

## Calendar No. 606

109TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 109-334

### LUMBEE RECOGNITION ACT

SEPTEMBER 13, 2006.—Ordered to be printed

Mr. MCCAIN, from the Committee on Indian Affairs,  
submitted the following

### R E P O R T

[To accompany S. 660]

The Committee on Indian Affairs, to which was referred the bill, S. 660, to provide for the acknowledgment of the Lumbee Tribe of North Carolina, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

#### PURPOSE

S. 660 would provide Federal recognition to the Lumbee Indians of North Carolina and make applicable to the group and its members all laws that are generally applicable to Indians and Federally-recognized Indian tribes and make available all services for which such groups are eligible.

#### BACKGROUND

##### PREVIOUS RECOGNITION ATTEMPTS

The issue of the status of the Lumbee Indians of North Carolina (the “Tribe”) comes to the Committee with a voluminous congressional and administrative record. Beginning in 1899, numerous bills have been introduced in Congress to recognize the group.<sup>1</sup>

<sup>1</sup>See, e.g., H.R. 4009, 56th Cong., 1st Sess.; H.R. 19036, 61st Cong., 2d Sess.; S. 3258, 62d Cong., 1st Sess. [House companion H.R. 20728]; H.R. 8083, 68th Cong., 1st Sess.; S. 4595, 72d Cong., 2d Sess.; H.R. 5365, 73d Cong., 1st Sess. [Senate companion S. 1632]; H.R. 4656, 84th Cong., 1st Sess.; H.R. 5042, 100th Cong., 1st Sess. [Senate companion S. 2672]; H.R. 2335, 101st Cong., 1st Sess. [Senate companion S. 901]; H.R. 1426, 102d Cong., 1st Sess. [Senate companion S. 1036]; H.R. 334, 103d Cong., 1st Sess.; S. 420, 108th Cong., 1st Sess. [House companion H.R. 898].

Hearings were held and reports filed on several of these bills.<sup>2</sup> In addition, Congress requested and obtained substantial reports from the Department of the Interior on the Lumbees' history and status.<sup>3</sup>

Historically, the Department of the Interior has opposed Lumbee recognition bills, often on the grounds that recognition would entail Federal provision of costly services. For example, in 1890 Commissioner of Indian Affairs Moore recommended that Congress reject the Tribe's first request for recognition in 1888, advising Congress:

While I regret exceedingly that the provisions made by the State of North Carolina are entirely inadequate, I find it quite impractical to render any assistance at this time. The government is responsible for the education of something like 36,000 Indian children and has provision for less than half that number. So long as the immediate wards of the government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatans or any other civilized tribes.<sup>4</sup>

While Federal recognition of the group has been elusive, state recognition has been long-standing, since 1885. The name of the entity, however, has changed through time, depending upon the representations of local historians and members of the legislature regarding the Indian group's history. The State of North Carolina has recognized the group as Croatan [1885 to 1911], Indians of Robeson County [1911 to 1913], and Cherokee Indians of Robeson County [1913–1953].

Eventually the group became dissatisfied with its name under state law. In 1952, the group conducted a referendum on its name and voted overwhelmingly for the adoption of the name "Lumbee," derived from the Lumber River along which the group lived in the past and along which many members continue to live today. The State of North Carolina changed its law to reflect this name change in 1953. The group has since been recognized by the State as the Lumbee Tribe.

In 1955, the Lumbees again sought Federal recognition based on the recently amended state law. Again, the Department of the Interior opposed the bill, but recommended an amendment that included language, consistent with the then-prevailing Federal Indian policy of termination, that declared the group ineligible for services and not subject to general statutes governing Indian affairs. This amended bill was enacted by Congress in 1956 and provided that the Indians inhabiting the coastal regions of North

<sup>2</sup>See Hearing before the Senate Committee on Indian Affairs on S. 3258, 62d Cong., 2d Sess., April 4, 1912; Hearing before the Committee on Indian Affairs, House of Representatives, on S. 3258, Feb. 14, 1913; H. Rep. No. 1752, 73d Cong., 2d Sess.; S. Rep. No. 204, 73d Cong., 2d Sess.; H. Rep. No. 1654, 84th Cong., 2d Sess.; S. Rep. No. 84–2012, 84th Cong., 2d Sess.; S. Rep. No. 100–579, 100th Cong., 2d Sess.; H. Rep. No. 102–215, 102d Cong., 1st Sess.; H. Rep. No. 103–290, 103d Cong., 1st Sess.; S. Rep. No. 108–213, 108th Cong., 1st Sess.

