

112TH CONGRESS
1ST SESSION

H. R. 3103

To establish a Commission on Recognition of Indian Tribes to review and act on petitions by Indian groups applying for Federal recognition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2011

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

A BILL

To establish a Commission on Recognition of Indian Tribes to review and act on petitions by Indian groups applying for Federal recognition, 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, TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Indian Tribal Federal Recognition Administrative Proce-
6 dures Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title, table of contents.

Sec. 2. Purposes.

- Sec. 3. Definitions.
- Sec. 4. Commission on Recognition of Indian Tribes.
- Sec. 5. Documented petitions for recognition.
- Sec. 6. Notice of receipt of documented petition.
- Sec. 7. Processing the documented petition.
- Sec. 8. Preliminary hearing.
- Sec. 9. Adjudicatory hearing.
- Sec. 10. Reconsideration by Commission; final decision.
- Sec. 11. Effect of determinations.
- Sec. 12. Implementation of decisions.
- Sec. 13. Recognition or restoration of Indian tribes.
- Sec. 14. Indian Reorganization Act.
- Sec. 15. Needs determination and budget request.
- Sec. 16. Annual report concerning Commission's activities.
- Sec. 17. Actions by petitioners for enforcement.
- Sec. 18. Regulations.
- Sec. 19. Guidelines and advice.
- Sec. 20. Assistance to petitioners.
- Sec. 21. Protection of certain privileged information.
- Sec. 22. Authorization of appropriations.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) To transfer the responsibility for the Fed-
4 eral acknowledgment process from the Bureau of In-
5 dian Affairs to an independent Commission on Rec-
6 ognition of Indian Tribes.

7 (2) To establish a Commission on Recognition
8 of Indian Tribes to review and act upon documented
9 petitions submitted by Indian groups that apply for
10 Federal recognition.

11 (3) To establish an administrative procedure
12 under which petitions for Federal recognition filed
13 by Indian groups will be considered.

14 (4) To provide clear and consistent standards of
15 administrative review of documented petitions for
16 Federal acknowledgment.

1 (5) To clarify evidentiary standards and expedite the administrative review process by providing
2 adequate resources to process documented petitions.

3 (6) To ensure that when the Federal Government extends acknowledgment to an Indian tribe,
4 the Federal Government does so with an internally consistent legal, factual, and historical basis.

5 (7) To extend to Indian groups that the Commission determines to be Indian tribes the protection,
6 services, and benefits available from the Federal Government pursuant to the Federal trust responsibility with respect to Indian tribes.

7 (8) To assure that Indian groups that are determined to be Indian tribes are recognized as having
8 the immunities and privileges available to other federally acknowledged Indian tribes by virtue of
9 their status as Indian tribes with a government-to-government relationship with the United States.

10 (9) To preserve the integrity of the government-to-government relationship between the United
11 States and federally recognized Indian tribes by insuring that only self-governing Indian peoples are
12 recognized by the United States.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

1 (1) ACKNOWLEDGMENT.—The term “acknowl-
2 edgment” means a determination by the Commission
3 on Recognition of Indian Tribes that an Indian
4 group constitutes an Indian tribe with a govern-
5 ment-to-government relationship with the United
6 States.

7 (2) AUTONOMOUS.—

8 (A) IN GENERAL.—The term “autono-
9 mous” means the exercise of political influence
10 or authority independent of the control of any
11 other Indian governing entity.

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

16 (3) BUREAU.—The term “Bureau” means the
17 Bureau of Indian Affairs of the Department.

18 (4) COMMISSION.—The term “Commission”
19 means the Commission on Recognition of Indian
20 Tribes established under this Act.

21 (5) COMMUNITY.—The term “community” re-
22 fers to a group of related individuals that is distinct
23 from surrounding communities. A tribal community
24 may be found to be distinct, even though some of its
25 members are also members of other tribes. The term

1 shall be understood in the context of the history, cul-
2 ture, and social organization of the group, the intra-
3 tribal marriage patterns of the group, and the geog-
4 raphy and economy of the region in which the group
5 resides.

6 (6) CONTINUOUS OR CONTINUOUSLY.—With re-
7 spect to a period of history of a group, the term
8 “continuous” or “continuously” means extending
9 from 1900 to the present without interruption as
10 demonstrated by evidence of the fact or condition no
11 less than once every ten years.

12 (7) DEPARTMENT.—The term “Department”
13 means the Department of the Interior.

14 (8) DOCUMENTED PETITION.—The term “docu-
15 mented petition” means the detailed, factual expo-
16 sition and arguments, including all documentary evi-
17 dence, necessary to demonstrate that those argu-
18 ments specifically address the mandatory criteria es-
19 tablished in this Act.

20 (9) HISTORICALLY, HISTORICAL, HISTORY.—
21 The terms “historically”, “historical”, and “history”
22 refer to the period dating from 1900.

23 (10) INDIAN GROUP.—The term “Indian
24 group” means any Indian band, pueblo, village, or

1 community that is not acknowledged to be an Indian
2 tribe by the Federal Government.

3 (11) INTERESTED PARTY.—The term “inter-
4 ested party” means any person, organization, or
5 other entity who can establish a legal, factual, or
6 property interest in an acknowledgment determina-
7 tion and who requests an opportunity to submit
8 comments or evidence or to be kept informed of Fed-
9 eral actions regarding a specific petitioner. The term
10 includes the Governor and attorney general of the
11 State in which a petitioner is located, and may in-
12 clude, but is not limited to, local governmental units,
13 and any recognized Indian tribes and unrecognized
14 Indian groups that might be affected by an acknowl-
15 edgment determination.

16 (12) LETTER OF INTENT.—The term “letter of
17 intent” means an undocumented letter or resolution
18 that—

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

21 (B) is submitted to the Commission; and

22 (C) indicates the intent of the Indian
23 group to submit a documented petition for Fed-
24 eral acknowledgment.

1 (13) PETITIONER.—The term “petitioner”
2 means any group that submits a letter of intent to
3 the Commission requesting acknowledgment as an
4 Indian tribe.

5 (14) SECRETARY.—The term “Secretary”
6 means the Secretary of the Interior.

