

Union Calendar No. 741

115TH CONGRESS
2^D SESSION

H. R. 3744

[Report No. 115–953]

To provide that an Indian group may receive Federal acknowledgment as an Indian tribe only by an Act of Congress.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2017

Mr. BISHOP of Utah introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 20, 2018

Additional sponsor: Mr. GOSAR

SEPTEMBER 20, 2018

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 September 12, 2017]

A BILL

To provide that an Indian group may receive Federal acknowledgment as an Indian tribe only by an Act of Congress.

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 Recognition Act*
5 *of 2018”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds as follows:*

8 *(1) Article I, section 8, clause 3 of the Constitu-*
9 *tion (commonly known as the Indian Commerce*
10 *Clause) gives Congress authority over Indian affairs.*

11 *(2) Such authority is plenary and exclusive.*

12 *(3) Such authority may not be exercised by the*
13 *judicial branch or by the executive branch (except to*
14 *the extent that such authority has been expressly dele-*
15 *gated to the executive branch by an Act of Congress).*

16 **SEC. 3. DEFINITIONS.**

17 *As used in this Act:*

18 *(1) ASSISTANT SECRETARY.—The term “Assist-*
19 *ant Secretary” means the Assistant Secretary of In-*
20 *dian Affairs, or that officer’s authorized representa-*
21 *tive.*

22 *(2) AUTONOMOUS.—The term “autonomous”*
23 *means the exercise of political influence or authority*
24 *independent of the control of any other Indian gov-*
25 *erning entity. Autonomous must be understood in the*

1 *context of the history, geography, culture, and social*
2 *organization of the petitioning group.*

3 (3) *COMMUNITY.*—*The term “Community”*
4 *means any group of people who can demonstrate that*
5 *consistent interactions and significant social relation-*
6 *ships exist within its membership and that its mem-*
7 *bers are differentiated from and identified as distinct*
8 *from nonmembers. Community must be understood in*
9 *the context of the history, geography, culture, and so-*
10 *cial organization of the group.*

11 (4) *CONTINENTAL UNITED STATES.*—*The term*
12 *“continental United States” means the contiguous 48*
13 *States and Alaska.*

14 (5) *CONTINUOUSLY OR CONTINUOUS.*—*The term*
15 *“continuously or continuous” means extending from*
16 *first sustained contact with non-Indians throughout*
17 *the group’s history to the present substantially with-*
18 *out interruption.*

19 (6) *DOCUMENTED PETITION.*—*The term “docu-*
20 *mented petition” means the detailed arguments made*
21 *by a petitioner to substantiate its claim to continuous*
22 *existence as an Indian tribe, together with the factual*
23 *exposition and all documentary evidence necessary to*
24 *demonstrate that these arguments address the manda-*
25 *tory criteria.*

1 (7) *HISTORICALLY, HISTORICAL, OR HISTORY.*—
2 *The term “historically, historical, or history” means*
3 *dating from first sustained contact with non-Indians.*

4 (8) *INDIAN GROUP OR GROUP.*—*The term “In-*
5 *dian group or group” means any Indian or Alaska*
6 *Native aggregation within the continental United*
7 *States that the Secretary of the Interior does not ac-*
8 *knowledge to be an Indian tribe. Indian tribe, also re-*
9 *ferred to herein as tribe, means any Indian or Alaska*
10 *Native tribe, band, pueblo, village, or community*
11 *within the continental United States that the Sec-*
12 *retary of the Interior has lawfully acknowledged as*
13 *an Indian tribe.*

14 (9) *INDIGENOUS.*—*The term “indigenous” means*
15 *native to the continental United States in that at*
16 *least part of the petitioner’s territory at the time of*
17 *sustained contact extended into what is now the conti-*
18 *nenal United States.*

19 (10) *INFORMED PARTY.*—*The term “informed*
20 *party” means any person or organization, other than*
21 *an interested party, who requests an opportunity to*
22 *submit comments or evidence or to be kept informed*
23 *of general actions regarding a specific petitioner.*

