

in our State so that women could come and also bring their children along so that they could be there and close by.

She was someone who worked hard up until her untimely death. Her chief of staff, Michael Joynes, and others served the city of Philadelphia and their constituents well, people who continue to remember her.

□ 1700

She was also a parent of children and as a mother saw to it that her own children were well taken care of. Yes, she was a national leader on issues of aid to the poor and a state Senator. She also was someone who placed her faith in God, worked very hard, and rose above the ordinary and achieved the extraordinary.

Mr. Speaker, I thank my colleagues for allowing this great honor to be bestowed upon her, but in truth, she bestowed upon us a great honor.

Mr. Speaker, I yield back the balance of my time.

MR. SESSIONS. Mr. Speaker, I thank my colleague from Pennsylvania for his grace and charm in enunciating the love of Philadelphia and Pennsylvania for both of these people.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SESSIONS) that the House suspend the rules and pass the bill, H.R. 4001.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

**INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1998**

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1154) to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1154

*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 1998".

**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 acknowledged 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 acknowledgment;

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

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

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) **ACKNOWLEDGMENT; ACKNOWLEDGED.**—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.

(2) **BUREAU.**—The term "Bureau" means the Bureau of Indian Affairs.

(3) **COMMISSION.**—The term "Commission" means the Commission on Indian Recognition established pursuant to section 4.

(4) **COMMUNITY.**—The term "community" means any group of people which, in the context of the history, geography, culture, and social organization of the group, sustains consistent interactions and significant social relationships within its membership and whose members are differentiated from and identified as distinct from nonmembers.

(5) **CONTINUOUSLY; CONTINUOUS.**—The term "continuously" or "continuous" means extending from the given date to the present substantially without interruption; proof of any matter required shall be deemed without substantial interruption if such proof is available at least for every fifth year.

(6) **DEPARTMENT.**—The term "Department" means the Department of the Interior.

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

(8) **HISTORICAL; HISTORICALLY.**—The term "historical" or "historically" means dating from first sustained contact with non-Indians.

(9) **INDIAN GROUP; GROUP.**—The term "Indian group" or "group" means any Indian or Alaska Native tribe, band, pueblo, village or community within the United States that the Secretary does not acknowledge to be an Indian tribe.

(10) **INDIAN TRIBE; TRIBE.**—The term "Indian tribe" or "tribe" means any Indian or Alaska Native tribe, band, pueblo, village or community within the United States included on the Secretary's annual list of acknowledged tribes.

(11) **INDIGENOUS.**—The term "indigenous" means native to the United States in that at least part of the petitioner's traditional territory extended into what is now within the boundaries of the United States.

(12) **LETTER OF INTENT.**—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 indicating the group's intent to submit a petition for acknowledgment as an Indian tribe.

(13) **MEMBER OF AN INDIAN GROUP.**—The term "member of an Indian group" means an individual who is recognized by an Indian group as meeting its membership criteria.

(14) **MEMBER OF AN INDIAN TRIBE.**—The term "member of an Indian tribe" means an individual who—

(A) meets the membership requirements of the tribe as set forth in its governing document;

(B) 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

(C) is listed on the tribal membership rolls as a member, if such rolls are kept.

(15) **PETITION.**—The term "petition" means a petition for acknowledgment submitted or transferred to the Commission pursuant to section 5.

(16) **PETITIONER.**—The term "petitioner" means any group which has submitted a petition or letter of intent to the Commission requesting acknowledgment as an Indian tribe or has a petition or letter of intent transferred to the Commission under section 5(a).

(17) **PREVIOUS FEDERAL ACKNOWLEDGMENT.**—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.

(18) **RESTORATION.**—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.

(19) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(20) **TREATY.**—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 Indian tribe;

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

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

(21) **TRIBAL ROLL.**—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.

(22) **UNITED STATES.**—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 within the Department of the Interior the Commission on Indian Recognition. The Commission shall report directly to the Assistant Secretary of Indian Affairs.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—(A) The Commission shall consist of 3 members appointed by the Secretary.

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

(i) recommendations received from Indian tribes;

(ii) recommendations from Indian groups and professional organizations; and

(iii) individuals who have a background in Indian law or policy, anthropology, or history.

(2) **AFFILIATIONS.**—

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

(B) No more than 1 member of the Commission may be an employee of the Department of the Interior.

(3) TERMS.—(A) Each member of the Commission shall be appointed for a term of 4 years, except as provided in subparagraph (B).

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

(i) 1 shall be appointed for a term of 2 years; and  
(ii) 1 shall be appointed for a term of 3 years; and

(iii) 1 shall be appointed for a term of 4 years.  
(4) VACANCY.—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) COMPENSATION.—(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) CHAIRPERSON.—At the time appointments are made under paragraph (1), the Secretary shall designate 1 of such appointees as Chairperson of the Commission.

(c) MEETINGS AND PROCEDURES.—

(1) INITIAL MEETING.—The Commission shall hold its first meeting no later than 30 days after the date on which all initial members of the Commission have been appointed.

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

(3) RULES.—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) PRINCIPAL OFFICE.—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) CHAIRMAN.—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, relating 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) COMMISSION.—The Commission may—

(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;

(F) 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;

(G) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States; and

(H) take such other actions as the Commission may deem advisable to carry out its duties.

(3) MEMBERS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(f) ASSISTANCE FROM OTHER FEDERAL AGENCIES.—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 non-reimbursable basis, to assist the Commission in carrying out its duties under this section.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate 12 years after the date of the enactment of this Act.

