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IN THE SENATE OF THE UNITED STATES

OCTOBER 4 (legislative day, SEPTEMBER 12), 1994

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OCTOBER 8 (legislative day, SEPTEMBER 12), 1994

Read twice and referred to the Committee on Indian Affairs

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## AN ACT

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

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Indian Federal  
5        Recognition Administrative Procedures Act of 1994”.

6        **SEC. 2. PURPOSES.**

7        The purposes of this Act are—

8                (1) to establish an administrative procedure to  
9        extend Federal recognition to certain Indian groups;

10                (2) to extend to Indian groups which are deter-  
11        mined to be Indian tribes the protection, services,

1 and benefits available from the Federal Government  
2 pursuant to the Federal trust responsibility;

3 (3) to extend to Indian groups which are deter-  
4 mined to be Indian tribes the immunities and privi-  
5 leges available to other federally-acknowledged In-  
6 dian tribes by virtue of their status as Indian tribes  
7 with a government-to-government relationship with  
8 the United States;

9 (4) to ensure that when the Federal govern-  
10 ment extends acknowledgment to an Indian tribe, it  
11 does so with a consistent legal, factual and historical  
12 basis;

13 (5) to establish a commission which will act in  
14 a supporting role to petitioning groups applying for  
15 recognition;

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

19 (7) to clarify evidentiary standards and expedite  
20 the administrative review process by providing ade-  
21 quate resources to process petitions; and

22 (8) to remove the Federal acknowledgment  
23 process from the Bureau of Indian Affairs and in-  
24 vest it in an independent Commission on Indian  
25 Recognition.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “aboriginal group” means any In-  
4 dian group or tribe that is presently located in Can-  
5 ada or the United States of Mexico and consists of  
6 individuals who are descendants of the people who  
7 inhabited the area now constituting those two coun-  
8 tries prior to their first sustained contact with Euro-  
9 Americans.

10 (2) The term “acknowledgment” or “acknowl-  
11 edged” means a determination by the Commission  
12 on Indian Recognition that an Indian group con-  
13 stitutes an Indian tribe with a government-to-gov-  
14 ernment relationship with the United States, and  
15 whose members are recognized as eligible for the  
16 special programs and services provided by the  
17 United States to Indians because of their status as  
18 Indians.

19 (3) The term “autonomous” means the exercise  
20 of political influence or authority independent of the  
21 control of any other Indian governing entity. Auton-  
22 omous must be understood in the context of the his-  
23 tory, geography, culture and social organization of  
24 the petitioner.

25 (4) The term “Bureau” means the Bureau of  
26 Indian Affairs.

1           (5) The term “Commission” means the Com-  
2           mission on Indian Recognition established pursuant  
3           to section 4.

4           (6) The term “community” means any group of  
5           people, living within a reasonable territorial propin-  
6           quity, which can demonstrate that consistent inter-  
7           actions and significant social relationships exist  
8           within its membership and that its members are dif-  
9           ferentiated from and identified as distinct from  
10          nonmembers. “Community” must be understood in  
11          the context of the history, culture and social organi-  
12          zation of the group, taking into account the geog-  
13          raphy of the region in which they reside.

14          (7) The term “continuously” or “continuous”  
15          means extending from the first sustained contact  
16          with Euro-Americans throughout the group’s history  
17          to the present substantially without interruption.

18          (8) The term “Department” means the Depart-  
19          ment of the Interior.

20          (9) The term “documented petition” means the  
21          detailed, factual exposition and arguments, including  
22          all documentary evidence, necessary to demonstrate  
23          that these arguments specifically address the manda-  
24          tory criteria established in section 5.

1           (10) The term “historically”, “historical” or  
2 “history” means dating from the first sustained con-  
3 tact with Euro-Americans.

4           (11) The term “Indian group” or “group”  
5 means any Indian, Alaska Native, or Native Hawai-  
6 ian tribe, band, pueblo, village or community within  
7 the United States that the Secretary of the Interior  
8 does not acknowledge to be an Indian tribe.

9           (12) The term “Indian tribe” or “tribe” means  
10 any Indian, Alaska Native, or Native Hawaiian  
11 tribe, band, pueblo, village or community within the  
12 United States that the Secretary of the Interior  
13 presently acknowledges to be an Indian tribe.

14           (13) The term “indigenous” means native to  
15 the United States in that at least part of the peti-  
16 tioner’s traditional territory at the time of first sus-  
17 tained contact with Euro-Americans extended into  
18 what is now the United States.

19           (14) The term “letter of intent” means an un-  
20 documented letter or resolution which is dated and  
21 signed by the governing body of an Indian group  
22 and submitted to the Commission and indicates the  
23 group’s intent to submit a petition for Federal ac-  
24 knowledgment as an Indian tribe.