24 (11) *INTERESTED PARTY.*—*The term “interested*
25 *party” means any person, organization, or other enti-*

1 *ty who can establish a legal, factual, or property in-*
2 *terest in an acknowledgment determination and who*
3 *requests an opportunity to submit comments or evi-*
4 *dence or to be kept informed of general actions re-*
5 *garding a specific petitioner. “Interested party” in-*
6 *cludes the Governor and attorney general of the State*
7 *in which a petitioner is located, and may include, but*
8 *is not limited to, local governmental units, and any*
9 *recognized Indian tribes and unrecognized Indian*
10 *groups that might be affected by an acknowledgment*
11 *determination.*

12 (12) *LETTER OF INTENT.*—*The term “letter of*
13 *intent” means an undocumented letter or resolution*
14 *by which an Indian group requests Federal acknowl-*
15 *edgment as an Indian tribe and expresses its intent*
16 *to submit a documented petition.*

17 (13) *PETITIONER.*—*The term “petitioner” means*
18 *any entity that has submitted a letter of intent to the*
19 *Secretary requesting acknowledgment that it is an In-*
20 *dian tribe.*

21 (14) *POLITICAL INFLUENCE OR AUTHORITY.*—
22 *The term “political influence or authority” means a*
23 *tribal council, leadership, internal process, or other*
24 *mechanism which the group has used as a means of*
25 *influencing or controlling the behavior of its members*

1 *in significant respects, and making decisions for the*
2 *group which substantially affect its members, and*
3 *representing the group in dealing with outsiders in*
4 *matters of consequence. This process is to be under-*
5 *stood in the context of the history, culture, and social*
6 *organization of the group.*

7 (15) *PREVIOUS FEDERAL ACKNOWLEDGMENT.*—
8 *The term “previous Federal acknowledgment” means*
9 *action by the Federal Government clearly premised on*
10 *identification of a tribal political entity and indi-*
11 *cating clearly the recognition of a relationship be-*
12 *tween that entity and the United States.*

13 (16) *SECRETARY.*—*The term “Secretary” means*
14 *the Secretary of the Interior or that officer’s author-*
15 *ized representative.*

16 (17) *SUSTAINED CONTACT.*—*The term “sustained*
17 *contact” means the period of earliest sustained non-*
18 *Indian settlement or governmental presence in the*
19 *local area in which the historical tribe or tribes from*
20 *which the petitioner descends was located historically.*

21 **SEC. 4. GROUPS ELIGIBLE TO SUBMIT PETITIONS.**

22 (a) *ELIGIBLE GROUPS.*—*Indian groups indigenous to*
23 *the continental United States that are not federally recog-*
24 *nized Indian tribes on the date of the enactment of this Act*
25 *may submit a petition under this Act.*

1 (b) *INELIGIBLE GROUPS.*—*The following may not sub-*
2 *mit a petition under this Act:*

3 (1) *Splinter groups, political factions, commu-*
4 *nities, or groups of any character that separate from*
5 *the main body of a federally recognized Indian tribe,*
6 *unless they can establish clearly that they have func-*
7 *tioned throughout history until the present as an au-*
8 *tonomous tribal entity, even if they have been re-*
9 *garded by some as part of or have been associated in*
10 *some manner with a federally recognized Indian*
11 *tribe.*

12 (2) *Indian tribes, organized bands, pueblos, Alas-*
13 *ka native villages, or communities that have been*
14 *lawfully acknowledged to be federally recognized In-*
15 *Indian tribes and are receiving services from the Bu-*
16 *reau of Indian Affairs.*

17 (3) *Groups that petitioned and were denied Fed-*
18 *eral acknowledgment under part 83 of title 25, Code*
19 *of Federal Regulations, including reorganized or re-*
20 *constituted petitioners previously denied, or splinter*
21 *groups, spin-offs, or component groups of any type*
22 *that were once part of petitioners previously denied.*

