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SENATE

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THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT OF 2017

JUNE 28, 2017.—Ordered to be printed

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

R E P O R T

[To accompany S. 691]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 691) to extend the Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 691 is to provide federal recognition to six tribes in the Commonwealth of Virginia—the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe, and make applicable to these groups and their members all laws that are generally applicable to American Indians and federally recognized Indian Tribes.

NEED FOR LEGISLATION

Although there is a Federal regulatory process by which an Indian group may obtain Federal recognition (described below), the ability of a group to meet the regulatory requirements is highly dependent upon the availability of documentary evidence and records.

The six Virginia tribal groups proposed for recognition in S. 691 maintain that the unique history of the Commonwealth of Virginia—culminating with the destruction of the tribes’ records—prevents the tribes from satisfying the level of documentary evidence required for Federal acknowledgment by the Department of the Interior (“Department”).

Many of the courthouses that housed records and documents related to these tribal groups burned during the Civil War, making records up to the late 1800s difficult to find.¹ Additionally, through the Racial Integrity Act of 1924, the Commonwealth of Virginia required all segments of the population to be registered at birth in one of two categories: “White” or “Colored.”² The Act mandated the “Colored” category be applied to all persons determined to be non-White, regardless of race or ethnicity, including those of Indian ancestry.³ Further compounding matters, officials from the State’s Bureau of Vital Statistics interpreted the law as allowing them to retroactively change a person’s birth certificate to the “Colored” category if they believed there was evidence that the person was not “fully” White.⁴

While the primary target of the Racial Integrity Act of 1924 was the African American community,⁵ some saw the Virginia Indian community as a threat because, as long as a person had not more than $\frac{1}{16}$ Indian blood quantum, the Racial Integrity Act of 1924 allowed persons of White and Virginia Indian ancestry to be classified as “White.”⁶ Supporters of the law—including Dr. Walter Plecker, the Registrar for Virginia’s Bureau of Vital Statistics and known eugenicist—saw this exception for Indians as an opportunity for persons of mixed heritage to move from the “Colored” category to the “White” category.⁷ Officials from the State’s Bureau of Vital Statistics therefore actively sought to denigrate persons of Virginia Indian descent and deny them the right to identify as “Indians” or “White”, instead forcing them to be declared “Colored.”⁸

The Racial Integrity Act of 1924 remained in effect until 1967, when the United States Supreme Court declared it unconstitutional in *Loving v. Virginia*.⁹ In 1997, Virginia Governor George Allen signed into law a bill allowing Virginia Indians to correct their birth records.¹⁰ However, the six Virginia tribes proposed for recognition in S. 691 contend that the existence of the law for sev-

¹Rountree, Helen C., Ph.D., *A Brief History of the Six Indian Tribes Requesting Federal Acknowledgment*.

²Legislative Hearing on S. 724, *Little Shell Tribe of Chippewa Indians Restoration Act of 2007*; S. 514, *Muskogee Nation of Florida Federal Recognition Act*; S. 1058, *Grand River Bands of Ottawa Indians of Michigan Referral Act*; and H.R. 1294, *Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2007*. Before the S. Comm. on Indian Affairs. 110th Cong. 2 (2008) (Statement of Timothy M. Kaine, Governor of the Commonwealth of Virginia).

³*Id.*

⁴*Id.*

⁵*To Extend Federal Recognition to the Chickahominy Tribe, The Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, The Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe Before the Senate Committee on Indian Affairs, 107th Congress 2, 74–76 and 111–116* (2002) (statement of Danielle Moretti-Langholtz, Ph.D., American Indian Resource Center, coordinator).

⁶Section 5 of 1924 Racial Integrity Act.

⁷Legislative Hearing on S. 724; S. 514; S. 1058; and H.R. 1294 before the S. Comm. on Indian Affairs. 110th Cong. 2 (2008) (Statement of Timothy M. Kaine, Governor of the Commonwealth of Virginia).

⁸Moretti-Langholtz, *supra* note 4.

⁹388 U.S. 1 (1967).

¹⁰Legislative Hearing on S. 724; S. 514; S. 1058; and H.R. 1294 before the S. Comm. on Indian Affairs. 110th Cong. 2 (2008) (Statement of Timothy M. Kaine, Governor of the Commonwealth of Virginia).

eral decades makes it unlikely that adequate documentation exists to meet Department regulations governing acknowledgment of Indian groups.¹¹

The Commonwealth of Virginia has strongly supported extending Federal recognition to the six Virginia groups listed in S. 691. In 1999, both chambers of the General Assembly urged Congress to grant Federal recognition to the tribes. During the 109th Congress, former Governor George Allen, then-Senator, introduced S. 480, which would have granted Federal recognition to the six groups listed in S. 691. In the 111th Congress, the Committee received a letter in support of an identical bill to S. 691, signed by then-Governor Tim Kaine and six of the previous State Governors.

