

13. Americans for Kerry Committee—\$250 (1991).

14. Terry Sanford for Senate Committee—\$2,000 (1992).

15. Bill Clinton for President—\$750 (1992).

16. Stevens for Congress Committee—\$500 (1992).

17. DNC Victory Fund—\$7,000 (1992).

18. Friend of Clayton and Watt for Congress—\$200 (1992).

19. Democratic House and Senate Council—\$1,500 (1992).

20. Democratic House and Senate Council—\$625 (1993).

21. DNC Business Leadership Council—\$10,000 (1994).

22. Sandy Sands for U.S. Congress—\$1,000 (1994).

24. Gene Stucky for U.S. Congress—\$500 (1994).

3a. Children and spouses Names; None.

3b. Stepchildren and spouses names, Martha Hyde Jones, None; Dan Jones (spouse), none; Charlie W. Hyde, none; Barbara Hyde White, none; Joseph White (spouse), none.

4. Parents names, Gurney C. Wallace, deceased; Effie W. Wallace, none.

5. Grandparents names, Nettie B. Whitlock, deceased; Jones J. Whitlock, deceased.

6. Brothers and spouses names; none.

7. Sisters and spouses names, June W. Smith, none; John G. Smith (spouse), none; Wanda W. Dobbins, none; Ralph A. Dobbins (spouse), none.

Martin S. Indyk, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: Martin S. Indyk.

Post: U.S. Ambassador to Israel.

Contributions, Amount, Date, Donee.

1. Self, None.

2. Spouse, \$200.00, 1992, DNC.

3. Children and spouses names, None.

Johnnie Carson, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Nominee: Johnnie Carson.

Post: U.S. Ambassador, Republic of Zimbabwe.

Contributions, Amount, Date, Donee.

1. Self, None.

2. Spouse, None.

3. Children and spouses names, Elizabeth, Michael, Katherine, None.

4. Parents names, Dupree Carson, Aretha Carson, None.

5. Grandparents names, All deceased.

6. Brothers and spouses names, Ronald Carson, Gregory Carson, None.

7. Sisters and spouses names, Barbara Carson Latimer, None.

Bismarck Myrick, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Nominee: Bismarck Myrick.

Post: Lesotho.

Contributions, amount, date, donee.

1. Self, Bismarck Myrick, \$100, 1993, Jean W. Cunningham (for the House of Representatives).

2. Children and spouses, Bismarck Myrick, Jr., none; Wesley Todd Myrick, none; Allison Elizabeth Myrick, none.

4. Parents, Elizabeth Lee Land, deceased; Maceo Lee Myrick, deceased.

5. Grandparents, Emmanuel Myrick, deceased.

6. Brother and spouse, James M. Lee, none.

7. Sisters and spouses, Carol Myrick Kitchen, none; Steve Kitchen, none; Emily D. Thomas, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCain:

S. 479. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCain:

S. 479. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1995

• Mr. McCain. Mr. President, today I am introducing the Indian Federal Recognition Administrative Procedures Act of 1995.

The Indian Federal Recognition Administrative Procedures Act provides for the creation of the Commission on Indian Recognition. The Commission will be an independent agency of the executive branch and will be composed of three members appointed by the President. The Commission would be authorized to hold hearings, take testimony and reach final determinations on petitions for recognition. The bill provides realistic timelines to guide the Commission in the review and decisionmaking process. Under the existing process in the Department of the Interior, some petitioners have waited 10 years or more for even a cursory review of their petition. The bill I am introducing today requires the Commission to set a date for a preliminary hearing on a petition not later than 60 days after the filing of a documented petition. Not later than 30 days after the conclusion of a preliminary hearing, the Commission would be required to either decide to extend Federal acknowledgement to the petitioner or to require the petitioner to proceed to an adjudicatory hearing.

To ensure fairness, the bill provides for appeals of adverse decisions to the U.S. District Court for the District of Columbia. To ensure promptness, the bill authorizes adequate funding for the costs of processing petitions through the Commission and to assist petitioners in the development of their petitions. This bill will also provide final-

ity for both the petitioners and the Department of the Interior.

The Department has had a process of one type or another for recognizing Indian tribes since the 1930's. Great uncertainty has existed about how or when this process might be concluded and how many Indian tribes will ultimately be recognized. I believe that it is in the interests of all parties to have a clear deadline for the completion of the recognition process. Accordingly, the bill requires all interested tribal groups to file their petitions within 6 years after the date of enactment and the Commission must complete all of its work within 12 years from the date of enactment.

This bill is similar to the bills which I have introduced in each of the last three Congresses. It is also similar to a bill which passed the House of Representatives in the 103d Congress, H.R. 4462, and which has been reintroduced in this Congress by Representative FALEOMAVAEGA, H.R. 671. The major differences between the bill I am introducing today and H.R. 671 are; First, H.R. 671 would make naive Hawaiians and Alaska Native villages eligible to petition for recognition while this bill does not; second, H.R. 671 would create a part-time Commission, while this bill creates a full-time independent entity in the executive branch, and H.R. 671 would not sunset the Commission or the recognition process while this bill would terminate the Commission and require the process to be completed in 12 years.

From the earliest times, the Congress has acted to recognize the unique government-to-government relationship with the Indian tribes. There are and always have been some Indian tribes which have not been recognized by the Federal Government. This lack of recognition does not alter the fact of the existence of the tribe or of its retained inherent sovereignty; it merely means that there is no formal political relationship between the tribal government and the Federal Government and that the enrolled members of the tribe are not eligible for the services and benefits accorded to Indians because of their status as members of federally recognized Indian tribes.

Over the years, the Federal courts have ruled that recognition, while solely within the authority of the Congress, may also be conferred through actions of the executive branch. Both the President and the Secretary of the Interior have historically acted in ways which the courts have found to constitute recognition of Indian tribes. And beginning in 1954, it was the established policy of the Congress to officially sanction the termination of the Federal/tribal relationship. This misguided policy was only effectively ended in 1970 when President Nixon called for the beginning of an era of self-determination and the end of termination.

In 1978, the Department of the Interior promulgated regulations to establish criteria and procedures for the recognition of Indian tribes by the Secretary. Since that time tribal groups have filed 147 petitions for review. Of those, 31 have been resolved and 75 are letters expressing an intent to petition, and 7 require legislative authority to proceed. The remainder are in various stages of consideration by the Department. During this same time, the Congress has recognized nine other tribal groups through legislation.

In 1978, 1983, 1988, 1989, and 1992, the Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of those hearings the record clearly showed that the process is not working properly. The process in the Department of the Interior is time consuming and costly, although it has improved somewhat in recent years. Some tribal groups allege that Interior Department's process leads to unfair and unfounded results. It has frequently been hindered by a lack of staff and resources needed to fairly and promptly review all petitions. At the same time, the Congress extends recognition to tribes with little or no reference to the legal standards and criteria employed by the Department. The result is yet another layer of inconsistency and apparent unfairness.

The record from our previous hearings reveals a clear need for the Congress to address the problems affecting the recognition process. I believe that the bill I am introducing today will go a long way toward resolving the problems which have plagued both the Department and the petitions over the years.

Mr. President, I ask unanimous consent that the full text of the Indian Federal Recognition Administrative Procedures Act of 1995 and a section-by-section summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1995".