7 (15) TREATY.—The term “treaty” means any
8 treaty—

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

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

16 (C) made by any government with, or on
17 behalf of, any Indian group or tribe, prior to
18 that government’s entry into the United States,
19 or when the United States acquired jurisdiction
20 over land and territory by purchase, conquest,
21 annexation, or cession and the predecessor gov-
22 ernment had entered into treaties with any In-
23 dian group or tribe without regard to whether
24 the treaty was expressly acceded to or adopted
25 by the successor government.

1 (16) TRIBAL ROLL.—

2 (A) IN GENERAL.—The term “tribal roll”
3 means a list exclusively of those individuals
4 who—

5 (i)(I) have been determined by the
6 tribe to meet the membership requirements
7 of the tribe, as set forth in the governing
8 document of the tribe; or

9 (II) in the absence of a governing doc-
10 ument that sets forth those requirements,
11 have been recognized as members by the
12 governing body of the tribe; and

13 (ii) have affirmatively demonstrated
14 consent to being listed as members of the
15 tribe.

16 (B) MEMBERSHIP.—The tribal roll shall be
17 composed principally of persons who are not
18 members of any recognized Indian tribe, pro-
19 vided that the Commission shall not deny rec-
20 ognition to any petitioner if no more than 20
21 percent of the individuals listed on the tribal
22 roll were at the time that the petition was sub-
23 mitted to either the Secretary or the Commis-
24 sion enrolled as a member of a federally recog-
25 nized Indian tribe.

1 **SEC. 4. COMMISSION ON RECOGNITION OF INDIAN TRIBES.**

2 (a) ESTABLISHMENT.—There is established the Com-
3 mission on Recognition of Indian Tribes. The Commission
4 shall be an independent establishment (as defined in sec-
5 tion 104 of title 5, United States Code).

6 (b) MEMBERSHIP.—

7 (1) IN GENERAL.—

8 (A) MEMBERS.—The Commission shall
9 consist of 7 members appointed by the Presi-
10 dent, by and with the advice and consent of the
11 Senate.

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

16 (i) recommendations received from In-
17 dian groups and Indian tribes; and

18 (ii) individuals who have a back-
19 ground or who have demonstrated exper-
20 tise and experience in Indian law or policy,
21 anthropology, genealogy, or Native Amer-
22 ican history.

23 (C) BACKGROUND INFORMATION.—No in-
24 dividual shall be eligible for any appointment
25 to, or continue service on the Commission,
26 who—

1 (i) has been convicted of a felony; or
2 (ii) has any financial interest in, or
3 management responsibility for, any Indian
4 group, except merely by virtue of member-
5 ship in such group.

6 (2) POLITICAL AFFILIATION.—Not more than 4
7 members of the Commission may be members of the
8 same political party.

9 (3) TERMS.—Each member of the Commission
10 shall be appointed for a term of 6 years.

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

21 (5) COMPENSATION.—

22 (A) IN GENERAL.—Each member of the
23 Commission shall receive compensation at a
24 rate equal to the daily equivalent of the annual
25 rate of basic pay prescribed for level V of the

1 Executive Schedule under section 5316 of title
2 5, United States Code, for each day, including
3 travel time, that the member is engaged in the
4 actual performance of duties authorized by the
5 Commission.

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

13 (6) FULL-TIME EMPLOYMENT.—Each member
14 of the Commission shall serve on the Commission as
15 a full-time employee of the Federal Government. No
16 member of the Commission may, while serving on
17 the Commission, be otherwise employed as an officer
18 or employee of the Federal Government. Service by
19 a member who is an employee of the Federal Gov-
20 ernment at the time of nomination as a member
21 shall be without interruption or loss of civil service
22 status or privilege.

23 (7) CHAIRPERSON.—At the time appointments
24 are made under paragraph (1), the President shall
25 designate a Chairperson of the Commission (referred

1 to in this section as the “Chairperson”) from among
2 the appointees.

3 (c) MEETINGS AND PROCEDURES.—

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

8 (2) QUORUM.—A panel of any 3 members of
9 the Commission may conduct any proceedings au-
10 thorized herein, except those authorized under sec-
11 tion 10 which shall be conducted by no fewer than
12 5 commissioners.

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

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

20 (d) DUTIES.—The Commission shall carry out the
21 duties assigned to the Commission by this Act, and shall
22 meet the requirements imposed on the Commission by this
23 Act.

24 (e) POWERS AND AUTHORITIES.—

1 (1) POWERS AND AUTHORITIES OF CHAIR-
2 PERSON.—Subject to such rules and regulations as
3 may be adopted by the Commission, the Chairperson
4 may—

5 (A) appoint, terminate, and fix the com-
6 pensation (without regard to the provisions of
7 title 5, United States Code, governing appoint-
8 ments in the competitive service, and without
9 regard to the provisions of chapter 51 and sub-
10 chapter III of chapter 53 of that title, or of any
11 other provision of law, relating to the number,
12 classification, and General Schedule rates) of
13 an Executive Director of the Commission and of
14 such other personnel as the Chairperson con-
15 siders advisable to assist in the performance of
16 the duties of the Commission, at a rate not to
17 exceed a rate equal to the daily equivalent of
18 the annual rate of basic pay prescribed for level
19 V of the Executive Schedule under section 5316
20 of title 5, United States Code; and

21 (B) procure, as authorized by section
22 3109(b) of title 5, United States Code, tem-
23 porary and intermittent services to the same ex-
24 tent as is authorized by law for agencies in the
25 executive branch, but at rates not to exceed the

1 daily equivalent of the annual rate of basic pay
2 prescribed for level V of the Executive Schedule
3 under section 5316 of that title.

4 (2) GENERAL POWERS AND AUTHORITIES OF
5 COMMISSION.—

6 (A) IN GENERAL.—The Commission may
7 hold such hearings and sit and act at such
8 times as the Commission considers appropriate.

9 (B) OTHER AUTHORITIES.—As the Com-
10 mission may consider advisable, the Commission
11 may—

12 (i) take testimony;

13 (ii) have printing and binding done;

14 (iii) enter into contracts and other ar-
15 rangements, subject to the availability of
16 funds;

17 (iv) make expenditures; and

18 (v) take other appropriate actions as
19 authorized by this Act.