1           (15) The term “member of an Indian group”  
2 means an individual who is recognized by an Indian  
3 group as meeting its membership criteria and who  
4 consents in writing to being listed as a member of  
5 that group.

6           (16) The term “member of an Indian tribe”  
7 means an individual who meets the membership re-  
8 quirements of the tribe as set forth in its governing  
9 document or, in the absence of a governing docu-  
10 ment which sets out these requirements, has been  
11 recognized as a member collectively by those persons  
12 comprising the tribal governing body; and has con-  
13 sistently maintained tribal relations with the tribe or  
14 is listed on the tribal membership rolls as a member,  
15 if such rolls are kept.

16           (17) The term “petition” means a petition for  
17 acknowledgment submitted or transferred to the  
18 Commission pursuant to section 5 of this Act.

19           (18) The term “petitioner” means any group  
20 which has submitted a letter of intent to the Com-  
21 mission requesting acknowledgment that it is an  
22 Indian tribe.

23           (19) The term “political influence or authority”  
24 means a tribal council, leadership, internal process  
25 or other mechanism which the group has used as a

1 means of influencing or controlling the behavior of  
2 its members in significant respects, or making deci-  
3 sions for the group which substantially affect its  
4 members, or representing the group in dealing with  
5 non-members in matters of consequence to the  
6 group. “Political influence or authority” is to be un-  
7 derstood in the context of the history, culture and  
8 social organization of the group.

9 (20) The term “previous Federal acknowledg-  
10 ment” means any action by the Federal government  
11 the character of which is clearly premised on identi-  
12 fication of a tribal political entity and clearly indi-  
13 cates the recognition of a government-to-government  
14 relationship between that entity and the Federal  
15 government.

16 (21) The term “restoration” means the  
17 reextension of acknowledgment to any previously ac-  
18 knowledged tribe which may have had its acknowl-  
19 edged status abrogated or diminished by reason of  
20 congressional legislation expressly terminating that  
21 status.

22 (22) The term “Secretary” means the Secretary  
23 of the Interior.

24 (23) The term “sustained contact” means the  
25 period of earliest sustained Euro-American settle-

1 ment or governmental presence in the local area in  
2 which the tribe or tribes from which the petitioner  
3 claims descent was located historically.

4 (24) The term “treaty” means any treaty—

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

8 (B) made by any government with, or on  
9 behalf of, any Indian group or tribe, from which  
10 government the United States subsequently ac-  
11 quired territory by purchase, conquest, annex-  
12 ation, or cession; or

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

17 (25) The term “tribal relations” means partici-  
18 pation by an individual in a political and social rela-  
19 tionship with an Indian tribe.

20 (26) The term “tribal roll” means a list exclu-  
21 sively of those individuals who have been determined  
22 by the tribe to meet the tribe’s membership require-  
23 ments as set forth in its governing document or, in  
24 the absence of a governing document setting forth  
25 those requirements, have been recognized as mem-

1       bers by the tribe’s governing body. In either case,  
2       those individuals on a tribal roll must have affirma-  
3       tively demonstrated consent to being listed as mem-  
4       bers.

5               (27) The term “United States” means the 48  
6       contiguous states, Alaska and Hawaii; and does not  
7       include territories or possessions.

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

9       (a) ESTABLISHMENT.—There is established, as an  
10      independent commission, the Commission on Indian Rec-  
11      ognition.

12      (b) MEMBERSHIP.—(1)(A) The Commission shall  
13      consist of three members appointed by the President, by  
14      and with the advice and consent of the Senate.

15      (B) In making appointments to the Commission, the  
16      President shall give careful consideration to—

17              (i) recommendations received from Indian  
18      tribes;

19              (ii) individuals who have a background in In-  
20      dian law or policy, anthropology, genealogy, or his-  
21      tory; and

22              (iii) individuals who, at the time of nomination,  
23      are employed by the United States Government and  
24      would be eligible to participate through the Intergov-  
25      ernmental Personnel Exchange Act.

1 (2) No more than two members of the Commission  
2 may be members of the same political party.

3 (3)(A) Each member of the Commission shall be ap-  
4 pointed for a term of four years, except as provided in  
5 subparagraph (B).

6 (B) As designated by the President at the time of  
7 appointment, of the members first appointed—

8 (i) one shall be appointed for a term of two  
9 years;

10 (ii) one shall be appointed for a term of three  
11 years; and

12 (iii) one shall be appointed for a term of four  
13 years.

