

108TH CONGRESS
1ST SESSION

S. 462

To establish procedures for the acknowledgment of Indian tribes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2003

Mr. DODD (for himself and Mr. LIEBERMAN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish procedures for the acknowledgment of Indian
tribes.

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 “Tribal Acknowledg-
5 ment and Indian Bureau Enhancement Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the United States has an obligation to rec-
9 ognize and respect the sovereignty of Native Amer-
10 ican people who have maintained social, cultural,
11 and political identity;

1 (2) each Native American tribal government
2 that represents an Indian tribe that has, to the max-
3 imum extent practicable, maintained social, cultural,
4 and political identity during the historical period is
5 entitled—

6 (A) to establish government-to-government
7 relations with the United States; and

8 (B) to the rights relating to sovereign gov-
9 ernments;

10 (3) the Bureau exercises responsibility for de-
11 termining whether Native American groups—

12 (A) constitute federally-acknowledged In-
13 dian tribes; and

14 (B) for that reason, are to be acknowl-
15 edged by the United States as sovereign na-
16 tions;

17 (4) in recent years, the decisionmaking process
18 used by the Bureau to resolve claims of tribal sov-
19 ereignty has been widely criticized; and

20 (5) in order to ensure continued public con-
21 fidence in the decisions of the Federal Government
22 pertaining to tribal acknowledgment, it is necessary
23 to reform the acknowledgment process.

24 **SEC. 3. PURPOSES.**

25 The purposes of this Act are—

1 (1) to establish administrative procedures to ex-
2 tend Federal acknowledgment to certain Indian
3 groups;

4 (2) to extend to Indian groups that are ac-
5 knowledged—

6 (A) the protection, services, and benefits
7 available from the Federal Government in ac-
8 cordance with the Federal trust responsibility
9 with respect to Indian tribes; and

10 (B) the immunities and privileges available
11 to other federally-acknowledged Indian tribes by
12 virtue of their status as Indian tribes with a
13 government-to-government relationship with the
14 United States;

15 (3) to ensure that, if the Federal Government
16 extends acknowledgment to an Indian group, the
17 Federal Government does so based on clear, factual
18 evidence derived from an open and objective admin-
19 istrative process;

20 (4) to provide clear and consistent standards of
21 administrative review of documented petitions for
22 Federal acknowledgment; and

23 (5) to clarify evidentiary standards and expedite
24 the administrative review process by providing ade-
25 quate resources to process documented petitions.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **ACKNOWLEDGMENT.**—The term “acknowl-
4 edgment”, with respect to a determination by the
5 Secretary, means acknowledgment by the United
6 States that—

7 (A) an Indian group is an Indian tribe
8 having a government-to-government relationship
9 with the United States;

10 (B) the members of the Indian group are
11 eligible for—

12 (i) the protection, programs, and serv-
13 ices provided by the United States to mem-
14 bers of Indian tribes because of the status
15 of those members as Indians; and

16 (ii) the immunities and privileges
17 available to an Indian tribe by virtue of the
18 government-to-government relationship of
19 the Indian tribe with the United States;

20 (C) the Indian group has the responsibil-
21 ities, powers, limitations, and obligations of an
22 Indian tribe; and

23 (D) the Indian group is subject to the
24 same authority of Congress and the United
25 States to which other Indian tribes are subject.

1 (2) BUREAU.—The term “Bureau” means the
2 Bureau of Indian Affairs of the Department of the
3 Interior.

4 (3) DEPARTMENT.—The term “Department”
5 means the Department of the Interior.

6 (4) DOCUMENTED PETITION.—The term “docu-
7 mented petition” means a petition for acknowledg-
8 ment consisting of—

9 (A) detailed arguments made by a peti-
10 tioner to substantiate the claim of the petitioner
11 to existence as an Indian tribe during the his-
12 torical period; and

13 (B) the factual exposition and all docu-
14 mentary evidence necessary to demonstrate that
15 the arguments address the mandatory criteria
16 for acknowledgment described in section 9(b).