20 (C) OATHS AND AFFIRMATION.—Any
21 member of the Commission may administer
22 oaths or affirmations to witnesses appearing be-
23 fore the Commission.

24 (3) INFORMATION.—

1 (A) IN GENERAL.—The Commission may
2 secure directly from any officer, department,
3 agency, establishment, or instrumentality of the
4 Federal Government such information as the
5 Commission may require to carry out this Act.
6 Each such officer, department, agency, estab-
7 lishment, or instrumentality shall furnish, to
8 the extent permitted by law, such information,
9 suggestions, estimates, and statistics directly to
10 the Commission.

11 (B) FACILITIES, SERVICES, AND DE-
12 TAILS.—Upon the request of the Chairperson,
13 to assist the Commission in carrying out its du-
14 ties of the department, agency, or instrumen-
15 tality may—

16 (i) make any of the facilities and serv-
17 ices of that department, agency, or instru-
18 mentality available to the Commission; and

19 (ii) detail any of the personnel of that
20 department, agency, or instrumentality to
21 the Commission, on a nonreimbursable
22 basis.

23 (C) MAILS.—The Commission may use the
24 United States mails in the same manner and

1 under the same conditions as other departments
2 and agencies of the United States.

3 (f) FEDERAL ADVISORY COMMITTEE ACT.—The pro-
4 visions of the Federal Advisory Committee Act (5 U.S.C.
5 App.) shall not apply to the Commission.

6 (g) TERMINATION OF COMMISSION.—The Commis-
7 sion shall terminate not later than the date that is 12
8 years after the date of the first meeting of the Commission
9 unless such date is otherwise shortened or extended by an
10 Act of Congress.

11 (h) APPOINTMENTS.—Notwithstanding any other
12 provision of this Act, the Secretary shall continue to exer-
13 cise those authorities vested in the Secretary relating to
14 the supervision of Indian recognition regulated under part
15 83 of title 25 of the Code of Federal Regulations until
16 such time as the Commission is organized and prescribes
17 regulations. The Secretary shall provide staff and support
18 assistance to facilitate an orderly transition to regulation
19 of recognition of Indian tribes by the Commission.

20 **SEC. 5. DOCUMENTED PETITIONS FOR RECOGNITION.**

21 (a) IN GENERAL.—

22 (1) LETTERS OF INTENT AND DOCUMENTED
23 PETITIONS.—Subject to subsection (d) and except as
24 provided in paragraph (3), any Indian group may
25 submit to the Commission letters of intent and a

1 documented petition requesting that the Commission
2 recognize the group as an Indian tribe.

3 (2) TRANSFER OF DOCUMENTED PETITION.—

4 (A) IN GENERAL.—Notwithstanding any
5 other provision of law, not later than 30 days
6 after publication of formal regulations gov-
7 erning the operation of the Commission, the
8 Secretary shall transfer to the Commission all
9 documented petitions, all administrative files re-
10 lated thereto, and letters of intent pending be-
11 fore the Department that request the Secretary
12 to recognize or acknowledge an Indian group as
13 an Indian tribe.

14 (B) CESSATION OF CERTAIN AUTHORITIES
15 OF SECRETARY.—Notwithstanding any other
16 provision of law, on the date of the transfer
17 under subparagraph (A), the Secretary and the
18 Department shall cease to have any authority to
19 recognize or acknowledge, on behalf of the Fed-
20 eral Government, any Indian group as an In-
21 dian tribe under part 83 of title 25, Code of
22 Federal Regulations, and its successors.

23 (C) DETERMINATION OF ORDER OF SUB-
24 MISSION OF TRANSFERRED DOCUMENTED PETI-
25 TIONS.—Documented petitions transferred to

1 the Commission under subparagraph (A) shall,
2 for purposes of this Act, be considered as hav-
3 ing been submitted to the Commission in the
4 same order as those documented petitions were
5 submitted to the Department.

6 (3) EXCLUSION.—The following groups and en-
7 tities shall not be eligible to submit a documented
8 petition for recognition by the Commission under
9 this Act:

10 (A) ENTITIES THAT ARE ELIGIBLE TO RE-
11 CEIVE SERVICES FROM THE BUREAU.—Indian
12 tribes, organized bands, pueblos, communities,
13 and Alaska Native entities that are recognized
14 by the Secretary as of the date of enactment of
15 this Act as eligible to receive services from the
16 Bureau.

17 (B) SPLINTER GROUPS, POLITICAL FAC-
18 TIONS, AND COMMUNITIES.—Splinter groups,
19 political factions, communities, or groups of any
20 character that separate from the main body of
21 an Indian tribe that, at the time of that separa-
22 tion, is recognized as an Indian tribe by the
23 Secretary, unless the group, faction, or commu-
24 nity is able to establish clearly that the group,

1 faction, or community has functioned since
2 1900 as an autonomous Indian tribal entity.

3 (C) GROUPS THAT HAVE PREVIOUSLY SUB-
4 MITTED DOCUMENTED PETITIONS.—Groups, or
5 successors in interest of groups, that before the
6 date of enactment of this Act, have petitioned
7 for and been denied or refused recognition
8 based on the merits of their petition as an In-
9 dian tribe under regulations prescribed by the
10 Secretary (other than an Indian group de-
11 scribed in subsection (d)(1)). Nothing in this
12 subparagraph shall be construed as excluding
13 any group that Congress has identified as In-
14 dian, but has not identified as an Indian tribe.

15 (D) INDIAN GROUPS SUBJECT TO TERMI-
16 NATION.—Any Indian group whose relationship
17 with the Federal Government was expressly ter-
18 minated by an Act of Congress.