23 (4) *Groups for which a documented petition has*
24 *not been filed pursuant to section 9 by the date that*
25 *is 5 years after the date of the enactment of this Act.*

1 (c) *GROUPS WITH PETITIONS IN PROGRESS.*—*This*
 2 *Act, including the criteria in section 7, shall apply to any*
 3 *Indian group whose documented petition was submitted*
 4 *and not denied on the date of the enactment of this Act.*

5 **SEC. 5. FILING A LETTER OF INTENT.**

6 *Any eligible Indian group in the continental United*
 7 *States that believes it should be acknowledged as an Indian*
 8 *tribe and that it can satisfy the criteria in this Act may*
 9 *submit a letter of intent requesting acknowledgment that*
 10 *an Indian group exists as an Indian tribe. The letter of*
 11 *intent submitted under this section—*

12 (1) *shall be filed with the Assistant Secretary;*

13 (2) *may be filed in advance of, or at the same*
 14 *time as, a group's documented petition; and*

15 (3) *shall be produced, dated, and signed by the*
 16 *governing body of an Indian group.*

17 **SEC. 6. DUTIES OF THE ASSISTANT SECRETARY.**

18 (a) *GUIDELINES.*—*The Assistant Secretary shall make*
 19 *available guidelines for the preparation of documented peti-*
 20 *tions. These guidelines—*

21 (1) *shall include an explanation of the criteria,*
 22 *a discussion of the types of evidence which may be*
 23 *used to demonstrate particular criteria, and general*
 24 *suggestions and guidelines on how and where to con-*
 25 *duct research;*

1 (2) *shall include an example of a documented pe-*
 2 *tion format which shall provide guidance, but not*
 3 *preclude the use of any other format; and*

4 (3) *may be supplemented or updated as nec-*
 5 *essary.*

6 (b) *RESEARCH AND PREPARATION OF PETITION.—The*
 7 *Assistant Secretary—*

8 (1) *shall provide petitioners with suggestions and*
 9 *advice regarding preparation of the documented peti-*
 10 *tion; and*

11 (2) *shall not be responsible for the actual re-*
 12 *search on behalf of the petitioner.*

13 **SEC. 7. CRITERIA FOR FEDERAL ACKNOWLEDGMENT.**

14 *The criteria for consideration for Federal acknowledg-*
 15 *ment are, at a minimum, the following:*

16 (1) *The petitioner has been identified as an*
 17 *American Indian entity on a substantially contin-*
 18 *uous basis since 1900. Evidence that the group's char-*
 19 *acter as an Indian entity has from time to time been*
 20 *denied shall not be considered to be conclusive evi-*
 21 *dence that this criterion has not been met. Evidence*
 22 *to be relied upon in determining a group's Indian*
 23 *identity may include one or a combination of the fol-*
 24 *lowing, as well as other evidence of identification by*
 25 *other than the petitioner itself or its members:*

1 (A) *Identification as an Indian entity by*
2 *Federal authorities.*

3 (B) *Relationships with State governments*
4 *based on identification of the group as Indian.*

5 (C) *Dealings with a county, parish, or other*
6 *local government in a relationship based on the*
7 *group's Indian identity.*

8 (D) *Identification as an Indian entity by*
9 *anthropologists, historians, or other scholars.*

10 (E) *Identification as an Indian entity in*
11 *newspapers and books.*

12 (F) *Identification as an Indian entity in*
13 *relationships with Indian tribes or with na-*
14 *tional, regional, or State Indian organizations.*

15 (2) *A predominant portion of the petitioning*
16 *group comprises a distinct community and has ex-*
17 *isted as a community from historical times until the*
18 *present.*

19 (A) *This criterion may be demonstrated by*
20 *some combination of the following evidence and*
21 *other evidence that the petitioner meets the defi-*
22 *inition of community:*

23 (i) *Significant rates of marriage with-*
24 *in the group, or, as may be culturally re-*