17 (5) HISTORICAL PERIOD.—The term “historical
18 period” means the period beginning when a peti-
19 tioner first sustained contact with non-Indians and
20 continuing through the date of submission of a docu-
21 mented petition under this Act.

22 (6) INDIAN.—The term “Indian” means an in-
23 dividual that is a member of an Indian group or In-
24 dian tribe.

1 (7) INDIAN GROUP.—The term “Indian group”
 2 means any Indian or Alaska Native aggregation
 3 within the continental United States that the Sec-
 4 retary does not acknowledge to be an Indian tribe.

5 (8) INDIAN TRIBE.—The term “Indian tribe”
 6 means any Indian group that the Secretary deter-
 7 mines to have met the mandatory criteria for ac-
 8 knowledgment described in section 9(b).

9 (9) PETITIONER.—The term “petitioner”
 10 means any Indian group that submits to the Sec-
 11 retary a letter of intent requesting acknowledgment.

12 (10) SECRETARY.—The term “Secretary”
 13 means the Secretary of the Interior.

14 **SEC. 5. INDIAN GROUPS ELIGIBLE FOR ACKNOWLEDG-**
 15 **MENT.**

16 (a) IN GENERAL.—This Act applies only to an Indian
 17 group that—

18 (1) is indigenous to the continental United
 19 States;

20 (2) is not acknowledged as of the date of sub-
 21 mission of a documented petition under this Act;
 22 and

23 (3) presents evidence of a substantially contin-
 24 uous tribal existence, and functioning as an autono-
 25 mous entity, throughout the historical period.

1 (b) INELIGIBLE INDIAN GROUPS.—The following
2 groups shall not be eligible to submit a documented peti-
3 tion under this Act:

4 (1) Any Indian tribe, organized band, pueblo,
5 community, or Alaska Native entity that, as of the
6 date of enactment of this Act, is acknowledged.

7 (2) An association, organization, corporation, or
8 group of any character that is formed for the pur-
9 pose of seeking Federal acknowledgment after De-
10 cember 31, 2002.

11 (3) Any Indian group, political faction, or com-
12 munity that separates from the main population of
13 an Indian tribe, unless the Indian group, faction, or
14 community establishes to the satisfaction of the Sec-
15 retary that the Indian group, political faction, or
16 community has functioned as an autonomous Indian
17 group throughout the historical period.

18 (4) Any Indian group, or successor in interest
19 of an Indian group (other than an Indian tribe, or-
20 ganized band, pueblo, community, or Alaska native
21 entity described in paragraph (1)), that, before the
22 date of enactment of this Act, in accordance with
23 part 83 of title 25, Code of Federal Regulations, pe-
24 titioned for, and was denied, acknowledgment based
25 on the merits of the documented petition (except

1 that nothing in this paragraph excludes any group
2 that Congress has identified as an Indian group but
3 has not identified as an Indian tribe).

4 (5) Any Indian group the relationship of which
5 with the Federal Government was expressly termi-
6 nated by an Act of Congress.

7 (c) INDIAN GROUPS WITH PENDING PETITIONS.—

8 (1) IN GENERAL.—An Indian group the docu-
9 mented petition of which, as of the date of enact-
10 ment of this Act, is under consideration by the Sec-
11 retary in accordance with part 83 of title 25, Code
12 of Federal Regulations (as in effect on the day be-
13 fore that date), and for which a determination of ac-
14 knowledgment is not final and effective as of that
15 date, shall be subject to this Act.

16 (2) ORDER OF CONSIDERATION.—Nothing in
17 paragraph (1) shall affect the order in which a docu-
18 mented petition of an Indian group described in that
19 paragraph is considered by the Secretary.

20 (d) CLAIMS OF PREVIOUS ACKNOWLEDGMENT.—Sec-
21 tion 83.8 of title 25, Code of Federal Regulations (as in
22 effect on the date of enactment of this Act), shall apply
23 with respect to a petitioner that claims acknowledgment
24 before the date of enactment of this Act.

