

groups. Finally, these programs have traditionally served those older persons with the greatest economic need. A significant portion of the cost of these programs are borne by the participants themselves. Seniors contributed at least \$171 million last year to the programs based on their ability to pay.

Moreover, these programs are some of the most effective in keeping administration costs extremely low. Much of the administrative costs of these programs are provided by volunteers. The reduction of funding will have an adverse effect on the potential of providers to recruit increased numbers of volunteers. Furthermore, the number of volunteers would be decreased as well, since many senior volunteers are participants in the programs.

This proposal from the Contract With America does not make cost effective sense. The logic of this proposal is faulty on its face. The proposed changes will result in more people going to nursing homes since preventive and supportive services, including meals, will be decreased. Every recipient who receives meals at home is considered frail and generally at risk of nursing home placement.

If this block grant was created, 5,040 home delivered meal recipients would be dropped from the program, these frail seniors would most likely be unable to remain in their homes and would be at high risk of entering a nursing home. This would cost the Federal Government \$86 million per year in Medicaid funds. As opposed to the present cost of \$7.5 million under the Older American Act and related state funded programs for home based care.

Remember, this \$86 million is only for Florida. It is more than 10 times less expensive to keep people in their homes, where they want to be in the first place. Obviously, the results of block granting these programs have not been thought through. It is just another one of the shallow plans Republicans are offering without thinking through the personal or financial consequences. This plan would end up costing us billions of dollars and cutting vital services to the elderly.

Mr. Speaker, the average age of the people in my district makes it the second oldest in the state. I have worked closely with a number of programs in my District that provide these nutrition programs to my constituents. I know from first hand experience how important they are to a great deal of the elderly folks in Florida.

Nutrition studies from the University of Florida have shown that 69 percent of the congregate meal participants were at moderate to high risk for malnutrition. Moreover, 89 percent of the home delivered meal participants were at moderate to high risk for malnutrition.

Mr. Speaker, I have talked to many participants of these nutritional programs and I receive letters like these every day.

Like the one from this 83 year old woman. She has been going to the same site in New Port Richey every day since 1983. Her son brings her every morning and picks her up afterwards. She loves to be around people and feel useful instead of just sitting at home.

She is very healthy and goes to the site to enjoy the camaraderie of other seniors her age. She is very active at the site and is a regular volunteer.

She is grateful to this elderly nutrition program and stated that "the program keeps her young." If this program were based on income eligibility she would not qualify for it.

Or this letter, that comes from a retired pharmacist, from New Port Richey, who lives alone since the death of his wife. Each day, instead of sitting home alone, he comes to the Elderly Nutrition dining site. He looks forward to volunteering at the site and delivering meals to the homebound.

He writes to tell me that if the criteria for eligibility in the Nutrition Program is changed and he is found to be unqualified, it will leave a huge void in his life. He feels that he would become depressed if he had to stay at home "staring at four walls."

He has the means to pay for his meals in a restaurant, but would be unable to find the socialization and companionship that he needs from other seniors there. Due to physical disabilities, he is unable to interact in recreational activities. At the lunch site he finds more appropriate activities to fulfill his needs.

Mr. Speaker, the debate on welfare has been focused on moving people off welfare and into work. The American people do not want to continue an endless entitlement program without requiring any responsibility on the part of the recipients.

What we need to understand, is that the Elderly Nutrition Program is not welfare. Unfortunately, the Nutrition Program for the Elderly got swept along in a big net cast out to reform the welfare system. This is a program that serves very vulnerable seniors. This program does not belong in the debate on connecting recipients to the work place.

The welfare debate is about personal responsibility and work. The Elderly Nutrition Program is about keeping seniors alive and independent. Not a single person has alleged that the program is anything less than a successful program that has improved the nutrition and physical and mental health of millions of seniors in our country.

Mr. Speaker, I urge my fellow members to examine these elderly nutrition programs and recognize the fact that they do not belong in the welfare debate. Including them in a massive block grant, as offered by the Republicans in the Contract With America, would be a massive mistake. It would in the most cruel way, pit one generation against another in the fight for survival.

