remove the acknowledgment process from
5 the Bureau of Indian Affairs and invest it in the
6 Commission on Indian Recognition.

7 **SEC. 3. DEFINITIONS.**

8 *For purposes of this Act:*

9 (1) *ACKNOWLEDGMENT; ACKNOWLEDGED.*—The
10 term “acknowledgment” or “acknowledged” means a
11 determination by the Commission on Indian Recogni-
12 tion that an Indian group constitutes an Indian tribe
13 with a government-to-government relationship with
14 the United States, and whose members are recognized
15 as eligible for the special programs and services pro-
16 vided by the United States to Indians because of their
17 status as Indians.

18 (2) *BUREAU.*—The term “Bureau” means the
19 Bureau of Indian Affairs.

20 (3) *COMMISSION.*—The term “Commission”
21 means the Commission on Indian Recognition estab-
22 lished pursuant to section 4.

23 (4) *COMMUNITY.*—The term “community” means
24 any group of people which, in the context of the his-
25 tory, geography, culture, and social organization of

1 *the group, sustains consistent interactions and sig-*
 2 *nificant social relationships within its membership*
 3 *and whose members are differentiated from and iden-*
 4 *tified as distinct from nonmembers.*

5 (5) *CONTINUOUSLY; CONTINUOUS.—The term*
 6 *“continuously” or “continuous” means extending*
 7 *from the given date to the present substantially with-*
 8 *out interruption; proof of any matter required shall*
 9 *be deemed without substantial interruption if such*
 10 *proof is available at least for every fifth year.*

11 (6) *DEPARTMENT.—The term “Department”*
 12 *means the Department of the Interior.*

13 (7) *DOCUMENTED PETITION.—The term “docu-*
 14 *mented petition” means the detailed, factual expo-*
 15 *sition and arguments, including all documentary evi-*
 16 *dence, necessary to demonstrate that arguments spe-*
 17 *cifically address the mandatory criteria established in*
 18 *section 5.*

19 (8) *HISTORICAL; HISTORICALLY.—The term “his-*
 20 *torical” or “historically” means dating from first sus-*
 21 *tained contact with non-Indians.*

22 (9) *INDIAN GROUP; GROUP.—The term “Indian*
 23 *group” or “group” means any Indian or Alaska Na-*
 24 *tive tribe, band, pueblo, village or community within*

1 *the United States that the Secretary does not ac-*
2 *knowledge to be an Indian tribe.*

3 (10) *INDIAN TRIBE; TRIBE.*—*The term “Indian*
4 *tribe” or “tribe” means any Indian or Alaska Native*
5 *tribe, band, pueblo, village or community within the*
6 *United States included on the Secretary’s annual list*
7 *of acknowledged tribes.*

8 (11) *INDIGENOUS.*—*The term “indigenous”*
9 *means native to the United States in that at least*
10 *part of the petitioner’s traditional territory extended*
11 *into what is now within the boundaries of the United*
12 *States.*

13 (12) *LETTER OF INTENT.*—*The term “letter of*
14 *intent” means an undocumented letter or resolution*
15 *which is dated and signed by the governing body of*
16 *an Indian group and submitted to the Commission*
17 *indicating the group’s intent to submit a petition for*
18 *acknowledgment as an Indian tribe.*

19 (13) *MEMBER OF AN INDIAN GROUP.*—*The term*
20 *“member of an Indian group” means an individual*
21 *who is recognized by an Indian group as meeting its*
22 *membership criteria.*

23 (14) *MEMBER OF AN INDIAN TRIBE.*—*The term*
24 *“member of an Indian tribe” means an individual*
25 *who—*

1 (A) meets the membership requirements of
2 the tribe as set forth in its governing document;

3 (B) in the absence of a governing document
4 which sets out these requirements, has been recog-
5 nized as a member collectively by those persons
6 comprising the tribal governing body and has
7 consistently maintained tribal relations with the
8 tribe; or

9 (C) is listed on the tribal membership rolls
10 as a member, if such rolls are kept.

11 (15) *PETITION*.—The term “petition” means a
12 petition for acknowledgment submitted or transferred
13 to the Commission pursuant to section 5.

14 (16) *PETITIONER*.—The term “petitioner” means
15 any group which has submitted a petition or letter of
16 intent to the Commission requesting acknowledgment
17 as an Indian tribe or has a petition or letter of intent
18 transferred to the Commission under section 5(a).

19 (17) *PREVIOUS FEDERAL ACKNOWLEDGMENT*.—
20 The term “previous Federal acknowledgment” means
21 any action by the Federal Government the character
22 of which is clearly premised on identification of a
23 tribal political entity and clearly indicates the rec-
24 ognition of a government-to-government relationship
25 between that entity and the Federal Government.