1 **SEC. 6. LETTER OF INTENT.**

2 (a) IN GENERAL.—An Indian group that seeks a de-
3 termination of acknowledgment and that can meet the
4 mandatory criteria for acknowledgment described in sec-
5 tion 9(b) shall submit to the Secretary, before or simulta-
6 neously with submission of a documented petition, a letter
7 of intent to seek acknowledgment.

8 (b) APPROVAL OF GOVERNING BODY.—A letter of in-
9 tent shall be produced, dated, and signed by the governing
10 body of the Indian group submitting the letter.

11 **SEC. 7. DUTIES OF THE DEPARTMENT.**

12 (a) PUBLICATION OF LIST OF INDIAN TRIBES.—Not
13 less often than every 3 years, and more frequently as de-
14 termined by the Secretary, the Secretary shall publish in
15 the Federal Register a list of all Indian tribes.

16 (b) GUIDELINES FOR PREPARATION OF DOCU-
17 MENTED PETITIONS.—

18 (1) IN GENERAL.—The Secretary shall make
19 available guidelines for the preparation of docu-
20 mented petitions that include—

21 (A) an explanation of the criteria and
22 other provisions relevant to the consideration by
23 the Secretary of a documented petition;

24 (B) a discussion of the types of evidence
25 that may be used to demonstrate satisfaction of
26 particular criteria;

1 (C) general suggestions and guidelines re-
2 lating to the manner in which and locations at
3 which research relating to a documented peti-
4 tion may be conducted; and

5 (D) an example of a format for a docu-
6 mented petition (except that the example shall
7 not preclude the use of any other format).

8 (2) SUPPLEMENTATION AND REVISION.—The
9 Secretary may supplement or update the guidelines
10 as the Secretary determines to be necessary.

11 (c) ASSISTANCE.—The Secretary—

12 (1) shall, on request by a petitioner, provide the
13 petitioner with suggestions and advice regarding
14 preparation of a documented petition; but

15 (2) shall not be responsible for any research
16 necessary to prepare a documented petition.

17 (d) NOTICE TO GROUPS WITH A LETTER OF IN-
18 TENT.—The Secretary shall provide to each Indian group
19 that, as of the date of enactment of this Act, has sub-
20 mitted a letter of intent to the Secretary under section
21 6(a) but has not yet submitted a documented petition, a
22 notice informing the Indian group that any documented
23 petition submitted by the Indian group shall be considered
24 in accordance with this Act.

1 **SEC. 8. REQUIREMENTS FOR DOCUMENTED PETITION.**

2 (a) IN GENERAL.—A documented petition submitted
3 to the Secretary under this Act—

4 (1) may be in any readable form that contains
5 detailed, specific evidence in support of a request to
6 the Secretary for acknowledgment;

7 (2) shall include a certification, signed and
8 dated by members of the governing body of the peti-
9 tioner, stating that the documented petition is the
10 official documented petition of the petitioner; and

11 (3) shall include thorough explanations and
12 supporting documentation pertaining to each of the
13 mandatory criteria for acknowledgment described in
14 section 9(b).

15 (b) SATISFACTION OF MANDATORY CRITERIA.—To
16 be acknowledged under this Act, a petitioner shall meet
17 each of the mandatory criteria for acknowledgment de-
18 scribed in section 9(b).

19 (c) STANDARDS FOR DENIAL.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 the Secretary shall not acknowledge a petitioner if
22 the Secretary determines that evidence presented by
23 the petitioner or any other person is insufficient to
24 demonstrate that the petitioner meets each of the
25 mandatory criteria for acknowledgment described in
26 section 9(b).

1 (2) STANDARDS FOR MEETING MANDATORY
2 CRITERIA.—With respect to a mandatory criterion
3 for acknowledgment described in section 9(b)—

4 (A) the Secretary shall consider a peti-
5 tioner to have met the mandatory criterion if
6 the Secretary determines that it is more likely
7 than not that the evidence presented dem-
8 onstrates that the petitioner has met the man-
9 datory criterion; and

10 (B) conclusive proof of the facts relating to
11 the mandatory criterion shall not be required in
12 order for the Secretary to consider the manda-
13 tory criterion to have been met.