<sup>3</sup>See Indian School Supervisor Pierce Report, filed with Senate on April 4, 1912; Special Indian Agent McPherson report, Doc. No. 677, 53d Cong., 2d Sess., prepared in 1914; Report of J.R. Swanton, Smithsonian Institute, at request of Bureau of Indian Affairs and submitted to Congress at the 1933 hearing; and Fred A. Baker Report on the Siouan Tribe of Indians of Robeson County, July 9, 1935.

<sup>4</sup>Commissioner of Indian Affairs, as quoted in the O.M. McPherson Report on Condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina, at p. 40, Doc. No. 677, 53d Cong., 2d sess. (1914).

Carolina “be known and designated as Lumbee Indians of North Carolina. \* \* \*”<sup>5</sup>

In 1988, the Associate Solicitor for Indian Affairs concluded that the 1956 Act was not a recognition act but instead “essentially identifie[d] a group of Indians as Lumbee Indians.”<sup>6</sup> In 1989, the Associate Solicitor for Indian Affairs concluded in a formal opinion that the 1956 Lumbee Act precluded the Lumbees from participating in the Department of the Interior’s acknowledgment process for Indian tribes and that Congress would need to amend that Act in order for the Department to proceed with the recognition process for the Lumbees.<sup>7</sup>

The only other Indian tribe placed by Congress in a similar position is the Tiwa Tribe of Texas. Using the 1956 Lumbee Act as the model, in 1968 the Congress enacted a statute that acknowledged the Tiwas—a state recognized tribe—as an Indian tribe, but precluded the application of general Indian statutes and the delivery of Federal services to the tribe.<sup>8</sup> As a result, the Tiwas were ineligible for the administrative acknowledgment process. In 1987, Congress enacted legislation to restore the Tiwas, renamed the Ysleta del Sur Pueblo, to the Federal relationship, Pub. L. 100–89, Act of August 18, 1987, 101 Stat. 667.

#### HEARING TESTIMONY

At the July 12, 2006, hearing, the Committee received testimony from several sources indicating that the Lumbee have existed through history as a tribe. Dr. Jack Campisi, an anthropologist who provided consulting services to the Lumbee, testified that the Lumbee could meet each of the mandatory criteria set forth in the Bureau of Indian Affairs’ Federal Acknowledgment Process (FAP). See 25 C.F.R. § 83.7.<sup>9</sup> Although Congress is not bound by the BIA criteria when making its own recognition decisions, the Committee notes the persuasive evidence that has been marshaled in support of administrative recognition. Dr. Campisi testified to the continuous existence of Indians along the Lumber River, with examples of documented presence from 1725 to the present. Dr. Campisi specified that the Lumbee are descended from the historic Cheraw and related Siouan-speaking tribes as evidenced by their historical location on the Lumber River and by the fact that traditional Cheraw surnames, such as Locklear, Chavis and Groom, continue to be shared by modern-day Lumbees. He noted that the Lumbee community remains distinct, as evidenced both by its geographic

<sup>5</sup> Pub. L. 84–570, Act of June 7, 1956, 70 Stat. 254.

<sup>6</sup> See Memorandum to Assistant Secretary-Indian Affairs, U.S. Department of the Interior, Office of the Solicitor [BIA-IA-0929] (1988) in H.R. Rep. No. 102–215, at 24 (1991).

<sup>7</sup> See Memorandum to Assistant Secretary-Indian Affairs, U.S. Department of the Interior, Office of the Solicitor [BIA-IA-0929] (1989) in H.R. Rep. No. 102–215, at 26 (1991).

<sup>8</sup> See H. Rep. No. 1070, 90th Cong., 2d Sess.; 82 Stat. 93.