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

#### SEC. 5. PETITIONS FOR RECOGNITION AND LETTERS OF INTENT.

(a) IN GENERAL.—

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

(2) HEARING.—Indian groups that have been denied or refused recognition as an Indian tribe under regulations prescribed by the Secretary shall be entitled to an adjudicatory hearing, under section 9 of this Act, before the Commission. For purposes of the adjudicatory hearing, the Assistant Secretary's final determination shall be considered a preliminary determination under section 8(b)(1)(B) of this Act.

(3) GROUPS AND ENTITIES EXCLUDED.—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, was recognized as being an Indian tribe by the Secretary, unless it can be clearly established that the group, fac-

tion, or community has functioned throughout history until the date of such petition as an autonomous Indian group; and

(C) any Indian group whose relationship with the Federal Government was expressly terminated by an Act of Congress.

(4) TRANSFER OF PETITIONS.—(A) No later than 30 days after the date on which all of the initial members of the Commission have been appointed, the Secretary shall transfer to the Commission all petitions pending before the Department. The Secretary shall also transfer all letters of intent previously received by the Department that request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe.

(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.

(C) Petitions and letters of intent 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 otherwise provided in this section, any petition submitted under subsection (a) by an Indian group shall be in any readable form that clearly indicates that the petition is requesting the Commission to recognize the petitioning Indian group as an Indian tribe. Each petition shall contain specific evidence establishing the following mandatory criteria:

(1) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1934.

(A) Evidence to be relied upon in determining a group's Indian identity may include 1 or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members. Proof of any 1 of the following for a given time is conclusive evidence of Indian identity for that time.

(i) Identification as an Indian entity by Federal authorities.

(ii) Relationships with State governments based on identification of the group as Indian.

(iii) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.

(iv) Identification as an Indian entity by anthropologists, historians, or other scholars.

(v) Identification as an Indian entity in newspapers and books.

(vi) Identification as an Indian entity in relationships with Indian tribes or with national, regional, or State Indian organizations.

(B) A petitioner may establish that, for any given period of time for which evidence of identification as Indian is lacking, such absence of evidence corresponds in time with official acts of the Federal or relevant State government which prohibited or penalized the expression of Indian identity. For such periods of time, the absence of evidence identifying the petitioner as an Indian entity shall not be the basis for declining to acknowledge the petitioner.

(2) A predominant portion of the petitioning groups comprises a distinct community and has existed as a community on a substantially continuous basis since 1934.

(A) The criterion that the petitioner meets the definition of community set forth in section 3 may be demonstrated by 1 or more 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 nonmembers.

(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. They may include, but are not limited to, language, kinship organization, 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 political influence under the criterion in paragraph (3)(B) shall be conclusive evidence for demonstrating community for that period of time.

(x) Other evidence as considered appropriate by the Secretary.

(B) A petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided to demonstrate any 1 of the following:

(i) More than 50 percent of the members reside in a geographical area or areas no more than 50 miles from a historic land base(s) or site(s) of the petitioner.

(ii) At least 50 percent of the marriages in 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 organization, or religious beliefs and practices.

(iv) There are distinct social institutions encompassing more than 50 percent of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations.

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

(3) The petitioner has maintained political influence or authority over its members as an autonomous entity from 1934 until the present.

(A) This criterion may be demonstrated by 1 or more of the evidence listed below or by other evidence of political influence or authority:

(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 actions taken by group leaders or governing bodies to be of importance.

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

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

(B) A petitioning group 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 any 1 of the following:

(i) A continuous line of group leaders, acknowledged and accepted as such by State or local governments or nonmembers in general, with a description of the means of selection.

(ii) Group leaders or other mechanisms exist or existed which allocate group resources such as land, residence rights, and the like on a consistent basis.

(iii) Group leaders or other mechanisms exist or existed which settle disputes between members or subgroups by some means.

(iv) Group leaders or other mechanisms exist or existed which exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to influence behavior.

(v) Group leaders or other mechanisms exist or existed which organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(C) A group that has met the requirements in paragraph (3) at a given point in time shall be

considered to have provided sufficient evidence to meet this criterion at that point in time.

(4) A copy of the group'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.

(5) The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

(A) A petitioner shall be presumed to descend from a historical Indian tribe or combined tribes upon proof by the petitioner that its member descend from an Indian entity in existence in 1934. This presumption may be rebutted by affirmative evidence offered by any interested party that the Indian entity in existence in 1934 does not descend from a historical Indian tribe or combined tribes.

(B) The following evidence shall be deemed by the Commission to prove descent from a historical Indian entity for the time for which such evidence is available:

(i) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes.

(ii) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or combined tribes.

(iii) Church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or combined tribes.

(iv) 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 historical tribe or combined tribes.

(v) Reports, research, or other like statements based upon firsthand experience of historians, anthropologists, and genealogists with established expertise on the petitioner or Indian entities in general identifying present members or ancestors of present members as being descendants of a historical tribe or combined tribes.

(C) A petitioner may also demonstrate this criterion by other records of evidence identifying present members or ancestors of present members as being descendants of a historical tribe or combined tribes.

(D) The petitioner must provide an official membership list, separately certified by the group's governing body of all known current members of the group. This list must include each member's full name (including maiden name), date of birth, and current residential address. The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists.

(6) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that it has functioned since 1934 until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.