14 (d) CONSIDERATION OF SITUATIONS AND LIMITA-
15 TIONS DURING HISTORICAL PERIOD.—

16 (1) IN GENERAL.—In considering a documented
17 petition under this Act, the Secretary shall take into
18 account—

19 (A) evidentiary situations and limitations
20 (including limitations inherent in demonstrating
21 the historical existence of community and polit-
22 ical influence or authority) during the historical
23 period; and

1 (B) periods during the historical period for
 2 which evidence relating to the documented peti-
 3 tion is demonstrably limited or not available.

4 (2) SUBSTANTIALLY CONTINUOUS BASIS OF EX-
 5 ISTENCE.—In demonstrating the historical existence
 6 of community and political influence or authority
 7 with respect to any mandatory criterion for acknowl-
 8 edgment described in section 9(b)—

9 (A) a petitioner—

10 (i) shall make such a demonstration
 11 on a substantially continuous basis; but

12 (ii) shall not be required to make the
 13 demonstration with respect to each point
 14 in time during the historical period; and

15 (B) any fluctuation in tribal activity dur-
 16 ing any period of time shall not be the sole rea-
 17 son for a denial of acknowledgment.

18 **SEC. 9. MANDATORY CRITERIA FOR ACKNOWLEDGMENT.**

19 (a) IN GENERAL.—To be acknowledged under this
 20 Act, a petitioner shall meet each of the mandatory criteria
 21 described in subsection (b) to the satisfaction of the Sec-
 22 retary.

23 (b) MANDATORY CRITERIA.—

24 (1) IDENTIFICATION ON A SUBSTANTIALLY
 25 CONTINUOUS BASIS.—

1 (A) IN GENERAL.—A petitioner shall dem-
2 onstrate that the petitioner has been identified
3 as an Indian group in the United States on a
4 substantially continuous basis since 1900.

5 (B) PREVIOUS DENIALS OF STATUS.—The
6 Secretary shall not consider any evidence that
7 the status of the petitioner as an Indian group
8 has previously been denied to be conclusive evi-
9 dence that the criterion described in subpara-
10 graph (A) has not been met.

11 (C) EVIDENCE RELATING TO IDENTITY.—
12 In determining the Indian identity of a peti-
13 tioner, the Secretary may use as evidence 1 or
14 more of the following:

15 (i) An identification of the petitioner
16 as an Indian group by any department,
17 agency, or instrumentality of the Federal
18 Government.

19 (ii) A relationship between the peti-
20 tioner and any State government, based on
21 an identification of the petitioner by the
22 State as an Indian group.

23 (iii) Any dealings of the petitioner
24 with a county or political subdivision of a
25 State in a relationship based on an identi-

1 fication of the petitioner as an Indian
2 group.

3 (iv) An identification of the petitioner
4 as an Indian group by an anthropologist,
5 historian, or other scholar.

6 (v) An identification of the petitioner
7 as an Indian group in a newspaper, book,
8 or similar medium.

9 (vi) An identification of the petitioner
10 as an Indian group by an Indian tribe or
11 by a national, regional, or State Indian or-
12 ganization.

13 (vii) An identification of the petitioner
14 as an Indian group by a foreign govern-
15 ment or an international organization.

16 (viii) Such other evidence of identi-
17 fication as may be provided by a person or
18 entity other than the petitioner or a mem-
19 ber of the membership of the petitioner.

20 (2) DISTINCT COMMUNITY.—

21 (A) IN GENERAL.—A petitioner shall dem-
22 onstrate that a predominant portion of the
23 membership of the petitioner—

1 (i) comprises a community distinct
2 from the communities surrounding that
3 community; and

4 (ii) has existed as a community
5 throughout the historical period.