1 (18) *RESTORATION.*—*The term “restoration”*
2 *means the reextension of acknowledgment to any pre-*
3 *viously acknowledged tribe which may have had its*
4 *acknowledged status abrogated or diminished by rea-*
5 *son of congressional legislation expressly terminating*
6 *that status.*

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

9 (20) *TREATY.*—*The term “treaty” means any*
10 *treaty—*

11 (A) *negotiated and ratified by the United*
12 *States on or before March 3, 1871, with, or on*
13 *behalf of, any Indian group or Indian tribe;*

14 (B) *made by any government with, or on*
15 *behalf of, any Indian group or Indian tribe,*
16 *from which Federal Government subsequently ac-*
17 *quired territory by purchase, conquest, annex-*
18 *ation, or cession; or*

19 (C) *negotiated by the United States with, or*
20 *on behalf of, any Indian group, whether or not*
21 *the treaty was subsequently ratified.*

22 (21) *TRIBAL ROLL.*—*The term “tribal roll”*
23 *means a list exclusively of those individuals who have*
24 *been determined by the tribe to meet the tribe’s mem-*
25 *bership requirements as set forth in its governing doc-*

1 *ument or, in the absence of a governing document set-*
 2 *ting forth those requirements, have been recognized as*
 3 *members by the tribe’s governing body. In either case,*
 4 *those individuals on a tribal roll must have affirma-*
 5 *tively demonstrated consent to being listed as mem-*
 6 *bers.*

7 (22) *UNITED STATES.—The term “United*
 8 *States” means the 48 contiguous States, Alaska, and*
 9 *Hawaii; and does not include territories or posses-*
 10 *sions.*

11 **SEC. 4. COMMISSION ON INDIAN RECOGNITION.**

12 (a) *ESTABLISHMENT.—There is established within the*
 13 *Department of the Interior the Commission on Indian Rec-*
 14 *ognition. The Commission shall report directly to the As-*
 15 *sistant Secretary of Indian Affairs.*

16 (b) *MEMBERSHIP.—*

17 (1) *IN GENERAL.—(A) The Commission shall*
 18 *consist of 3 members appointed by the Secretary.*

19 (B) *In making appointments to the Commission,*
 20 *the Secretary shall give careful consideration to—*

21 (i) *recommendations received from Indian*
 22 *tribes;*

23 (ii) *recommendations from Indian groups*
 24 *and professional organizations; and*

1 (iii) *individuals who have a background in*
2 *Indian law or policy, anthropology, or history.*

3 (2) *AFFILIATIONS.—*

4 (A) *No more than 2 members of the Com-*
5 *mission may be members of the same political*
6 *party.*

7 (B) *No more than 1 member of the Commis-*
8 *sion may be an employee of the Department of*
9 *the Interior.*

10 (3) *TERMS.—(A) Each member of the Commis-*
11 *sion shall be appointed for a term of 4 years, except*
12 *as provided in subparagraph (B).*

13 (B) *As designated by the Secretary at the time*
14 *of appointment, of the members first appointed—*

15 (i) *1 shall be appointed for a term of 2*
16 *years;*

17 (ii) *1 shall be appointed for a term of 3*
18 *years; and*

19 (iii) *1 shall be appointed for a term of 4*
20 *years.*

21 (4) *VACANCY.—Any vacancy in the Commission*
22 *shall not affect its powers, but shall be filled in the*
23 *same manner in which the original appointment was*
24 *made. Any member appointed to fill a vacancy occur-*
25 *ring before the expiration of the term for which the*

1 *member's predecessor was appointed shall be ap-*
2 *pointed only for the remainder of that term. A mem-*
3 *ber may serve after the expiration of that member's*
4 *term until a successor has taken office.*

5 (5) *COMPENSATION.—(A) Each member of the*
6 *Commission not otherwise employed by the United*
7 *States Government shall receive compensation at a*
8 *rate equal to the daily equivalent of the annual rate*
9 *of basic pay prescribed for level V of the Executive*
10 *Schedule under section 5316 of title 5, United States*
11 *Code, for each day, including traveltime, such member*
12 *is engaged in the actual performance of duties author-*
13 *ized by the Commission.*

14 (B) *Except as provided in subparagraph (C), a*
15 *member of the Commission who is otherwise an officer*
16 *or employee of the United States Government shall*
17 *serve on the Commission without additional com-*
18 *penetration, but such service shall be without interrup-*
19 *tion or loss of civil service status or privilege.*

20 (C) *All members of the Commission shall be re-*
21 *imbursed for travel and per diem in lieu of subsist-*
22 *ence expenses during the performance of duties of the*
23 *Commission while away from home or their regular*
24 *place of business, in accordance with subchapter I of*
25 *chapter 57 of title 5, United States Code.*

1 (6) *CHAIRPERSON.*—*At the time appointments*
2 *are made under paragraph (1), the Secretary shall*
3 *designate 1 of such appointees as Chairperson of the*
4 *Commission.*

5 (c) *MEETINGS AND PROCEDURES.*—

6 (1) *INITIAL MEETING.*—*The Commission shall*
7 *hold its first meeting no later than 30 days after the*
8 *date on which all initial members of the Commission*
9 *have been appointed.*

10 (2) *QUORUM.*—*2 members of the Commission*
11 *shall constitute a quorum for the transaction of busi-*
12 *ness.*

13 (3) *RULES.*—*The Commission may adopt such*
14 *rules (consistent with the provisions of this Act) as*
15 *may be necessary to establish its procedures and to*
16 *govern the manner of its operations, organization,*
17 *and personnel.*

18 (4) *PRINCIPAL OFFICE.*—*The principal office of*
19 *the Commission shall be in the District of Columbia.*

20 (d) *DUTIES.*—*The Commission shall carry out the du-*
21 *ties assigned to the Commission by this Act, and shall meet*
22 *the requirements imposed on the Commission by this Act.*

23 (e) *POWERS AND AUTHORITIES.*—

1 (1) *CHAIRMAN.*—*Subject to such rules and regu-*
2 *lations as may be adopted by the Commission, the*
3 *Chairman of the Commission is authorized to—*