1 *quired, patterned out-marriages with other*
2 *Indian populations.*

3 *(ii) Significant social relationships*
4 *connecting individual members.*

5 *(iii) Significant rates of informal so-*
6 *cial interaction which exist broadly among*
7 *the members of a group.*

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

11 *(v) Evidence of strong patterns of dis-*
12 *crimination or other social distinctions by*
13 *nonmembers.*

14 *(vi) Shared sacred or secular ritual ac-*
15 *tivity encompassing most of the group.*

16 *(vii) Cultural patterns shared among a*
17 *significant portion of the group that are*
18 *different from those of the non-Indian popu-*
19 *lations with whom it interacts. These pat-*
20 *terns must function as more than a sym-*
21 *bolic identification of the group as Indian.*
22 *They may include, but are not limited to,*
23 *language, kinship organization, or religious*
24 *beliefs and practices.*

1 (viii) *The persistence of a named, col-*
2 *lective Indian identity continuously over a*
3 *period of more than 50 years, notwith-*
4 *standing changes in name.*

5 (ix) *A demonstration of historical po-*
6 *litical influence under the criterion in para-*
7 *graph (3) shall be evidence for dem-*
8 *onstrating historical community.*

9 (B) *A petitioner shall be considered to have*
10 *provided sufficient evidence of community at a*
11 *given point in time if evidence is provided to*
12 *demonstrate any one of the following:*

13 (i) *More than 50 percent of the mem-*
14 *bers reside in a geographical area exclu-*
15 *sively or almost exclusively composed of*
16 *members of the group, and the balance of*
17 *the group maintains consistent interaction*
18 *with some members of the community.*

19 (ii) *At least 50 percent of the mar-*
20 *riages in the group are between members of*
21 *the group.*

22 (iii) *At least 50 percent of the group*
23 *members maintain distinct cultural pat-*
24 *terns such as, but not limited to, language,*

1 *kinship organization, or religious beliefs*
2 *and practices.*

3 *(iv) There are distinct community so-*
4 *cial institutions encompassing most of the*
5 *members, such as kinship organizations,*
6 *formal or informal economic cooperation, or*
7 *religious organizations.*

8 *(v) The group has met the criterion in*
9 *paragraph (3) using evidence described in*
10 *paragraph (3)(B).*

11 *(3) The petitioner has maintained political in-*
12 *fluence or authority over its members as an autono-*
13 *mous entity from historical times until the present.*

14 *(A) This criterion may be demonstrated by*
15 *some combination of the evidence listed below*
16 *and by other evidence that the petitioner meets*
17 *the definition of political influence or authority:*

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

22 *(ii) Most of the membership considers*
23 *issues acted upon or actions taken by group*
24 *leaders or governing bodies to be of impor-*
25 *tance.*

1 (iii) *There is widespread knowledge,*
2 *communication, and involvement in polit-*
3 *ical processes by most of the group's mem-*
4 *bers.*

5 (iv) *The group meets the criterion in*
6 *paragraph (2) at more than a minimal*
7 *level.*

8 (v) *There are internal conflicts which*
9 *show controversy over valued group goals,*
10 *properties, policies, processes, and decisions.*

11 (B) *A petitioning group shall be considered*
12 *to have provided sufficient evidence to dem-*
13 *onstrate the exercise of political influence or au-*
14 *thority at a given point in time by dem-*
15 *onstrating that group leaders and other mecha-*
16 *nisms exist or existed which—*

17 (i) *allocate group resources such as*
18 *land, residence rights, and the like on a*
19 *consistent basis;*

20 (ii) *settle disputes between members or*
21 *subgroups by mediation or other means on*
22 *a regular basis;*

23 (iii) *exert strong influence on the be-*
24 *havior of individual members, such as the*
25 *establishment or maintenance of norms and*

1 *the enforcement of sanctions to direct or*
2 *control behavior; and*

3 *(iv) organize or influence economic*
4 *subsistence activities among the members,*
5 *including shared or cooperative labor.*