6 (B) EVIDENCE RELATING TO COMMU-
7 NITY.—In determining whether the membership
8 of the petitioner meets the criteria described in
9 subparagraph (A), the Secretary may use as
10 evidence 1 or more of the following:

11 (i) Significant rates of marriage with-
12 in the membership of the petitioner, or, as
13 may be culturally required, patterned out-
14 marriages with other Indian populations.

15 (ii) Significant social relationships
16 connecting individual members of the peti-
17 tioner.

18 (iii) Significant rates of informal so-
19 cial interaction that exist broadly among
20 the members of the petitioner.

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

24 (v) Evidence of strong patterns of dis-
25 crimination or other social distinctions

1 against members of the petitioner by non-
2 members.

3 (vi) Shared sacred or secular ritual
4 activity encompassing a majority of mem-
5 bers of the petitioner.

6 (vii) Cultural patterns that—

7 (I) are shared among a signifi-
8 cant portion of the members of the
9 petitioner;

10 (II) are different from the cul-
11 tural patterns of the non-Indian popu-
12 lations with whom the membership of
13 the petitioner interacts;

14 (III) function as more than a
15 symbolic identification of the peti-
16 tioner as Indian; and

17 (IV) may include language, kin-
18 ship, or religious organizations, or re-
19 ligious beliefs and practices.

20 (viii) The persistence of a named, col-
21 lective Indian identity during a continuous
22 period of at least 50 years, notwith-
23 standing any change in name.

24 (ix) A demonstration of historical po-
25 litical influence or authority of the peti-

1 tioner (such as political influence or au-
2 thority demonstrated under paragraph
3 (3)).

4 (C) SUFFICIENT EVIDENCE.—The Sec-
5 retary shall consider a petitioner to have pro-
6 vided sufficient evidence of community under
7 this paragraph if the petitioner provides to the
8 Secretary evidence demonstrating that,
9 throughout the historical period—

10 (i)(I) more than 50 percent of the
11 members of the petitioner reside in a par-
12 ticular geographical area exclusively, or al-
13 most exclusively, composed of members of
14 the group; and

15 (II) the balance of the membership
16 maintains consistent social interaction with
17 other members of the petitioner;

18 (ii) not less than 50 percent of the
19 marriages of members of the petitioner are
20 between members of the petitioner;

21 (iii) not less than 50 percent of the
22 members of the petitioner maintain dis-
23 tinct cultural patterns, including language,
24 kinship, and religious organizations, or re-
25 ligious beliefs or practices;

1 (iv) distinct community social institu-
2 tions (such as kinship organizations, for-
3 mal or informal economic cooperation, and
4 religious organizations) encompass a ma-
5 jority of the members of the petitioner; or

6 (v) the petitioner has met the cri-
7 terion described in paragraph (3) using
8 evidence described in paragraph (3)(A).

9 (3) POLITICAL INFLUENCE OR AUTHORITY.—

10 (A) IN GENERAL.—A petitioner shall dem-
11 onstrate that the petitioner has maintained po-
12 litical influence or authority as an autonomous
13 entity over members of the petitioner through-
14 out the historical period.

15 (B) EVIDENCE RELATING TO AUTONOMOUS
16 NATURE.—In determining whether a petitioner
17 is an autonomous entity under paragraph (1),
18 the Secretary may use as evidence 1 or more of
19 the following:

20 (i) A demonstration that the peti-
21 tioner is capable of mobilizing significant
22 numbers of members and significant mem-
23 ber resource for purposes relating to the
24 petitioner.

1 (ii) Evidence that most of the mem-
2 bers of the petitioner consider actions
3 taken by leaders or governing bodies of the
4 petitioner to be of personal importance.

5 (iii) Evidence that there is widespread
6 knowledge, communication, and involve-
7 ment in political processes of the petitioner
8 by a majority of the members of the peti-
9 tioner.

10 (iv) Evidence that the petitioner meets
11 the criteria described in paragraph (2) at
12 more than a minimal level.