19 (b) DOCUMENTED PETITION FORM AND CONTENT.—
20 Except as provided in subsection (c), any documented peti-
21 tion submitted under subsection (a) by an Indian group
22 shall be in any readable form that clearly indicates that
23 the documented petition is a documented petition request-
24 ing the Commission to recognize the Indian group as an

1 Indian tribe and that contains detailed, specific evidence
2 concerning each of the following items:

3 (1) LIST OF MEMBERS WHO DESCEND FROM
4 HISTORIC TRIBE(S).—

5 (A) IN GENERAL.—A list of all then cur-
6 rent members of the petitioner, including the
7 full name (and maiden name, if any), date, and
8 place of birth, and then current residential ad-
9 dress of each member, a copy of each available
10 former list of members based on the criteria de-
11 fined by the petitioner, and a statement describ-
12 ing the methods used in preparing those lists.

13 (B) REQUIREMENTS FOR MEMBERSHIP.—
14 In order for the Commission to consider the
15 members of the group to be members of an In-
16 dian tribe for the purposes of the documented
17 petition, that membership shall be required to
18 consist of established descendancy from an In-
19 dian group that existed historically, or from his-
20 torical Indian groups that combined and func-
21 tioned as a single autonomous entity.

22 (C) EVIDENCE OF TRIBAL MEMBERSHIP.—
23 Evidence of tribal membership required by the
24 Commission for a determination of tribal mem-
25 bership shall include the following items:

1 (i) DESCENDANCY ROLLS.—

2 Descendancy rolls prepared by the Sec-
3 retary for the petitioner for purposes of
4 distributing claims money, providing allot-
5 ments, or other purposes.

6 (ii) CERTAIN OFFICIAL RECORDS.—

7 Federal, State, or other official records or
8 evidence identifying then present members
9 of the petitioner, or ancestors of then
10 present members of the petitioner, as being
11 descendants of a historic tribe or historic
12 tribes that combined and functioned as a
13 single autonomous political entity.

14 (iii) ENROLLMENT RECORDS.—

15 Church, school, and other similar enroll-
16 ment records identifying then present
17 members or ancestors of then present
18 members as being descendants of a historic
19 tribe or historic tribes that combined and
20 functioned as a single autonomous political
21 entity.

22 (iv) AFFIDAVITS OF RECOGNITION.—

23 Affidavits of recognition by tribal elders,
24 leaders, or the tribal governing body identi-
25 fying then present members or ancestors of

1 then present members as being descend-
2 ants of 1 or more historic tribes that com-
3 bined and functioned as a single auton-
4 omous political entity.

5 (v) OTHER RECORDS OR EVIDENCE.—

6 Other records or evidence based upon anal-
7 ysis by historians, anthropologists, and
8 genealogists with established expertise on
9 the petitioner or Indian entities in general,
10 identifying then present members or ances-
11 tors of then present members as being de-
12 scendants of 1 or more historic tribes that
13 combined and functioned as a single auton-
14 omous political entity.

15 (2) EVIDENCE OF COMMUNITY.—

16 (A) DISTINCT COMMUNITY.—A statement
17 of facts and an analysis of such facts estab-
18 lishing that the group comprises a community
19 of related members distinct from surrounding
20 communities continuously since 1900.

21 (B) EVIDENCE OF DISTINCT COMMU-
22 NITY.—Evidence that the Commission may rely
23 upon in determining that the petitioner meets
24 the distinct community criterion may include
25 one or more of the following items:

1 (i) Political structures or processes
2 limited to the group by which decisions
3 that affect the group are made, such as
4 the allocation of resources or the settle-
5 ment of disputes among members.

6 (ii) Political disagreements among the
7 individual members of the group over
8 group policies, processes, or decisions.

9 (iii) Significant rates of informal so-
10 cial interaction, social relationships, such
11 as marriage or shared economic activity,
12 among members of the group.

13 (iv) Cultural patterns among a signifi-
14 cant portion of the group's members such
15 as language, religious beliefs and practices,
16 or religious organizations.

17 (v) The majority of the group's mem-
18 bers exhibits collateral as well as lineal
19 kinship ties through generations to the
20 third degree.

21 (vi) Other evidence deemed relevant or
22 probative by the Commission.

23 (C) CONCLUSIVE EVIDENCE OF DISTINCT
24 COMMUNITY.—A petitioner shall be considered
25 to have conclusively established a distinct com-

1 munity for any period in which it establishes
2 one of the following:

3 (i) Not less than $\frac{1}{3}$ of the members
4 of the group who are married to other
5 members of the group.

6 (ii) Not less than 50 percent of the
7 members of the group reside in geo-
8 graphical area(s) that are exclusively or al-
9 most exclusively composed of members of
10 the group.

11 (iii) The State in which the petitioner
12 principally resides has continuously since
13 1900 recognized the group as a self-gov-
14 erning Indian community or has held a
15 reservation for the group.

16 (iv) A continuous line of group lead-
17 er(s) with a description of the means of se-
18 lection or acquiescence by a majority of the
19 group's members.

20 (3) GOVERNING DOCUMENT.—A copy of the
21 then present governing document of the petitioner
22 that includes the membership criteria of the peti-
23 tioner. In the absence of a written document, the pe-
24 titioner shall be required to provide a statement de-
25 scribing in full the membership criteria of the peti-

1 tioner and the then current governing procedures of
2 the petitioner.

3 (4) PETITIONER BURDEN OF PROOF.—At all
4 levels of Commission consideration of a petition, and
5 upon any reconsideration of appellate review of such
6 petition, the Petitioner shall be considered to have
7 satisfied any requirement if the evidence submitted,
8 taken together, establishes a reasonable likelihood of
9 the validity of the facts establishing the satisfaction
10 of that requirement. No higher level of proof shall
11 be required, and conclusive proof of a single fact re-
12 lating to a requirement shall not be necessary for
13 the requirement to be considered met.

14 (c) EXPEDITED DECISION.—

15 (1) EXPEDITED NEGATIVE.—Within 6 months
16 of receipt of a documented petition, the Commission
17 shall, where appropriate, publish a notice of deter-
18 mination that the petitioner shall not be recognized
19 upon a determination that the petitioner failed to
20 demonstrate Indian ancestry as required by sub-
21 section (b)(3).