6 *(C) A group that has met the requirements*
7 *in paragraph (2)(B) at a given point in time*
8 *shall be considered to have provided sufficient*
9 *evidence to meet this criterion at that point in*
10 *time.*

11 *(4) A copy of the group's present governing docu-*
12 *ment including its membership criteria. In the ab-*
13 *sence of a written document, the petitioner must pro-*
14 *vide a statement describing in full its membership*
15 *criteria and current governing procedures.*

16 *(5) The petitioner's membership consists of indi-*
17 *viduals who descend from a historical Indian tribe or*
18 *from historical Indian tribes which combined and*
19 *functioned as a single autonomous political entity.*

20 *(A) Some types of evidence that can be used*
21 *for this purpose include the following:*

22 *(i) Rolls prepared by the Secretary on*
23 *a descendancy basis for purposes of distrib-*
24 *uting claims money, providing allotments,*
25 *or other purposes.*

1 (ii) *State, Federal, or other official*
2 *records or evidence identifying present*
3 *members or ancestors of present members as*
4 *being descendants of a historical tribe or*
5 *tribes that combined and functioned as a*
6 *single autonomous political entity.*

7 (iii) *Church, school, and other similar*
8 *enrollment records identifying present mem-*
9 *bers or ancestors of present members as*
10 *being descendants of a historical tribe or*
11 *tribes that combined and functioned as a*
12 *single autonomous political entity.*

13 (iv) *Affidavits of recognition by tribal*
14 *elders, leaders, or the tribal governing body*
15 *identifying present members or ancestors of*
16 *present members as being descendants of a*
17 *historical tribe or tribes that combined and*
18 *functioned as a single autonomous political*
19 *entity.*

20 (v) *Other records or evidence identi-*
21 *fying present members or ancestors of*
22 *present members as being descendants of a*
23 *historical tribe or tribes that combined and*
24 *functioned as a single autonomous political*
25 *entity.*

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

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

1 *lationship with the acknowledged tribe, and that its*
 2 *members have provided written confirmation of their*
 3 *membership in the petitioning group.*

4 *(7) Neither the petitioner nor its members are*
 5 *the subject of an Act of Congress that has expressly*
 6 *terminated or forbidden the Federal relationship.*

7 **SEC. 8. PREVIOUS FEDERAL ACKNOWLEDGMENT.**

8 *(a) IN GENERAL.—Unambiguous previous Federal ac-*
 9 *knowledgment shall be acceptable evidence of the tribal*
 10 *character of a petitioner to the date of the last such previous*
 11 *acknowledgment. If a petitioner provides substantial evi-*
 12 *dence of unambiguous Federal acknowledgment, the peti-*
 13 *tioner shall only be required to demonstrate that it meets*
 14 *the requirements of section 7 to the extent required by this*
 15 *section. A determination of the adequacy of the evidence of*
 16 *previous Federal action acknowledging tribal status shall*
 17 *be made during the technical assistance review of the docu-*
 18 *mented petition conducted pursuant to section 10(b).*

19 *(b) EVIDENCE.—Evidence to demonstrate previous*
 20 *Federal acknowledgment includes evidence that the group—*

21 *(1) has had treaty relations with the United*
 22 *States;*

23 *(2) has been denominated a tribe by an Act of*
 24 *Congress or Executive order; and*

1 (3) *has been treated by the Federal Government*
 2 *as having collective rights in tribal lands or funds.*

3 **SEC. 9. NOTICE OF RECEIPT OF A PETITION.**

4 (a) *IN GENERAL.*—Not later than 30 days after receiv-
 5 *ing a letter of intent, or a documented petition if a letter*
 6 *of intent has not previously been received and noticed, the*
 7 *Assistant Secretary shall acknowledge to the sender such re-*
 8 *ceipt in writing. Notice under this subsection shall—*

9 (1) *include the name, location, and mailing ad-*
 10 *dress of the petitioner and such other information to*
 11 *identify the entity submitting the letter of intent or*
 12 *documented petition and the date it was received;*