4 (A) *appoint, terminate, and fix the com-*
5 *pensation (without regard to the provisions of*
6 *title 5, United States Code, governing appoint-*
7 *ments in the competitive service, and without re-*
8 *gard to the provisions of chapter 51 and sub-*
9 *chapter III of chapter 53 of such title, or of any*
10 *other provision of law, relating to the number,*
11 *classification, and General Schedule rates) of an*
12 *Executive Director of the Commission and of*
13 *such other personnel as the Chairman deems ad-*
14 *visable to assist in the performance of the duties*
15 *of the Commission, at a rate not to exceed a rate*
16 *equal to the daily equivalent of the annual rate*
17 *of basic pay prescribed for level V of the Execu-*
18 *tive Schedule under section 5316 of title 5,*
19 *United States Code; and*

20 (B) *procure, as authorized by section*
21 *3109(b) of title 5, United States Code, temporary*
22 *and intermittent services to the same extent as is*
23 *authorized by law for agencies in the executive*
24 *branch, but at rates not to exceed the daily*
25 *equivalent of the annual rate of basic pay pre-*

scribed for level V of the Executive Schedule under section 5316 of such title.

(2) COMMISSION.—The Commission may—

(A) hold such hearings and sit and act at such times;

(B) take such testimony;

(C) have such printing and binding done;

(D) enter into such contracts and other arrangements, subject to the availability of funds;

(E) make such expenditures;

(F) secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman of the Commission;

(G) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States; and

1 (H) take such other actions as the Commis-
2 sion may deem advisable to carry out its duties.

3 (3) *MEMBERS.*—Any member of the Commission
4 may administer oaths or affirmations to witnesses
5 appearing before the Commission.

6 (f) *ASSISTANCE FROM OTHER FEDERAL AGENCIES.*—
7 Upon the request of the Chairman of the Commission, the
8 head of any Federal department, agency, or instrumentality
9 is authorized to make any of the facilities and services of
10 such department, agency, or instrumentality available to
11 the Commission and detail any of the personnel of such de-
12 partment, agency, or instrumentality to the Commission,
13 on a nonreimbursable basis, to assist the Commission in
14 carrying out its duties under this section.

15 (g) *TERMINATION OF COMMISSION.*—The Commission
16 shall terminate 12 years after the date of the enactment of
17 this Act.

18 (h) *FEDERAL ADVISORY COMMITTEE ACT.*—The provi-
19 sions of the Federal Advisory Committee Act shall not apply
20 to the Commission.

21 **SEC. 5. PETITIONS FOR RECOGNITION AND LETTERS OF IN-**
22 **TENT.**

23 (a) *IN GENERAL.*—

24 (1) *SUBMISSION.*—Any Indian group may sub-
25 mit to the Commission a petition requesting that the

1 *Commission recognize that the Indian group is an In-*
2 *dian tribe.*

3 (2) *HEARING.—Indian groups that have been de-*
4 *nied or refused recognition as an Indian tribe under*
5 *regulations prescribed by the Secretary shall be enti-*
6 *tled to an adjudicatory hearing, under section 9 of*
7 *this Act, before the Commission. For purposes of the*
8 *adjudicatory hearing, the Assistant Secretary’s final*
9 *determination shall be considered a preliminary de-*
10 *termination under section 8(b)(1)(B) of this Act.*

11 (3) *GROUPS AND ENTITIES EXCLUDED.—The*
12 *provisions of this Act do not apply to the following*
13 *groups or entities, which shall not be eligible for rec-*
14 *ognition under this Act—*

15 (A) *Indian tribes, organized bands, pueblos,*
16 *communities, and Alaska Native entities which*
17 *are recognized by the Secretary as of the date of*
18 *enactment of this Act as eligible to receive serv-*
19 *ices from the Bureau;*

20 (B) *splinter groups, political factions, com-*
21 *munities, or groups of any character which sepa-*
22 *rate from the main body of an Indian tribe that,*
23 *at the time of such separation, was recognized as*
24 *being an Indian tribe by the Secretary, unless it*
25 *can be clearly established that the group, faction,*

1 *or community has functioned throughout history*
2 *until the date of such petition as an autonomous*
3 *Indian group; and*

4 *(C) any Indian group whose relationship*
5 *with the Federal Government was expressly ter-*
6 *minated by an Act of Congress.*

7 *(4) TRANSFER OF PETITIONS.—(A) No later than*
8 *30 days after the date on which all of the initial*
9 *members of the Commission have been appointed, the*
10 *Secretary shall transfer to the Commission all peti-*
11 *tions pending before the Department. The Secretary*
12 *shall also transfer all letters of intent previously re-*
13 *ceived by the Department that request the Secretary,*
14 *or the Federal Government, to recognize or acknowl-*
15 *edge an Indian group as an Indian tribe.*

16 *(B) On the date of such transfer, the Secretary*
17 *and the Department shall cease to have any authority*
18 *to recognize or acknowledge, on behalf of the Federal*
19 *Government, any Indian group as an Indian tribe.*

20 *(C) Petitions and letters of intent transferred to*
21 *the Commission under subparagraph (A) of this para-*
22 *graph shall, for purposes of this Act, be considered as*
23 *having been submitted to the Commission in the same*
24 *order as they were submitted to the Department.*