22 (2) EXPEDITED FAVORABLE.—Within 6 months
23 of receipt of a documented petition the Commission,
24 upon the request of the petitioner, shall publish a
25 notice of determination that the petitioner shall be

1 acknowledged as an Indian tribe upon the Commis-
2 sion's determination that the petitioner has dem-
3 onstrated that it has comprised a distinct commu-
4 nity for a time depth of 10 years prior to the date
5 upon which the petitioner filed a completed petition
6 before either the Secretary or the Commission, and
7 any of the following:

8 (A) Where 90 percent or more of its mem-
9 bers descend from a tribe recognized by treaty
10 with the United States.

11 (B) Where 90 percent or more of its mem-
12 bers descend from a historic tribe for which the
13 State in which the petitioner principally resides
14 has since 1900 recognized a reservation for that
15 petitioner.

16 (C) Where 90 percent or more of its mem-
17 bers descend from a historic tribe and are mem-
18 bers of a tribe held to constitute an Indian tribe
19 under Federal law by a Federal court or a
20 State court of last resort.

21 (D) Where 90 percent or more of its mem-
22 bers descend from a historic tribe that the
23 United States has at one time unambiguously
24 acknowledged.

1 (3) EFFECT OF AN EXPEDITED DETERMINA-
2 TION.—A noticed expedited determination shall be
3 deemed a final decision by the Commission, unless
4 the expedited determination is rebutted as follows:

5 (A) Within 60 days after the publication of
6 the notice of expedited determination an inter-
7 ested party or the petitioner submits comments
8 on the notice.

9 (B) Such comments pertain to the basis of
10 the expedited determination.

11 (C) In the event such comments are sub-
12 mitted, the notice of expedited determination
13 shall not constitute a final decision of the Com-
14 mission and the petitioner shall be entitled to
15 an adjudicatory hearing under section 9.

16 (d) HEARING FOR PREVIOUSLY DENIED GROUPS.—

17 (1) IN GENERAL.—Indian groups that have
18 been denied or refused recognition as an Indian tribe
19 under regulations prescribed by the Secretary shall
20 be entitled to an adjudicatory hearing under section
21 9 before the Commission, if the Commission deter-
22 mines that the criteria established by this Act
23 changes the evaluation of the merits of the Indian
24 group's documented petition submitted to the De-
25 partment.

1 (2) HEARING RECORD.—For purposes of para-
2 graph (1), the Commission shall review the adminis-
3 trative record containing the documented petition
4 that formed the basis of the determination to the In-
5 dian group by the Secretary.

6 (3) TREATMENT OF SECRETARY’S FINAL DE-
7 TERMINATION.—For purposes of the adjudicatory
8 hearing under section 9, the Secretary’s final deter-
9 mination shall be considered a preliminary deter-
10 mination under section 8(b)(1)(B).

11 (4) OFFICIAL GOVERNMENT ACTIONS TO BE
12 CONSIDERED CONCERNING EVIDENCE OF CRI-
13 TERIA.—A statement and an analysis of facts sub-
14 mitted under this section may establish that, for any
15 given period of time for which evidence of criteria is
16 lacking, such absence of evidence corresponds in
17 time with official acts of the Federal or relevant
18 State Government which prohibited or penalized the
19 expression of Indian identity. For such periods of
20 time, the absence of evidence shall not be the basis
21 for declining to acknowledge the petitioner.

22 (e) DEADLINE FOR SUBMISSION.—

23 (1) DOCUMENTED PETITIONS.—No Indian
24 group may submit a documented petition to the

1 Commission later than 8 years after the date of the
2 first meeting of the Commission.

3 (2) LETTERS OF INTENT.—In the case of a let-
4 ter of intent, the Commission shall publish in the
5 Federal Register a notice of such receipt, including
6 the name, location, and mailing address of the peti-
7 tioner. A petitioner who has submitted a letter of in-
8 tent or had a letter of intent transferred to the Com-
9 mission under section 5 shall be required to submit
10 a documented petition within 3 years after the date
11 of the first meeting of the Commission to the Com-
12 mission. No letters of intent will be accepted by the
13 Commission later than 3 years after the date of the
14 first meeting of the Commission.

15 **SEC. 6. NOTICE OF RECEIPT OF DOCUMENTED PETITION.**

16 (a) PETITIONER.—

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

21 (A) send an acknowledgment of receipt in
22 writing to the petitioner; and

23 (B) publish in the Federal Register a no-
24 tice of that receipt, including the name, loca-

1 tion, and mailing address of the petitioner and
2 such other information that—

3 (i) identifies the entity that submitted
4 the documented petition and the date the
5 documented petition was received by the
6 Commission;

7 (ii) indicates where a copy of the docu-
8 mented petition may be examined; and

9 (iii) indicates whether the documented
10 petition is a transferred documented peti-
11 tion that is subject to the special provi-
12 sions under paragraph (2).

13 (2) SPECIAL PROVISIONS FOR THE TRANS-
14 FERRED DOCUMENTED PETITIONS.—

15 (A) IN GENERAL.—With respect to a docu-
16 mented petition that is transferred to the Com-
17 mission under section 5(a)(4), the notice pro-
18 vided to the petitioner, shall, in addition to pro-
19 viding the information specified in paragraph
20 (1), inform the petitioner whether the docu-
21 mented petition constitutes a documented peti-
22 tion that meets the requirements of section 5.

23 (B) AMENDED PETITIONS.—If the petition
24 described in subparagraph (A) is not a docu-
25 mented petition, the Commission shall notify

1 the petitioner that the petitioner may, not later
2 than 120 days after the date of the notice, sub-
3 mit to the Commission an amended petition
4 that is a documented petition for review under
5 section 7.

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

12 (b) OTHER NOTIFICATION.—In addition to providing
13 the notification required under subsection (a), the Com-
14 mission shall notify, in writing, the Governor and attorney
15 general of, and each federally recognized Indian tribe
16 within, any State in which a petitioner resides.

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

19 (1) PUBLICATION.—The Commission shall pub-
20 lish the notice of receipt of each documented petition
21 (including any amended petition submitted pursuant
22 to subsection (a)(2)) in a major newspaper of gen-
23 eral circulation in the town or city located nearest
24 the location of the petitioner.

1 (2) OPPORTUNITY FOR SUPPORTING OR OPPOS-
2 ING SUBMISSIONS.—

3 (A) IN GENERAL.—Each notice published
4 under paragraph (1) shall include, in addition
5 to the information described in subsection (a),
6 notice of opportunity for interested parties to
7 submit factual or legal arguments in support of,
8 or in opposition to, the documented petition.