<sup>9</sup> Legislative Hearing on S. 660, “To provide for the acknowledgment of the Lumbee Tribe of North Carolina, and for other purposes,” Before the Senate Committee on Indian Affairs, 109th Cong. 11 (2006) (statement of Dr. Jack Campisi). At the hearing, however, it was also acknowledged that the group could have difficulty meeting the last of the mandatory criteria, that “Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.” 25 C.F.R. 83.7(g). Dr. Campisi acknowledged that the Department of the Interior Office of the Solicitor determined in 1989 that the 1956 Lumbee Act forbid the federal relationship for the purposes of 25 C.F.R. 83.7(g). The Solicitor did not rule out a future federal relationship, however, stating that Congress could either amend the 1956 Act to allow the group to go through the Federal Acknowledgment Process or enact legislation granting recognition.

concentration in Robeson County and by the high percentage of group members who are married to other members of the group.

Dr. Campisi also noted that the Lumbee have maintained political authority as evidenced by the group's control over its school system and teacher's training college. In 1887, for example, the State of North Carolina established a separate state-funded school system for Lumbee children. The Lumbee managed the school and when, in 1913, the State Attorney General opined that the county school board could override tribal decisions regarding eligibility to attend the Lumbee schools, Lumbee leaders convinced the State Legislature to pass special legislation setting aside the Attorney General's opinion. The Indian Normal School established by the State in 1888 to train Lumbee teachers for the group's school system has been in continuous operation and is today the University of North Carolina at Pembroke. Dr. Campisi also testified that key events in the history of the Lumbee also corroborate its separate existence as a political community. For example, during the Civil War, the North Carolina Home Guard attempted to conscript ancestors of the Lumbee into confederate service. The Lumbees resisted this effort, resulting in the formation of a defensive band led by Henry Berry Lowrie. Lowrie was protected by tribal members and never captured by the Home Guard. According to Dr. Campisi, Lowrie is a folk hero among the Lumbee and his life is commemorated today in the annual "Strike at the Wind" outdoor drama held by the group.

Other witnesses testified to the long and difficult path that the Lumbee have taken in pursuit of federal recognition. James Goins, Chairman of the Lumbee, and Arlinda Locklear, counsel for the Lumbee, both testified to the hundred years of effort that the group has devoted to seeking legislative and administrative recognition. They and the legislation's sponsors, Senators Dole and Burr, testified that fundamental fairness requires legislative recognition.

While the Committee thus has received extensive testimony that recognition is warranted, it notes one unique factor that requires attention. The Lumbee represent the largest non-Federally recognized tribe in the country, with a tribal enrollment estimated between 53,000–75,000. As noted in the report provided to the Committee by the Congressional Budget Office and in testimony from the Eastern Band of Cherokee, who oppose Lumbee recognition, making the Tribe eligible for Federal services will result in a substantial budgetary impact on all the administrative agencies that provide programs and services for Indian tribes. In addition, the Department noted in testimony at the July 12, 2006, hearing that, given the number of members, it will need a substantial period of time to review the membership rolls of the tribe to certify that such lists include only Lumbee Indians. Other local Indian groups that identify with the historical Tuscarora Tribe located in North Carolina have expressed concern that they not be deemed Lumbee, either for the purposes of this recognition bill or for being subject to the provisions of the 1956 Act. Establishing clarity as to Lumbee membership is therefore imperative, both for the Department of the Interior and for other North Carolina Indians.

## SUMMARY OF MAJOR PROVISIONS

The Lumbee Recognition Act, S. 660, amends Pub. L. 84–570, the 1956 Lumbee Act, to provide recognition to the Lumbee Tribe of North Carolina and to apply to the Tribe all Federal laws of general application to Indians and Indian tribes.

Section 2 adds additional precatory clauses to the preamble of the 1956 Lumbee Act.