14 (4) Any vacancy in the Commission shall not affect  
15 its powers, but shall be filled in the same manner in which  
16 the original appointment was made. Any member ap-  
17 pointed to fill a vacancy occurring before the expiration  
18 of the term for which the member's predecessor was ap-  
19 pointed shall be appointed only for the remainder of that  
20 term. A member may serve after the expiration of that  
21 member's term until a successor has taken office.

22 (5)(A) Each member of the Commission not other-  
23 wise employed by the United States Government shall re-  
24 ceive compensation at a rate equal to the daily equivalent  
25 of the annual rate of basic pay prescribed for level V of

1 the Executive Schedule under section 5316 of title 5,  
2 United States Code, for each day, including traveltime,  
3 such member is engaged in the actual performance of du-  
4 ties authorized by the Commission.

5 (B) Except as provided in subparagraph (C), a mem-  
6 ber of the Commission who is otherwise an officer or em-  
7 ployee of the United States Government shall serve on the  
8 Commission without additional compensation, but such  
9 service shall be without interruption or loss of civil service  
10 status or privilege.

11 (C) All members of the Commission shall be reim-  
12 bursed for travel and per diem in lieu of subsistence ex-  
13 penses during the performance of duties of the Commis-  
14 sion while away from home or their regular place of busi-  
15 ness, in accordance with subchapter I of chapter 57 of  
16 title 5, United States Code.

17 (6) At the time appointments are made under para-  
18 graph (1), the President shall designate one of such ap-  
19 pointees as Chairman of the Commission.

20 (c) MEETINGS AND PROCEDURES.—(1) The Commis-  
21 sion shall hold its first meeting no later than 30 days after  
22 the date on which all members of the Commission have  
23 been appointed and confirmed by the Senate.

24 (2) Two members of the Commission shall constitute  
25 a quorum for the transaction of business.

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

5       (4) The principal office of the Commission shall be  
6 in the District of Columbia.

7       (d) DUTIES.—The Commission shall carry out the  
8 duties assigned to the Commission by this Act, and shall  
9 meet the requirements imposed on the Commission by this  
10 Act.

11       (e) POWERS AND AUTHORITIES.—(1) Subject to such  
12 rules and regulations as may be adopted by the Commis-  
13 sion, the Chairman of the Commission is authorized to—

14           (A) appoint, terminate, and fix the compensa-  
15 tion (without regard to the provisions of title 5,  
16 United States Code, governing appointments in the  
17 competitive service, and without regard to the provi-  
18 sions of chapter 51 and subchapter III of chapter 53  
19 of such title, or of any other provision of law, relat-  
20 ing to the number, classification, and General  
21 Schedule rates) of an Executive Director of the  
22 Commission and of such other personnel as the  
23 Chairman deems advisable to assist in the perform-  
24 ance of the duties of the Commission, at a rate not  
25 to exceed a rate equal to the daily equivalent of the

1 annual rate of basic pay prescribed for level V of the  
2 Executive Schedule under section 5316 of title 5,  
3 United States Code; and

4 (B) procure, as authorized by section 3109(b)  
5 of title 5, United States Code, temporary and inter-  
6 mittent services to the same extent as is authorized  
7 by law for agencies in the executive branch, but at  
8 rates not to exceed the daily equivalent of the annual  
9 rate of basic pay prescribed for level V of the Execu-  
10 tive Schedule under section 5316 of such title.

11 (2) The Commission is authorized to—

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

14 (B) take such testimony;

15 (C) have such printing and binding done;

16 (D) enter into such contracts and other ar-  
17 rangements, subject to the availability of funds;

18 (E) make such expenditures; and

19 (F) take such other actions,

20 as the Commission may deem advisable. Any member of  
21 the Commission may administer oaths or affirmations to  
22 witnesses appearing before the Commission.

23 (3)(A) The Commission is authorized to secure di-  
24 rectly from any officer, department, agency, establish-  
25 ment, or instrumentality of the Federal Government such

1 information as the Commission may require for the pur-  
2 pose of this Act, and each such officer, department, agen-  
3 cy, establishment, or instrumentality is authorized and di-  
4 rected to furnish, to the extent permitted by law, such in-  
5 formation, suggestions, estimates, and statistics directly to  
6 the Commission, upon request made by the Chairman of  
7 the Commission.

8 (B) Upon the request of the Chairman of the Com-  
9 mission, the head of any Federal department, agency, or  
10 instrumentality is authorized to make any of the facilities  
11 and services of such department, agency, or instrumentality  
12 available to the Commission and detail any of the per-  
13 sonnel of such department, agency, or instrumentality to  
14 the Commission, on a nonreimbursable basis, to assist the  
15 Commission in carrying out its duties under this section.

16 (C) The Commission may use the United States mails  
17 in the same manner and under the same conditions as  
18 other departments and agencies of the United States.