1 (b) *PETITION FORM AND CONTENT.*—*Except as other-*
2 *wise provided in this section, any petition submitted under*
3 *subsection (a) by an Indian group shall be in any readable*
4 *form that clearly indicates that the petition is requesting*
5 *the Commission to recognize the petitioning Indian group*
6 *as an Indian tribe. Each petition shall contain specific evi-*
7 *dence establishing the following mandatory criteria:*

8 (1) *The petitioner has been identified as an*
9 *American Indian entity on a substantially continu-*
10 *ous basis since 1934.*

11 (A) *Evidence to be relied upon in determin-*
12 *ing a group's Indian identity may include 1 or*
13 *a combination of the following, as well as other*
14 *evidence of identification by other than the peti-*
15 *tioner itself or its members. Proof of any 1 of the*
16 *following for a given time is conclusive evidence*
17 *of Indian identity for that time.*

18 (i) *Identification as an Indian entity*
19 *by Federal authorities.*

20 (ii) *Relationships with State govern-*
21 *ments based on identification of the group*
22 *as Indian.*

23 (iii) *Dealings with a county, parish, or*
24 *other local government in a relationship*
25 *based on the group's Indian identity.*

1 (iv) *Identification as an Indian entity*
2 by anthropologists, historians, or other
3 scholars.

4 (v) *Identification as an Indian entity*
5 in newspapers and books.

6 (vi) *Identification as an Indian entity*
7 in relationships with Indian tribes or with
8 national, regional, or State Indian organi-
9 zations.

10 (B) *A petitioner may establish that, for any*
11 *given period of time for which evidence of identi-*
12 *fication as Indian is lacking, such absence of evi-*
13 *dence corresponds in time with official acts of*
14 *the Federal or relevant State government which*
15 *prohibited or penalized the expression of Indian*
16 *identity. For such periods of time, the absence of*
17 *evidence identifying the petitioner as an Indian*
18 *entity shall not be the basis for declining to ac-*
19 *knowledge the petitioner.*

20 (2) *A predominant portion of the petitioning*
21 *groups comprises a distinct community and has ex-*
22 *isted as a community on a substantially continuous*
23 *basis since 1934.*

24 (A) *The criterion that the petitioner meets*
25 *the definition of community set forth in section*

3 may be demonstrated by 1 or more of the following:

(i) Significant rates of marriage within the group or, as may be culturally required, patterned out-marriages with other Indian populations.

(ii) Significant social relationships connecting individual members.

(iii) Significant rates of informal social interaction which exist broadly among the members of a group.

(iv) A significant degree of shared or cooperative labor or other economic activity among the membership.

(v) Evidence of strong patterns of discrimination or other social distinctions by nonmembers.

(vi) Shared sacred or secular ritual activity encompassing most of the group.

(vii) Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian.

1 *They may include, but are not limited to,*
2 *language, kinship organization, or religious*
3 *beliefs and practices.*

4 *(viii) The persistence of a named, col-*
5 *lective Indian identity continuously over a*
6 *period of more than 50 years, notwithstand-*
7 *ing changes in name.*

8 *(ix) A demonstration of political influ-*
9 *ence under the criterion in paragraph*
10 *(3)(B) shall be conclusive evidence for dem-*
11 *onstrating community for that period of*
12 *time.*

13 *(x) Other evidence as considered appro-*
14 *priate by the Secretary.*

15 *(B) A petitioner shall be considered to have*
16 *provided sufficient evidence of community at a*
17 *given point in time if evidence is provided to*
18 *demonstrate any 1 of the following:*

19 *(i) More than 50 percent of the mem-*
20 *bers reside in a geographical area or areas*
21 *no more than 50 miles from a historic land*
22 *base(s) or site(s) of the petitioner.*

23 *(ii) At least 50 percent of the mar-*
24 *riages in the group are between members of*
25 *the group.*

1 (iii) *At least 50 percent of the group*
2 *members maintain distinct cultural pat-*
3 *terns such as, but not limited to, language,*
4 *kinship organization, or religious beliefs*
5 *and practices.*

6 (iv) *There are distinct social institu-*
7 *tions encompassing more than 50 percent of*
8 *the members, such as kinship organizations,*
9 *formal or informal economic cooperation, or*
10 *religious organizations.*

11 (v) *The group has met the criterion in*
12 *paragraph (3) using evidence described in*
13 *paragraph (3)(B).*

14 (3) *The petitioner has maintained political in-*
15 *fluence or authority over its members as an autono-*
16 *mous entity from 1934 until the present.*

17 (A) *This criterion may be demonstrated by*
18 *1 or more of the evidence listed below or by other*
19 *evidence of political influence or authority:*

20 (i) *The group is able to mobilize sig-*
21 *nificant numbers of members and signifi-*
22 *cant resources from its members for group*
23 *purposes.*

24 (ii) *Most of the membership considers*
25 *issues acted upon or actions taken by group*

1 *leaders or governing bodies to be of impor-*
2 *tance.*

3 *(iii) There is widespread knowledge,*
4 *communication, and involvement in politi-*
5 *cal processes by most of the group's mem-*
6 *bers.*

7 *(iv) There are internal conflicts which*
8 *show controversy over valued group goals,*
9 *properties, policies, processes, or decisions.*

10 *(B) A petitioning group shall be considered*
11 *to have provided sufficient evidence to dem-*
12 *onstrate the exercise of political influence or au-*
13 *thority at a given point in time by demonstrat-*
14 *ing any 1 of the following:*

15 *(i) A continuous line of group leaders,*
16 *acknowledged and accepted as such by State*
17 *or local governments or nonmembers in gen-*
18 *eral, with a description of the means of se-*
19 *lection.*