Section 3 amends the 1956 Lumbee Act by striking the current Section 2 of the 1956 Lumbee Act, and inserting a new Section 2 that will provide Federal recognition to the Lumbee Tribe. Language of this new section further provides that any other group of Indians in Robeson and adjoining counties, North Carolina, which heretofore has been prevented from pursuing petitions pursuant to 25 C.F.R. Part 83, will be deemed eligible to have their petitions for tribal acknowledgment considered. The Committee received testimony at the July 12, 2006, hearing from the BIA's Office of Federal Acknowledgment Director, who indicated that six other groups in Robeson and adjoining counties in North Carolina, who have petitioned under the Federal Acknowledgment Process, have been determined ineligible to petition, based on the 1989 Solicitor's opinion. In addition, more than 80 other groups that have contacted the Office of Federal Acknowledgment are affected by the 1956 Lumbee Act.

The Committee further notes that section 2 does not restore the Tribe, but extends Federal recognition. It is the express intent of the Committee that this bill not be deemed to be a restoration act, for purposes of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., or otherwise.

Section 3 of the bill further amends the 1956 Lumbee Act to provide a new Section 3 that provides that the Tribe and its members will be eligible for the programs and services that are available to other Federally recognized tribes. The bill does not automatically create an Indian reservation but merely defines a service delivery area within which the Tribe and its members will be eligible to receive Federal services. The new Section 3 also provides for verification of the tribal membership roll by the Secretary of the Interior for purposes of delivery of services. The Committee notes that this verification is not intended to authorize the Secretary to independently impose eligibility standards for membership. Rather it is simply intended to provide the Secretary, in keeping with trust responsibilities, with oversight to insure that each enrolled member actually appears on the Tribe's membership roll with the supporting documentation required by the Tribe.

With regard to land, the bill will insert a new Section 4 into the 1956 Lumbee Act. This new section will provide that land within Robeson County, North Carolina, will be eligible to be taken into trust by the United States and will be treated as on-reservation for all administrative purposes. Notwithstanding the taking of land into trust for the Tribe, the bill will insert into the 1956 Lumbee Act a new Section 5 that provides that the State of North Carolina will continue to exercise civil and criminal jurisdiction over tribal members and any lands that may be acquired in trust for the Tribe, except for application of Section 109 of the Indian Child Wel-

fare Act of 1978.<sup>10</sup> The Committee notes that this provision is a departure from long-established Federal Indian policy, which provides generally for exclusive Federal and tribal civil and criminal jurisdiction over tribal members and tribal lands. However, similar jurisdictional provisions have been provided by Federal statute on a case-by-case basis for specific Indian reservations or within specific states. See e.g. P.L. 83-280, 67 Stat. 589, Aug. 15, 1953. The intent of this provision is to maintain the status quo with respect to jurisdiction, since the Tribe has enjoyed a long-standing relationship with the State of North Carolina, and is well represented among elected members of local governments where tribal members are geographically concentrated. The Committee further notes that this bill makes provision for retrocession of that jurisdiction from the State of North Carolina to the United States upon agreement between the Tribe and the State of North Carolina.

#### LEGISLATIVE HISTORY

S. 660 was introduced by Senators Dole and Burr on March 17, 2005, and referred to the Committee on Indian Affairs. On May 24, 2006, Senator Crapo was added as a cosponsor. The Committee held a hearing on the bill on July 12, 2006.

The Committee ordered the bill to be reported favorably on August 2, 2006.

#### SECTION-BY-SECTION ANALYSIS OF S. 660

Section 1 titles the bill the Lumbee Recognition Act.

Section 2 amends the preamble to the Act of June 7, 1956, by incorporating Congressional findings that the Lumbee Indians of Robeson and adjoining counties in North Carolina: (1) are descendants of North Carolina Indian tribes, mainly Cheraw; (2) have been recognized by the State of North Carolina since 1885; (3) are subject to a 1956 Act of Congress that acknowledged the Lumbee Indians as an Indian tribe but withheld the benefits, privileges and immunities to which other Federally recognized tribes are entitled; and (4) are entitled to Federal recognition as a distinct Indian tribe and to the benefits, privileges and immunities that accompany such status.

Section 3 amends the 1956 Act by striking the last sentence of the first section and all of section 2 and inserting the following provisions to the Act:

A new section 2(a) provides for Federal recognition of the Lumbee Tribe of North Carolina and for application to such tribe of all Federal laws of general application to Indians and Indian tribes.