19 (f) FEDERAL ADVISORY COMMITTEE ACT.—The pro-  
20 visions of the Federal Advisory Committee Act shall not  
21 apply to the Commission.

22 **SEC. 5. PETITIONS FOR RECOGNITION.**

23 (a) IN GENERAL.—(1) Any Indian group may submit  
24 to the Commission a petition requesting that the Commis-  
25 sion recognize that the Indian group is an Indian tribe.

1       (2) The provisions of this Act do not apply to the  
2 following groups or entities, which shall not be eligible for  
3 recognition under this Act—

4           (A) Indian tribes, organized bands, pueblos,  
5 communities, and Alaska Native entities which are  
6 recognized by the Secretary as of the date of enact-  
7 ment of this Act as eligible to receive services from  
8 the Bureau;

9           (B) splinter groups, political factions, commu-  
10 nities, or groups of any character which separate  
11 from the main body of an Indian tribe that, at the  
12 time of such separation, is recognized as being an  
13 Indian tribe by the Secretary, unless it can be clear-  
14 ly established that the group, faction, or community  
15 has functioned throughout history until the date of  
16 such petition as an autonomous Indian tribal entity;

17           (C) groups, or successors in interest of groups,  
18 that prior to the date of enactment of this Act, have  
19 petitioned for and been denied or refused recognition  
20 as an Indian tribe under regulations prescribed by  
21 the Secretary;

22           (D) any Indian group whose relationship with  
23 the Federal Government was expressly terminated  
24 by an Act of Congress; and

1           (E) any Indian group that, in any action in a  
2 United States court to which the group was a party,  
3 has previously attempted to establish its status as  
4 an Indian tribe or a successor-in-interest to an In-  
5 dian tribe that was a party to a treaty with the  
6 United States, and—

7           (i) was determined by such court not to be  
8 an Indian tribe; or

9           (ii) was determined by such court not to be  
10 a successor-in-interest to an Indian tribe that  
11 was a party to a treaty with the United States;  
12 or

13           (iii) was the subject of findings of fact by  
14 such court which, if made by the Commission,  
15 would show that the group was incapable of es-  
16 tablishing one or more of the criteria set forth  
17 in this section.

18       (3)(A) No later than 30 days after the date on which  
19 all of the members of the Commission have been appointed  
20 and confirmed by the Senate, the Secretary shall transfer  
21 to the Commission all petitions pending before the Depart-  
22 ment and not then under active consideration that request  
23 the Secretary, or the Federal Government, to recognize  
24 or acknowledge an Indian group as an Indian tribe, except

1 those groups whose petitions are under active consider-  
2 ation at the time of the transfer.

3 (B) On the date of such transfer, the Secretary and  
4 the Department shall cease to have any authority to recog-  
5 nize or acknowledge, on behalf of the Federal government,  
6 any Indian group as an Indian tribe, except those groups  
7 under active consideration whose petitions have been re-  
8 tained by the Department pursuant to subparagraph (A)  
9 of this paragraph.

10 (C) Petitions transferred to the Commission under  
11 subparagraph (A) of this paragraph shall, for purposes of  
12 this Act, be considered as having been submitted to the  
13 Commission in the same order as they were submitted to  
14 the Department.

15 (b) PETITION FORM AND CONTENT.—Except as pro-  
16 vided in subsection (c), any petition submitted under sub-  
17 section (a) by an Indian group shall be in any readable  
18 form which clearly indicates that it is a petition requesting  
19 the Commission to recognize that the Indian group is an  
20 Indian tribe and which contains detailed, specific evidence  
21 as to each of the following:

22 (1) A statement of facts establishing that the  
23 petitioner has been identified as an American Indian  
24 entity on a substantially continuous basis since  
25 1871. Evidence that the group's character as an In-

1       dian entity has from time to time been denied shall  
2       not be considered to be conclusive evidence that this  
3       criterion has not been met. Evidence to be relied  
4       upon in determining a group's Indian identity may  
5       include one or a combination of the following, as well  
6       as other evidence of identification by other than the  
7       petitioner itself or its members:

8               (A) Identification of the petitioner as an  
9               Indian entity by Federal authorities.

10              (B) Relationships of the petitioner with  
11              State governments based on identification of  
12              the petitioner as an Indian entity.

13              (C) Dealings of the petitioner with a coun-  
14              ty, parish, or other local government in a rela-  
15              tionship based on the Indian identity of the pe-  
16              titioner.

17              (D) Identification of the petitioner as an  
18              Indian entity by records in private or public ar-  
19              chives, courthouses, churches, or schools.

20              (E) Identification of the petitioner as an  
21              Indian entity by anthropologists, historians, or  
22              other scholars.

23              (F) Identification of the petitioner as an  
24              Indian entity in newspapers, books, or similar  
25              media.