Last night, President Clinton said that seniors have made us what we are as a nation. He is right. We shouldn't thank them for their sacrifices to the present generation by kicking them out on the street.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Ms. ESHOO] is recognized for 5 minutes.

[Ms. ESHOO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I am pleased to join with my good friends, Mr. BILL RICHARDSON, Mr. PAT WILLIAMS, Mr. GEORGE MILLER, and Mr.

PETER DEFAZIO, in introducing the Indian Federal Recognition Administrative Procedures Act of 1995 which will create an efficient and fair procedure for extending federal recognition to certain Indian tribes. Similar legislation was passed by the House of Representatives last Congress but, unfortunately, failed to pass in the Senate by the end of the session.

Mr. Speaker. There remains a great need for redesign of the current process for federally recognizing Indian tribes. For instance, it was not until 1979, 157 years after the establishment of the Bureau of Indian Affairs, that a comprehensive list of Indian tribes was published. It fact, the concept of Federal recognition did not even become a significant legal issue until the 1970s, following two federal appellate court decisions and recommendations of the American Indian Policy Commission.

The current recognition process is very cumbersome, lengthy and, in many cases, ill-suited to factual and fair determinations. Unfortunately, federal regulations are by no means clear regarding the criteria that a tribe seeking federal recognition must satisfy, nor what evidence the BIA must verify. In addition, the current process has led to a backlog of petitions. Since 1978, the BIA has received over 116 new petitions. The BIA has resolved only 25 cases since 1978, nine in favor of recognition, and 13 against recognition. While in the past two months, the BIA has acted on two petitions, in both cases announcing proposed findings of denial, the process remains unwieldy.

Mr. Speaker, in addition, the costs to tribal petitioners of participating in the federal recognition process are prohibitively expensive, averaging between \$300,000 and \$500,000. In addition, the BIA's own system appears to suffer internal conflicts because the same agency individuals who conduct the research into a tribe's history also make the final recognition decision.

Mr. Speaker, this legislation responds to these problems by creating an independent Commission on Indian Recognition, comprised of three individuals. The Commission would receive petitions for recognition. The legislation prescribes procedures for considering petitions, and affords petitioners the right to adjudicative hearings and appeals, and access to federal courts. For instance, the bill would allow petitioning groups to conduct discovery and cross-examine witnesses and evidence in a Commission hearing. More importantly, the bill sets forth more objective, consistent, and streamlined standards for acknowledging groups as federally recognized Indian tribes. By so doing, the legislation greatly enhances the ability of the federal government to more accurately, efficiently, and fairly determine whether or not to extend federal recognition to tribal petitioners.

Mr. Speaker, today I attended a White House meeting with a number of

tribal leaders and officials of non-recognized tribes. The tribal leaders were very adamant about their dissatisfaction with the current recognition process and urged both the Administration and Congress to make wholesale changes in the law. I would like to emphasize that the legislation that I am introducing today is only the starting point for further discussion and debate. I remain open to, and look forward to, the advice and input of my other colleagues, as well as agency and tribal recommendations. I firmly believe that together we can arrive at a fair and workable solution to the problems associated with the federal recognition process.

I urge my colleagues to support this measure.

I include a copy of the bill, as follows:

H.R. 671

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

SECTION 1. SHORT TITLE.

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

SEC. 2. PURPOSES.

The purposes of this Act are—

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

(2) to extend to Indian groups which are determined to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility;

(3) to extend to Indian groups which are determined to be Indian tribes the immunities and privileges available to other federally-recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States;

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

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

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

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

(8) to remove the Federal acknowledgment process from the Bureau of Indian Affairs and invest it in an independent Commission on Indian Recognition.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "aboriginal group" means any Indian group or tribe that is presently located in Canada or the United States of Mexico and consists of individuals who are descendants of the people who inhabited the area now constituting those two countries prior to their first sustained contact with Euro-Americans.

(2) The term "acknowledgment" or "acknowledged" means a determination by the Commission on Indian Recognition that an Indian group constitutes an Indian tribe with a government-to-government relationship with the United States, and whose members are recognized as eligible for the special programs and services provided by the United

States to Indians because of their status as Indians.