(C) PREVIOUS ACKNOWLEDGMENT.—

(1) IN GENERAL.—Evidence which demonstrates previous Federal acknowledgment includes, but is not limited to—

(A) evidence that the group has had or is the successor in interest to a tribe that has had treaty relations with the United States;

(B) evidence that the group has been or is the successor in interest to a tribe that has been de-nominated a tribe by Act of Congress or Executive order;

(C) evidence that the group has been or is the successor in interest to a tribe that has been treated by the Federal Government as having collective rights in tribal lands or funds.

(2) PRESUMPTION OF CONTINUOUSNESS.—A petitioner that can demonstrate previous Federal acknowledgment by a preponderance of the evidence shall be required to demonstrate the existence of current political authority as defined by subsection (b)(3), with a time depth limited to 10 years preceding the date of the petition. Upon such demonstration, a presumption of continuous existence since previous Federal acknowledgment shall arise. Unless such presumption is rebutted by evidence offered by an interested party proving by a preponderance of the evidence that the previously recognized group has abandoned tribal relations, such group shall be recognized.

(d) RECOGNITION OF GROUPS MEETING CRITERIA.—The Commission shall recognize as an Indian tribe a petitioning group that demonstrates the criteria set out in this section by a preponderance of the evidence. Such recognized tribes shall be entitled to the same privileges, immunities, rights, and benefits of other federally recognized tribes. Neither shall the Department of the Interior nor any other Federal agency purport to diminish, condition, or revoke the privileges, immunities, rights, and benefits of Indian tribes recognized by any means before the effective date of this Act or under the provisions of this Act.

#### SEC. 6. NOTICE OF RECEIPT OF PETITION AND LETTERS OF INTENT.

(a) PETITIONER.—Not later than 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) LETTERS OF INTENT.—As to letters of intent, publish in the Federal Register a notice of such receipt, including the name, location, and mailing address of petitioner. A petitioner who has submitted a letter of intent or had a letter of intent transferred to the Commission under section 5(a) shall not be required to submit a documented petition within any time period.

(c) 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.

(d) 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) IN GENERAL.—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) **CONSIDERATION.**—The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) **RESEARCH.**—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) **ACCESS TO OTHER FEDERAL RESOURCES.**—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) **IN GENERAL.**—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 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) **PRIORITY.**—Petitions that are submitted to the Commission by Indian groups that meet 1 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.**—Not later than 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) **IN GENERAL.**—Within 30 days after the conclusion of the preliminary hearing under subsection (a), the Commission shall make a determination either—

(A) to extend acknowledgement to the petitioner; or

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

(2) **PUBLISHED IN FEDERAL REGISTER.**—The Commission shall publish the determination in the Federal Register.

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

(1) **IN GENERAL.**—If the Commission determines under subsection (b) that the petitioner proceed to an adjudicatory hearing, the Commission shall—

(A) immediately make available to the petitioner all records relied upon by the Commission and its staff in making the preliminary determination 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 including references to prior decisions of the Commission or to recognition decisions made under regulations prescribed by the Secretary that will provide direction in preparing for the adjudicatory hearing; and if prior recognition decisions are referred to, the Commission will make all records relating to such decisions available to the petitioner in a timely manner; 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) **LIST OF DEFICIENCIES.**—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.**—Not later than 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 on the record pursuant to sections 554, 556, and 557 of title 5, United States Code.

(b) **TESTIMONY FROM STAFF OF COMMISSION.**—The Commission shall require testimony from its acknowledgement and research staff that worked on the preliminary determination and that are assisting the Commission in the final determination under subsection (d) and may require the testimony of 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 acknowledgment 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. IMPLEMENTATION OF DECISIONS.**

(a) **ELIGIBILITY FOR SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—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) **AVAILABILITY.**—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. 12. 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 1 year after the date of the enactment of this Act, and annu-

ally thereafter, the Commission shall submit a report to the Committee on Resources of the House of Representatives 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 acknowledgment and the names of the petitioners.

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

#### **SEC. 13. 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. 14. 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. 15. GUIDELINES AND ADVICE.**

(a) **GUIDELINES.**—Not later than 180 days after petitions and letters of intent have been transferred to the Commission by the Secretary under section 5(a)(4)(A), 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. 16. ASSISTANCE TO PETITIONERS.**

(a) **GRANTS.**—

(1) **IN GENERAL.**—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) **OTHER GRANTS.**—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. 17. SEVERABILITY.**

If any provision of this Act or the application thereof to any petitioner is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act shall be severable.

#### **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 16), \$1,500,000 for fiscal year 1998 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 16, \$3,000,000 for each fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1154, the proposed Indian Federal Recognition Administrative Procedures Act of 1998, is a bill intended to speed up the Federal recognition process and to update the existing procedures for extending Federal recognition to Indian tribes.

Mr. Speaker, H.R. 1154 would revamp the Federal recognition process for Indian groups by eliminating bias and conflict of interest and by establishing an independent, 3-member commission to review tribal recognition petitions.

Among other things, H.R. 1154 would require a petitioning tribe to prove: 1, that it and its members have been identified as Indians since 1934; 2, that it has exercised political leadership over its members since 1934; 3, that it has a membership roll; and 4, that it now exists as a community.

Mr. Speaker, this is an extremely important bill to the many Indian bands around this Nation who have a legitimate right to Federal recognition, but who have been denied that right because of a slow, cumbersome, and enormously expensive process. If there ever was a better example of justice being denied through justice delayed, I am not aware of it.

