

Union Calendar No. 482

108TH CONGRESS
2D SESSION

H. R. 5134

[Report No. 108-788]

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2004

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

NOVEMBER 19, 2004

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 italic]

[For text of introduced bill, see copy of bill as introduced on September 23, 2004]

A BILL

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, 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. PROMPT CONSIDERATION OF CERTAIN PETI-**
2 **TIONS REQUESTING FEDERAL RECOGNITION**
3 **AS AN INDIAN TRIBE.**

4 (a) *TIME PERIOD FOR PROPOSED FINDING.*—Not later
5 than 6 months after the date of the enactment of this Act,
6 the Secretary shall publish a proposed finding with respect
7 to the petition for Federal recognition of each eligible tribe
8 consistent with part 83 of title 25, Code of Federal Regula-
9 tions.

10 (b) *TIME PERIOD FOR FINAL DETERMINATION.*—Not
11 later than one year after the date of the enactment of this
12 Act, the Secretary shall publish a final determination with
13 respect to the petition for Federal recognition of each eligi-
14 ble tribe.

15 (c) *NOTIFICATION; OPT IN.*—

16 (1) *NOTIFICATION OF TRIBES.*—Not later than
17 45 days after the date of the enactment of this Act,
18 the Secretary shall notify, in writing, all potentially
19 eligible tribes that they may opt into the expedited
20 procedure for proposed findings and final determina-
21 tions under this Act and of the provisions of para-
22 graph (2).

23 (2) *OPT IN.*—If, not later than 90 days after the
24 date of the enactment of this Act, a potentially eligible
25 tribe notifies the Secretary, in writing, that the poten-
26 tially eligible tribe elects to opt into the expedited

1 *procedures under this Act, the potentially eligible*
2 *tribe shall be considered an eligible tribe for the pur-*
3 *poses of this Act. Potentially eligible tribes shall not*
4 *be considered eligible tribes for the purposes of this*
5 *Act if notification is not made by the potentially eli-*
6 *gible tribe in accordance with this paragraph.*

7 *(d) NUMBER OF MEMBERS NOT A FACTOR.—The num-*
8 *ber of persons listed on the membership roll contained in*
9 *a petition for Federal recognition of an eligible tribe shall*
10 *not be taken into account in considering the petition, except*
11 *that the Secretary may review the eligibility of individual*
12 *members or groups listed in a petition in accordance with*
13 *the provisions of part 83 of title 25, Code of Federal Regula-*
14 *tions.*

15 *(e) EFFECT OF FAILURE TO COMPLY.—If the Secretary*
16 *fails to publish a proposed finding required by subsection*
17 *(a) or a final determination required by subsection (b) by*
18 *the end of the time period required for the proposed finding*
19 *or final determination by such subsections, the relevant eli-*
20 *gible tribe may seek in the appropriate United States dis-*
21 *trict court a determination by the court of whether the eligi-*
22 *ble tribe should be recognized as an Indian tribe in accord-*
23 *ance with the criteria specified in section 83.7 of title 25,*
24 *Code of Federal Regulations. In any such action, the court*

1 *shall treat such failure by the Secretary as final agency ac-*
2 *tion.*

3 (f) *REVIEW OF ADVERSE DECISION.*—*If the final de-*
4 *termination required by subsection (b) refuses to recognize*
5 *the eligible tribe as an Indian tribe, the eligible tribe may*
6 *seek, during the one-year period beginning on the date on*
7 *which the final determination is published, a review of the*
8 *determination in the appropriate United States district*
9 *court, notwithstanding the availability of other administra-*
10 *tive remedies.*

11 (g) *CONSIDERATION OF OTHER PETITIONS.*—*Until the*
12 *Secretary has published a proposed finding with respect to*
13 *the petition of each eligible tribe as required under sub-*
14 *section (a), no other petition for recognition as an Indian*
15 *tribe may be processed except those listed as having a status*
16 *of “Active” or “In Post-Final Decision Appeal Process” by*
17 *the Department of the Interior on July 1, 2004.*

18 (h) *NO CHANGE IN CRITERIA.*—*Nothing in this Act*
19 *shall be construed to change the criteria established by the*
20 *Department of the Interior to determine whether or not a*
21 *petitioner meets the requirements to be a federally recog-*
22 *nized tribe.*

23 (i) *DEFINITIONS.*—*For the purposes of this Act, the fol-*
24 *lowing definitions apply:*

1 (1) *ELIGIBLE TRIBE*.—The term “eligible tribe”
2 *means a tribe that—*

3 (A) *has made an initial application for rec-*
4 *ognition as an Indian tribe to the Department*
5 *of the Interior before October 17, 1988;*

6 (B) *is listed as having a status of “Ready,*
7 *Waiting for Active Consideration” by the De-*
8 *partment of the Interior on July 1, 2004; and*

9 (C) *not later than 90 days after the date of*
10 *the enactment of this Act, notifies the Secretary,*
11 *in writing, that it opts to have its petition for*
12 *recognition as an Indian tribe considered under*
13 *the expedited procedure for proposed findings*
14 *and final determinations under this Act.*

15 (2) *POTENTIALLY ELIGIBLE TRIBE*.—The term
16 *“potentially eligible tribe” means a tribe that—*

17 (A) *has made an initial application for rec-*
18 *ognition as an Indian tribe to the Department*
19 *of the Interior before October 17, 1988;*

20 (B) *is listed as having a status of “Ready,*
21 *Waiting for Active Consideration” by the De-*
22 *partment of the Interior on July 1, 2004; and*

23 (C) *has not notified the Secretary, in writ-*
24 *ing, whether or not it opts to have its petition*
25 *for recognition as an Indian tribe considered*

1 *under the expedited procedure for proposed find-*
2 *ings and final determinations under this Act.*

3 (3) *SECRETARY.*—*The term “Secretary” means*
4 *the Secretary of the Interior, or a designee of the Sec-*
5 *retary.*

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