A new section 2(b) provides that notwithstanding (a), any group of Indians in Robeson and adjoining counties, North Carolina, whose members are not enrolled in the Lumbee Tribe may petition under part 83 of title 25 of the Code of Federal Regulations for acknowledgment of tribal existence.

A new section 3(a) provides that the Lumbee Tribe and its members shall be eligible for services provided to Indians because of their status as Indians, and defines the service area for delivery of

<sup>10</sup>25 U.S.C. § 1919.

those services as Robeson, Cumberland, Hoke, and Scotland Counties in North Carolina. Subsection (b) directs the secretaries of the departments of the Interior and Health and Human Services to conduct a needs assessment and develop a budget for the services to which members of the Tribe are eligible, in consultation with the Tribe. Both secretaries are directed to submit to Congress a written statement of such needs and budget the first fiscal year following the verification of a tribal roll under subsection (c). Subsection (c) authorizes the Secretary of the Interior to verify a tribal roll for the purposes of the delivery of federal services within one year after the date of enactment.

A new section 4 provides that any request by the tribe to the Secretary of the Interior for a trust acquisition of land in Robeson County, North Carolina, shall be treated as an on-reservation acquisition under governing Federal regulations.

A new section 5(a) provides that the State of North Carolina shall continue to exercise civil and criminal jurisdiction over tribal members and any lands that may be acquired in trust for the tribe. Subsection (b) authorizes the Secretary of the Interior, after consultation with the Attorney General of the United States, to accept a transfer of any portion of jurisdiction from the State pursuant to an agreement between the Lumbee Tribe and the State.

A new section 6 authorizes such sums as are necessary to carry out the Act.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Committee held a business meeting to consider S.660 on August 2, 2006. At that business meeting, Senator Thomas offered an amendment in the nature of a substitute to the bill as introduced. Senator Thomas's amendment in the nature of a substitute would enable the Lumbees (and any other group of Indians in Robeson and adjoining counties in North Carolina) to go through the administrative Federal Acknowledgment Process in the Bureau of Indian Affairs, notwithstanding the 1956 Lumbee Act and, if recognized under the administrative process, to receive federal services. The amendment would also deem the documented petition of the Lumbee Indians (Petitioner #65) that was submitted to the BIA in 1988 to be complete. The Thomas amendment was defeated in a 6 to 8 rollcall vote, listed below.

|                   |                  |
|-------------------|------------------|
| Voting no         | Voting aye       |
| Senator McCain    | Senator Thomas   |
| Senator Murkowski | Senator Coburn   |
| Senator Domenici  | Senator Dorgan   |
| Senator Smith     | Senator Conrad   |
| Senator Crapo     | Senator Johnson  |
| Senator Burr      | Senator Cantwell |
|                   | Senator Inouye   |
|                   | Senator Akaka    |

The Committee then voted, by voice vote, to report S. 660 favorably to the full Senate, without amendment.

## COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 660 as calculated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 11, 2006.*

Hon. JOHN MCCAIN,  
*Chairman, Committee on Indian Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 660, the Lumbee Recognition Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel S. Hoople.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*S. 660—Lumbee Recognition Act*

Summary: S. 660 would provide federal recognition to the Lumbee Tribe of North Carolina. CBO estimates that implementing this legislation would cost the Federal Government about \$80 million in fiscal year 2007 and \$473 million over the 2007–2011 period, assuming the appropriation of the necessary funds. Enacting S. 660 would have no effect on direct spending or revenues.

S. 660 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no direct costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 660 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 550 (health).

|  | By fiscal year, in millions of dollars— |      |      |      |      |
|--|---|------|------|------|------|
|  | 2007                                    | 2008 | 2009 | 2010 | 2011 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |   |      |      |      |      |
| Bureau of Indian Affairs:                    |   |      |      |      |      |
| Estimated Authorization Level .....          | 22                                      | 22   | 23   | 23   | 24   |
| Estimated Outlays .....                      | 15                                      | 21   | 22   | 23   | 23   |
| Indian Health Service:                       |   |      |      |      |      |
| Estimated Authorization Level .....          | 70                                      | 72   | 75   | 78   | 81   |
| Estimated Outlays .....                      | 63                                      | 72   | 75   | 78   | 81   |
| Total Changes:                               |   |      |      |      |      |
| Estimated Authorization Level .....          | 92                                      | 94   | 98   | 101  | 105  |
| Estimated Outlays .....                      | 78                                      | 93   | 97   | 101  | 104  |

Basis of estimate: S. 660 would provide federal recognition to the Lumbee Tribe of North Carolina. Such recognition would allow the Lumbee to receive funding from various programs administered by the Bureau of Indian Affairs (BIA), including child welfare services, adult care, family services, general assistance, and the Indian Health Service (IHS).