Mr. Speaker, one tribe seeking recognition discovered recently, after 8 years of waiting, I say again, 8 years of waiting, that the bureaucrats down at the Interior Department have done absolutely nothing on the tribe's application for recognition because the Department bureaucrats had "misplaced" the tribe's paperwork. It took 8 years to find that out. I do not know what else is not getting done down at that Department, but I do know that the time has come to straighten out this mess.

Mr. Speaker, this is a good bill. I urge the passage of the legislation.

Mr. Speaker, I reserve the balance of my time.

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from Alaska (Mr. YOUNG) for his eloquent statement

pertaining to his support of this bill. The gentleman suggested 8 years, but in fact, they have been waiting for 100 years to seek recognition.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. WOLF).

(Mr. WOLF asked and was given permission to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I thought this bill was coming up at a different time, and we checked the cloakroom, and they said there were other bills coming up before.

Mr. Speaker, my colleague, the gentleman from Connecticut (Mr. SHAYS) asked me to speak on this bill and also to ask for a recorded vote. I am concerned that it was taken out of order in a way that I think was fundamentally unfair, because we checked with the House.

The gentleman from Connecticut (Mr. SHAYS) and the gentleman from Arizona (Mr. SHADEGG) and I are concerned about this bill and the implications that it may have allowing gambling, particularly Indian gambling, to spread around the country. Gambling is spreading throughout the United States at an unbelievable rate, and one way it is spreading is through the speed at which Native American casinos are opening up. These casinos just keep opening up, one after another.

Now, today, we are here talking about a bill that would make it easier for tribal recognition. Once the tribes get recognized, we see what happens. It does not take long for Indian gaming to be established, and I think we need to give pause and give a lot more attention to this issue.

H.R. 1154, the Indian Federal Recognition Administrative Procedures Act, established a 3-member commission on Indian recognition, but those 3 commissioners were chosen by the Secretary of the Interior, and that would be without the advice and the consent of the Senate. There would be some real problems. For one, it could politicize the recognition process. Native American groups and the gambling interests could put the pressure on the administration, any administration to appoint the commissioners they want.

As gambling is spreading and is bringing about the destruction upon lives and communities, it is bringing with it increased crime, destruction, the breakup of families, corruption and bankruptcies, so much so that we had to appropriate money for more bankruptcy judges, especially in areas with gambling, and increases in the breakdown of the American family.

Mr. Speaker, on behalf of the gentleman from Arizona (Mr. SHADEGG) and the gentleman from Connecticut (Mr. SHAYS), I will call for a rollcall vote. But I think this is such an important issue, that I would urge my colleagues not to rush through and allow a bill to pass like this without full and adequate debate.

Mr. Speaker, my colleague Representative CHRISTOPHER SHAYS asked me to speak on this bill, and he also asked me to ask for a recorded vote, so I want to alert my colleagues that I will be calling for a recorded vote.

Mr. SHAYS and Representative JOHN SHAD-EGG and I are all concerned about this bill and its implications. We believe that this is something we ought to be debating fully, not rushing through.

I have a number of concerns with this bill. Gambling is spreading throughout the United States at an unbelievable rate, and one of the ways it is spreading is through the speed at which Native American casinos are opening up. And these casinos just keep opening up, one after another. And now we are here today talking about a bill that could make it even easier for tribal recognition. Once the tribes get recognized, we've seen what happens. It doesn't take long for Indian gambling to be established. I think we need to pause and give a lot more attention to this matter.

H.R. 1154, the Indian Federal Recognition Administrative Procedures Act, establishes a three-member Commission on Indian Recognition. But those three commissioners are chosen by the Secretary of the Interior, and that would be without the advice and consent of the U.S. Senate. There could be some real problems with that. For one, it could politicize the recognition process. Native American groups and the gambling interests could put the pressure on the Administration to appoint the commissioners they want.

As gambling is spreading, it is bringing destruction upon individual lives and communities. It is bringing with it increases in crime and the need for more law enforcement spending, increases in corruption, increases in bankruptcies, so much so that we have had to appropriate money for more bankruptcy judges—especially in areas with gambling, increases in family breakdown and the need for more social services. Gambling is bringing with it addiction, not only impacting adults, but even young people, to the extent that the young people are becoming addicted to gambling at more than twice the rate of that of adults.

Mr. Speaker, this issue has far-reaching consequences and there's just too much at stake here for us to be considering this bill under suspension. We need to thoroughly debate this issue and consider all the critical implications, especially with regard to Indian gambling. This issue needs thoughtful consideration, not 40 minutes of debate with no amendments. I would urge defeat of this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

With all due respect for my good friend from Virginia, this is about recognition of American Indians who were here long before we were. We have seen delays, and yes, there may have been some that maybe have been misused, but that does not excuse the inactivity of an agency that had the responsibility. All this bill does is try to expedite the process so that delays do not occur.

Let us not kid ourselves. There are those in this body that do not like American Indians. There are those in this body, in fact, that look upon them

as the less of all minorities and have no recognition nor standing in our society. Their lands were stolen, their lands were taken, their lands were sold, and as long as they are down in the dumps, then that is where a lot of people want them to be.

I think it is very unfortunate, very unfortunate that the gambling issue has been brought into this arena at this time. That is another act, an act that was passed by this Congress overwhelmingly. An act that has been used, yes, adequately in many areas, and in fact, honorably in a lot of areas. If there has been some wrong or injustice that occurred, then that is the responsibility of law, the responsibility of enforcement officers, the responsibility, yes, of this Congress, if it is necessary. But to say that this is an attempt to take and legalize and further spread gambling is incorrect.