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to establish an administrative procedure to extend Federal recognition to certain Indian groups;
- (2) to extend to Indian groups that are determined to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility with respect to Indian tribes;
- (3) to extend to Indian groups that are determined to be Indian tribes the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States;

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

(5) to establish a Commission on Indian Recognition to review and act upon petitions submitted by Indian groups that apply for Federal recognition;

(6) to provide clear and consistent standards of administrative review of documented petitions for Federal acknowledgment;

(7) to clarify evidentiary standards and expedite the administrative review process by providing adequate resources to process petitions; and

(8) to remove the Federal acknowledgment process from the Bureau of Indian Affairs and transfer the responsibility for the process to an independent Commission on Indian Recognition.

SEC. 3. DEFINITIONS.

Unless the context implies otherwise, for the purposes of this Act the following definitions shall apply:

(1) **ACKNOWLEDGED.**—The term "acknowledged" means, with respect to an Indian group, that the Commission on Indian Recognition has made an acknowledgment, as defined in paragraph (2), for such group.

(2) **ACKNOWLEDGMENT.**—The term "acknowledgment" means a determination by the Commission on Indian Recognition that an Indian group—

(A) constitutes an Indian tribe with a government-to-government relationship with the United States; and

(B) with respect to which the members are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) **AUTONOMOUS.**—

(A) **IN GENERAL.**—The term "autonomous" means the exercise of political influence or authority independent of the control of any other Indian governing entity.

(B) **CONTEXT OF TERM.**—With respect to a petitioner, such term shall be understood in the context of the history, geography, culture, and social organization of the petitioner.

(4) **BUREAU.**—The term "Bureau" means the Bureau of Indian Affairs of the Department.

(5) **COMMISSION.**—The term "Commission" means the Commission on Indian Recognition established pursuant to section 4.

(6) **COMMUNITY.**—

(A) **IN GENERAL.**—The term "community" means any group of people, living within a reasonable territorial propinquity, that are able to demonstrate that—

(i) consistent interactions and significant social relationships exist within the membership; and

(ii) the members of such group are differentiated from and identified as distinct from nonmembers.

(B) **CONTEXT OF TERM.**—Such term shall be understood in the context of the history, culture, and social organization of the group, taking into account the geography of the region in which the group resides.

(7) **CONTINUOUS OR CONTINUOUSLY.**—With respect to a period of history of a group, the term "continuous" or "continuously" means extending from the first sustained contact with Euro-Americans throughout the history of the group to the present substantially without interruption.

(8) **DEPARTMENT.**—The term "Department" means the Department of the Interior.

(9) **DOCUMENTED PETITION.**—The term "documented petition" means the detailed, factual exposition and arguments, including all documentary evidence, necessary to demonstrate that such arguments specifically

address the mandatory criteria established in section 5.

(10) **GROUP.**—The term "group" means an Indian group, as defined in paragraph (12).

(11) **HISTORICALLY, HISTORICAL, HISTORY.**—The terms "historically", "historical", and "history" refer to the period dating from the first sustained contact with Euro-Americans.

(12) **INDIAN GROUP.**—The term "Indian group" means any Indian, Alaska Native, or Native Hawaiian tribe, band, pueblo, village or community within the United States that the Secretary does not acknowledge to be an Indian tribe.

(13) **INDIAN TRIBE.**—The term "Indian tribe" means any Indian tribe, band, pueblo, village, or community within the United States that—

(A) the Secretary has acknowledged as an Indian tribe as of the date of enactment of this Act, or acknowledges to be an Indian tribe pursuant to the procedures applicable to certain petitions under active consideration at the time of the transfer of petitions to the Commission under section 5(a)(3); or

(B) the Commission acknowledges as an Indian tribe under this Act.

(14) **INDIGENOUS.**—With respect to a petitioner, the term "indigenous" means native to the United States, in that at least part of the traditional territory of the petitioner at the time of first sustained contact with Euro-Americans extended into the United States.

(15) **LETTER OF INTENT.**—The term "letter of intent" means an undocumented letter or resolution that—

(A) is dated and signed by the governing body of an Indian group;

(B) is submitted to the Commission; and

(C) indicates the intent of the Indian group to submit a petition for Federal acknowledgment as an Indian tribe.

(16) **MEMBER OF AN INDIAN GROUP.**—The term "member of an Indian group" means an individual who—

(A) is recognized by an Indian group as meeting the membership criteria of the Indian group; and

(B) consents in writing to being listed as a member of such group.

(17) **MEMBER OF AN INDIAN TRIBE.**—The term "member of an Indian tribe" means an individual who—

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

(ii) in the absence of a governing document which sets out such requirements, has been recognized as a member collectively by those persons comprising the tribal governing body; and

(B)(i) has consistently maintained tribal relations with the tribe; or

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

(18) **PETITION.**—The term "petition" means a petition for acknowledgment submitted or transferred to the Commission pursuant to section 5.

(19) **PETITIONER.**—The term "petitioner" means any group that submits a letter of intent to the Commission requesting acknowledgment that the group is an Indian tribe.

(20) **POLITICAL INFLUENCE OR AUTHORITY.**—

(A) **IN GENERAL.**—The term "political influence or authority" means a tribal council, leadership, internal process, or other mechanism which a group has used as a means of—

(i) influencing or controlling the behavior of its members in a significant manner;

(ii) making decisions for the group which substantially affect its members; or

(iii) representing the group in dealing with nonmembers in matters of consequence to the group.

(B) **CONTEXT OF TERM.**—Such term shall be understood in the context of the history, culture, and social organization of the group.

(21) **PREVIOUS FEDERAL ACKNOWLEDGMENT.**—The term “previous Federal acknowledgment” means any action by the Federal Government, the character of which—

(A) is clearly premised on identification of a tribal political entity; and

(B) clearly indicates the recognition of a government-to-government relationship between that entity and the Federal Government.

(22) **RESTORATION.**—The term “restoration” means the reextension of acknowledgment to any previously acknowledged tribe with respect to which the acknowledged status may have been abrogated or diminished by reason of legislation enacted by Congress expressly terminating such status.

(23) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(24) **SUSTAINED CONTACT.**—The term “sustained contact” means the period of earliest sustained Euro-American settlement or governmental presence in the local area in which the tribe or tribes from which the petitioner claims descent was located historically.

(25) **TREATY.**—The term “treaty” means any treaty—

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

(B) made by any government with, or on behalf of, any Indian group or tribe, from which the Federal Government subsequently acquired territory by purchase, conquest, annexation, or cession; or

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

(26) **TRIBE.**—The term “tribe” means an Indian tribe.

(27) **TRIBAL RELATIONS.**—The term “tribal relations” means participation by an individual in a political and social relationship with an Indian tribe.

(28) **TRIBAL ROLL.**—The term “tribal roll” means a list exclusively of those individuals who—

(A)(i) have been determined by the tribe to meet the membership requirements of the tribe, as set forth in the governing document of the tribe; or

(ii) in the absence of a governing document that sets forth such requirements, have been recognized as members by the governing body of the tribe; and

(B) have affirmatively demonstrated consent to being listed as members of the tribe.

(29) **UNITED STATES.**—The term “United States” means the 48 contiguous States, and the States of Alaska and Hawaii. Such term does not include territories or possessions of the United States.

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

(a) **ESTABLISHMENT.**—There is established, as an independent commission, the Commission on Indian Recognition. The Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—

(A) **MEMBERS.**—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(B) **INDIVIDUALS TO BE CONSIDERED FOR MEMBERSHIP.**—In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes; and

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history.

(2) **POLITICAL AFFILIATION.**—Not more than 2 members of the Commission may be members of the same political party.

(3) **TERMS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

(B) **INITIAL APPOINTMENTS.**—As designated by the President at the time of appointment, of the members initially appointed under this subsection—

(i) 1 member shall be appointed for a term of 2 years;

(ii) 1 member shall be appointed for a term of 3 years; and

(iii) 1 member shall be appointed for a term of 4 years.