1 (G) Identification of the petitioner as an  
2 Indian entity by other Indian tribes or by na-  
3 tional, regional, or state Indian organizations.

4 (H) Identification of the petitioner as an  
5 Indian entity by foreign governments or inter-  
6 national organizations.

7 (2)(A) A statement of facts establishing that a  
8 predominant portion of the membership of the peti-  
9 tioner comprises a community distinct from those  
10 surrounding it and has existed as a community from  
11 historical times to the present. Evidence to be relied  
12 upon in determining that the petitioner meets this  
13 criterion may include one or a combination of the  
14 following:

15 (i) Significant rates of marriage within the  
16 group, or, as may be culturally required, pat-  
17 terned out-marriages with other Indian popu-  
18 lations.

19 (ii) Significant social relationships connect-  
20 ing individual members.

21 (iii) Significant rates of informal social  
22 interaction which exist broadly among the mem-  
23 bers of a group.

1 (iv) A significant degree of shared or coop-  
2 erative labor or other economic activity among  
3 the membership.

4 (v) Evidence of strong patterns of discrimi-  
5 nation or other social distinctions by non-mem-  
6 bers.

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

9 (vii) Cultural patterns shared among a sig-  
10 nificant portion of the group that are different  
11 from those of the non-Indian populations with  
12 whom it interacts. These patterns must func-  
13 tion as more than a symbolic identification of  
14 the group as Indian, and may include, but are  
15 not limited to, language, kinship or religious or-  
16 ganizations, or religious beliefs and practices.

17 (viii) The persistence of a named, collective  
18 Indian identity continuously over a period of  
19 more than 50 years, notwithstanding changes in  
20 name.

21 (ix) A demonstration of historical political  
22 influence pursuant to the criterion set forth in  
23 paragraph (3).

24 (B) A petitioner shall be considered to have  
25 provided sufficient evidence of community at a given

1 point in time if evidence is provided demonstrating  
2 any one of the following:

3 (i) More than 50 percent of the members  
4 reside in a particular geographical area exclu-  
5 sively or almost exclusively composed of mem-  
6 bers of the group, and the balance of the group  
7 maintains consistent social interaction with  
8 some members of the community;

9 (ii) At least 50 percent of the marriages of  
10 the group are between members of the group;

11 (iii) At least 50 percent of the group mem-  
12 bers maintain distinct cultural patterns such as,  
13 but not limited to, language, kinship or reli-  
14 gious organizations, or religious beliefs or prac-  
15 tices;

16 (iv) There are distinct community social  
17 institutions encompassing a substantial portion  
18 of the members, such as kinship organizations,  
19 formal or informal economic cooperation, or re-  
20 ligious organizations; or

21 (v) The group has met the criterion in  
22 paragraph (3) using evidence described in para-  
23 graph (3)(B).

24 (3)(A) A statement of facts establishing that  
25 the petitioner has maintained political influence or

1 authority over its members as an autonomous entity  
2 from historical times until the present. Evidence to  
3 be relied upon in determining that the petitioner  
4 meets this criterion may include one or a combina-  
5 tion of the following:

6 (i) The group is able to mobilize significant  
7 numbers of members and significant resources  
8 from its members for group purposes.

9 (ii) Most of the membership considers is-  
10 sues acted upon or taken by group leaders or  
11 governing bodies to be of personal importance.

12 (iii) There is a widespread knowledge, com-  
13 munication and involvement in political proc-  
14 esses by most of the group's members.

15 (iv) The group meets the criterion in para-  
16 graph (2) at more than a minimal level.

17 (v) There are intragroup conflicts which  
18 show controversy over valued group goals, prop-  
19 erties, policies, processes or decisions.

20 (B) A petitioner shall be considered to have  
21 provided sufficient evidence to demonstrate the exer-  
22 cise of political influence or authority at a given  
23 point in time by demonstrating that group leaders or  
24 other mechanisms exist or existed which:

1 (i) Allocate group resources such as land,  
2 residence rights or the like on a consistent  
3 basis.

4 (ii) Settle disputes between members or  
5 subgroups such as clans or moieties by medi-  
6 ation or other means on a regular basis.

7 (iii) Exert strong influence on the behavior  
8 of individual members, such as the establish-  
9 ment or maintenance of norms and the enforce-  
10 ment of sanctions to direct or control behavior.

11 (iv) Organize or influence economic sub-  
12 sistence activities among the members, includ-  
13 ing shared or cooperative labor.

14 (C) A group that has met the requirements in  
15 paragraph (2)(B) at a given point in time shall be  
16 considered to have provided sufficient evidence to  
17 meet this criterion at that same point in time.