I am proud of my relationship and my work with American Indians. I think they should and have been recognized, but not nearly enough, for it is time for this body to understand we owe them, and we shall pay them, and we shall recognize them.

Mr. KILDEE. Mr. Speaker, I am pleased to be a cosponsor of this important legislation.

Since 1992, the Indian Health Service has transferred more than \$400 million to 211 tribes in Alaska and 38 tribes in the lower 48 States under the self-governance demonstration project.

The transfer of programming and budgeting authority to tribal governments has proven to be successful.

Tribes have made significant progress in meeting the needs of their people and promoting the growth of their communities. It is our responsibility to support the tribes' efforts improving their health care systems.

The demonstration project has allowed tribes to expand the range of health care services to their membership. I strongly urge each of my colleagues to support this bill.

Mr. FALOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 1154, a bill I introduced to provide improved administrative procedures for the Federal recognition to certain Indian groups.

Mr. Speaker, I have been working on this issue now for over six years. In 1994, the House passed similar legislation but that effort died in the Senate. Today, we are taking a major step to help address the historical wrongs that the two hundred unrecognized tribes in this nation have faced. The bill streamlines the existing procedures for extending federal recognition to Indian tribes, removes the tremendous bureaucratic maze and subjective standards the Bureau of Indian Affairs has placed against recognizing Indian tribes, but also will provide due process, equity and fairness to the whole problem of Indian recognition.

Mr. Speaker, a broad coalition of unrecognized Indian tribes has advocated reform for years for several reasons. First, the BIA's budget limitations over the years have, in fact, created a certain bias against recognizing new Indian tribes. Second, the process has always been too expensive, costing some tribes well over \$500,000, and most of these tribes just do not have this kind of money to spend. I

need not remind my colleagues of the fact that Native American Indians today have the worst statistics in the nation when it comes to education, economic activity and social development. Indeed, Mr. Speaker, the recognition process for the First Americans has been an embarrassment to our government and certainly to the people of America. If only the American people can ever feel and realize the pain and suffering that the Native Americans have long endured, there would probably be another American revolution.

Mr. Speaker, the process to provide federal recognition to Native American tribes simply takes too long. The Bureau of Indian Affairs has been completing an average of 1.3 petitions per year. At this rate, it will take over 100 years to resolve questions on all tribes which have expressed an intent to be recognized.

Mr. Speaker, the current process does not provide petitioners with due process—for example, the opportunity to cross examine witnesses and on-the-record hearings. The same experts who conduct research on a petitioner's case are also the "judge and jury" in the process.

In 1996, in the case of *Greene v. Babbitt*, 943 F. Supp. 1278 (W.Dist. Wash), the federal court found that the current procedures for recognition were "marred by both lengthy delays and a pattern of serious procedural due process violations. The decision to recognize the Samish took over twenty-five years, and the Department has twice disregarded the procedures mandated by the APA, the Constitution, and this Court," (p. 1288). Among other statements contained in Judge Thomas Zilly's opinion were: "The Samish people's quest for federal recognition as an Indian tribe has a protracted and tortuous history . . . made more difficult by excessive delays and governmental misconduct." (p. 1281) And again at pp. 1288-1289, "Under these limited circumstances, where the agency has repeatedly demonstrated a complete lack of regard for the substantive and procedural rights of the petitioning party, and the agency's decision maker has failed to maintain her role as an impartial and disinterested adjudicator . . ." Sadly, the Samish's administrative and legal conflict—much of which was at public expense—could have been avoided were it not for a clerical error of the Bureau of Indian Affairs which 28 years ago, inadvertently left the Samish Tribes's name off the list of recognized tribes in Washington.

With a record like this, it is little wonder that many tribes have lost faith in the Government's recent recognition procedures. Even President Clinton recognizes the problem. In a 1996 letter to the Chinook Tribe of Washington, the President wrote, "I agree that the current federal acknowledgment process must be improved." He said that some progress has been made, "but much more must be done."

To those who say we should retain the current criteria, and not permit tribes which have been rejected under the current administrative procedure to apply for reconsideration, I say read the *Greene* case. It is rare that a court is so critical of an executive agency, but in this case there clearly is a problem. H.R. 1154 addresses the problem directly.

Mr. Speaker, H.R. 1154 will eliminate the above concerns by establishing an independent three member commission which will work within the Department of the Interior to review petitions for recognition. This legislation will

provide tribes with the opportunity for public, trial-type hearings and sets strict time limits for action on pending petitions. In addition, the bill streamlines and makes more objective the federal recognition criteria by aligning them with the legal standards in place prior to 1978, as laid out by the father of Indian Law, Felix S. Cohen in 1942.

Some have expressed concern that this bill will open the door for more tribes to conduct gambling operations on new reservations. While I cannot say that no new gambling operations will result from this bill, I do believe that this bill will have only a minimal impact in this area. I would like to remind my colleagues that: unlike state-sponsored gaming operations, Indian gaming is highly regulated by the Indian Gaming Regulatory Act; before gaming can be conducted, the tribes must reach an agreement with the state in which the gaming would be conducted; under IGRA (the Indian Gaming and Regulatory Act) gaming can only be conducted on land held in trust by the federal government; and any gaming profits can only be used for tribal development, such as water and sewer systems, schools, and housing.