20 *(ii) Group leaders or other mechanisms*
21 *exist or existed which allocate group re-*
22 *sources such as land, residence rights, and*
23 *the like on a consistent basis.*

24 *(iii) Group leaders or other mecha-*
25 *nisms exist or existed which settle disputes*

1 *between members or subgroups by some*
2 *means.*

3 *(iv) Group leaders or other mecha-*
4 *nisms exist or existed which exert strong in-*
5 *fluence on the behavior of individual mem-*
6 *bers, such as the establishment or mainte-*
7 *nance of norms and the enforcement of*
8 *sanctions to influence behavior.*

9 *(v) Group leaders or other mechanisms*
10 *exist or existed which organize or influence*
11 *economic subsistence activities among the*
12 *members, including shared or cooperative*
13 *labor.*

14 *(C) A group that has met the requirements*
15 *in paragraph (3) at a given point in time shall*
16 *be considered to have provided sufficient evidence*
17 *to meet this criterion at that point in time.*

18 *(4) A copy of the group's present governing docu-*
19 *ment, including its membership criteria. In the ab-*
20 *sence of a written document, the petitioner must pro-*
21 *vide a statement describing in full its membership*
22 *criteria.*

23 *(5) The petitioner's membership consists of indi-*
24 *viduals who descend from a historical Indian tribe or*

1 *from historical Indian tribes which combined and*
2 *functioned as a single autonomous political entity.*

3 *(A) A petitioner shall be presumed to de-*
4 *scend from a historical Indian tribe or combined*
5 *tribes upon proof by the petitioner that its mem-*
6 *ber descend from an Indian entity in existence*
7 *in 1934. This presumption may be rebutted by*
8 *affirmative evidence offered by any interested*
9 *party that the Indian entity in existence in 1934*
10 *does not descend from a historical Indian tribe*
11 *or combined tribes.*

12 *(B) The following evidence shall be deemed*
13 *by the Commission to prove descent from a his-*
14 *torical Indian entity for the time for which such*
15 *evidence is available:*

16 *(i) Rolls prepared by the Secretary on*
17 *a descendancy basis for purposes of distrib-*
18 *uting claims money, providing allotments,*
19 *or other purposes.*

20 *(ii) State, Federal, or other official*
21 *records or evidence identifying present*
22 *members or ancestors of present members as*
23 *being descendants of a historical tribe or*
24 *combined tribes.*

1 (iii) Church, school, and other similar
2 enrollment records identifying present mem-
3 bers or ancestors of present members as
4 being descendants of a historical tribe or
5 combined tribes.

6 (iv) Affidavits of recognition by tribal
7 elders, leaders, or the tribal governing body
8 identifying present members or ancestors of
9 present members as being descendants of a
10 historical tribe or combined tribes.

11 (v) Reports, research, or other like
12 statements based upon firsthand experience
13 of historians, anthropologists, and genealo-
14 gists with established expertise on the peti-
15 tioner or Indian entities in general identi-
16 fying present members or ancestors of
17 present members as being descendants of a
18 historical tribe or combined tribes.

19 (C) A petitioner may also demonstrate this
20 criterion by other records of evidence identifying
21 present members or ancestors of present members
22 as being descendants of a historical tribe or com-
23 bined tribes.

24 (D) The petitioner must provide an official
25 membership list, separately certified by the

1 group's governing body of all known current
2 members of the group. This list must include
3 each member's full name (including maiden
4 name), date of birth, and current residential ad-
5 dress. The petitioner must also provide a copy
6 of each available former list of members based
7 on the group's own defined criteria, as well as
8 a statement describing the circumstances sur-
9 rounding the preparation of the current list and,
10 insofar as possible, the circumstances surround-
11 ing the preparation of former lists.

12 (6) The membership of the petitioning group is
13 composed principally of persons who are not members
14 of any acknowledged North American Indian tribe.
15 However, under certain conditions a petitioning
16 group may be acknowledged even if its membership is
17 composed principally of persons whose names have
18 appeared on rolls of, or who have been otherwise asso-
19 ciated with, an acknowledged Indian tribe. The condi-
20 tions are that the group must establish that it has
21 functioned since 1934 until the present as a separate
22 and autonomous Indian tribal entity, that its mem-
23 bers do not maintain a bilateral political relationship
24 with the acknowledged tribe, and that its members

1 *have provided written confirmation of their member-*
2 *ship in the petitioning group.*

3 *(c) PREVIOUS ACKNOWLEDGMENT.—*

4 *(1) IN GENERAL.—Evidence which demonstrates*
5 *previous Federal acknowledgment includes, but is not*
6 *limited to—*

7 *(A) evidence that the group has had or is*
8 *the successor in interest to a tribe that has had*
9 *treaty relations with the United States;*

10 *(B) evidence that the group has been or is*
11 *the successor in interest to a tribe that has been*
12 *denominated a tribe by Act of Congress or Exec-*
13 *utive order;*

14 *(C) evidence that the group has been or is*
15 *the successor in interest to a tribe that has been*
16 *treated by the Federal Government as having col-*
17 *lective rights in tribal lands or funds.*

18 *(2) PRESUMPTION OF CONTINUOUSNESS.—A pe-*
19 *titioner that can demonstrate previous Federal ac-*
20 *knowledgment by a preponderance of the evidence*
21 *shall be required to demonstrate the existence of cur-*
22 *rent political authority as defined by subsection*
23 *(b)(3), with a time depth limited to 10 years preced-*
24 *ing the date of the petition. Upon such demonstration,*
25 *a presumption of continuous existence since previous*