(3) The term "autonomous" means the exercise of political influence or authority independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the history, geography, culture and social organization of the petitioner.

(4) The term "Bureau" means the Bureau of Indian Affairs.

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

(6) The term "community" means any group of people, living within a reasonable territorial propinquity, which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. "Community" must be understood in the context of the history, culture and social organization of the group, taking into account the geography of the region in which they reside.

(7) The term "continuously" or "continuous" means extending from the first sustained contact with Euro-Americans throughout the group's history to the present substantially without interruption.

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

(9) The term "documented petition" means the detailed, factual exposition and arguments, including all documentary evidence, necessary to demonstrate that these arguments specifically address the mandatory criteria established in section 5.

(10) The term "historically", "historical" or "history" means dating from the first sustained contact with Euro-Americans.

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

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

(13) The term "indigenous" means native to the United States in that at least part of the petitioner's traditional territory at the time of first sustained contact with Euro-Americans extended into what is now the United States.

(14) The term "letter of intent" means an undocumented letter or resolution which is dated and signed by the governing body of an Indian group and submitted to the Commission and indicates the group's intent to submit a petition for Federal acknowledgment as an Indian tribe.

(15) The term "member of an Indian group" means an individual who is recognized by an Indian group as meeting its membership criteria and who consents in writing to being listed as a member of that group.

(16) The term "member of an Indian tribe" means an individual who meets the membership requirements of the tribe as set forth in its governing document or, in the absence of a governing document which sets out these requirements, has been recognized as a member collectively by those persons comprising the tribal governing body; and has consistently maintained tribal relations with the tribe or is listed on the tribal membership rolls as a member, if such rolls are kept.

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

(18) The term "petitioner" means any group which has submitted a letter of intent to the Commission requesting acknowledgment that it is an Indian tribe.

(19) The term "political influence or authority" means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, or making decisions for the group which substantially affect its members, or representing the group in dealing with non-members in matters of consequence to the group. "Political influence or authority" is to be understood in the context of the history, culture and social organization of the group.

(20) The term "previous Federal acknowledgment" means any action by the Federal government the character of which is clearly premised on identification of a tribal political entity and clearly indicates the recognition of a government-to-government relationship between that entity and the Federal government.

(21) The term "restoration" means the reextension of acknowledgment to any previously acknowledged tribe which may have had its acknowledged status abrogated or diminished by reason of congressional legislation expressly terminating that status.

(22) The term "Secretary" means the Secretary of the Interior.

(23) The term "sustained contact" means the period of earliest sustained Euro-American settlement or governmental presence in the local area in which the tribe or tribes from which the petitioner claims descent was located historically.

(24) The term "treaty" means any treaty—

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

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

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

(25) The term "tribal relations" means participation by an individual in a political and social relationship with an Indian tribe.

(26) The term "tribal roll" means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document or, in the absence of a governing document setting forth those requirements, have been recognized as members by the tribe's governing body. In either case, those individuals on a tribal roll must have affirmatively demonstrated consent to being listed as members.

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

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

(a) ESTABLISHMENT.—There is established, as an independent commission, the Commission on Indian Recognition.

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

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

(i) recommendations received from Indian tribes;

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

(iii) individuals who, at the time of nomination, are employed by the United States

Government and would be eligible to participate through the Intergovernmental Personnel Exchange Act.

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

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

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

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

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

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

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

(5)(A) Each member of the Commission not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) Except as provided in subparagraph (C), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation, but such service shall be without interruption or loss of civil service status or privilege.

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

(6) At the time appointments are made under paragraph (1), the President shall designate one of such appointees as Chairman of the Commission.

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

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

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

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

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

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

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relat-

ing to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the Chairman deems advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

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

(2) The Commission is authorized to—

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

(B) take such testimony;

(C) have such printing and binding done;

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

(E) make such expenditures; and

(F) take such other actions,

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

(3)(A) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(B) Upon the request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

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

(f) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

SEC. 5. PETITIONS FOR RECOGNITION.

(a) IN GENERAL.—(1) Any Indian group may submit to the Commission a petition requesting that the Commission recognize that the Indian group is an Indian tribe.