13 (2) *serve to announce the opportunity for inter-*
 14 *ested parties and informed parties to submit factual*
 15 *or legal arguments in support of or in opposition to*
 16 *the petitioner's request for acknowledgment or to re-*
 17 *quest to be kept informed of all general actions affect-*
 18 *ing the petition; and*

19 (3) *indicate where a copy of the letter of intent*
 20 *and the documented petition may be examined.*

21 (b) *NOTICE TO STATE GOVERNMENTS.*—The Assistant
 22 *Secretary shall notify, in writing—*

23 (1) *the Governor and attorney general of the*
 24 *State or States in which a petitioner is located; and*

1 (2) *any recognized tribe and any other petitioner*
2 *that—*

3 (A) *appears to have a historical or present*
4 *relationship with the petitioner; or*

5 (B) *may otherwise be considered to have a*
6 *potential interest in the acknowledgment deter-*
7 *mination.*

8 (c) *PUBLICATION.*—*Not later than 60 days after receiv-*
9 *ing a letter of intent, or a documented petition if a letter*
10 *of intent has not previously been received and noticed, the*
11 *Assistant Secretary shall have the notice required under this*
12 *section published—*

13 (1) *in the Federal Register; and*

14 (2) *in a major newspaper or newspapers of gen-*
15 *eral circulation in the town or city nearest to the pe-*
16 *titioner.*

17 **SEC. 10. PROCESSING OF THE DOCUMENTED PETITION.**

18 (a) *REVIEW.*—*Upon receipt of a documented petition,*
19 *the Assistant Secretary—*

20 (1) *shall cause a review to be conducted to deter-*
21 *mine the extent to which the petitioner has met the*
22 *criteria set forth in section 7;*

23 (2) *shall include consideration of the documented*
24 *petition and the factual statements contained therein;*

1 (3) *may initiate other research for any purpose*
2 *relative to analyzing the documented petition and ob-*
3 *taining additional information about the petitioner's*
4 *status; and*

5 (4) *may consider any evidence which may be*
6 *submitted by interested parties or informed parties.*

7 (b) *TECHNICAL ASSISTANCE.—*

8 (1) *Prior to review of the documented petition*
9 *under subsection (a), the Assistant Secretary shall*
10 *conduct a preliminary review of the petition in order*
11 *to provide technical assistance to the petitioner.*

12 (2) *The review under paragraph (1) shall be a*
13 *preliminary review for the purpose of providing the*
14 *petitioner an opportunity to supplement or revise the*
15 *documented petition prior to the review under sub-*
16 *section (a). Insofar as possible, technical assistance*
17 *reviews under this paragraph will be conducted in the*
18 *order of receipt of documented petitions. However,*
19 *technical assistance reviews will not have priority*
20 *over active consideration of documented petitions.*

21 (3) *After the technical assistance review, the As-*
22 *stant Secretary shall notify the petitioner by letter*
23 *of any obvious deficiencies or significant omissions*
24 *apparent in the documented petition and provide the*
25 *petitioner with an opportunity to withdraw the docu-*

1 *mented petition for further work or to submit addi-*
2 *tional information.*

3 *(4) If a petitioner's documented petition claims*
4 *previous Federal acknowledgment or includes evidence*
5 *of previous Federal acknowledgment, the technical as-*
6 *sistance review shall also include a review to deter-*
7 *mine whether that evidence is sufficient to meet the*
8 *requirements of previous Federal acknowledgment.*

9 *(c) RESPONSE TO TECHNICAL ASSISTANCE REVIEW.—*

10 *(1) Petitioners may respond in part or in full to*
11 *the technical assistance review letter or request, in*
12 *writing, that the Assistant Secretary proceed with the*
13 *active consideration of the documented petition using*
14 *the materials already submitted.*

15 *(2) If the petitioner requests that the materials*
16 *submitted in response to the technical assistance re-*
17 *view letter be again reviewed for adequacy, the Assist-*
18 *ant Secretary shall provide the additional review.*