1 *Federal acknowledgment shall arise. Unless such pre-*
 2 *sumption is rebutted by evidence offered by an inter-*
 3 *ested party proving by a preponderance of the evi-*
 4 *dence that the previously recognized group has aban-*
 5 *doned tribal relations, such group shall be recognized.*

6 *(d) RECOGNITION OF GROUPS MEETING CRITERIA.—*
 7 *The Commission shall recognize as an Indian tribe a peti-*
 8 *tioning group that demonstrates the criteria set out in this*
 9 *section by a preponderance of the evidence. Such recognized*
 10 *tribes shall be entitled to the same privileges, immunities,*
 11 *rights, and benefits of other federally recognized tribes. Nei-*
 12 *ther shall the Department of the Interior nor any other Fed-*
 13 *eral agency purport to diminish, condition, or revoke the*
 14 *privileges, immunities, rights, and benefits of Indian tribes*
 15 *recognized by any means before the effective date of this Act*
 16 *or under the provisions of this Act.*

17 **SEC. 6. NOTICE OF RECEIPT OF PETITION AND LETTERS OF**
 18 **INTENT.**

19 *(a) PETITIONER.—Not later than 30 days after a peti-*
 20 *tion is submitted or transferred to the Commission under*
 21 *section 5(a), the Commission shall send an acknowledge-*
 22 *ment of receipt in writing to the petitioner and shall have*
 23 *published in the Federal Register a notice of such receipt,*
 24 *including the name, location, and mailing address of the*
 25 *petitioner and such other information that will identify the*

1 *entity who submitted the petition and the date the petition*
 2 *was received by the Commission. The notice shall also indi-*
 3 *cate where a copy of the petition may be examined.*

4 **(b) LETTERS OF INTENT.**—*As to letters of intent, pub-*
 5 *lish in the Federal Register a notice of such receipt, includ-*
 6 *ing the name, location, and mailing address of petitioner.*
 7 *A petitioner who has submitted a letter of intent or had*
 8 *a letter of intent transferred to the Commission under sec-*
 9 *tion 5(a) shall not be required to submit a documented peti-*
 10 *tion within any time period.*

11 **(c) OTHERS.**—*The Commission shall also notify, in*
 12 *writing, the Governor and attorney general of, and each rec-*
 13 *ognized Indian tribe within, any State in which a peti-*
 14 *tioner resides.*

15 **(d) PUBLICATION; OPPORTUNITY FOR SUPPORTING OR**
 16 **OPPOSING SUBMISSIONS.**—*The Commission shall publish*
 17 *the notice of receipt of the petition in a major newspaper*
 18 *of general circulation in the town or city nearest the loca-*
 19 *tion of the petitioner. The notice shall include, in addition*
 20 *to the information described in subsection (a), notice of op-*
 21 *portunity for other parties to submit factual or legal argu-*
 22 *ments in support of or in opposition to, the petition. Such*
 23 *submissions shall be provided to the petitioner upon receipt*
 24 *by the Commission. The petitioner shall be provided an op-*

1 *portunity to respond to such submissions prior to a deter-*
 2 *mination on the petition by the Commission.*

3 **SEC. 7. PROCESSING THE PETITION.**

4 *(a) REVIEW.—*

5 *(1) IN GENERAL.—Upon receipt of a documented*
 6 *petition, the Commission shall conduct a review to de-*
 7 *termine whether the petitioner is entitled to be recog-*
 8 *nized as an Indian tribe.*

9 *(2) CONSIDERATION.—The review conducted*
 10 *under paragraph (1) shall include consideration of*
 11 *the petition, supporting evidence, and the factual*
 12 *statements contained in the petition.*

13 *(3) RESEARCH.—The Commission may also ini-*
 14 *tiate other research for any purpose relative to ana-*
 15 *lyzing the petition and obtaining additional informa-*
 16 *tion about the petitioner’s status and may consider*
 17 *any evidence which may be submitted by other par-*
 18 *ties.*

19 *(4) ACCESS TO OTHER FEDERAL RESOURCES.—*
 20 *Upon request by the petitioner, the Library of Con-*
 21 *gress and the National Archives shall each allow ac-*
 22 *cess to the petitioner to its resources, records, and doc-*
 23 *uments, for the purpose of conducting research and*
 24 *preparing evidence concerning the status of the peti-*
 25 *tioner.*

1 (b) *CONSIDERATION.*—

2 (1) *IN GENERAL.*—*Except as otherwise provided*
3 *in this subsection, petitions shall be considered on a*
4 *first come, first served basis, determined by the date*
5 *of the original filing of the petition with the Commis-*
6 *sion, or the Department if the petition is transferred*
7 *to the Commission pursuant to section 5(a). The*
8 *Commission shall establish a priority register includ-*
9 *ing those petitions pending before the Department on*
10 *the date of enactment of this Act.*

11 (2) *PRIORITY.*—*Petitions that are submitted to*
12 *the Commission by Indian groups that meet 1 or*
13 *more of the requirements set forth in section 5(c) shall*
14 *receive priority consideration over petitions submitted*
15 *by any other Indian group.*

16 **SEC. 8. PRELIMINARY HEARING.**

17 (a) *IN GENERAL.*—*Not later than 60 days after the*
18 *receipt of a petition by the Commission, the Commission*
19 *shall set a date for a preliminary hearing. At the prelimi-*
20 *nary hearing, the petitioner and any other concerned party*
21 *may provide evidence concerning the status of the peti-*
22 *tioner.*

23 (b) *DETERMINATION.*—

24 (1) *IN GENERAL.*—*Within 30 days after the con-*
25 *clusion of the preliminary hearing under subsection*

1 (a), the Commission shall make a determination ei-
 2 ther—

3 (A) to extend acknowledgement to the peti-
 4 tioner; or

5 (B) that the petitioner proceed to an adju-
 6 dicatory hearing.