18 (4) A copy of the petitioner's present governing  
19 document including its membership criteria. In the  
20 absence of a written document, the petitioner must  
21 provide a statement describing in full its member-  
22 ship criteria and current governing procedures.

23 (5) A list of all current members of the peti-  
24 tioner, including each member's full name (and  
25 maiden name, if any), date and place of birth, and

1 current residential address, as well as a copy of each  
2 available former list of members based on the peti-  
3 tioner's own defined criteria, and a statement de-  
4 scribing the methods used in preparing those lists.  
5 The membership must consist of individuals who  
6 have established descendancy from an Indian group  
7 which existed historically or from historical Indian  
8 groups which combined and functioned as a single  
9 autonomous entity. Evidence of tribal membership  
10 required by the Commission includes (but is not lim-  
11 ited to)—

12 (A) descendancy rolls prepared by the Sec-  
13 retary for the petitioner for purposes of distrib-  
14 uting claims money, providing allotments, or  
15 other purposes;

16 (B) State, Federal, or other official records  
17 or evidence identifying present members of the  
18 petitioner, or ancestors of present members of  
19 the petitioner, as being descendants of a his-  
20 toric tribe or historic tribes that combined and  
21 functioned as a single autonomous political en-  
22 tity;

23 (C) church, school, and other similar en-  
24 rollment records identifying present members or  
25 ancestors of present members as being descend-

1           ants of a historic tribe or historic tribes that  
2           combined and functioned as a single autono-  
3           mous political entity;

4           (D) affidavits of recognition by tribal el-  
5           ders, leaders, or the tribal governing body iden-  
6           tifying present members or ancestors of present  
7           members as being descendants of a historic  
8           tribe or historic tribes that combined and func-  
9           tioned as a single autonomous political entity;  
10          and

11          (E) other records or evidence identifying  
12          present members or ancestors of present mem-  
13          bers as being descendants of a historic tribe or  
14          historic tribes that combined and functioned as  
15          a single autonomous political entity.

16          (c) EXCEPTIONS.—A petition from an Indian group  
17          which can demonstrate by a preponderance of the evidence  
18          that it was, or is the successor in interest to, a—

19               (1) party to a treaty or treaties;

20               (2) group acknowledged by any agency of the  
21          Federal Government as eligible to participate in the  
22          Indian Reorganization Act of 1934 (25 U.S.C. 461  
23          et seq.);

24               (3) group for the benefit of which the United  
25          States took into trust land or lands, or which the

1 Federal government has treated as having collective  
2 rights in tribal lands or funds; or

3 (4) group has been denominated a tribe by Act  
4 of Congress or Executive Order,

5 shall be required to establish the criteria set forth in this  
6 section only from the date of that Federal action to the  
7 present.

8 **SEC. 6. NOTICE OF RECEIPT OF PETITION.**

9 (a) PETITIONER.—Within 30 days after a petition is  
10 submitted or transferred to the Commission under section  
11 5(a), the Commission shall send an acknowledgement of  
12 receipt in writing to the petitioner and shall have pub-  
13 lished in the Federal Register a notice of such receipt, in-  
14 cluding the name, location, and mailing address of the pe-  
15 titioner and such other information that will identify the  
16 entity who submitted the petition and the date the petition  
17 was received by the Commission. The notice shall also in-  
18 dicate where a copy of the petition may be examined.

19 (b) OTHERS.—The Commission shall also notify, in  
20 writing, the Governor and attorney general of, and each  
21 recognized Indian tribe within, any State in which a peti-  
22 tioner resides.

23 (c) PUBLICATION; OPPORTUNITY FOR SUPPORTING  
24 OR OPPOSING SUBMISSIONS.—The Commission shall pub-  
25 lish the notice of receipt of the petition in a major news-

1 paper of general circulation in the town or city nearest  
2 the location of the petitioner. The notice shall include, in  
3 addition to the information described in subsection (a), no-  
4 tice of opportunity for other parties to submit factual or  
5 legal arguments in support of or in opposition to, the peti-  
6 tion. Such submissions shall be provided to the petitioner  
7 upon receipt by the Commission. The petitioner shall be  
8 provided an opportunity to respond to such submissions  
9 prior to a determination on the petition by the Commis-  
10 sion.

11 **SEC. 7. PROCESSING THE PETITION.**

12 (a) REVIEW.—(1) Upon receipt of a documented peti-  
13 tion, the Commission shall conduct a review to determine  
14 whether the petitioner is entitled to be recognized as an  
15 Indian tribe.

16 (2) The review conducted under paragraph (1) shall  
17 include consideration of the petition, supporting evidence,  
18 and the factual statements contained in the petition.