(4) **VACANCIES.**—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the term of such member until a successor has taken office.

(5) **COMPENSATION.**—

(A) **IN GENERAL.**—Each member of the Commission shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) **TRAVEL.**—All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from their homes or regular places of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) **FULL-TIME EMPLOYMENT.**—Each member of the Commission shall serve on the Commission as a full-time employee of the Federal Government. No member of the Commission may, while serving on the Commission, be otherwise employed as an officer or employee of the Federal Government. Service by a member who is an employee of the Federal Government at the time of nomination as a member shall be without interruption or loss of civil service status or privilege.

(7) **CHAIRPERSON.**—At the time appointments are made under paragraph (1), the President shall designate a Chairperson of the Commission (referred to in this section as the “Chairperson”) from among the appointees.

(c) **MEETINGS AND PROCEDURES.**—

(1) **IN GENERAL.**—The Commission shall hold its first meeting not later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(2) **QUORUM.**—Two members of the Commission shall constitute a quorum for the transaction of business.

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

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

(d) **DUTIES.**—The Commission shall carry out the duties assigned to the Commission

by this Act, and shall meet the requirements imposed on the Commission by this Act.

(e) **POWERS AND AUTHORITIES.**—

(1) **POWERS AND AUTHORITIES OF CHAIRPERSON.**—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson may—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the Chairperson considers advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) **GENERAL POWERS AND AUTHORITIES OF COMMISSION.**—

(A) **IN GENERAL.**—The Commission may—

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

(ii) take such testimony;

(iii) have such printing and binding done;

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

(v) make such expenditures; and

(vi) take such other actions,

as the Commission may consider advisable.

(B) **OATHS AND AFFIRMATIONS.**—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3) **INFORMATION.**—

(A) **IN GENERAL.**—The Commission may secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require to carry out this Act. Each such officer, department, agency, establishment, or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon the request of the Chairperson.

(B) **FACILITIES, SERVICES, AND DETAILS.**—Upon the request of the Chairperson, to assist the Commission in carrying out the duties of the Commission under this section, the head of any Federal department, agency, or instrumentality may—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis.

(C) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) **FEDERAL ADVISORY COMMITTEE ACT.**—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) **TERMINATION OF COMMISSION.**—The Commission shall terminate on the date that is 12 years after the date of enactment of this Act.

SEC. 5. PETITIONS FOR RECOGNITION.**(a) IN GENERAL.—**

(1) PETITIONS.—Subject to subsection (d) and except as provided in paragraph (2), any Indian group may submit to the Commission a petition requesting that the Commission recognize an Indian group as an Indian tribe.

(2) EXCLUSION.—The following groups and entities shall not be eligible to submit a petition for recognition by the Commission under this Act:

(A) CERTAIN ENTITIES THAT ARE ELIGIBLE TO RECEIVE SERVICES FROM THE BUREAU.—Indian tribes, organized bands, pueblos, communities, and Alaska Native entities that are recognized by the Secretary as of the date of enactment of this Act as eligible to receive services from the Bureau.

(B) CERTAIN SPLINTER GROUPS, POLITICAL FACTIONS, AND COMMUNITIES.—Splinter groups, political factions, communities, or groups of any character that separate from the main body of an Indian tribe that, at the time of such separation, is recognized as an Indian tribe by the Secretary, unless the group, faction, or community is able to establish clearly that the group, faction, or community has functioned throughout history until the date of such petition as an autonomous Indian tribal entity.

(C) CERTAIN GROUPS THAT HAVE PREVIOUSLY SUBMITTED PETITIONS.—Groups, or successors in interest of groups, that prior to the date of enactment of this Act, have petitioned for and been denied or refused recognition as an Indian tribe under regulations prescribed by the Secretary.

(D) INDIAN GROUPS SUBJECT TO TERMINATION.—Any Indian group whose relationship with the Federal Government was expressly terminated by an Act of Congress.

(E) PARTIES TO CERTAIN ACTIONS.—Any Indian group that—

(i) in any action in a United States court of competent jurisdiction to which the group was a party, attempted to establish its status as an Indian tribe or a successor in interest to an Indian tribe that was a party to a treaty with the United States;

(ii) was determined by such court—

(I) not to be an Indian tribe; or

(II) not to be a successor in interest to an Indian tribe that was a party to a treaty with the United States; or

(iii) was the subject of findings of fact by such court which, if made by the Commission, would show that the group was incapable of establishing one or more of the criteria set forth in this section.

(3) TRANSFER OF PETITION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate under section 4(b), the Secretary shall transfer to the Commission all petitions pending before the Department that—

(i) are not under active consideration of the Secretary at the time of the transfer; and

(ii) request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe.

(B) CESSATION OF CERTAIN AUTHORITIES OF SECRETARY.—Notwithstanding any other provision of law, on the date of the transfer under subparagraph (A), the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal Government, any Indian group as an Indian tribe, except for those groups under active consideration at the time of the transfer whose petitions have been retained by the Secretary pursuant to subparagraph (A).

(C) DETERMINATION OF ORDER OF SUBMISSION OF TRANSFERRED PETITIONS.—Petitions trans-

ferred to the Commission under subparagraph (A) shall, for purposes of this Act, be considered as having been submitted to the Commission in the same order as such petitions were submitted to the Department.

(b) PETITION FORM AND CONTENT.—Except as provided in subsection (c), any petition submitted under subsection (a) by an Indian group shall be in any readable form that clearly indicates that the petition is a petition requesting the Commission to recognize the Indian group as an Indian tribe and that contains detailed, specific evidence concerning each of the following items:

(1) STATEMENT OF FACTS.—A statement of facts establishing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. Evidence that the character of the group as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence that the Commission may rely on in determining the Indian identity of a group may include any one or more of the following items:

(A) IDENTIFICATION OF PETITIONER.—An identification of the petitioner as an Indian entity by any department, agency, or instrumentality of the Federal Government.

(B) RELATIONSHIP OF PETITIONER WITH STATE GOVERNMENT.—A relationship between the petitioner and any State government, based on an identification of the petitioner as an Indian entity.

(C) RELATIONSHIP OF PETITIONER WITH A POLITICAL SUBDIVISION OF A STATE.—Dealings of the petitioner with a county or political subdivision of a State in a relationship based on the Indian identity of the petitioner.

(D) IDENTIFICATION OF PETITIONER ON THE BASIS OF CERTAIN RECORDS.—An identification of the petitioner as an Indian entity by records in a private or public archive, courthouse, church, or school.

(E) IDENTIFICATION OF PETITIONER BY CERTAIN EXPERTS.—An identification of the petitioner as an Indian entity by an anthropologist, historian, or other scholar.

(F) IDENTIFICATION OF PETITIONER BY CERTAIN MEDIA.—An identification of the petitioner as an Indian entity in a newspaper, book, or similar medium.

(G) IDENTIFICATION OF PETITIONER BY ANOTHER INDIAN TRIBE OR ORGANIZATION.—An identification of the petitioner as an Indian entity by another Indian tribe or by a national, regional, or State Indian organization.

(H) IDENTIFICATION OF PETITIONER BY A FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION.—An identification of the petitioner as an Indian entity by a foreign government or an international organization.

(I) OTHER EVIDENCE OF IDENTIFICATION.—Such other evidence of identification as may be provided by a person or entity other than the petitioner or a member of the membership of the petitioner.