The point I want to make is even if an Indian group wanted to obtain recognition to start a gambling operation, they couldn't do it just for that purpose. Ninety percent of the substance of the current criteria are unchanged in the bill before us today. For a group to obtain federal recognition, it would still have to prove his origins, cultural heritage, existence of governmental structure, and everything else currently required.

Should that burden be overcome, a tribe would need a reservation or land held in trust by the federal government. This bill makes no effort to provide land to any group being recognized.

If the land issue is overcome, under the Indian Gaming Regulatory Act, a tribe cannot conduct gaming operations unless it has an agreement to do so with the state government. A prior Congress put this into the law in an effort to balance the rights of the states to control gambling activity within its borders, and the rights of sovereign tribal nations to conduct activities on their land. The difficulty in obtaining gaming compacts with states has been making the national news for months because of the almost absolute veto power the states have under current law. The U.S. Supreme Court affirmed this reading of the law in *Seminole Tribe of Florida versus Florida*, 517 U.S. 44 (1996).

I want to emphasize this point—this is not a gambling bill, this is a bill to create a fair, objective process by which Indian groups can be evaluated for possible federal recognition.

Mr. Speaker, this bill is not perfect in every form, but it is the result of many hours of consultations with all parties concerned. I have sought to work with the tribes and with the Administration to come up with sound, careful changes that recognize the historical struggles the unrecognized tribes have gone through, yet at the same time recognizes the hard work the Bureau of Indian Affairs has done lately in making positive changes through regulations to address these problems. We have reached agreement on almost every major issue, and these changes have been incorporated into the bill being considered today. The bill has the support of the National Coalition of Indian Sovereignty (263 member groups), and Mr.

Bud Shapard, a former BIA official who wrote the problematic regulations.

I requested a hearing on this bill but this is not an issue that generated enough Member interest to warrant a hearing. We have, however, in the past held oversight hearings on this issue, and legislative hearings on similar legislation in prior congresses.

Mr. Speaker, I do want to express my sincere thanks and appreciation to Mr. Kevin Gover, Assistant Secretary for Indian Affairs; Mr. Derril Jordan, Associate Solicitor for the Division of Indian Affairs, and members of their staffs for working closely with our committee staffs on both sides.

Mr. Speaker, I also want to thank the gentleman from Alaska, Mr. DON YOUNG, the Chairman of the Committee on Resources, and the Senior Democratic Member of the full committee, the gentleman from California, Mr. MILLER, for their support of this bill. And I want to thank Mr. Lloyd Jones, Chief of Staff of the Resources Committee; Mr. Tim Glidden, the majority counsel; Mr. Chris Stearns, minority counsel; my Legislative Director, Mr. Martin Yerick, and my good friend and attorney for the Lumbee Nation, Ms. Arlinda Locklear for her perseverance and tremendous patience in working with all the parties involved in the development of this legislation.

Mr. Speaker, I respectfully urge my colleagues to support and vote for this bill now under consideration.

Mr. MILLER of California. Mr. Speaker, I am glad to strongly support this major piece of legislation that has been nearly six years in the making. I wish to compliment Congressman FALEOMAVAEGA for all of the hard work and energy he has spent on this bill in the last four years. I know that he has personally met with a number of Indian tribes seeking recognition and was involved with the important White House meeting with a broad coalition of non-recognized tribes in January of 1995. His staff, in particular, Marty Yerick, has worked countless hours along with my committee staff to get this bill to a point where it now enjoys tribal and Administration support. I would also like to compliment the attorneys who have helped with this process, including Arlinda Locklear, and many of the staff at the Native American Rights Fund.

As you know, the past two Congresses have not been a hotbed of legislative activity that could be said to actually benefit Native Americans. Just about anyone can who has been watching Congress lately can see that Indian tribes, the leadership of the Resources Committee, and the Administration have been spending a lot of energy fighting measures that would erode tribal sovereignty. Compared with the 103rd Congress, and Congresses before that, there has been a dearth of pro-Indian legislation. In fact, I am hard-pressed to name more than one major piece of Indian legislation signed into law these last two Congresses. But, fortunately, this is different. This is a major piece of legislation that will have resounding impact across the country. This is legislation that is historic and long overdue. We have a chance, as a Congress to finally make some positive strides in terms of our relationship with the Native American tribes of this country and I hope that we take full advantage of the few chances that we get whenever they come our way.

As previously described, this bill revamps the federal recognition process for Indian

tribes that is now handled by the Bureau of Indian Affairs in the Department of the Interior. We are making this change for five significant reasons. First, the BIA is inherently biased against adding new tribes to its existing budget. Second, the process is too expensive—costs per tribe range from \$300,000 to \$500,000. Third, the process is too lengthy—the BIA completes an average of 1.3 petitions a year, meaning it will take more than a century to finish pending applications. Fourth, the process does not provide petitioners with due process (i.e. cross examination, and an on-the-record hearing. Fifth, the same experts who conduct research on a petitioner's case are also the judge and jury in the process. In a recent case, a federal court found that the BIA's procedures were "marred by both lengthy delays and a pattern of serious procedural due process violations."

H.R. 1154 would eliminate bias and conflict of interest by establishing an independent three member commission outside of the BIA to review tribal recognition petitions. H.R. 1154 also provides tribes with the opportunity for formal, on-the-record hearings. Records relied upon by the Commission will be made available in a timely manner to petitioners. In addition, H.R. 1154 affirms the precedential value of prior BIA recognition decisions and makes the records of those decisions readily available to petitioners. The bill also sets strict timelines for action on pending petitions.