9 (B) COPY TO PETITIONER.—A copy of any
10 submission made under subparagraph (A) shall
11 be provided to the petitioner within 90 days
12 upon receipt by the Commission.

13 (C) RESPONSE.—The petitioner shall be
14 provided an opportunity to respond within 90
15 days to any submission made under subpara-
16 graph (A) before a determination on the docu-
17 mented petition by the Commission.

18 **SEC. 7. PROCESSING THE DOCUMENTED PETITION.**

19 (a) REVIEW.—

20 (1) IN GENERAL.—Upon receipt of a docu-
21 mented petition submitted or transferred under sec-
22 tion 5(a) or submitted under section 6(a)(2)(B), the
23 Commission shall conduct a review to determine
24 whether the petitioner is entitled to be recognized as
25 an Indian tribe.

1 (2) CONTENT OF REVIEW.—The review con-
2 ducted under paragraph (1) shall include consider-
3 ation of the documented petition, supporting evi-
4 dence, and the factual statements contained in the
5 documented petition.

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

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

12 (B) consider such evidence as may be sub-
13 mitted by interested parties.

14 (4) ACCESS TO LIBRARY OF CONGRESS AND NA-
15 TIONAL ARCHIVES.—Upon request by the petitioner,
16 the appropriate officials of the Library of Congress
17 and the National Archives shall allow access by the
18 petitioner to the resources, records, and documents
19 of those entities, for the purpose of conducting re-
20 search and preparing evidence concerning the status
21 of the petitioner.

22 (b) CONSIDERATION.—

23 (1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, documented petitions sub-
25 mitted or transferred to the Commission shall be

1 considered on a first come, first served basis, deter-
2 mined by the date of the original filing of each such
3 documented petition with the Commission (or the
4 Department if the documented petition is trans-
5 ferred to the Commission pursuant to section
6 5(a)(4) or is an amended petition submitted pursu-
7 ant to section 6(a)(2)(B)). The Commission shall es-
8 tablish a priority register that includes documented
9 petitions that are pending before the Department as
10 of the date of the first meeting of the Commission.

11 (2) **PRIORITY CONSIDERATION.**—Each docu-
12 mented petition (that is submitted or transferred to
13 the Commission pursuant to section 5(a) or that is
14 submitted to the Commission pursuant to section
15 6(a)(2)(B)) of an Indian group that meets 1 or more
16 of the requirements set forth in section 5(c) shall re-
17 ceive priority consideration over a documented peti-
18 tion submitted by any other Indian group.

19 **SEC. 8. PRELIMINARY HEARING.**

20 (a) **IN GENERAL.**—Not later than 60 days after the
21 receipt of a documented petition by the Commission sub-
22 mitted or transferred under section 5(a) or submitted to
23 the Commission pursuant to section 6(a)(2)(B), the Com-
24 mission shall—

1 (1) set a date for a preliminary hearing at
2 which the Commission shall preside which shall in
3 no instance be held later than 180 days after receipt
4 of the documented petition, and at which the peti-
5 tioner and any other interested party may provide
6 evidence concerning the status of the petitioner; or

7 (2) publish its expedited decision under section
8 5(d).

9 (b) DETERMINATION.—Not later than 30 days after
10 the conclusion of a preliminary hearing under subsection
11 (a), the Commission shall make a determination—

12 (1) to extend Federal acknowledgment of the
13 petitioner as an Indian tribe to the petitioner; or

14 (2) that the petitioner should proceed to an ad-
15 judicatory hearing at which the Commission shall
16 preside.

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

19 (1) IN GENERAL.—If the Commission makes a
20 determination under subsection (b)(2) that the peti-
21 tioner should proceed to an adjudicatory hearing,
22 the Commission shall—

23 (A)(i) not later than 30 days after the date
24 of such determination, make available to the pe-
25 titioner all records relied upon by the Commis-

1 sion and its staff in making the preliminary de-
2 termination to assist the petitioner in preparing
3 for the adjudicatory hearing; and

4 (ii) include such guidance as the Commis-
5 sion considers necessary or appropriate to assist
6 the petitioner in preparing for the hearing; and

7 (B) not later than 30 days after the con-
8 clusion of the preliminary hearing under sub-
9 section (a), provide a written notification to the
10 petitioner that includes a list of any deficiencies
11 or omissions that the Commission relied on in
12 making a determination under subsection
13 (b)(2).

14 (2) SUBJECT OF ADJUDICATORY HEARING.—

15 The list of deficiencies and omissions provided by
16 the Commission to a petitioner under paragraph
17 (1)(B) shall be the subject of the adjudicatory hear-
18 ing. The Commission may not make any additions to
19 the list after the Commission issues the list.

20 **SEC. 9. ADJUDICATORY HEARING.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 conclusion of a preliminary hearing under section 8(a), the
23 Commission shall afford a petitioner who is subject to sec-
24 tion 8(b)(2) an adjudicatory hearing at which the Commis-
25 sion shall preside. The subject of the adjudicatory hearing

1 shall be the list of deficiencies and omissions provided
2 under section 8(c)(1)(B) and shall be conducted pursuant
3 to sections 554, 556, and 557 of title 5, United States
4 Code.

5 (b) TESTIMONY FROM STAFF OF COMMISSION.—In
6 any hearing held under subsection (a), the Commission
7 shall require testimony from the acknowledgment and re-
8 search staff of the Commission or other witnesses involved
9 in the preliminary determination. Any such testimony
10 shall be subject to cross-examination by the petitioner.

11 (c) EVIDENCE BY PETITIONER.—In any hearing held
12 under subsection (a), the petitioner may provide such evi-
13 dence as the petitioner considers appropriate.