(2) EVIDENCE OF COMMUNITY.—

(A) IN GENERAL.—A statement of facts establishing that a predominant portion of the membership of the petitioner—

(i) comprises a community distinct from those communities surrounding such community; and

(ii) has existed as a community from historical times to the present.

(B) EVIDENCE.—Evidence that the Commission may rely on in determining that the petitioner meets the criterion described in clauses (i) and (ii) of subparagraph (A) may include one or more of the following items:

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

(ii) SOCIAL RELATIONSHIPS.—Significant social relationships connecting individual members.

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

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

(v) DISCRIMINATION OR OTHER SOCIAL DISTINCTIONS.—Evidence of strong patterns of discrimination or other social distinctions by nonmembers.

(vi) SHARED RITUAL ACTIVITY.—Shared sacred or secular ritual activity encompassing most of the group.

(vii) CULTURAL PATTERNS.—Cultural patterns that—

(I) are shared among a significant portion of the group that are different from the cultural patterns of the non-Indian populations with whom the group interacts;

(II) function as more than a symbolic identification of the group as Indian; and

(III) may include language, kinship or religious organizations, or religious beliefs and practices.

(viii) COLLECTIVE INDIAN IDENTITY.—The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.

(ix) HISTORICAL POLITICAL INFLUENCE.—A demonstration of historical political influence pursuant to the criterion set forth in paragraph (3).

(C) CRITERIA FOR SUFFICIENT EVIDENCE.—The Commission shall consider the petitioner to have provided sufficient evidence of community at a given point in time if the petitioner has provided evidence that demonstrates any one of the following:

(i) RESIDENCE OF MEMBERS.—More than 50 percent of the members of the group of the petitioner reside in a particular geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent social interaction with some members of the community.

(ii) MARRIAGES.—Not less than 50 percent of the marriages of the group are between members of the group.

(iii) DISTINCT CULTURAL PATTERNS.—Not less than 50 percent of the members of the group maintain distinct cultural patterns including language, kinship or religious organizations, or religious beliefs or practices.

(iv) COMMUNITY SOCIAL INSTITUTIONS.—Distinct community social institutions encompassing a substantial portion of the members of the group, such as kinship organizations, formal or informal economic cooperation, or religious organizations.

(v) APPLICABILITY OF CRITERIA.—The group has met the criterion in paragraph (3) using evidence described in paragraph (3)(B).

(3) AUTONOMOUS ENTITY.—

(A) IN GENERAL.—A statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the time of the petition. The Commission may rely on one or more of the following items in determining whether a petitioner meets the criterion described in the preceding sentence:

(i) MOBILIZATION OF MEMBERS.—The group is capable of mobilizing significant numbers of members and significant resources from its members for group purposes.

(ii) ISSUES OF PERSONAL IMPORTANCE.—Most of the membership of the group considers issues acted upon or taken by group leaders or governing bodies to be of personal importance.

(iii) **POLITICAL PROCESS.**—There is a widespread knowledge, communication, and involvement in political processes by most of the members of the group.

(iv) **LEVEL OF APPLICATION OF CRITERIA.**—The group meets the criterion described in paragraph (2) at more than a minimal level.

(v) **INTRAGROUP CONFLICTS.**—There are intragroup conflicts which show controversy over valued group goals, properties, policies, processes, or decisions.

(B) **EVIDENCE OF EXERCISE OF POLITICAL INFLUENCE OR AUTHORITY.**—The Commission shall consider that a petitioner has provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders or other mechanisms exist or have existed that accomplish the following:

(i) **ALLOCATION OF GROUP RESOURCES.**—Allocate group resources such as land, residence rights, or similar resources on a consistent basis.

(ii) **SETTLEMENT OF DISPUTES.**—Settle disputes between members or subgroups such as clans or moieties by mediation or other means on a regular basis.

(iii) **INFLUENCE ON BEHAVIOR OF INDIVIDUAL MEMBERS.**—Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior.

(iv) **ECONOMIC SUBSISTENCE ACTIVITIES.**—Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(C) **TEMPORALITY OF SUFFICIENCY OF EVIDENCE.**—A group that has met the requirements of paragraph (2)(C) at any point in time shall be considered to have provided sufficient evidence to meet the criterion described in subparagraph (A) at such point in time.

(4) **GOVERNING DOCUMENT.**—A copy of the then present governing document of the petitioner that includes the membership criteria of the petitioner. In the absence of a written document, the petitioner shall be required to provide a statement describing in full the membership criteria of the petitioner and the then current governing procedures of the petitioner.

(5) **LIST OF MEMBERS.**—

(A) **IN GENERAL.**—A list of all then current members of the petitioner, including the full name (and maiden name, if any), date, and place of birth, and then current residential address of each member, a copy of each available former list of members based on the criteria defined by the petitioner, and a statement describing the methods used in preparing such lists.

(B) **REQUIREMENTS FOR MEMBERSHIP.**—In order for the Commission to consider the members of the group to be members of an Indian tribe for the purposes of the petition, such membership shall be required to consist of established descendancy from an Indian group that existed historically, or from historical Indian groups that combined and functioned as a single autonomous entity.

(C) **EVIDENCE OF TRIBAL MEMBERSHIP.**—Evidence of tribal membership required by the Commission for a determination of tribal membership shall include the following items:

(i) **DESCENDANCY ROLLS.**—Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes.

(ii) **CERTAIN OFFICIAL RECORDS.**—State, Federal, or other official records or evidence identifying then present members of the petitioner, or ancestors of then present members of the petitioner, as being descendants of a historic tribe or historic tribes that

combined and functioned as a single autonomous political entity.

(iii) **ENROLLMENT RECORDS.**—Church, school, and other similar enrollment records identifying then present members or ancestors of then present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

(iv) **AFFIDAVITS OF RECOGNITION.**—Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(v) **OTHER RECORDS OR EVIDENCE.**—Other records or evidence identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(c) **EXCEPTIONS.**—A petition from an Indian group that is able to demonstrate by a preponderance of the evidence that the group was, or is the successor in interest to, a—

(1) party to a treaty or treaties;

(2) group acknowledged by any agency of the Federal Government as eligible to participate under the Act of June 18, 1934 (commonly referred to as the "Indian Reorganization Act") (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.);

(3) group for the benefit of which the United States took into trust lands, or which the Federal Government has treated as having collective rights in tribal lands or funds; or

(4) group that has been denominated a tribe by an Act of Congress or Executive order,

shall be required to establish the criteria set forth in this section only with respect to the period beginning on the date of the applicable action described in paragraph (1), (2), (3), or (4) and ending on the date of submission of the petition.

(d) **DEADLINE FOR SUBMISSION OF PETITIONS.**—No Indian group may submit a petition to the Commission requesting that the Commission recognize an Indian group as an Indian tribe after the date that is 6 years after the date of enactment of this Act. After the Commission makes a determination on each petition submitted prior to such date, the Commission may not make any further determination under this Act to recognize any Indian group as an Indian tribe.

SEC. 6. NOTICE OF RECEIPT OF PETITION.

(a) **PETITIONER.**—

(1) **IN GENERAL.**—Not later than 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall—

(A) send an acknowledgement of receipt in writing to the petitioner; and

(B) publish in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that—

(i) identifies the entity that submitted the petition and the date the petition was received by the Commission;

(ii) indicates where a copy of the petition may be examined; and

(iii) indicates whether the petition is a transferred petition that is subject to the special provisions under paragraph (2).