13 (v) A demonstration by the petitioner
14 that there are conflicts within the member-
15 ship that demonstrate controversy over val-
16 ued goals, properties, policies, processes, or
17 decisions of the petitioner.

18 (C) EVIDENCE OF EXERCISE OF POLITICAL
19 INFLUENCE OR AUTHORITY.—The Secretary
20 shall consider a petitioner to have provided suf-
21 ficient evidence to demonstrate the exercise of
22 political influence or authority if the petitioner
23 demonstrates that decisions by leaders of the
24 petitioner (or decisions made through another
25 decisionmaking process) have been made

1 throughout the historical period with respect
2 to—

3 (i) the allocation of group resources
4 such as land, residence rights, or similar
5 resources on a consistent basis;

6 (ii) the settlement on a regular basis,
7 by mediation or other means, of disputes
8 between members or subgroups of mem-
9 bers of the petitioner (such as clans or lin-
10 eages);

11 (iii) the exertion of strong influence
12 on the behavior of individual members of
13 the petitioner, such as the establishment or
14 maintenance of norms and the enforcement
15 of sanctions to direct or control behavior;
16 or

17 (iv) the organization or influencing of
18 economic subsistence activities among the
19 members of the petitioner, including
20 shared or cooperative labor.

21 (D) PRESUMPTIVE EVIDENCE.—A peti-
22 tioner that meets the criteria described in para-
23 graph (2)(A) shall be considered to have pro-
24 vided sufficient evidence to meet the criterion
25 under this paragraph.

1 (4) GOVERNING DOCUMENT AND MEMBERSHIP
2 CRITERIA.—

3 (A) IN GENERAL.—A petitioner shall in-
4 clude in the documented petition of the peti-
5 tioner a copy of the governing document of the
6 petitioner in effect as of the date of submission
7 of the documented petition that includes a de-
8 scription of the membership criteria of the peti-
9 tioner.

10 (B) ALTERNATIVE STATEMENT.—If no
11 written governing document described in sub-
12 paragraph (A) exists, a petitioner shall include
13 with a documented petition a detailed statement
14 that describes—

15 (i) the membership criteria of the pe-
16 titioner; and

17 (ii) the governing procedures of the
18 petitioner in effect as of the date of sub-
19 mission of the documented petition.

20 (5) MEMBERSHIP OF PETITIONER.—

21 (A) IN GENERAL.—A petitioner shall in-
22 clude in a documented petition submitted under
23 this Act—

24 (i) a list of all members of the peti-
25 tioner as of the date of submission of the

1 documented petition, as certified by the
2 governing body of the petitioner, that in-
3 cludes for each member—

4 (I) a full name (and maiden
5 name, if any);

6 (II) a date and place of birth;
7 and

8 (III) a current residential ad-
9 dress;

10 (ii) a copy of each available former
11 list of members of the petitioner; and

12 (iii) a statement describing the meth-
13 ods used in preparing those lists.

14 (B) REQUIREMENTS FOR MEMBERSHIP.—

15 In determining whether to consider the mem-
16 bers of a petitioner to be members of an Indian
17 group for the purpose of a documented petition
18 described in subparagraph (A), the Secretary
19 shall require that the membership consist of de-
20 scendants of—

21 (i) an Indian group that existed dur-
22 ing the historical period; or

23 (ii) 1 or more Indian groups that, at
24 any time during the historical period, com-

1 bined and functioned as a single autono-
2 mous entity.

3 (C) EVIDENCE OF TRIBAL MEMBERSHIP.—

4 In making the determination under subpara-
5 graph (B), the Secretary may use as evidence
6 1 or more of the following:

7 (i) Tribal rolls prepared by the Sec-
8 retary for the petitioner for the purpose of
9 distributing claims money or providing al-
10 lotments, or for other any other purpose.

11 (ii) Any Federal, State, or other offi-
12 cial record or evidence identifying members
13 of the petitioner as of the date of submis-
14 sion of the documented petition, or ances-
15 tors of those members, as being descend-
16 ants of an Indian group described in clause
17 (i) or (ii) of subparagraph (B).