7 (2) *PUBLISHED IN FEDERAL REGISTER.*—The
 8 Commission shall publish the determination in the
 9 Federal Register.

10 (c) *INFORMATION TO BE PROVIDED PREPARATORY TO*
 11 *AN ADJUDICATORY HEARING.*—

12 (1) *IN GENERAL.*—If the Commission determines
 13 under subsection (b) that the petitioner proceed to an
 14 adjudicatory hearing, the Commission shall—

15 (A) immediately make available to the peti-
 16 tioner all records relied upon by the Commission
 17 and its staff in making the preliminary deter-
 18 mination to assist the petitioner in preparing
 19 for the adjudicatory hearing, and shall also in-
 20 clude such guidance as the Commission considers
 21 necessary or appropriate to assist the petitioner
 22 in preparing for the hearing including references
 23 to prior decisions of the Commission or to rec-
 24 ognition decisions made under regulations pre-
 25 scribed by the Secretary that will provide direc-

1 tion in preparing for the adjudicatory hearing;
 2 and if prior recognition decisions are referred to,
 3 the Commission will make all records relating to
 4 such decisions available to the petitioner in a
 5 timely manner; and

6 (B) within 30 days after the conclusion of
 7 the preliminary hearing under subsection (a),
 8 notify the petitioner in writing, which notice
 9 shall include a list of any deficiencies or omis-
 10 sions on which the Commission relied in making
 11 its determination.

12 (2) *LIST OF DEFICIENCIES.*—The list of defi-
 13 ciencies and omissions provided under paragraph
 14 (1)(B) shall be the subject of the adjudicatory hearing.
 15 The Commission may not add to this list once it is
 16 issued.

17 **SEC. 9. ADJUDICATORY HEARING.**

18 (a) *IN GENERAL.*—Not later than 180 days after the
 19 conclusion of the preliminary hearing, the Commission
 20 shall afford the petitioner described in section 8(b)(1)(B)
 21 an adjudicatory hearing. The hearing shall be on the list
 22 of deficiencies and omissions provided under section
 23 8(c)(1)(B) and shall be conducted on the record pursuant
 24 to sections 554, 556, and 557 of title 5, United States Code.

1 (b) *TESTIMONY FROM STAFF OF COMMISSION.*—The
 2 Commission shall require testimony from its acknowledge-
 3 ment and research staff that worked on the preliminary de-
 4 termination and that are assisting the Commission in the
 5 final determination under subsection (d) and may require
 6 the testimony of other witnesses. Any such testimony shall
 7 be subject to cross-examination by the petitioner.

8 (c) *EVIDENCE BY PETITIONER.*—The petitioner may
 9 provide such evidence as the petitioner deems appropriate.

10 (d) *DECISION BY COMMISSION.*—Within 60 days after
 11 the end of the hearing held under subsection (a), the Com-
 12 mission shall—

13 (1) make a determination as to the extension or
 14 denial of acknowledgment to the petitioner;

15 (2) publish its determination under paragraph
 16 (1) in the Federal Register; and

17 (3) deliver a copy of the determination to the pe-
 18 titioner, and to every other interested party.

19 **SEC. 10. APPEALS.**

20 (a) *IN GENERAL.*—Within 60 days after the date the
 21 Commission's decision is published under section 9(d), the
 22 petitioner may appeal the determination to the United
 23 States District Court for the District of Columbia.

24 (b) *ATTORNEY FEES.*—If the petitioner prevails in the
 25 appeal described in subsection (a), it shall be eligible for

1 *an award of reasonable attorney fees and costs under the*
 2 *provisions of section 504 of title 5, United States Code, or*
 3 *section 2412 of title 28 of such Code, as the case may be.*

4 **SEC. 11. IMPLEMENTATION OF DECISIONS.**

5 *(a) ELIGIBILITY FOR SERVICES AND BENEFITS.—*

6 *(1) IN GENERAL.—Subject to paragraph (2),*
 7 *upon recognition by the Commission that the peti-*
 8 *tioner is an Indian tribe, the Indian tribe shall be eli-*
 9 *gible for the services and benefits from the Federal*
 10 *Government that are available to other federally rec-*
 11 *ognized Indian tribes by virtue of their status as In-*
 12 *dian tribes with a government-to-government relation-*
 13 *ship with the United States, as well as having the re-*
 14 *sponsibilities and obligations of such Indian tribes.*
 15 *Such recognition shall subject the Indian tribes to the*
 16 *same authority of Congress and the United States to*
 17 *which other federally recognized tribes are subject.*

18 *(2) AVAILABILITY.—Recognition of the Indian*
 19 *tribe under this Act does not create an immediate en-*
 20 *titlement to existing programs of the Bureau. Such*
 21 *programs shall become available upon appropriation*
 22 *of funds by law. Requests for appropriations shall fol-*
 23 *low a determination under subsection (b) of the needs*
 24 *of the newly-recognized Indian tribe.*

1 (b) *NEEDS DETERMINATION.*—Within 6 months after
 2 an Indian tribe is recognized under this Act, the appro-
 3 priate area offices of the Bureau and the Indian Health
 4 Service shall consult and develop in cooperation with the
 5 Indian tribe, and forward to the respective Secretary, a de-
 6 termination of the needs of the Indian tribe and a rec-
 7 ommended budget required to serve the newly recognized In-
 8 dian tribe. The recommended budget shall be considered
 9 along with recommendations by the appropriate Secretary
 10 in the budget-request process.