(2) **SPECIAL PROVISIONS FOR TRANSFERRED PETITIONS.**—

(A) **IN GENERAL.**—With respect to a petition that is transferred to the Commission under section 5(a)(3), the notice provided to the petitioner, shall, in addition to providing the information specified in paragraph (1), inform the petitioner whether the petition

constitutes a documented petition that meets the requirements of section 5.

(B) **AMENDED PETITIONS.**—If the petition described in subparagraph (A) is not a documented petition, the Commission shall notify the petitioner that the petitioner may, not later than 90 days after the date of the notice, submit to the Commission an amended petition that is a documented petition for review under section 7.

(C) **EFFECT OF AMENDED PETITION.**—To the extent practicable, the submission of an amended petition by a petitioner by the date specified in this paragraph shall not affect the order of consideration of the petition by the Commission.

(b) **OTHERS.**—In addition to providing the notification required under subsection (a), the Commission shall notify, in writing, the Governor and attorney general of, and each federally recognized Indian tribe within, any State in which a petitioner resides.

(c) **PUBLICATION; OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.**—

(1) **PUBLICATION.**—The Commission shall publish the notice of receipt of each petition (including any amended petition submitted pursuant to subsection (a)(2)) in a major newspaper of general circulation in the town or city located nearest the location of the petitioner.

(2) **OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.**—

(A) **IN GENERAL.**—Each notice published under paragraph (1) shall include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to, the petition.

(B) **COPY TO PETITIONER.**—A copy of any submission made under subparagraph (A) shall be provided to the petitioner upon receipt by the Commission.

(C) **RESPONSE.**—The petitioner shall be provided an opportunity to respond to any submission made under subparagraph (A) prior to a determination on the petition by the Commission.

SEC. 7. PROCESSING THE PETITION.

(a) **REVIEW.**—

(1) **IN GENERAL.**—Upon receipt of a documented petition submitted or transferred under section 5(a) or submitted under section 6(a)(2)(B), the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) **CONTENT OF REVIEW.**—The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) **OTHER RESEARCH.**—In conducting a review under this subsection, the Commission may—

(A) initiate other research for any purpose relative to analyzing the petition and obtaining additional information about the status of the petitioner; and

(B) consider such evidence as may be submitted by other parties.

(4) **ACCESS TO LIBRARY OF CONGRESS AND NATIONAL ARCHIVES.**—Upon request by the petitioner, the appropriate officials of the Library of Congress and the National Archives shall allow access by the petitioner to the resources, records, and documents of such entities, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

(b) **CONSIDERATION.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, petitions submitted or transferred to the Commission shall be considered on a first come, first served basis, determined by the date of the original filing of each such petition with the Commission

(or the Department if the petition is transferred to the Commission pursuant to section 5(a) or is an amended petition submitted pursuant to section 6(a)(2)(B)). The Commission shall establish a priority register that includes petitions that are pending before the Department on the date of enactment of this Act.

(2) **PRIORITY CONSIDERATION.**—Each petition (that is submitted or transferred to the Commission pursuant to section 5(a) or that is submitted to the Commission pursuant to section 6(a)(2)(B)) of an Indian group that meets one or more of the requirements set forth in section 5(c) shall receive priority consideration over a petition submitted by any other Indian group.

SEC. 8. PRELIMINARY HEARING.

(a) **IN GENERAL.**—Not later than 60 days after the receipt of a documented petition by the Commission submitted or transferred under section 5(a) or submitted to the Commission pursuant to section 6(a)(2)(B), the Commission shall set a date for a preliminary hearing. At the preliminary hearing, the petitioner and any other concerned party may provide evidence concerning the status of the petitioner.

(b) **DETERMINATION.**—

(1) **IN GENERAL.**—Not later than 30 days after the conclusion of a preliminary hearing under subsection (a), the Commission shall make a determination—

(A) to extend Federal acknowledgment of the petitioner as an Indian tribe to the petitioner; or

(B) that provides that the petitioner should proceed to an adjudicatory hearing.

(2) **NOTICE OF DETERMINATION.**—The Commission shall publish in the Federal Register a notice of each determination made under paragraph (1).

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

(1) **IN GENERAL.**—If the Commission makes a determination under subsection (b)(1)(B) that the petitioner should proceed to an adjudicatory hearing, the Commission shall—

(A)(i) make available appropriate evidentiary records of the Commission to the petitioner to assist the petitioner in preparing for the adjudicatory hearing; and

(ii) include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) not later than 30 days after the conclusion of the preliminary hearing under subsection (a), provide a written notification to the petitioner that includes a list of any deficiencies or omissions that the Commission relied on in making a determination under subsection (b)(1)(B).

(2) **SUBJECT OF ADJUDICATORY HEARING.**—The list of deficiencies and omissions provided by the Commission to a petitioner under paragraph (1)(B) shall be the subject of the adjudicatory hearing. The Commission may not make any additions to the list after the Commission issues the list.

SEC. 9. ADJUDICATORY HEARING.

(a) **IN GENERAL.**—Not later than 180 days after the conclusion of a preliminary hearing under section 8(a), the Commission shall afford a petitioner who is subject to section 8(b)(1)(B) an adjudicatory hearing. The subject of the adjudicatory hearing shall be the list of deficiencies and omissions provided under section 8(c)(1)(B) and shall be conducted pursuant to section 554 of title 5, United States Code.

(b) **TESTIMONY FROM STAFF OF COMMISSION.**—In any hearing held under subsection (a), the Commission may require testimony from the acknowledgement and research staff of the Commission or other witnesses.

Any such testimony shall be subject to cross-examination by the petitioner.

(c) **EVIDENCE BY PETITIONER.**—In any hearing held under subsection (a), the petitioner may provide such evidence as the petitioner considers appropriate.

(d) **DETERMINATION BY COMMISSION.**—Not later than 60 days after the conclusion of any hearing held under subsection (a), the Commission shall—

(1) make a determination concerning the extension or denial of Federal acknowledgment of the petitioner as an Indian tribe to the petitioner;

(2) publish the determination of the Commission under paragraph (1) in the Federal Register; and

(3) deliver a copy of the determination to the petitioner, and to every other interested party.

SEC. 10. APPEALS.

(a) **IN GENERAL.**—Not later than 60 days after the date that the Commission publishes a determination under section 9(d), the petitioner may appeal the determination to the United States District Court for the District of Columbia.

(b) **ATTORNEY FEES.**—If the petitioner prevails in an appeal made under subsection (a), the petitioner shall be eligible for an award of reasonable attorney fees and costs under section 504 of title 5, United States Code, or section 2412 of title 28 of such Code, whichever is applicable.

SEC. 11. EFFECT OF DETERMINATIONS.

A determination by the Commission under section 9(d) that an Indian group is recognized by the Federal Government as an Indian tribe shall not have the effect of depriving or diminishing—

(1) the right of any other Indian tribe to govern the reservation of such other tribe as such reservation existed prior to the recognition of such Indian group, or as such reservation may exist thereafter;

(2) any property right held in trust or recognized by the United States for such other Indian tribe as such property existed prior to the recognition of such Indian group; or

(3) any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition by the Federal Government of such Indian group as an Indian tribe.

SEC. 12. IMPLEMENTATION OF DECISIONS.

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

(1) **IN GENERAL.**—Subject to paragraph (2), upon recognition by the Commission of a petitioner as an Indian tribe under this Act, the Indian tribe shall—

(A) be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States; and

(B) have the responsibilities, obligations, privileges, and immunities of such Indian tribes.

(2) **PROGRAMS OF THE BUREAU.**—

(A) **IN GENERAL.**—The recognition of an Indian group as an Indian tribe by the Commission under this Act shall not create an immediate entitlement to programs of the Bureau in existence on the date of the recognition.