19 (3) The Commission may also initiate other research  
20 for any purpose relative to analyzing the petition and ob-  
21 taining additional information about the petitioner's sta-  
22 tus and may consider any evidence which may be submit-  
23 ted by other parties.

24 (4) Upon request by the petitioner, the Library of  
25 Congress and the National Archives shall each allow ac-

1 cess to the petitioner to its resources, records, and docu-  
2 ments, for the purpose of conducting research and prepar-  
3 ing evidence concerning the status of the petitioner.

4 (b) CONSIDERATION.—(1) Except as otherwise pro-  
5 vided in this subsection, petitions shall be considered on  
6 a first come, first served basis, determined by the date  
7 of the original filing of the petition with the Commission,  
8 or the Department if the petition is one transferred to the  
9 Commission pursuant to section 5(a). The Commission  
10 shall establish a priority register including those petitions  
11 pending before the Department on the date of enactment  
12 of this Act.

13 (2) Petitions that are submitted to the Commission  
14 by Indian groups that meet one or more of the require-  
15 ments set forth in section 5(c) shall receive priority consid-  
16 eration over petitions submitted by any other Indian  
17 group.

18 **SEC. 8. PRELIMINARY HEARING.**

19 (a) IN GENERAL.—Within 60 days after the receipt  
20 of a petition by the Commission, the Commission shall set  
21 a date for a preliminary hearing. At the preliminary hear-  
22 ing, the petitioner and any other concerned party may pro-  
23 vide evidence concerning the status of the petitioner.

1 (b) DETERMINATION.—(1) Within 30 days after the  
2 conclusion of the preliminary hearing under subsection  
3 (a), the Commission shall make a determination either—

4 (A) to extend Federal acknowledgement to the  
5 petitioner; or

6 (B) that the petitioner proceed to an adjudica-  
7 tory hearing.

8 (2) The Commission shall publish the determination  
9 in the Federal Register.

10 (c) INFORMATION TO BE PROVIDED PREPARATORY  
11 TO AN ADJUDICATORY HEARING.—(1) If the Commission

12 determines under subsection (b) that the petitioner pro-  
13 ceed to an adjudicatory hearing, the Commission shall—

14 (A) make available its appropriate evidentiary  
15 records to the petitioner to assist the petitioner in  
16 preparing for the adjudicatory hearing, and shall  
17 also include such guidance as the Commission con-  
18 siders necessary or appropriate to assist the peti-  
19 tioner in preparing for the hearing; and

20 (B) within 30 days after the conclusion of the  
21 preliminary hearing under subsection (a), notify the  
22 petitioner in writing, which notice shall include a list  
23 of any deficiencies or omissions on which the Com-  
24 mission relied in making its determination.

1       (2) The list of deficiencies and omissions provided  
2 under paragraph (1)(B) shall be the subject of the adju-  
3 dicatory hearing. The Commission may not add to this list  
4 once it is issued.

5 **SEC. 9. ADJUDICATORY HEARING.**

6       (a) **IN GENERAL.**—Within 180 days after the conclu-  
7 sion of the preliminary hearing, the Commission shall af-  
8 ford the petitioner described in section 8(b)(1)(B) an adju-  
9 dicatory hearing. The hearing shall be on the list of defi-  
10 ciencies and omissions provided under section 8(c)(1)(B)  
11 and shall be conducted pursuant to section 554 of title  
12 5, United States Code.

13       (b) **TESTIMONY FROM STAFF OF COMMISSION.**—The  
14 Commission may require testimony from its acknowledge-  
15 ment and research staff or other witnesses. Any such testi-  
16 mony shall be subject to cross-examination by the peti-  
17 tioner.

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

20       (d) **DECISION BY COMMISSION.**—Within 60 days  
21 after the end of the hearing held under subsection (a),  
22 the Commission shall—

23               (1) make a determination as to the extension or  
24 denial of Federal acknowledgment to the petitioner;

- 1           (2) publish its determination under paragraph  
2           (1) in the Federal Register; and  
3           (3) deliver a copy of the determination to the  
4           petitioner, and to every other interested party.

5 **SEC. 10. APPEALS.**

6           (a) IN GENERAL.—Within 60 days after the date the  
7 Commission’s decision is published under section 9(d), the  
8 petitioner may appeal the determination to the United  
9 States District Court for the District of Columbia.

10          (b) ATTORNEY FEES.—If the petitioner prevails in  
11 the appeal described in subsection (a), it shall be eligible  
12 for an award of reasonable attorney fees and costs under  
13 the provisions of section 504 of title 5, United States  
14 Code, or section 2412 of title 28 of such Code, as the case  
15 may be.