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

17 (1) make a determination concerning the exten-
18 sion or denial of Federal acknowledgment of the pe-
19 titioner as an Indian tribe to the petitioner;

20 (2) publish the determination of the Commis-
21 sion under paragraph (1) in the Federal Register;
22 and

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

1 **SEC. 10. RECONSIDERATION BY COMMISSION; FINAL DECISION.**
2 **SION.**

3 (a) REQUEST FOR RECONSIDERATION.—

4 (1) IN GENERAL.—Upon publication of a deter-
5 mination by a Commission panel under section 9(d)
6 in the Federal Register, or determination under sec-
7 tion 5(d), the petitioner or any interested party may
8 file a request for reconsideration with the Commis-
9 sion.

10 (2) DEADLINE.—A petitioner's or interested
11 party's request for reconsideration must be received
12 by the Commission no later than 90 days after the
13 date of publication of the Commission panel's deter-
14 mination under section 9(d) and 30 days under sec-
15 tion 5(d). The Commission shall dismiss a request
16 for reconsideration that is not filed by the deadline.

17 (3) DETERMINATION OF VALID REQUEST.—If a
18 petitioner's or interested party's request for recon-
19 sideration is timely filed, the Commission shall de-
20 termine, within 120 days after publication of the
21 Commission panel's final determination in the Fed-
22 eral Register under section 9(d), and 90 days under
23 section 5(d), whether the request alleges any of the
24 grounds in subsection (d) and shall notify the peti-
25 tioner and interested parties of it reconsidered deter-
26 mination.

1 (4) FINAL DECISION.—If no request for recon-
2 sideration has been received, the Commission panel’s
3 decision under section 9(d) and section 5(d) shall be
4 final 90 days after publication of the final deter-
5 mination in the Federal Register.

6 (b) DETAILED STATEMENT.—

7 (1) IN GENERAL.—The petitioner’s or inter-
8 ested party’s request for reconsideration shall con-
9 tain a detailed statement of the grounds for the re-
10 quest.

11 (2) STATEMENT CONSIDERED OPENING
12 BRIEF.—The detailed statement of grounds for re-
13 consideration filed by a petitioner or interested par-
14 ties shall be considered the appellant’s opening brief.

15 (3) COPIES.—The party or parties requesting
16 the reconsideration shall mail copies of the request
17 to the petitioner and all other interested parties.

18 (c) REVIEW.—The Commission shall review all re-
19 quests for reconsideration that are timely filed and that
20 allege any of the following:

21 (1) That there is new evidence that could affect
22 the determination.

23 (2) That a substantial portion of the evidence
24 relied upon in the Commission panel’s determination
25 was unreliable or was of little probative value.

1 (3) That petitioner's or the Commission panel's
2 research appears inadequate or incomplete in some
3 material respect.

4 (4) That there are reasonable alternative inter-
5 pretations, not previously considered, of the evidence
6 used for the determination under section 9(d) or
7 under section 5(d), that would substantially affect
8 the determination that the petitioner meets or does
9 not meet one or more of the criteria in section
10 5(b)(1) to (3) or is eligible for an expedited decision
11 under section 5(e).

12 (d) COMMISSION OVERSIGHT OF REQUEST FOR RE-
13 CONSIDERATION.—

14 (1) AUTHORITY TO REVIEW.—The Commission
15 shall have authority to review determinations of a
16 Commission panel made pursuant to section 9(d)
17 and section 5(d).

18 (2) PROCEDURES FOR FULL AND FAIR EVALUA-
19 TION.—The Commission may establish such proce-
20 dures as it deems appropriate to provide a full and
21 fair evaluation of a request for reconsideration under
22 this section to the extent they are not inconsistent
23 with this Act.

24 (3) EXPERTS.—The Commission, at its discre-
25 tion, may request experts not associated with the

1 Commission, any panel of the Commission, the peti-
2 tioner, or interested parties to provide comments,
3 recommendations, or technical advice concerning the
4 determination, the administrative record, or mate-
5 rials filed by the petitioner or interested parties. The
6 Commission may also request, at its discretion, com-
7 ments or technical assistance from the Commission
8 panel concerning the final determination under sec-
9 tion 9(b) or under section 5(d) and the record used
10 for either determination.

11 (4) ADMINISTRATIVE RECORD.—For purposes
12 of review by the Commission, the administrative
13 record shall consist of all appropriate documents
14 held by the Commission relevant to the determina-
15 tion involved in the request for reconsideration. The
16 Commission panel shall designate and make avail-
17 able to the Commission copies of critical documents
18 central to the portions of the determination under a
19 request for reconsideration. The Commission panel
20 shall retain custody of the remainder of the adminis-
21 trative record, to which the Commission shall have
22 unrestricted access.

23 (5) PANEL'S DETERMINATION AFFIRMED.—The
24 Commission shall affirm the Commission panel's de-
25 termination if the Commission finds that the peti-

1 tioner or interested party has failed to establish, by
2 a preponderance of the evidence, at least one of the
3 grounds under subsection (c).

4 (6) PANEL'S DETERMINATION VACATED.—The
5 Commission shall vacate the Commission panel's de-
6 termination and remand it to the Commission panel
7 for further work and reconsideration if the Commis-
8 sion finds that the petitioner or an interested party
9 has established, by a preponderance of the evidence,
10 one or more of the grounds under subsection (c).

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

12 A determination by the Commission under section
13 9(d) that an Indian group is recognized by the Federal
14 Government as an Indian tribe shall not have the effect
15 of depriving or diminishing—

16 (1) the right of any other Indian tribe to govern
17 the reservation of such other tribe as that reserva-
18 tion existed before the recognition of that Indian
19 group, or as that reservation may exist thereafter;

20 (2) any property right held in trust or recog-
21 nized by the United States for any other Indian
22 tribe as that property existed before the recognition
23 of that Indian group; or

24 (3) any previously or independently existing
25 claim by a petitioner to any such property right held

1 in trust by the United States for any other Indian
2 tribe before the recognition by the Federal Govern-
3 ment of that Indian group as an Indian tribe.

4 **SEC. 12. IMPLEMENTATION OF DECISIONS.**

5 Upon recognition by the Commission of a petitioner
6 as an Indian tribe under this Act, the Indian tribe shall—

7 (1) be eligible for the services and benefits from
8 the Federal Government that are available to other
9 federally recognized Indian tribes by virtue of their
10 status as Indian tribes with a government-to-govern-
11 ment relationships with the United States;

12 (2) have the responsibilities, obligations, privi-
13 leges, and immunities of those Indian tribes; and

14 (3) be included on the list of federally recog-
15 nized tribes under the Federally Recognized Indian
16 Tribe List Act of 1994 (25 U.S.C. 479a et seq.;
17 Public Law 103–454) (as amended by section 12 of
18 this Act).