(B) **AVAILABILITY OF PROGRAMS.**—

(i) **IN GENERAL.**—The programs described in subparagraph (A) shall become available to the Indian tribe upon the appropriation of funds.

(ii) **REQUESTS FOR APPROPRIATIONS.**—The Secretary and the Secretary of Health and Human Services shall forward budget requests for funding the programs for the In-

dian tribe pursuant to the needs determination procedures established under subsection (b).

(b) **NEEDS DETERMINATION AND BUDGET REQUEST.**—

(1) **IN GENERAL.**—Not later than 180 days after an Indian group is recognized by the Commission as an Indian tribe under this Act, the appropriate officials of the Bureau and the Indian Health Service of the Department of Health and Human Services shall consult and develop in cooperation with the Indian tribe, and forward to the Secretary or the Secretary of Health and Human Services, as appropriate, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe.

(2) **SUBMISSION OF BUDGET REQUEST.**—Upon receipt of the information described in paragraph (1), the appropriate Secretary shall submit to the President a recommended budget along with recommendations, concerning the information received under paragraph (1), for inclusion in the annual budget submitted by the President to the Congress pursuant to section 1108 of title 31, United States Code.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

(a) **LIST OF RECOGNIZED TRIBES.**—Not later than 90 days after the first meeting of the Commission, and annually on or before each January 30 thereafter, the Commission shall publish in the Federal Register a list of all Indian tribes that—

(1) are recognized by the Federal Government; and

(2) receive services from the Bureau.

(b) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—Beginning on the date that is 1 year after the date of the enactment of this Act, and annually thereafter, the Commission shall prepare and submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives that describes the activities of the Commission.

(2) **CONTENT OF REPORTS.**—Each report submitted under this subsection shall include, at a minimum, for the year that is the subject of the report—

(A) the number of petitions pending at the beginning of the year and the names of the petitioners;

(B) the number of petitions received during the year and the names of the petitioners;

(C) the number of petitions the Commission approved for acknowledgment during the year and the names of the acknowledged petitioners;

(D) the number of petitions the Commission denied for acknowledgment during the year and the names of the petitioners; and

(E) the status of all pending petitions on the date of the report and the names of the petitioners.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act. The district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

SEC. 15. REGULATIONS.

The Commission may, in accordance with applicable requirements of title 5, United States Code, promulgate and publish such regulations as may be necessary to carry out this Act.

SEC. 16. GUIDELINES AND ADVICE.

(a) **GUIDELINES.**—Not later than 90 days after the first meeting of the Commission, the Commission shall make available to Indian groups suggested guidelines for the format of petitions, including general suggestions and guidelines concerning where and how to research information that is required to be included in a petition. The examples included in the guidelines shall not preclude the use of any other appropriate format.

(b) **RESEARCH ADVICE.**—The Commission may, upon request, provide suggestions and advice to any petitioner with respect to the research of the petitioner concerning the historical background and Indian identity of such petitioner. The Commission shall not be responsible for conducting research on behalf of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.**(a) GRANTS.**—

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

(A) conduct the research necessary to substantiate petitions under this Act; and

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

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

(b) **COMPETITIVE AWARD.**—The grants made under subsection (a) shall be awarded competitively on the basis of objective criteria prescribed in regulations promulgated by the Secretary of Health and Human Services.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) **COMMISSION.**—There are authorized to be appropriated to the Commission to carry out this Act (other than section 17)—

(1) \$1,500,000 for fiscal year 1996; and

(2) \$1,500,000 for each of fiscal years 1997 through 2008.

(b) **SECRETARY OF HHS.**—To carry out section 17, there are authorized to be appropriated to the Department of Health and Human Services for the Administration for Native Americans \$500,000 for each of fiscal years 1996 through 2007.

SECTION-BY-SECTION SUMMARY OF THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1995

SECTION 1. SHORT TITLE.

This section provides that the Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1995".

SEC. 2. PURPOSES.

This section provides that the purposes of the Act are: to establish a procedure to extend Federal recognition to Indian groups; to extend to Indian groups that are found to be Indian tribes the protection, services, benefits and privileges and immunities which are available pursuant to the Federal trust responsibility and to those Indian tribes with a government-to-government relationship with the United States; to ensure that a consistent legal, factual and historical basis is utilized to determine when acknowledgement should be extended to an Indian tribe; to establish a Commission on Indian Recognition; to provide clear and consistent standards of administrative review of petitions for acknowledgement; to clarify evidentiary standards and provide adequate resources to process petitions; and to remove the Federal acknowledgement process from the Bureau of Indian Affairs.

SEC. 3. DEFINITIONS.

This section provides definitions for the following terms: "acknowledged", "acknowledgement", "autonomous", "Bureau",

"Commission", "community", "continuous or continuously", "Department", "documented petition", "group", "historically, historical, history", "Indian group", "Indian tribe", "indigenous", "letter of intent", "member of an Indian group", "member of an Indian tribe", "petition", "petitioner", "political influence or authority", "previous federal acknowledgement", "restoration", "Secretary", "sustained contact", "treaty", "tribe", "tribal relations", "tribal roll", and "United States".

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

Subsection (a) of this section authorizes the establishment of the Commission on Indian Recognition as a three member independent agency of the Executive Branch.

Subsection (b) provides that Commission members are to be appointed by the President with the advice and consent of the Senate. Indian tribes may make recommendations to the President and the President shall consider individuals with backgrounds in Indian law or policy, anthropology, genealogy or history in making appointments to the Commission. Commissioners will serve for a term of four years, except in the case of the initial commissioners, whose terms shall be staggered. Vacancies in the Commission will be filled in the same manner as original appointments. Commissioners are to be paid at a rate equivalent to level V of the Executive Schedule and are to be reimbursed for all travel and per diem expenses. Commissioners are to be full-time employees of the Federal Government and cannot be otherwise employed by the Federal Government during their service on the Commission. The Chairperson of the Commission is to be designated by the President at the time the Commissioners are nominated.

Subsection (c) provides that the first meeting of the Commission will occur no later than 30 days after all of the Commissioners have been confirmed by the Senate. Two members of the Commission will constitute a quorum for the conduct of business. The Commission is authorized to adopt any rules necessary to govern its operation, organization and personnel. The principal office of the Commission is required to be in the District of Columbia.

Subsection (d) requires the Commission to carry out the duties assigned to it and to meet the requirements imposed on it by this Act.

Subsection (e) authorizes the Chairperson of the Commission to appoint, terminate and fix the compensation of an Executive Director of the Commission and such other personnel as the Chairperson considers advisable to assist in the work of the Commission. The Chairperson is also authorized to procure temporary and intermittent services. In general, the Commission is authorized to hold hearings, take testimony, enter into contracts and take such other actions as the Commission may consider advisable. Any member of the Commission may administer oaths to witnesses appearing before the Commission. The Commission is authorized to secure such information as it may need to carry out this Act from any officer or entity of the Federal Government. Other federal departments and agencies are authorized to provide personnel and facilities or services to the Commission on a nonreimbursable basis. The Commission is also authorized to use the U.S. Mails on the same terms and conditions as other Federal departments and agencies.

Subsection (f) provides that the Federal Advisory Committee Act does not apply to the Commission.

Subsection (g) provides that the Commission shall terminate 12 years after the date of enactment of this Act.