19 *(3) If the assertion of previous Federal acknowl-*
20 *edgment under section 8 cannot be substantiated dur-*
21 *ing the technical assistance review, the petitioner may*
22 *respond by providing additional evidence. A peti-*
23 *tioner that claims previous Federal acknowledgment*
24 *and fails to respond to a technical assistance review*
25 *letter under this subsection, or whose response fails to*

1 *establish the claim, shall have its documented petition*
2 *considered on the same basis as documented petitions*
3 *submitted by groups not claiming previous Federal*
4 *acknowledgment. Petitioners that fail to demonstrate*
5 *previous Federal acknowledgment after a review of*
6 *materials submitted in response to the technical as-*
7 *sistance review shall be so notified. Such petitioners*
8 *may submit additional materials concerning previous*
9 *acknowledgment during the course of active consider-*
10 *ation.*

11 *(d) CONSIDERATION OF DOCUMENTED PETITIONS.—*

12 *The Assistant Secretary shall—*

13 *(1) review documented petitions in the order that*
14 *they are determined ready for review;*

15 *(2) establish and maintain a numbered register*
16 *of documented petitions which have been determined*
17 *ready for active consideration;*

18 *(3) maintain a numbered register of letters of in-*
19 *tent or incomplete petitions based on the original date*
20 *the item was received by the Department of the Inte-*
21 *rior; and*

22 *(4) use the register of letters of intent or incom-*
23 *plete petitions to determine the order of review by the*
24 *Assistant Secretary if two or more documented peti-*

1 *tions are determined ready for review on the same*
2 *date.*

3 *(e) REPORT.—Not later than 1 year after notifying the*
4 *petitioner that review of the documented petition has begun,*
5 *the Assistant Secretary shall—*

6 *(1) submit a report including a summary of the*
7 *evidence, findings, petition, and supporting docu-*
8 *mentation, to the Committee on Natural Resources of*
9 *the House of Representatives and the Committee on*
10 *Indian Affairs of the Senate;*

11 *(2) notify the petitioner and interested parties*
12 *that the review is complete and the report required*
13 *under paragraph (1) has been submitted;*

14 *(3) provide copies of the report to the petitioner*
15 *and interested parties; and*

16 *(4) provide copies of the report to informed par-*
17 *ties and others upon written request.*

18 **SEC. 11. CLARIFICATION OF FEDERAL RECOGNITION AU-**
19 **THORITY.**

20 *(a) ACT OF CONGRESS REQUIRED.—An Indian group*
21 *may receive Federal acknowledgment (or reacknowledg-*
22 *ment) as an Indian tribe only by an Act of Congress. The*
23 *Secretary may not grant Federal acknowledgment (or re-*
24 *acknowledgment) to any Indian group.*

1 (b) *PREVIOUS ACKNOWLEDGMENT.*—*This Act shall not*
2 *affect the status of any Indian tribe that was federally ac-*
3 *knowledgeed before the date of the enactment of this Act.*

4 **SEC. 12. FORCE AND EFFECT OF REGULATIONS.**

5 *Part 83 of title 25, Code of Federal Regulations, shall*
6 *have no force or effect, and section 1.2 of title 25, Code of*
7 *Federal Regulations, with respect to any regulation pro-*
8 *mulgated by the Secretary pursuant to this Act, shall have*
9 *no force or effect.*

10 **SEC. 13. TRUST LAND REAFFIRMATION.**

11 *All land taken into trust by the United States under*
12 *or pursuant to the Act of June 18, 1934 (25 U.S.C. 5101*
13 *et seq.), before February 24, 2009, for the benefit of an In-*
14 *dian tribe that was federally recognized on the date that*
15 *the land was taken into trust is hereby reaffirmed as trust*
16 *land.*

Union Calendar No. 741

115TH CONGRESS
2D Session

H. R. 3744

[Report No. 115-953]

A BILL

To provide that an Indian group may receive Federal acknowledgment as an Indian tribe only by an Act of Congress.

SEPTEMBER 20, 2018

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