BACKGROUND

History of federally recognizing Indian tribes

The act of federally recognizing an Indian tribe is highly significant. It is an affirmation by the United States of the existence of a formal government-to-government relationship between the United States and the tribe. Once federally recognized, a tribe and its members have access to Federal benefits and programs, and the tribal government incurs a formal responsibility to its members as the primary governing body of the community.

Before Congress ended the practice of treaty-making with Indian tribes in 1871, treaties were the usual manner of recognizing a government-to-government relationship between the United States and an Indian tribe. Since the conclusion of this practice, the United States has recognized Indian tribes by legislation, executive orders, and administrative decisions. Additionally, Federal courts may clarify the status of an Indian group.

In order to provide a uniform and consistent process by which an Indian tribe may be federally recognized, the Department of the Interior (Department) developed an administrative process in 1978 to allow Indian groups to petition for formal acknowledgment of a government-to-government relationship with the United States. Standards and procedures for this process were set forth in Part 83 of Title 25 of the Code of Federal Regulations (Part 83 or the Federal acknowledgement process). These regulations, as amended in 1994, required a petitioner to satisfy seven mandatory requirements, including:

- (1) The petitioner “has been identified as an American Indian entity on a substantially continuous basis since 1900”;
- (2) A predominant portion of the petitioning “group comprises a distinct community and has existed as a community from historical times until the present”;
- (3) The petitioner has “maintained political influence or authority over its members as an autonomous entity from historical times to the present”;
- (4) The group must “provide a copy of its present governing documents and membership criteria”;
- (5) The petitioner’s “membership consists of individuals who descend from a historical Indian tribe or from historical Indian

¹¹Such declarations were made prior to the Department’s publication of new regulations in July 2015 reforming the Federal acknowledgement process.

tribes which combined and functioned as a single autonomous political entity”;

(6) The “membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe” and do not maintain a bilateral political relationship with the acknowledge tribe; and

(7) “Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship”.¹²

The Department issued new Part 83 regulations on July 1, 2015.¹³

History of changes made to the Department’s Part 83 regulations

The Federal acknowledgement process has been criticized as “broken” for decades.¹⁴ Nonetheless, until the Department’s recent effort to reform Part 83 (discussed below), there have been only a handful of changes made to the Federal acknowledgement process since its inception.¹⁵

Complaints about the Department’s Federal acknowledgement process have centered primarily on the high cost of gathering documentary evidence to meet the seven mandatory criteria, the length of time it takes the Department to review a petition, and the Department’s inconsistent application of the listed criteria.¹⁶ Of the 567 tribes that have been federally recognized, only 18 have been acknowledged through the Part 83 process.

Since 1970, Congress has passed legislation to federally recognize or reaffirm 17 Indian tribes.¹⁷ To date, the Department has issued 50 decisions under the Part 83 process, including one decision issued after new Part 83 regulations were published in July 2015.¹⁸

Recent developments

On June 21, 2013, the Assistant Secretary—Indian Affairs (AS–IA) released a Discussion Draft proposing changes to Part 83. The related comment period closed on September 30, 2013. On May 29, 2014, the AS–IA published a Proposed Rule in the Federal Register. The Department received substantial input from tribes, state

¹²See 59 Fed. Reg. 94–3934. (February 25, 1994).

¹³80 Fed. Reg. 37861 (July 1, 2015).

¹⁴See 80 Fed. Reg. 37862.

¹⁵Examples of changes made to the process prior to recent reform efforts include regulations clarifying the evidence needed to support a recognition petition, 59 Fed. Reg. 94–3934 (February 25, 1994); a notice regarding internal BIA processing of federal acknowledgment petitions, 65 Fed. Reg. 7052–53 (February 11, 2000); and a notice providing guidance and direction to streamline the process, 73 Fed. Reg. 30146 (May 23, 2008).

¹⁶See 80 Fed. Reg. 37861 (July 1, 2015).