In addition, H.R. 1154 streamlines and objectifies the recognition criteria by aligning them with the legal standards in place prior to 1978 laid out by Assistant Solicitor Felix S. Cohen in the 1942 Handbook of Federal Indian Law. H.R. 1154 would require a petitioning tribe to prove: (1) that it and its members have been identified as Indians since 1934; (2) that it has exercised political leadership over its members since 1934; (3) that it has a membership roll; and (4) that it exists as a community by showing at least one of the four following requirements: (a) distinct social boundaries; (b) exercise of communal rights with respect to resources or subsistence activities; (c) retention of a native language or other customs; or (d) that it is state-recognized tribe.

The Administration had informally indicated certain objections to the criteria of H.R. 1154 as introduced. Principally, the Administration viewed H.R. 1154 as a dramatic departure from the criteria in the acknowledgment regulations which, if enacted, would disservice the goal of consistency in policy in this area. Thus, Congressman FALEOMAVAEGA invited representatives of the Department of the Interior to discuss how the goal of reform could be accomplished without a complete break from the regulations. As a result of this discussion, two sets of changes were made to the H.R. 1154 criteria at mark up.

The first set of changes relate to the structure of the criteria. The acknowledgment regulations contain seven mandatory criteria, while H.R. 1154 contained fewer mandatory criteria and allowed petitioners options for proof as to some criteria. In the interest of maintaining consistency, the substitute bill adopts the structure of the regulations—it requires that tribes prove the same mandatory criteria that the present acknowledgment regulations require. However, the substitute bill uses 1934 as the starting point in time for the mandatory criteria just as did the original bill.

The second set of changes relate to the terms of the mandatory criteria. Since the goals of reform are to shorten the review process, make the process more open, and make the outcome of the process more predictable, it was necessary to tighten the criteria themselves and eliminate the need for subjective determinations. To that end, the criteria are re-defined as follows in the substitute bill:

1. Indian identity—defined substantially the same as in the acknowledgment regulations, with the exception that absence of evidence of Indian identity resulting from official acts or policy of the Federal or relevant state government shall not be the basis for declining acknowledgment.

2. A distinct community—defined substantially the same as in the acknowledgment regulations. This criterion did not appear in H.R. 1154 as introduced, but was added in the substitute so that the criteria track those of the acknowledgment regulations. Experience with this criterion under the regulations, though, shows that it requires subjective determinations by staff, with results that appear inconsistent from one petitioner to the next. The substitute bill deals with this problem by adding quantifiable indicia that shall be deemed conclusive proof of community, such as measurable geographic proximity and in-marriage rates. In addition, community can be demonstrated in the substitute bill by certain forms of proof of political influence, just as under the acknowledgment regulations. As a result, in some cases criteria 2 and 3 will merge into one.

3. Political influence—defined substantially the same as in the acknowledgment regulations. As with community, though, this criterion requires subjective determinations by staff. Again, the substitute bill deals with this problem by adding objective indicia that shall be deemed conclusive proof of community, such as a continuous line of leaders recognized by a state government.

4. A copy of the group's governing document—defined substantially the same as in the acknowledgement regulations.

5. Descent from historic tribe(s)—defined substantially the same as in the acknowledgment regulations. This criterion has been troublesome in application since it essentially requires a petitioner to demonstrate tribal existence from the time of first sustained white contact, even though the other criteria expressly require proof of each since 1900 only. The substitute bill deals with this problem by establishing a presumption of continuous existence that arises from proof of descent from an Indian entity since 1934. In addition, the substitute bill lists types of evidence that are acceptable for proof of descent, evidence that includes first hand professional research or reports about the group in addition to genealogical records.

6. Petitioner's members are not members of other tribes—defined substantially the same as in the acknowledgment regulations.

7. Proof that the tribe has not been terminated by Congress—appears as the seventh mandatory criterion in the acknowledgment regulations. This requirement does not appear as a mandatory criterion in the substitute bill. However, section 5(a)(3) of the substitute bill expressly excludes terminated tribes from the act.

The net affect of changes made to the criteria in the substitute bill are twofold. First, it

utilizes the basic framework of the acknowledgment regulations by requiring that petitioners demonstrate the same mandatory criteria. This provides for some consistency in policy with the last twenty years' administration under the acknowledgment regulations. Second, it limits the time period for which petitioners must demonstrate the criteria and minimizes the need for subjective evaluation of data by staff. This provides for a speedier process and one that produces consistent results from one petitioner to the other. Finally, the substitute includes new provisions that more accurately reflect the historic experience of non-federally recognized tribes and insure that tribes will not pay the cost for federal and state efforts to suppress or outlaw tribalism at various times in history.

Mr. Speaker, I am proud and actually, somewhat relieved that we have finally gotten back to the point we were two Congresses ago, passing recognition legislation out of the House. I hope that the Senate will take prompt action on this bill and send this to the President this year. I believe that this is a historic opportunity to right some of the wrongs visited upon the nearly two-hundred tribes that still seek recognition. By making the process by which the Executive Branch acknowledges their existence fairer and clearer, we will ensure that this country resumes the government-to-government relationship and trust responsibility owed many of these tribes.