11 **SEC. 12. ANNUAL REPORT CONCERNING COMMISSION'S AC-**
 12 **TIVITIES.**

13 (a) *LIST OF RECOGNIZED TRIBES.*—Not later than 90
 14 days after the date of the enactment of this Act, and annu-
 15 ally on or before every January 30 thereafter, the Commis-
 16 sion shall publish in the Federal Register a list of all Indian
 17 tribes which are recognized by the Federal Government and
 18 receiving services from the Bureau of Indian Affairs.

19 (b) *ANNUAL REPORT.*—Beginning 1 year after the date
 20 of the enactment of this Act, and annually thereafter, the
 21 Commission shall submit a report to the Committee on Re-
 22 sources of the House of Representatives and to the Commit-
 23 tee on Indian Affairs of the Senate a report on its activities,
 24 which shall include at a minimum the following:

1 (1) *The number of petitions pending at the be-*
2 *ginning of the year and the names of the petitioners.*

3 (2) *The number of petitions received during the*
4 *year and the names of the petitioners.*

5 (3) *The number of petitions the Commission ap-*
6 *proved for acknowledgment and the names of the ac-*
7 *knowledgeed petitioners.*

8 (4) *The number of petitions the Commission de-*
9 *nied for acknowledgment and the names of the peti-*
10 *tioners.*

11 (5) *The status of all pending petitions and the*
12 *names of the petitioners.*

13 **SEC. 13. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

14 *Any petitioner may bring an action in the district*
15 *court of the United States for the district in which the peti-*
16 *tioner resides, or the United States District Court for the*
17 *District of Columbia, to enforce the provisions of this Act,*
18 *including any time limitations within which actions are*
19 *required to be taken, or decisions made, under this Act and*
20 *the district court shall issue such orders (including writs*
21 *of mandamus) as may be necessary to enforce the provisions*
22 *of this Act.*

23 **SEC. 14. REGULATIONS.**

24 *The Commission is authorized to prescribe such regula-*
25 *tions as may be necessary to carry out the provisions and*

1 *purposes of this Act. All such regulations must be published*
 2 *in accordance with the provisions of title 5, United States*
 3 *Code.*

4 **SEC. 15. GUIDELINES AND ADVICE.**

5 (a) *GUIDELINES.*—*Not later than 180 days after peti-*
 6 *tions and letters of intent have been transferred to the Com-*
 7 *mission by the Secretary under section 5(a)(4)(A), the Com-*
 8 *mission shall make available suggested guidelines for the*
 9 *format of petitions, including general suggestions and*
 10 *guidelines on where and how to research required informa-*
 11 *tion, but such examples shall not preclude the use of any*
 12 *other format.*

13 (b) *RESEARCH ADVICE.*—*The Commission, upon re-*
 14 *quest, is authorized to provide suggestions and advise to*
 15 *any petitioner for his research into the petitioner's histori-*
 16 *cal background and Indian identity. The Commission shall*
 17 *not be responsible for the actual research on behalf of the*
 18 *petitioner.*

19 **SEC. 16. ASSISTANCE TO PETITIONERS.**

20 (a) *GRANTS.*—

21 (1) *IN GENERAL.*—*The Secretary of Health and*
 22 *Human Services may award grants to Indian groups*
 23 *seeking Federal recognition to enable the Indian*
 24 *groups to—*

1 (A) conduct the research necessary to sub-
2 stantiate petitions under this Act; and

3 (B) prepare documentation necessary for
4 the submission of a petition under this Act.

5 (2) *OTHER GRANTS.*—The grants made under
6 this subsection shall be in addition to any other
7 grants the Secretary of Health and Human Services
8 is authorized to provide under any other provision of
9 law.

10 (b) *COMPETITIVE AWARD.*—Grants provided under
11 subsection (a) shall be awarded competitively based on ob-
12 jective criteria prescribed in regulations promulgated by the
13 Secretary of Health and Human Services.

14 **SEC. 17. SEVERABILITY.**

15 If any provision of this Act or the application thereof
16 to any petitioner is held invalid, the invalidity shall not
17 affect other provisions or applications of the Act which can
18 be given effect without regard to the invalid provision or
19 application, and to this end the provisions of this Act shall
20 be severable.

21 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) *COMMISSION.*—There are authorized to be appro-
23 priated for the Commission for the purpose of carrying out
24 the provisions of this Act (other than section 16), \$1,500,000

1 *for fiscal year 1998 and \$1,500,000 for each of the 12 suc-*
2 *ceeding fiscal years.*

3 **(b) SECRETARY OF HHS.**—*There are authorized to be*
4 *appropriated for the Administration for Native Americans*
5 *of the Department of Health and Human Services for the*
6 *purpose of carrying out the provisions of section 16,*
7 *\$3,000,000 for each fiscal year.*