¹⁷See Tonto Apache Tribe of Arizona, Pub. L. 92–470 (1972); Modoc Tribe of Oklahoma, Pub. L. 95–281 (1978); Pasqua Yaqui Tribe of Arizona, Pub. L. 95–375 (1978); Houlton Band of Maliseet Indians of Maine, Pub. L. 96–420 (1980); Cow Creek Band of Umpqua Indians of Oregon, Pub. L. 97–391; Kickapoo Traditional Tribe of Texas, Pub. L. 97–429 (1983); Mashantucket Pequot Tribe of Connecticut, Pub. L. 98–134 (1983); Ysleta Del Sur Pueblo of Texas, Pub. L. 100–89 (1987); Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan, Pub. L. 100–420 (1988); Coquille Tribe of Oregon, Pub. L. 101–42 (1989); Aroostook Band of Micmac Indians of Maine, Pub. L. 102–171 (1991); Pokagon Band of Potawatomi Indians of Michigan, Pub. L. 103–323 (1994); Little River Band of Ottawa Indians of Michigan, Pub. L. 103–324 (1994); Little Traverse Band of Odawa Indians of Michigan, Pub. L. 103–324 (1994); Central Council of the Tlingit & Haida Indian Tribes of Alaska, Pub. L. 103–454 (1994); Graton Rancheria of California, Pub. L. 106–568 (2000); and Loyal Shawnee Tribe of Oklahoma, Pub. L. 106–568 (2000).

¹⁸The Department of the Interior issued a final determination recognizing the Pamunkey Indian Tribe. See 80 Fed. Reg. 39144 (July 8, 2015).

and local governments, and the public, during the associated comment period, which closed on September 30, 2014.¹⁹

Ultimately, the Department published a Final Rule on July 1, 2015, which took effect on July 31, 2015.²⁰ Assistant Secretary Washburn also issued a policy statement indicating that the Department will rely on the new Part 83 process as the “sole administrative avenue” for Federal acknowledgement for tribes.²¹

According to the Department, the Final Rule preserves the existing standard of proof and seven mandatory criteria to “maintain[] the substantive rigor and integrity of the [Part 83] process.”²² In order to promote timeliness and efficiency, the Final Rule provides for a two-phased review of petitions that establishes certain threshold criteria and may result in the earlier issuance of final decisions, as well as a uniform evaluation period (1900 to present) to satisfy the tribal identification, community and political authority criteria.²³ The Final Rule is intended to promote efficiency by providing for limited reconsideration of final agency determinations.²⁴ The Department states that the Final Rule promotes fairness and consistency by providing that prior decisions finding evidence or methodology sufficient to satisfy any particular criterion will also be sufficient for a petitioner under the new Part 83 process.²⁵ It also states that the Final Rule promotes transparency by providing for increased public access to petitions for Federal acknowledgement and associated public materials and, in the case of a negative proposed finding, providing petitioners the opportunity for a hearing.²⁶

Indian tribes that applied for federal acknowledgment prior to publication of the Final Rule on July 1, 2015, are allowed to choose to have the Department evaluate their application under the previous application process or the new application process.²⁷

Since the Final Rule was published, one Indian tribe has been federally recognized.²⁸

LEGISLATIVE HISTORY

S. 691 was introduced by Senators Tim Kaine [D–VA] and Mark Warner [D–VA] on March 8, 2017. The bill was read twice and referred to the Committee on Indian Affairs. On May 8, 2017, the Committee held a business meeting to discuss the measure, and ordered the bill to be reported favorably, without amendment.

A companion bill, H.R. 984, was introduced by Representative Robert J. Wittman [R–VA] on February 7, 2017, with three original cosponsors, including Representatives Gerald Connolly [D–VA], Robert Scott [D–VA], Taylor Scott [R–VA], and Donald Beyer [D–

¹⁹ See U.S. Department of the Interior, News Release, *Department of the Interior Announces Final Federal Recognition Process to Acknowledge Indian Tribes* (June 29, 2015) (stating that more than 2,800 commenters provided input on the Discussion Draft, and that there were over 330 unique comments on the Proposed Rule). The Department also received feedback from tribes during consultations and public meetings. *Id.*

²⁰ 80 Fed. Reg. 37861 (July 1, 2015).

²¹ 80 Fed. Reg. 37538–39. (July 1, 2015).

²² 80 Fed. Reg. 37861 (July 1, 2015).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ The Department of the Interior issued a final determination recognizing the Pamunkey Indian Tribe on July 2, 2015. See 80 Fed. Reg. 39144 (July 8, 2015).

VA]. Representative Donald McEachin joined as a co-sponsor on March 21, 2017. On February 7, 2017, H.R. 984 was referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. On May 17, 2017 H.R. 984 passed the House of Representative under the suspension of the rules, and was passed by a voice vote.