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

(A) Indian tribes, organized bands, pueblos, communities, and Alaska Native entities which are recognized by the Secretary as of the date of enactment of this Act as eligible to receive services from the Bureau;

(B) splinter groups, political factions, communities, or groups of any character which separate from the main body of an Indian tribe that, at the time of such separation, is recognized as being an Indian tribe by the Secretary, unless it can be clearly established that the group, faction, or community has functioned throughout history until the

date of such petition as an autonomous Indian tribal entity;

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

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

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

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

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

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

(3)(A) No later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate, the Secretary shall transfer to the Commission all petitions pending before the Department and not then under active consideration that request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe, except those groups whose petitions are under active consideration at the time of the transfer.

(B) On the date of such transfer, the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal government, any Indian group as an Indian tribe, except those groups under active consideration whose petitions have been retained by the Department pursuant to subparagraph (A) of this paragraph.

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

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

(1) A statement of facts establishing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members:

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

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

(C) Dealings of the petitioner with a county, parish, or other local government in a relationship based on the Indian identity of the petitioner.

(D) Identification of the petitioner as an Indian entity by records in private or public archives, courthouses, churches, or schools.

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

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

(G) Identification of the petitioner as an Indian entity by other Indian tribes or by national, regional, or state Indian organizations.

(H) Identification of the petitioner as an Indian entity by foreign governments or international organizations.

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

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

(ii) Significant social relationships connecting individual members.

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

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

(v) Evidence of strong patterns of discrimination or other social distinctions by non-members.

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

(vii) Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian, and may include, but are not limited to, language, kinship or religious organizations, or religious beliefs and practices.

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

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

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

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

(ii) At least 50 percent of the marriages of the group are between members of the group.

(iii) At least 50 percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship or religious organizations, or religious beliefs or practices.

(iv) There are distinct community social institutions encompassing a substantial portion of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations. or

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

(3)(A) A statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. Evidence to be relied upon

in determining that the petitioner meets this criterion may include one or a combination of the following:

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

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

(iii) There is a widespread knowledge, communication and involvement in political processes by most of the group's members.

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

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

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

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

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

(iii) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior.

(iv) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

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

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

(5) A list of all current members of the petitioner including each member's full name (and maiden name, if any), date and place of birth, and current residential address, as well as a copy of each available former list of members based on the petitioner's own defined criteria, and a statement describing the methods used in preparing those lists. The membership must consist of individuals who have established descendancy from an Indian group which existed historically or from historical Indian groups which combined and functioned as a single autonomous entity. Evidence of tribal membership required by the Commission includes (but is not limited to)—

(A) descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;

(B) State, Federal, or other official records or evidence identifying present members of the petitioner, or ancestors of present members of the petitioner, as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity;

(C) church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity;

(D) affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity; and

(E) other records or evidence identifying present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

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

(1) party to a treaty or treaties;

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

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

(4) group has been denominated a tribe by Act of Congress or Executive Order, shall be required to establish the criteria set forth in this section only from the date of that Federal action to the present.

SEC. 6. NOTICE OF RECEIPT OF PETITION.

(a) PETITIONER.—Within 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall send an acknowledgement of receipt in writing to the petitioner and shall have published in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that will identify the entity who submitted the petition and the date the petition was received by the Commission. The notice shall also indicate where a copy of the petition may be examined.

(b) OTHERS.—The Commission shall also notify, in writing, the Governor and attorney general of, and each recognized Indian tribe within, any State in which a petitioner resides.

(c) PUBLICATION; OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—The Commission shall publish the notice of receipt of the petition in a major newspaper of general circulation in the town or city nearest the location of the petitioner. The notice shall include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to, the petition. Such submissions shall be provided to the petitioner upon receipt by the Commission. The petitioner shall be provided an opportunity to respond to such submissions prior to a determination on the petition by the Commission.

SEC. 7. PROCESSING THE PETITION.