18 (iii) Any church, school, or other simi-
19 lar enrollment record identifying members
20 of the petitioner as of the date of submis-
21 sion of the documented petition, or ances-
22 tors of those members, as being descend-
23 ants of an Indian group described in clause
24 (i) or (ii) of subparagraph (B).

1 (iv) An affidavit of recognition by
2 tribal elders, tribal leaders, or a tribal gov-
3 erning body identifying members of the pe-
4 titioner as of the date of submission of the
5 documented petition, or ancestors of those
6 members, as being descendants of an In-
7 dian group described in clause (i) or (ii) of
8 subparagraph (B).

9 (v) Any other record or evidence iden-
10 tifying members of the petitioner as of the
11 date of submission of the documented peti-
12 tion, or ancestors of those members, as
13 being descendants of an Indian group de-
14 scribed in clause (i) or (ii) of subparagraph
15 (B).

16 (6) MEMBERSHIP COMPOSED PRIMARILY OF IN-
17 DIVIDUALS WHO ARE NOT MEMBERS OF AN INDIAN
18 TRIBE.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), a petitioner shall dem-
21 onstrate that the membership of the petitioner
22 is composed primarily of individuals who are
23 not members of an Indian tribe.

24 (B) EXCEPTION.—A petitioner may be ac-
25 knowledged if the membership of the petitioner

1 is composed primarily of individuals whose
 2 names have appeared on rolls of, or who have
 3 been otherwise associated with, an Indian tribe,
 4 if the petitioner establishes that—

5 (i) the petitioner has functioned
 6 throughout the historical period as a sepa-
 7 rate and autonomous Indian group;

8 (ii) the members of the petitioner do
 9 not maintain a bilateral political relation-
 10 ship with any Indian tribe; and

11 (iii) the members of the petitioner
 12 have provided written confirmation of their
 13 membership in the petitioner.

14 (7) LEGISLATION TERMINATING OR PROHIB-
 15 ITING ACKNOWLEDGMENT.—A petitioner shall dem-
 16 onstrate that neither the petitioner, nor any mem-
 17 bers of the petitioner, are the subject of any Act of
 18 Congress expressly terminating or prohibiting ac-
 19 knowledgment of the petitioner.

20 **SEC. 10. NOTICE OF RECEIPT OF A LETTER OF INTENT OR**
 21 **DOCUMENTED PETITION.**

22 (a) NOTICE OF RECEIPT OF A PETITION.—

23 (1) NOTICE TO PETITIONER.—Not later than
 24 30 days after the date on which the Secretary re-
 25 ceives a letter of intent under section 6(a) (or a doc-

1 umented petition, if the Secretary has not received
2 a letter of intent), the Secretary shall provide to the
3 petitioner submitting the letter or documented peti-
4 tion a written notice of the receipt.

5 (2) PUBLICATION OF NOTICE.—

6 (A) IN GENERAL.—Not later than 60 days
7 after the date on which the Secretary receives
8 a letter (or documented petition) under section
9 6(a), the Secretary shall publish, in 1 or more
10 major newspapers of general circulation in the
11 town or city nearest to the petitioner and in the
12 Federal Register, a notice of receipt of the let-
13 ter (or documented petition).

14 (B) INCLUSIONS.—The notice under sub-
15 paragraph (A) shall include—

16 (i) the name, location, and mailing ad-
17 dress of the petitioner;

18 (ii) such other information as the Sec-
19 retary determines will identify the peti-
20 tioner;

21 (iii) the date of receipt of the letter
22 (or documented petition);

23 (iv) information describing 1 or more
24 locations at which a copy of the letter (or

1 documented petition) and related submis-
2 sions may be examined by the public; and

3 (v) a description of the procedure by
4 which an interested party may submit—

5 (I) arguments or evidence in sup-
6 port of or in opposition to the request
7 of the petitioner for acknowledgment;
8 or

9 (II) a request to be kept in-
10 formed of all actions affecting the let-
11 ter or documented petition.