Similar Federal recognition legislation has been introduced each Congress since the 107th Congress for the Virginia Tribes.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 sets forth the short title of this bill as the “Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017”.

Section 2. Indian Child Welfare Act of 1978

Section 2 ensures the bill does not affect the Indian Child Welfare Act of 1978.

Title I—Chickahominy Indian Tribe

Section 101 sets forth findings of the colonial history of the Chickahominy Indian Tribe.

Section 102 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this Act, and “Tribe” as the Chickahominy Indian Tribe.

Section 103 would extend Federal recognition to the Chickahominy Indian Tribe, establish that all applicable laws to Federally-recognized tribes will extend to the Chickahominy Indian Tribe, create a service area for the Chickahominy Indian Tribe, and make the Chickahominy Indian Tribe and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 104 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 105 would establish the governing body of the Chickahominy Indian Tribe.

Section 106 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Chickahominy Indian Tribe to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 106 would prohibit gaming activities by the tribe.

Section 107 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Chickahominy Indian Tribe.

Title II—Chickahominy Indian Tribe—Eastern Division

Section 201 sets forth findings of the colonial history of the Chickahominy Indian Tribe—Eastern Division.

Section 202 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this Act, and “Tribe” as the Chickahominy Indian Tribe—Eastern Division.

Section 203 would extend Federal recognition to the Chickahominy Indian Tribe—Eastern Division, establish that all applicable laws to Federally-recognized tribes will extend to the Chickahominy Indian Tribe—Eastern Division, create a service area for the Chickahominy Indian Tribe—Eastern Division, and make the Chickahominy Indian Tribe—Eastern Division and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 204 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 205 would establish the governing body of the Chickahominy Indian Tribe—Eastern Division.

Section 206 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Chickahominy Indian Tribe—Eastern Division to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 206 would prohibit gaming by the tribe.

Section 207 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Chickahominy Indian Tribe—Eastern Division.

Title III—Upper Mattaponi Tribe

Section 301 sets forth findings of the colonial history of the Upper Mattaponi Tribe.

Section 302 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this Act, and “Tribe” as the Upper Mattaponi Tribe.

Section 303 would extend Federal recognition to the Upper Mattaponi Tribe, establish that all applicable laws to Federally-recognized tribes will extend to the Upper Mattaponi Tribe, create a service area for the Upper Mattaponi Tribe, and make the Upper Mattaponi Tribe and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 304 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 305 would establish the governing body of the Upper Mattaponi Tribe.

Section 306 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Upper Mattaponi Tribe to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 306 would prohibit gaming by the tribe.

Section 307 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Upper Mattaponi Tribe.

Title IV—Rappahannock Tribe, Inc.

Section 401 sets forth findings of the colonial history of the Rappahannock Tribe, Inc.

Section 402 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this Act, and “Tribe” as the Rappahannock Tribe, Inc.

Section 403 would extend Federal recognition to the Rappahannock Tribe, Inc., establish that all applicable laws to Federally-recognized tribes will extend to the Rappahannock Tribe, Inc., create a service area for the Rappahannock Tribe, Inc., and make the Rappahannock Tribe, Inc. and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 404 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 405 would establish the governing body of the Rappahannock Tribe, Inc.

Section 406 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Rappahannock Tribe, Inc. to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 406 would prohibit gaming by the tribe.

Section 407 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Rappahannock Tribe, Inc.

Title V—Monacan Indian Nation

Section 501 sets forth findings of the colonial history of the Monacan Indian Nation.

Section 502 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this act, and “Tribe” as the Monacan Indian Nation.

Section 503 would extend Federal recognition to the Monacan Indian Nation, establish that all applicable laws to Federally-recognized tribes will extend to the Monacan Indian Nation, create a service area for the Monacan Indian Nation, and make the Monacan Indian Nation and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 504 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 505 would establish the governing body of the Monacan Indian Nation.

Section 506 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Monacan Indian Nation to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 506 would prohibit gaming by the tribe.

Section 507 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Monacan Indian Nation.

Title VI—Nansemond Indian Tribe

Section 601 sets forth findings of the colonial history of the Nansemond Indian Tribe.

Section 602 would define “Secretary” as the Secretary of Interior, “Tribal Member” as a person who is enrolled in the tribe as of the date of this act, and “Tribe” as the Nansemond Indian Tribe.

Section 603 would extend Federal recognition to the Nansemond Indian Tribe, establish that all applicable laws to Federally-recognized tribes will extend to the Nansemond Indian Tribe, create a service area for the Nansemond Indian Tribe, and make the Nansemond Indian Tribe and its members eligible for Federal services and benefits provided to Federally-recognized Indian tribes.