SEC. 5. PETITIONS FOR RECOGNITION

Subsection (a) of this section provides that any Indian group, subject to the exceptions in this section, may submit to the Commission a petition requesting that the Commission recognize the Indian group as an Indian tribe. Indian tribes already recognized by the United States, splinter groups or factions of such Indian tribes, groups which have previously been denied recognition groups which were terminated by an Act of Congress, and groups which have been denied recognition by a Federal court are not eligible to petition the Commission for recognition. Not later than 30 days after all members of the Commission have been confirmed by the Senate, the Secretary is required to transfer to the Commission all petitions pending before the Department of the Interior that are not under active consideration. All authority of the Secretary to recognize or acknowledge an Indian group as an Indian tribe, except for those groups under active consideration, shall cease on the date of transfer to the Commission. All petitions transferred to the Commission shall be considered as having been submitted to the Commission in the same order they were submitted to the Department.

Subsection (b)(1) provides that a petition must be readable and contain detailed, specific evidence showing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. The Commission can determine the Indian identity of a group based on any one or more of the following: Identification as an Indian entity by the Federal Government; a relationship of petitioner with a state government or a unit of local government based on the Indian identity of the petitioner; identification as an Indian entity by public or private records, by anthropologists or historians, newspapers, books, other Indian tribes and Indian organizations, or foreign governments.

Subsection (b)(2) provides that the petition must contain a statement of facts establishing that the membership of the petitioner comprises a distinct community which has existed from historical times to the present. The Commission can determine the existence of an Indian community based on one or more of the following items: marriages within the group; social relationships and interaction within the group; shared labor or economic activity; discrimination or other social distinctions by nonmembers; shared ritual activity and cultural patterns; collective Indian identity continuously over a period of more than 50 years; and a demonstration of historical political influence.

Subsection (b)(2) further provides that the Commission shall find that the petitioner has provided sufficient evidence of a community if the petitioner has provided evidence that demonstrates any one of the following: more than 50% of the members of the group reside in a particular geographic area exclusively composed of members of that group and the remainder of the group maintains consistent social interaction with some members of the community; not less than 50% of the marriages of the group are between members of the group; not less than 50% of the members of the group maintain distinct cultural patterns including language, kinship or religious beliefs and practices; and distinct community social institutions encompassing a substantial portion of the members of the group.

Subsection (b)(3) requires the petition to contain a statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times. The Commission may rely on one or more of

the following items to determine if the petitioner is an autonomous entity: the group is capable of mobilizing a significant number of its members and member resources for group purposes; most of the group considers issues acted upon by the group leadership to be of personal importance; there is widespread knowledge and involvement in political processes by most group members; and there are intragroup conflicts which show controversy over valued group goals, properties, policies and processes.

Subsection (b)(3) also provides that the Commission shall determine that a petitioner has provided sufficient evidence to demonstrate the exercise of political influence or authority by demonstrating that leaders or other mechanisms exist to accomplish the following: allocation of group resources; settlement of disputes between members or subgroups; influence the behavior of individual members; and organize or influence economic activities among the members.

Subsection (b)(4) provides that the petition must include a copy of the governing document of the petitioner that includes the petitioner's membership criteria or a description of the governing procedures and membership criteria.

Subsection (b)(5) requires the petition to contain a list of all of the petitioner's current members and a statement describing the methods used to prepare such list. A group's membership must consist of established descendancy from an Indian group that existed historically or from historical Indian groups that combined and functioned as a single autonomous entity. Evidence of tribal membership shall include the following items: descendancy rolls prepared by the Secretary; state, federal or other official records; church, school and similar enrollment records; and affidavits of recognition by tribal elders, leaders or the tribal governing body.

Subsection (c) provides that a petition from a group that is able to demonstrate by a preponderance of the evidence that the group was or is the successor in interest to a party to a treaty; or a group acknowledged by the Federal Government as eligible to participate in the Indian Reorganization Act; or a group for which the United States holds lands in trust; or a group that has been denominated a tribe by an Act of Congress or an Executive Order shall only have to prove continuity of its existence as an Indian group from the date of such event rather than from the date of 1871.

Subsection (d) provides that no petitions can be submitted to the Commission after the date that is 6 years after the date of enactment of this Act.

SEC. 6. NOTIFICATION OF RECEIPT OF PETITION.

Subsection (a) of this section provides that 30 days after a petition is submitted or transferred to the Commission, the Commission shall send a written acknowledgement of receipt to the petitioner and publish a notice of such receipt in the Federal Register. With regard to a petition that is transferred to the Commission from the Secretary, the Commission shall also advise the petitioner whether the petition meets the requirements of Section 5 of this Act and, if necessary, provide the petitioner with 90 days to submit a petition to the Commission which does meet the requirements of Section 5.

Subsection (b) provides that the Commission shall provide written notification to the Governor, attorney general and each federally recognized Indian tribe located in the state in which the petitioner resides.

Subsection (c) provides that the Commission shall publish the notice of the receipt of

each petition in a major newspaper or general circulation in the town or city located nearest the petitioner. These notices shall include a statement of the opportunity for any interested parties to submit factual or legal arguments in support of or in opposition to the petition. A copy of any such statements shall be made available to the petitioner by the Commission and the petitioner shall be afforded an opportunity to respond to such statements from other parties.

SEC. 7. PROCESSING THE PETITION.

Subsection (a) requires the Commission to conduct a review of all documented petitions which it receives. The review shall include consideration of the petition, supporting evidence and the factual statements contained in the petition. The Commission may also initiate other research relative to an analysis of the petition and consider such evidence as may be submitted by other parties. Upon a request by a petitioner, the Library of Congress and the National Archives shall allow the petitioner access to their resources, records and documents to conduct research and prepare evidence concerning the status of the petitioner.

Subsection (b) provides that petitions shall be considered on a first come, first served basis, determined by the date of the original filing, except for those petitions which meet the requirements of Section 5(c) which shall receive priority consideration.

SEC. 8. PRELIMINARY HEARING.

Subsection (a) provides that not later than 60 days after the Commission receives a documented petition, it shall set a date for a preliminary hearing. At the preliminary hearing the petitioner or any other concerned party may provide evidence concerning the status of the petitioner.

Subsection (b) provides that not later than 30 days after the conclusion of a preliminary hearing, the Commission shall either decide to extend Federal acknowledgement to the petitioner or to require the petitioner to proceed to an adjudicatory hearing.

Subsection (c) provides that if the Commission requires an adjudicatory hearing then it must: make appropriate records of the Commission available to the petitioner and provide such guidance as the Commission considers necessary to assist the petitioner in preparing for the hearing. Not later than 30 days after the conclusion of the preliminary hearing, the Commission is required to make available to the petitioner a written list of any deficiencies or omissions the Commission relied upon in the preliminary hearing. The scope of the adjudicatory hearing is limited to the list of deficiencies or omissions and the Commission cannot make any additions to the list after it is issued to the petitioner.

SEC. 9. ADJUDICATORY HEARING.

Subsection (a) provides that the adjudicatory hearing shall be held not later than 180 days after the preliminary hearing.

Subsection (b) provides that the Commission may require testimony from the acknowledgement and research staff of the Commission or from other witnesses. All such testimony shall be subject to cross examination by the petitioner.

Subsection (c) provides that the petitioner can provide such evidence as the petitioner considers appropriate.

Subsection (d) provides that not later than 60 days after the conclusion of an adjudicatory hearing the Commission shall make a determination concerning the acknowledgement of the petitioner as an Indian tribe. The determination shall be published in the Federal Register and shall be delivered to the petitioner and every other interested party.

SEC. 10. APPEALS.

Subsection (a) provides that not later than 60 days after the publication of a determination by the Commission, the petitioner may appeal the determination to the United States District Court for the District of Columbia.