12 (b) NOTIFICATION OF OTHER PERSONS.—The Sec-
13 retary shall submit a copy of the notice published under
14 subsection (a)(2) to—

15 (1) the Governor of, members of Congress rep-
16 resenting, and attorney general of—

17 (A) each State in which the petitioner is
18 located; and

19 (B) each State that, as determined by the
20 Secretary, has a significant interest in the peti-
21 tion;

22 (2) each Indian tribe, and each other petitioner,
23 that, as determined by the Secretary—

1 (A) has a relationship with the petitioner
2 (including any relationship at any time during
3 the historical period); or

4 (B) that may otherwise be considered to
5 have a potential interest in a determination of
6 acknowledgment of the petitioner; and

7 (3) the chief executive officer of each county
8 and municipality located in the geographic area oc-
9 cupied by the petitioner.

10 **SEC. 11. PROCESSING OF DOCUMENTED PETITIONS.**

11 Section 83.10 of title 25, Code of Federal Regula-
12 tions (as in effect on the date of enactment of this Act)
13 shall apply with respect to the processing of a documented
14 petition under this Act.

15 **SEC. 12. TESTIMONY AND THE OPPORTUNITY TO BE**
16 **HEARD.**

17 (a) IN GENERAL.—In determining whether to ac-
18 knowledge a petitioner under this Act, the Secretary shall
19 consider all relevant evidence from any interested party,
20 including evidence from a municipality located in the same
21 area in which the petitioner is located.

22 (b) HEARING ON REQUEST.—On request by an inter-
23 ested party, for good cause, the Secretary may conduct
24 a formal hearing with respect to a documented petition
25 at which all interested parties may—

- 1 (1) present evidence;
- 2 (2) call witnesses;
- 3 (3) cross-examine witnesses; or
- 4 (4) rebut evidence in the record or presented by
5 other parties during the hearing.

6 (c) **TRANSCRIPT REQUIRED.**—A transcript of any
7 hearing under this section shall be included in the admin-
8 istrative record on which the Secretary relies in deter-
9 mining whether to acknowledge a petitioner under this
10 Act.

11 **SEC. 13. WRITTEN SUBMISSIONS BY INTERESTED PARTIES.**

12 In determining whether to acknowledge a petitioner
13 under this Act, the Secretary shall consider any written
14 materials submitted to the Bureau from any interested
15 party that possesses relevant information relating to the
16 petitioner, including evidence from a municipality located
17 in the same area in which the petitioner is located.

18 **SEC. 14. PUBLICATION OF FINAL DETERMINATION.**

19 On making a determination whether to acknowledge
20 a petitioner under this Act, the Secretary shall publish in
21 the Federal Register a detailed explanation of the final
22 determination of the Secretary regarding the acknowledg-
23 ment and the documented petition of the petitioner, in-
24 cluding an express finding of facts and of law with respect

1 to each of the mandatory criteria for acknowledgment de-
2 scribed in section 9(b).

3 **SEC. 15. INDEPENDENT REVIEW, RECONSIDERATION, AND**
4 **FINAL ACTION.**

5 Section 83.11 of title 25, Code of Federal Regula-
6 tions (as in effect on the date of enactment of this Act),
7 shall apply with respect to the independent review, recon-
8 sideration, and final determination of the Secretary with
9 respect to a documented petition under this Act.

10 **SEC. 16. IMPLEMENTATION OF DETERMINATION OF AC-**
11 **KNOWLEDGMENT.**

12 Section 83.12 of title 25, Code of Federal Regula-
13 tions (as in effect on the date of enactment of this Act),
14 shall apply with respect to the implementation of a deter-
15 mination of acknowledgment by the Secretary under this
16 Act.

17 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

18 There is authorized to be appropriated to carry out
19 this Act \$10,000,000 for fiscal year 2004 and each fiscal
20 year thereafter.

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