*Bureau of Indian Affairs*

BIA provides funding to federally recognized Indian tribes based on membership population or acreage of land held in trust by the federal government. Based on information from the Lumbee Tribe, there are approximately 39,700 Lumbee currently residing “on or near the reservation” as defined by the bill. Assuming the appropriation of the necessary funds, CBO estimates that implementing S. 660 would cost approximately \$15 million in 2007 and \$104 million in BIA funding over the 2007–2011 period. This estimate is based on expenditures for other federally recognized tribes located in the eastern United States; the Lumbee Tribe may qualify for more or fewer services and funding than other tribes in the region, thus the cost to implement this bill is uncertain.

*Indian Health Service*

S. 660 also would make members of the Lumbee Tribe eligible to receive health benefits from the Indian Health Service. Based on information from IHS, CBO estimates that about 55 percent of tribal members—or about 22,000 people—would receive benefits each year. CBO assumes that the cost to serve those individuals would be similar to funding for current beneficiaries—about \$3,100 per person in 2007. Assuming appropriation of the necessary funds, CBO estimates that IHS benefits for the Lumbee Tribe would cost \$63 million in 2007 and \$369 million over the 2007–2011 period.

*Other*

In addition to BIA and IHS funds, certain Indian tribes also receive funding from other federal programs within the Departments of Education, Housing and Urban Development, Labor, and Agriculture. Based on their status as a state-recognized tribe, the Lumbee are currently eligible to receive funding from those sources. Thus, CBO estimates that enactment of S. 660 would not add to the cost of those programs.

Intergovernmental and private-sector impact: S. 660 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no direct costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Bureau of Indian Affairs—Daniel Hoople, Indian Health Service—Eric Rollins. Impact on state, local, and tribal governments: Marjorie Miller. Impact on the Private Sector: Carla-Marie Ulerie.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 660 will have a minimal impact on regulatory or paperwork requirements.

## EXECUTIVE COMMUNICATIONS

There have been no executive communications received on this legislation.

## CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is show in roman):

**PUBLIC LAW 84-570**

AN ACT Relating to the Lumbee Indians of North Carolina

Whereas many Indians now living in Robeson and adjoining counties are descendants of that once large and prosperous tribe which occupied the lands along the Lumbee River at the time of the earliest white settlements in that section; **[and]**

Whereas at the time of their first contacts with the colonists, these Indians were a well-established and distinctive people, living in European-type houses in settled towns and communities, owning slaves and livestock, tilling the soil, and practicing many of the arts and crafts of European civilization; **[and]**

Whereas by reason of tribal legend, coupled with a distinctive appearance and manner of speech and the frequent recurrent among them of family names such as Oxendine, Locklear, Chavis, Drinkwater, Bullard, Lowery, Sampson, and other, also found on the roster of the earliest English settlements, these Indians may, with considerable show of reason, trace their origin to an admixture of colonial blood with certain coastal tribes of Indians; **[and]**

Whereas these people are naturally and understandably proud of their heritage, and desirous of establishing their social status and preserving their racial history~~[: Now, therefore,]~~;

*Whereas the Lumbee Indians of Robeson and adjoining counties in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw, and have remained a distinct Indian community since the time of contact with white settlers;*

*Whereas since 1885 the State of North Carolina has recognized the Lumbee Indians as an Indian tribe;*

*Whereas in 1956 the Congress of the United States acknowledged the Lumbee Indians as an Indian tribe, but withheld from the Lumbee Tribe the benefits, privileges and immunities to which the Tribe and its members otherwise would have been entitled by virtue of the Tribe status as a federally recognized tribe; and*

*Whereas the Congress finds that the Lumbee Indians should now be entitled to full Federal recognition of their status as an Indian tribe and that the benefits, privileges and immunities that accompany such status should be accorded to the Lumbee Tribe: Now, Therefore,*

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after the ratification of this Act, be known and designated as Lumbee Indians of North Carolina and shall continue to enjoy all rights, privileges, and immunities enjoyed by them as citizens

of the State of North Carolina and of the United States as they enjoyed before the enactment of this Act, and shall continue to be subject to all the obligations and duties of such citizens under the laws of the State of North Carolina and the United States. [Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians.]