Subsection (b) provides that petitioner may be awarded attorney fees and costs if the petitioner prevails on the appeal.

SEC. 11. EFFECT OF DETERMINATIONS.

This section provides that a determination by the Commission that a petitioner is recognized by the United States as an Indian tribe will not have the effect of depriving or diminishing: (1) the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of the Indian group; (2) any property right held in trust by the United States for such other Indian tribe as such property existed prior to the recognition of such Indian group; or (3) any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition of the Indian group.

SEC. 12. IMPLEMENTATION OF DECISIONS.

Subsection (a) provides that upon recognition by the Commission of an Indian group as an Indian tribe, the Indian tribe shall be eligible for the benefits and services made available to Indian tribes by the Federal Government because of their status as Indian tribes with a government-to-government relationship with the United States. Newly recognized Indian tribes shall also have the responsibilities, obligations, privileges and immunities of such Indian tribes. The programs, services and benefits available to Indian tribes shall only become available to a newly recognized tribe upon the appropriation of funds.

Subsection (b) provides that not later than 180 days after an Indian group is recognized by the Commission, officials of the BIA and IHS shall consult with and develop in cooperation with the Indian tribe a determination of the needs of the Indian tribe and a recommended budget required to serve the tribe. The appropriate Secretary will forward the recommended budget to the President for inclusion in the President's annual budget request to the Congress.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

Subsection (a) provides that 90 days after the first meeting of the Commission and annually thereafter the Commission shall publish in the Federal Register a list of all Indian tribes that are recognized by the Federal Government and receive services from the BIA.

Subsection (b) provides that the Commission shall submit an annual report on its activities to the Congress prior to January 30 of each year. Each such report shall contain the number of petitions pending and the names of the petitioners; the number of petitions approved or denied during the year and the names of the petitioners and the status of all petitions pending on the date of the report.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

This section authorizes any petitioner to bring an action in the Federal courts to enforce the provisions of the Act, including any time limitations within which actions are required to be taken.

SEC. 15. REGULATIONS.

This section authorizes the Commission to promulgate and publish regulations to carry out the Act.

SEC. 16. GUIDELINES AND ADVICE.

Subsection (a) provides that not later than 90 days after the first meeting of the Commission, the Commission shall make available to Indian groups suggested guidelines for the format of petitions.

Subsection (b) provides that the Commission may provide any petitioner with suggestions and advice with respect to research concerning the historical background and Indian identity of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

Subsection (a) authorizes the Secretary of the Department of Health and Human Services to award grants to Indian groups seeking recognition as Indian tribes to enable such groups to conduct research and prepare the documentation necessary to submit a petition under this Act.

Subsection (b) provides that grants shall be awarded competitively on the basis of objective criteria prescribed in regulations which are published by the Secretary of HHS.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) authorizes \$1.5 million to be appropriated to the Commission to carry out this Act for each fiscal year from 1996 through 2008.

Subsection (b) authorizes \$500,000 to be appropriated to HHS for the fiscal years 1996 through 2007 to carry out the grant program authorized in Section 17 of this Act.●

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. PRESSLER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 190, a bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes.

S. 198

At the request of Mr. CHAFEE, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 351

At the request of Mr. HATCH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

AMENDMENT NO. 299

At the request of Mr. NUNN the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of amendment No. 299 proposed to House

Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AMENDMENT NO. 300

At the request of Mr. CONRAD his name was added as a cosponsor of amendment No. 300 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 28, 1995, at 2 p.m. to hold a business meeting to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS**TRIBUTE TO STATE REPRESENTATIVE KATHY HOGANCAMP**

● Mr. MCCONNELL. Mr. President, I rise today in honor of an inspiring Kentucky leader—Kathy Hogancamp, State representative for Kentucky's Fourth District.

Representative Hogancamp's resiliency determination, and strong sense of community service is clearly reflected in the course of her career prior to political service. She is a former teacher, and also served as an official of the U.S. Department of Health and Human Services and Department of Education from 1985 to 1991. Most recently, Kathy applied her master's degree in guidance and educational psychology in her work as a private tutor.

As our Nation struggles to recapture the initiative and stamina essential to reviving the American Dream, Kathy Hogancamp exemplifies what self-empowerment and the courage to make a difference truly mean. Since age 17, Kathy has been wheel-chair bound. Yet, she has never allowed her physical limitations to deter her work in serving her community and fulfilling her Christian mission. Kathy believes that character and intellect are far more important than her physical condition. Her optimism and drive to achieve are the basis of her personal philosophy—if there are obstacles to overcome, then overcome them.

In 1994, Kathy Hogancamp set out to win Kentucky's Fourth District House seat. Despite the odds in a predominantly Democratic district, Hogancamp won the confidence of the voters and the title of State representative. Representative Hogancamp's campaign reflected the needs and interests of her district, not herself, as her platform focused on cutting taxes and

revising the Kentucky Education Reform Act.

In February, Representative Hogancamp encountered a challenge that tested her will and strength as a serious automobile accident left her battered and bruised in the hospital. I am pleased to tell the Chamber that Kathy is recovering quite well and is eager to return to her duties as State representative. Mr. President, I want to share with my colleagues her thoughts on public service and sense of responsibility in her role as a lawmaker and community leader. It is my hope that her words will serve to remind us what our role as Members of the U.S. Senate means to our constituents and the future of our Nation.

Mr. President, I ask that the Paducah Sun's February 14, 1995, article on Representative Hogancamp be printed in the RECORD.

The article follows:

[From the Paducah Sun, Feb. 14, 1995]

REP. HOGANCAMP RESOLVED, UPBEAT SINCE
LAST BRUTAL BRUSH WITH DEATH

(By Donna Groves Haynes)

Bruised, battered and lying in a hospital bed, state Rep. Kathy Hogancamp still radiates strength and determination.

"That's the way God built me," said Hogancamp, who has been paralyzed since a car wreck 23 years ago and is now recovering from serious injuries sustained in a van wreck Feb. 7 near Beaver Dam.

"I could have decided to be a couch potato when I was 17 and would have been justified in doing so," Hogancamp said in an interview from her hospital room Monday. "I made the decision to make something of my life because I do believe I have something to give back to our culture."

Now after a second serious car crash, Hogancamp is displaying the same resilience. "I've learned that accidents do strike twice, and God still has His hand on my head," she said.

Doctors do not expect Hogancamp's mobility to be any more impaired than it was before the wreck. "It's just all the logistics—getting a new (wheel) chair, a new car . . . new makeup," she said jokingly, referring to the fact that her personal belongings were strewn over about a 30-foot area in the wreck.

Over the weekend, Hogancamp was moved out of intensive care and into a private room. Although she has been told she could be released Thursday, Hogancamp added, "but I don't trust doctors."

Even in the hospital, Hogancamp was beginning to talk about business again. When U.S. Sen. Mitch McConnell called Monday to ask her how she was feeling, she volunteered to speak at the upcoming Lincoln Day festivities "if at all possible."

Hogancamp views her latest ordeal as a "wake-up call from God," an attempt on His part to ensure she is properly motivated in her legislative endeavors. "God had to get my attention again, a second time, telling me to stay on the track. When you reach adulthood, it's easy to slip into lifeless faith, I had not escaped that.

"He was saying to me; 'I put you in this position of responsibility. Don't blow it.'"

Asked if she ever wanted to question, "Why me?" Hogancamp explained that she learned from the Biblical character Job that that would be futile. "Job never got his question answered. He just saw God, and his question paled in comparison.