16 **SEC. 11. EFFECT OF DETERMINATIONS.**

17          A determination by the Commission that an Indian  
18 group is recognized by the Federal Government as an In-  
19 dian tribe shall not have the effect of—

- 20           (1) depriving or diminishing the right of any  
21           other Indian tribe to govern its reservation as such  
22           reservation existed prior to the recognition of such  
23           Indian group, or as the same may exist thereafter;  
24           (2) depriving or diminishing any property right  
25           held in trust or recognized by the United States for

1 such other Indian tribe as it existed prior to the rec-  
2 ognition of such Indian group; or

3 (3) depriving or diminishing any previously or  
4 independently existing claim by a petitioner to any  
5 such property right held in trust by the United  
6 States for such other Indian tribe prior to the rec-  
7 ognition of such Indian group.

8 **SEC. 12. IMPLEMENTATION OF DECISIONS.**

9 (a) ELIGIBILITY FOR SERVICES AND BENEFITS.—(1)  
10 Subject to paragraph (2), upon recognition by the Com-  
11 mission that the petitioner is an Indian tribe, the Indian  
12 tribe shall be eligible for the services and benefits from  
13 the Federal Government that are available to other feder-  
14 ally recognized Indian tribes by virtue of their status as  
15 Indian tribes with a government-to-government relation-  
16 ship with the United States, as well as having the respon-  
17 sibilities and obligations of such Indian tribes. Such rec-  
18 ognition shall subject the Indian tribes to the same au-  
19 thority of Congress and the United States to which other  
20 federally recognized tribes are subject.

21 (2) Recognition of the Indian tribe under this Act  
22 does not create an immediate entitlement to existing pro-  
23 grams of the Bureau. Such programs shall become avail-  
24 able upon appropriation of funds by law. Requests for ap-

1 appropriations shall follow a determination under subsection  
2 (b) of the needs of the newly recognized Indian tribe.

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

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

15 (a) LIST OF RECOGNIZED TRIBES.—Not later than  
16 90 days after the date of the enactment of this Act, and  
17 annually on or before every January 30 thereafter, the  
18 Commission shall publish in the Federal Register a list  
19 of all Indian tribes which are recognized by the Federal  
20 Government and receiving services from the Bureau of In-  
21 dian Affairs.

22 (b) ANNUAL REPORT.—Beginning one year after the  
23 date of the enactment of this Act, and annually thereafter,  
24 the Commission shall submit a report to the Committee  
25 on Natural Resources of the House of Representatives and

1 to the Committee on Indian Affairs of the Senate a report  
2 on its activities, which shall include at a minimum the  
3 following:

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

6 (2) The number of petitions received during the  
7 year and the names of the petitioners.

8 (3) The number of petitions the Commission  
9 approved for acknowledgment and the names of the  
10 acknowledged petitioners.

11 (4) The number of petitions the Commission  
12 denied for acknowledgement and the names of the  
13 petitioners.

14 (5) The status of all pending petitions and the  
15 names of the petitioners.

16 **SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

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

1 **SEC. 15. REGULATIONS.**

2 The Commission is authorized to prescribe such regu-  
3 lations as may be necessary to carry out the provisions  
4 and purposes of this Act. All such regulations must be  
5 published in accordance with the provisions of title 5,  
6 United States Code.

7 **SEC. 16. GUIDELINES AND ADVICE.**

8 (a) GUIDELINES.—No later than 90 days after the  
9 date of enactment of this Act, the Commission shall make  
10 available suggested guidelines for the format of petitions,  
11 including general suggestions and guidelines on where and  
12 how to research required information, but such examples  
13 shall not preclude the use of any other format.

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

20 **SEC. 17. ASSISTANCE TO PETITIONERS.**

21 (a) GRANTS.—(1) The Secretary of Health and  
22 Human Services may award grants to Indian groups seek-  
23 ing Federal recognition to enable the Indian groups to—  
24 (A) conduct the research necessary to substan-  
25 tiate petitions under this Act; and

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

3 (2) The grants made under this subsection shall be  
4 in addition to any other grants the Secretary of Health  
5 and Human Services is authorized to provide under any  
6 other provision of law.

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

11 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) COMMISSION.—There are authorized to be appro-  
13 priated for the Commission for the purpose of carrying  
14 out the provisions of this Act (other than section 17),  
15 \$1,500,000 for fiscal year 1995 and \$1,500,000 for each  
16 of the 12 succeeding fiscal years.

17 (b) SECRETARY OF HHS.—There are authorized to  
18 be appropriated for the Administration for Native Ameri-  
19 cans of the Department of Health and Human Services  
20 for the purpose of carrying out the provisions of section  
21 17 \$3,000,000 for each fiscal year.

Passed the House of Representatives October 3,  
1994,

Attest: DONNALD K. ANDERSON,  
*Clerk.*

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