(a) REVIEW.—(1) Upon receipt of a *documented* petition, the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

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

(3) The Commission may also initiate other research for any purpose relative to analyzing the petition and obtaining additional information about the petitioner's status and may consider any evidence which may be submitted by other parties.

(4) Upon request by the petitioner, the Library of Congress and the National Archives shall each allow access to the petitioner to its resources, records, and documents, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

(b) CONSIDERATION.—(1) Except as otherwise provided in this subsection, petitions

shall be considered on a first come, first served basis, determined by the date of the original filing of the petition with the Commission, or the Department if the petition is one transferred to the Commission pursuant to section 5(a). The Commission shall establish a priority register including those petitions pending before the Department on the date of enactment of this Act.

(2) Petitions that are submitted to the Commission by Indian groups that meet one or more of the requirements set forth in section 5(c) shall receive priority consideration over petitions submitted by any other Indian group.

SEC. 8. PRELIMINARY HEARING.

(a) IN GENERAL.—Within 60 days after the receipt of a petition by the Commission, the Commission shall set a date for a preliminary hearing. At the preliminary hearing, the petitioner and any other concerned party may provide evidence concerning the status of the petitioner.

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

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

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

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

(c) INFORMATION TO BE PROVIDED PREPARATORY TO AN ADJUDICATORY HEARING.—(1) If the Commission determines under subsection (b) that the petitioner proceed to an adjudicatory hearing, the Commission shall—

(A) make available its appropriate evidentiary records to the petitioner to assist the petitioner in preparing for the adjudicatory hearing, and shall also include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) within 30 days after the conclusion of the preliminary hearing under subsection (a), notify the petitioner in writing, which notice shall include a list of any deficiencies or omissions on which the Commission relied in making its determination.

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

SEC. 9. ADJUDICATORY HEARING.

(a) IN GENERAL.—Within 180 days after the conclusion of the preliminary hearing, the Commission shall afford the petitioner described in section 8(b)(1)(B) an adjudicatory hearing. The hearing shall be on the list of deficiencies and omissions provided under section 8(c)(1)(B) and shall be conducted pursuant to section 554 of title 5, United States Code.

(b) TESTIMONY FROM STAFF OF COMMISSION.—The Commission may require testimony from its acknowledgement and research staff or other witnesses. Any such testimony shall be subject to cross-examination by the petitioner.

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

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

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

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

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

SEC. 10. APPEALS.

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

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

SEC. 11. EFFECT OF DETERMINATIONS.

A determination by the Commission that an Indian group is recognized by the Federal Government as an Indian tribe shall not have the effect of—

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

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

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

SEC. 12. IMPLEMENTATION OF DECISIONS.

(a) ELIGIBILITY FOR SERVICES AND BENEFITS.—(1) Subject to paragraph (2), upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States, as well as having the responsibilities and obligations of such Indian tribes. Such recognition shall subject the Indian tribes to the same authority of Congress and the United States to which other federally recognized tribes are subject.

(2) Recognition of the Indian tribe under this Act does not create an immediate entitlement to existing programs of the Bureau. Such programs shall become available upon appropriation of funds by law. Requests for appropriations shall follow a determination under subsection (b) of the needs of the newly recognized Indian tribe.

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

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

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

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

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

(1) The number of petitions pending at the beginning of the year and the names of the petitioners.

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

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

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

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

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

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

SEC. 15. REGULATIONS.

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

SEC. 16. GUIDELINES AND ADVICE.

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

(b) RESEARCH ADVICE.—The Commission, upon request, is authorized to provide suggestions and advise to any petitioner for his research into the petitioner's historical background and Indian identity. The Commission shall not be responsible for the actual research on behalf of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

(a) GRANTS.—(1) The Secretary of Health and Human Services may award grants to Indian groups seeking Federal recognition to enable the Indian groups to—

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

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

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

(b) COMPETITIVE AWARD.—Grants provided under subsection (a) shall be awarded competitively based on objective criteria prescribed in regulations promulgated by the Secretary of Health and Human Services.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated for the Commission for the purpose of carrying out the provisions of this Act (other than section 15 17), \$1,500,000 for fiscal year 1996 and \$1,500,000 for each of the 12 succeeding fiscal years.

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