19 **SEC. 13. RECOGNITION OR RESTORATION OF INDIAN**
20 **TRIBES.**

21 The Federally Recognized Indian Tribe List Act of
22 1994 (25 U.S.C. 479a et seq.; Public Law 103–454) is
23 amended by striking section 103 and inserting the fol-
24 lowing:

1 **“SEC. 103. RECOGNITION AND RESTORATION OF INDIAN**
2 **TRIBES.**

3 “Indian tribes may be recognized or restored by—

4 “(1) Federal law;

5 “(2) the Commission on Recognition of Indian
6 Tribes;

7 “(3) reorganization under the Indian Reorga-
8 nization Act or the Alaska Indian Reorganization
9 Act; and

10 “(4) any final decision of a United States
11 court.”.

12 **SEC. 14. INDIAN REORGANIZATION ACT.**

13 The Act of June 18, 1934 (25 U.S.C. 461 et seq.;
14 popularly known as the “Indian Reorganization Act”), is
15 applicable to all tribes recognized by the Commission,
16 without regard to whether such tribe was under Federal
17 jurisdiction as of June 18, 1934.

18 **SEC. 15. NEEDS DETERMINATION AND BUDGET REQUEST.**

19 (a) IN GENERAL.—Not later than 180 days after an
20 Indian group is recognized by the Commission as an In-
21 dian tribe under this Act, the appropriate officials of the
22 Bureau and the Indian Health Service of the Department
23 of Health and Human Services shall consult and develop
24 in cooperation with the Indian tribe, and forward to the
25 Secretary or the Secretary of Health and Human Services,
26 as appropriate, a determination of the needs of the Indian

1 tribe and a recommended budget required to serve the
2 newly recognized Indian tribe.

3 (b) SUBMISSION OF BUDGET REQUEST.—Upon re-
4 ceipt of the information described in paragraph (1), the
5 appropriate Secretary shall submit to the President a rec-
6 ommended budget along with recommendations, con-
7 cerning the information received under paragraph (1), for
8 inclusion in the annual budget submitted by the President
9 to the Congress pursuant to section 1108 of title 31,
10 United States Code.

11 **SEC. 16. ANNUAL REPORT CONCERNING COMMISSION'S AC-**
12 **TIVITIES.**

13 (a) ANNUAL REPORT.—

14 (1) IN GENERAL.—Beginning on the date that
15 is 1 year after the date of the first meeting of the
16 Commission, and annually thereafter, the Commis-
17 sion shall prepare and submit a report to the Com-
18 mittee on Indian Affairs of the Senate and the Com-
19 mittee on Natural Resources of the House of Rep-
20 resentatives that describes the activities of the Com-
21 mission.

22 (2) CONTENT OF REPORTS.—Each report sub-
23 mitted under this subsection shall include, at a min-
24 imum, for the year that is the subject of the re-
25 port—

1 (A) the number of documented petitions
2 pending at the beginning of the year and the
3 names of the petitioners;

4 (B) the number of documented persons re-
5 ceived during the year and the names of peti-
6 tioners;

7 (C) the number of documented petitions
8 the Commission approved for acknowledgment
9 during the year and the names of the acknowl-
10 edged petitioners;

11 (D) the number of documented petitions
12 the Commission denied for acknowledgment
13 during the year and the names of the peti-
14 tioners; and

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

18 **SEC. 17. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

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

1 writs of mandamus) as may be necessary to enforce the
2 provisions of this Act.

3 **SEC. 18. REGULATIONS.**

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

8 **SEC. 19. GUIDELINES AND ADVICE.**

9 (a) **GUIDELINES.**—Not later than 90 days after the
10 date of the first meeting of the Commission, the Commis-
11 sion shall make available to Indian groups suggested
12 guidelines for the format of documented petitions, includ-
13 ing general suggestions and guidelines concerning where
14 and how to research information that is required to be
15 included in a documented petition. The examples included
16 in the guidelines shall not preclude the use of any other
17 appropriate format.

18 (b) **RESEARCH ADVICE.**—The Commission may, upon
19 request, provide suggestions and advice to any petitioner
20 with respect to the research of the petitioner concerning
21 the historical background and Indian identity of that peti-
22 tioner. The Commission shall not be responsible for con-
23 ducting research on behalf of the petitioner.

24 **SEC. 20. ASSISTANCE TO PETITIONERS.**

25 (a) **GRANTS.**—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services may award grants to Indian groups
3 seeking Federal recognition as Indian tribes to en-
4 able the Indian groups to—

5 (A) conduct the research necessary to sub-
6 stantiate documented petitions under this Act;
7 and

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

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

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

20 **SEC. 21. PROTECTION OF CERTAIN PRIVILEGED INFORMA-**
21 **TION.**

22 Notwithstanding any other provision of law, upon the
23 effective date of this Act, when responding to any requests
24 for information on petitions and related materials filed by
25 a group seeking Federal recognition as an Indian tribe

1 pursuant to part 83 of title 25 of the Code of Federal
2 Regulations, including petitions and related materials
3 transferred to the Commission from the Department
4 under section 5(a)(2), as well as related materials located
5 within the Department that have yet to be transferred to
6 the Commission, the Department and the Commission
7 shall exclude materials identified by the petitioning group
8 as information related to religious practices or sacred
9 sites, and which the group is forbidden to disclose except
10 for the limited purpose of Department and Commission
11 review.

12 **SEC. 22. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) COMMISSION.—There are authorized to be appro-
14 priated to the Commission to carry out this Act (other
15 than section 17) such sums as are necessary for each of
16 fiscal years 2010 through 2018.

17 (b) SECRETARY OF HHS.—There are authorized to
18 be appropriated to the Secretary of Health and Human
19 Services to carry out section 17 such sums as are nec-
20 essary for each fiscal years 2010 through 2018.

○