SEC. 2. All laws and parts of laws in conflict with this Act are hereby repealed.]

**SEC. 2. RECOGNITION.**

(a) *IN GENERAL.*—Federal recognition is extended to the Lumbee Tribe of North Carolina. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Lumbee Tribe of North Carolina and its members.

(b) *PETITION.*—Notwithstanding the first section, any group of Indians in Robeson and adjoining counties, North Carolina, whose members are not enrolled in the Lumbee Tribe of North Carolina as determined under section 3(c), may petition under part 83 of title 25 of the Code of Federal Regulations for acknowledgment of tribal existence.

**SEC. 3. ELIGIBILITY FOR SERVICES AND BENEFITS.**

(a) *IN GENERAL.*—

(1) *SERVICES AND BENEFITS.*—The Lumbee Tribe of North Carolina and its members shall be eligible for all services and benefits provided to Indians because of their status as members of a federal recognized tribe.

(2) *RESIDENCE ON OR NEAR RESERVATION.*—For the purposes of the delivery of such services, those members of the tribe residing in Robeson, Cumberland, Hoke, and Scotland counties in North Carolina shall be deemed to be residing on or near an Indian reservation.

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

(1) *IN GENERAL.*—On verification by the Secretary of the Interior of a tribal roll under subsection (c), the Secretary of the Interior and the Secretary of Health and Human Services shall develop, in consultation with the Lumbee Tribe of North Carolina, a determination of needs and budget to provide the services to which members of the tribe are eligible.

(2) *INCLUSION IN BUDGET REQUEST.*—The Secretary of the Interior and Secretary of Health and Human Services shall each submit a written statement of such needs and budget with the first budget request submitted to Congress after the fiscal year in which the tribal roll is verified.

(c) *TRIBAL ROLL.*—

(1) *IN GENERAL.*—For purposes of the delivery of Federal services, the tribal roll in effect on the date of the enactment of this section shall, subject to verification by the Secretary of the Interior, define the service population of the tribe.

(2) *VERIFICATION.*—The Secretary's verification shall be limited to confirming compliance with the membership criteria set out in the tribe's constitution adopted on November 11, 2000,

*which verification shall be completed not less than 1 year after the date of the enactment of this section.*

**SEC. 4. FEE LAND.**

*Fee land that the tribe seeks to convey to the United States to be held in trust shall be treated by the Secretary of the Interior as on-reservation trust acquisitions under part 151 of title 25 Code of Federal Regulations (or any successor regulation) if the land is located within Robeson County, North Carolina.*

**SEC. 5. STATE JURISDICTION.**

(a) *IN GENERAL.*—*The State of North Carolina shall exercise jurisdiction over—*

*(1) all criminal offenses that are committed on; and*

*(2) all civil actions that arise on; lands located within the State of North Carolina that are owned by, or held in trust by the United States for, the Lumbee Tribe of North Carolina, or any dependent Indian community of the Lumbee Tribe of North Carolina.*

(b) *TRANSFER.*—

*(1) IN GENERAL.*—*The Secretary of the Interior may accept on behalf of the United States, after consulting with the Attorney General of the United States any transfer by the State of North Carolina to the United States of any portion of the jurisdiction of the State of North Carolina described in paragraph (1) under an agreement between the Lumbee Tribe and the State of North Carolina.*

*(2) EFFECTIVE DATE.*—*Such transfer or jurisdiction may not take effect until 2 years after the effective date of the agreement.*

(c) *EFFECT OF SECTION.*—*This section shall not affect the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).*

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated such sums as are necessary to carry out this Act.”*