Mr. MCINTYRE. I rise today in strong support of HR 1154—the Indian Federal Recognition Administrative Procedures Act of 1997. I would like to thank Congressman ENI FALEOMAVEGA for his hard work and support of this measure, as well as the Chairman of the Resources Committee, Congressman DON YOUNG. Both of these men have been very helpful and encouraging to me as I have sought in moving this important piece of legislation.

Mr. Speaker, I have the privilege of representing in Congress approximately 40,000 Native Americans known as the Lumbees—the largest tribe east of the Mississippi River! The Lumbee people are important to the success of everyday life in my home country of North Carolina—Robeson County. Their contributions to our society are numerous and endless—from medicine and law to business and banking, from the farms and factories to the schools and the churches, from the government, military, and community service to entertainment and athletic accomplishments, the Lumbees have made tremendous contributions to our county, state, and nation. For 100 years, these Native Americans have sought recognition. However, the Lumbee Tribe is the largest non-federally recognized tribe in the nation. Throughout the 20th Century, the tribe has renewed its appeal for federal recognition. Twice, the U.S. House of Representatives has passed a free standing bill for Lumbee recognition only to have it die in the Senate. This is about fundamental fairness; it is about stopping discrimination. It's time for discrimination to end and recognition to begin!

Mr. Speaker, shortly after my taking office in January, 1997, I met with local Native American leaders in my district, and we concluded that the congressional and federal procedures currently in place have not been working, and a new approach is needed to give the Lumbee people their much deserved Federal recognition. And this would help not only the Lumbee,

but potentially other tribes as well. That approach is HR 1154.

Mr. Speaker, HR 1154 streamlines and takes the politics out of the federal recognition process. By establishing an independent commission with strict time lines to evaluate and approve Native American applications, all non-federally recognized tribes will have a fair shot at receiving federal recognition.

Mr. Speaker, again let me thank Congressman FALEOMAVEGA and Chairman YOUNG for their effort on this bill. I look forward to working with them and our colleagues in the Senate to enact this important piece of legislation without further delay.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 1154, as amended.

Mr. WOLF. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GUAM ORGANIC ACT AMENDMENTS OF 1998

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2370) to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure and the office of Attorney General, as amended.

The Clerk read as follows:

H.R. 2370

*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 "Guam Organic Act Amendments of 1998".*

#### SEC. 2. ATTORNEY GENERAL OF GUAM.

*Section 29 of the Organic Act of Guam (48 U.S.C. 1421g) is amended by adding at the end the following new subsection:*

*"(d)(1) The Attorney General of Guam shall be the Chief Legal Officer of the Government of Guam. At such time as the Office of the Attorney General of Guam shall next become vacant, the Attorney General of Guam shall be appointed by the Governor of Guam with the advice and consent of the legislature, and shall serve at the pleasure of the Governor of Guam.*

*"(2) Instead of an appointed Attorney General, the legislature may, by law, provide for the election of the Attorney General of Guam by the qualified voters of Guam in general elections after 1998 in which the Governor of Guam is elected. The term of an elected Attorney General shall be 4 years. The Attorney General may be removed by the people of Guam according to the procedures specified in section 9-A of this Act or may be removed for cause in accordance with procedures established by the legislature in law. A vacancy in the office of an elected Attorney General shall be filled—*

*"(A) by appointment by the Governor of Guam if such vacancy occurs less than 6 months before a general election for the Office of Attorney General of Guam; or*

*"(B) by a special election held no sooner than 3 months after such vacancy occurs and no later than 6 months before a general election for At-*

*torney General of Guam, and by appointment by the Governor of Guam pending a special election under this subparagraph."*

#### SEC. 3. LEGISLATIVE QUORUM.

*Section 12 of the Organic Act of Guam (48 U.S.C. 1423b) is amended by striking "eleven" and inserting "a simple majority".*

#### SEC. 4. CLARIFICATION OF LEGISLATIVE POWER.

*The first sentence of section 11 of the Organic Act of Guam (48 U.S.C. 1423a) is amended—*

*(1) by inserting "rightful" before "subjects"; and*

*(2) by striking "legislation of local application" and inserting "legislation".*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Guam (Mr. UNDERWOOD) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support H.R. 2370.

I want to compliment the gentleman from Guam (Mr. UNDERWOOD). This bill is the amendment to the Organic Act of 1998, which authorizes increased self-government for the U.S. citizens of the American territory of Guam. These changes have been the subject of hearings conducted by the Committee on Resources.

A consensus of support of the proposed changes to Guam's Organic Act emerged from testimony by various people from Guam. Furthermore, the Guam legislature petitioned Congress for the changes now before the House. One provision would amend Guam's Organic Act to allow local law to provide for the election rather than the appointment of Guam's Attorney General. Another provision permits the quorum size requirement of the legislature be changed from the specific number of 11 out of 21 to a simple majority.

While the proposed changes to the Guam local government are justified and appropriate, these kinds of changes can and should be done by Guam by the development and adoption of a local constitution. Congress authorized a formulation of a local constitutional government by Guam in Public Laws 94-584 and 96-597 in 1976 and 1980 respectively.

The U.S. citizens of Guam can absolutely be certain that with the adoption of a local constitution, they will retain an inherent right to seek substantial changes in their political status.

However, until Guam enacts a local Constitution, any changes to the basic laws governing Guam can only be done by Congress. Thus, the need for this House to provide authority for specific amendments to the Guam Organic Act to enhance the government of Guam. This is a good piece of legislation. I urge the passage of the legislation.

When Congress acted years ago to permit Guam to change the size of its legislature, the