Section 604 would establish that the Department will accept the last membership roll submitted by the tribe prior to the enactment of this bill as the tribe’s membership roll.

Section 605 would establish the governing body of the Nansemond Indian Tribe.

Section 606 would authorize, at the request of the tribe, the Secretary of Interior to take land into trust for the Nansemond Indian Tribe to establish a reservation, define the counties where the land may be taken into trust at, and create a three-year deadline to take the land into trust.

Section 606 would prohibit gaming by the tribe.

Section 607 would establish that nothing in the bill expands or reduces hunting, fishing, trapping, or water rights enjoyed by members of the Nansemond Indian Tribe.

Title VII—eminent domain

Section 701 would limit the use of eminent domain to acquire lands in fee or trust for a tribe recognized through this Act.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated June 19, 2017.

Summary: S. 691 would provide federal recognition to six Indian tribes in Virginia—the Chickahominy Indian Tribe, the Eastern Division of the Chickahominy Indian Tribe, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe. Federal recognition would make the tribes eligible to receive benefits from various federal programs.

CBO estimates that implementing this legislation would cost \$67 million over the 2018–2022 period, assuming appropriation of the necessary amounts. Enacting S. 691 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 691 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 691 contains no intergovernmental or private-sector impacts as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 691 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—						2017– 2022
	2017	2018	2019	2020	2021	2022	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Department of the Interior:							
Estimated Authorization Level	0	6	6	6	6	7	31
Estimated Outlays	0	5	6	6	6	7	30
Indian Health Service:							
Estimated Authorization Level	0	7	7	7	8	8	37
Estimated Outlays	0	7	7	7	8	8	37
Total Increases:							
Estimated Authorization Level	0	13	13	13	14	15	68
Estimated Outlays	0	12	13	13	14	15	67

Basis of estimate: For this estimate, CBO assumes that S. 691 will be enacted before the end of 2017, that the necessary amounts will be provided each year, and that outlays will follow historical patterns for similar assistance to other tribes.

S. 691 would provide federal recognition to six Indian tribes in Virginia. Such recognition would allow those tribes and about 4,700 tribal members (including members of other federally recognized tribes who live far from their own tribal service area, but close to the service area of the tribes that would be recognized under S. 691) to receive benefits from various programs administered by the Department of the Interior (DOI) and the Indian Health Service (IHS).

Department of the Interior

DOI, primarily through the Bureau of Indian Affairs, provides funding to federally recognized tribes for various purposes, including child welfare services, adult care, community development, and other general assistance. In total, CBO estimates that providing those services to the six tribes that would be recognized under S. 691 would cost \$30 million over the 2018–2022 period, assuming appropriation of the necessary amounts and accounting for anticipated inflation. That estimate reflects per capita expenditures for services provided to the newly recognized tribes that would be similar to those for other federally recognized tribes located in the eastern states. (In 2015, the most recent year for which historical information on such spending is available, per capita expenditures for eastern tribes averaged about \$1,200.)

Indian Health Service

S. 691 also would make members of the tribes newly recognized under S. 691 eligible to receive health benefits from the IHS. Based on an analysis of information from the IHS, CBO estimates that about 55 percent of tribal members—or about 2,600 people—would receive benefits each year. CBO expects that the cost to serve those individuals would be similar to the costs for current IHS beneficiaries—about \$2,650 per individual in 2017. Assuming appropriation of the necessary funds and accounting for anticipated inflation, CBO estimates that health benefits for those tribes would cost \$37 million over the 2018–2022 period.

Other Federal Agencies

In addition to assistance from DOI and IHS, certain Indian tribes also receive support from other federal programs within the Departments of Education, Housing and Urban Development, Labor, and Agriculture. Because those six tribes specified in the bill are recognized by Virginia, they are already eligible to receive support from those federal departments. Thus, CBO estimates that implementing S. 691 would not authorize additional spending by those departments.

Pay-As-You-Go considerations: None.

Increase in long term direct spending and deficits: CBO estimates that enacting S. 691 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Estimated impact on the private sector: S. 691 contains no inter-governmental or private-sector impacts as defined in UMRA.

REGULATORY AND PAPERWORK 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. 691 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 691.

CHANGES IN EXISTING LAW (CORDON RULE)

On January 31, 2017, the Committee on Indian Affairs unanimously approved a motion to waive the Cordon rule. Thus, in the opinion of the committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.