

# Subcommittee on Indian, Insular and Alaska Native Affairs

Don Young, Chairman

Hearing Memorandum

September 25, 2015

To: Subcommittee on Indian, Insular and Alaska Native Affairs Committee Members

From: Majority Staff, Subcommittee on Indian, Insular and Alaska Native Affairs

Hearing: Legislative hearing on H.R. 872 (Rep. Rob Wittman), the “*Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2015.*”

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The Subcommittee will hold a Legislative Hearing on H.R. 872, the “*Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2015*” on **Tuesday, September 29, 2015, at 2:00 p.m. in 1324 Longworth HOB.**

## **Summary of the Bill:**

H.R. 872, “*Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2015,*” was introduced by Rep. Rob Wittman on February 11, 2015, and was referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. This bill would extend federal recognition to the following six Indian tribes in the Commonwealth of Virginia: the Chickahominy Tribe, the Chickahominy Indian Tribe--Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.<sup>1</sup>

With Federal recognition, the tribes and their members would become eligible for all services and benefits provided by the federal government to federally recognized tribes. The bill would also establish a service area for each tribe within which the Secretary could take land into trust for their benefit. Under the bill, gaming under the Indian Gaming Regulatory Act<sup>2</sup> would be prohibited on any lands taken into trust for the tribes.

## **Cosponsors:**

Rep. Donald Beyer [D-VA-08]; Rep Gerald Connolly [D-VA-11]; Rep. Scott Rigell [R-VA-02]; Rep. Robert “Bobby” Scott [D-VA-03].

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<sup>1</sup> H.R. 870 does not involve the Pamunkey Tribe, a group in Virginia recently recognized as a tribe under the Interior Department’s “Part 83” administrative process (such recognition will be final and enforceable on October 6, 2015). Under this process, the Pamunkey tribe would obtain the right to operate a casino on its “initial reservation” if the Department were authorized to acquire land for the tribe.

<sup>2</sup> 25 U.S.C. 2701 et seq.

## **Witnesses:**

*Mr. Kevin Washburn*, Assistant Secretary  
Bureau of Indian Affairs  
U.S. Department of the Interior  
Washington, D.C.

*The Honorable Stephen R. Adkins*  
Chief of the Chickahominy Indian Tribe  
Providence Forge, VA

## **Background:**

Similar versions of this bill have been introduced in both the House and Senate since the 107<sup>th</sup> Congress. In the 110<sup>th</sup> and 111<sup>th</sup> Congresses, similar bills passed the U.S. House of Representatives, but saw no further action in the U.S. Senate.

## **Overview of Recognition**

Article I, Section 8, Clause 3 of the Constitution grants Congress power to “regulate commerce ... with the Indian tribes.” Supplemented by the Treaty making powers in the Constitution, the so-called Indian Commerce Clause delegates to Congress what the Supreme Court has said is “plenary” power over Indian affairs.<sup>3</sup> Inherent in this delegation of authority to Congress is the power to recognize a tribe, as well as the prerogative not to extend recognition and to terminate a tribe’s political status.

The names of recognized tribes are published annually by the Secretary of the Interior. The current list contains 567 tribes, with 337 in many of the Lower 48 states and 229 in Alaska,<sup>4</sup> though the political status of tribes in Alaska as “federally recognized” has been the subject of dispute.

It is important to distinguish the political meaning of tribe from its ethnic sense. Federal recognition is a political act making American Indians eligible for the special rights, immunities, and federal services and benefits because of their status as American Indians. A group of Indian people who lack federal recognition as members of a tribe possess no such privileges and immunities.

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<sup>3</sup> According to the Supreme Court, Congress’s power regarding Indian tribes “has always been deemed a political one, not subject to be controlled by the judicial department of the government.” *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903) at 565.

<sup>4</sup> <http://www.indianaffairs.gov/cs/groups/public/documents/text/idc1-029079.pdf>.

Recognition of a tribe “is one of the one of the most solemn and important responsibilities delegated to the Secretary of the Interior.”<sup>5</sup> Recognizing a new tribe creates an expectation that Congress will increase appropriations for Indian programs to account for a larger service population. A tribe is eligible for a variety of federal services and benefits, including operation of a casino on its lands, and absolute sovereign immunity against anyone except the federal government. The federal government frequently intervenes on behalf of a tribe in controversies where states, local governments, or private citizens are adverse parties.

A tribe may exercise special political authority over its territory and its Indian members, and tribal land held by the United States in trust is not subject to state and local government jurisdiction unless provided otherwise by Congress. As a tribe is not deemed to be a party to the Constitution, an individual under a tribe’s civil or criminal jurisdiction does not possess on that tribe’s lands the rights or protections guaranteed by the Constitution except as provided by Congress.

### **How Tribes Obtain Federal Recognition**

Until the 1970’s, federal recognition was extended to Indian tribes through treaties, Acts of Congress, and Executive Orders. In 1871 Congress prohibited the United States from contracting thereafter with tribes by treaty. Executive Orders similarly fell into disuse.

Recognition is a political question. Congress can choose to recognize a tribe for limited purposes or not to recognize a tribe. While Congress’s power in this area is broad, it is not unlimited. At a minimum, members of a federally recognized tribe must have Indian ancestry and they must constitute a distinct Indian community. Until the last three decades, Congress had usually set the standards for tribal membership, such as a minimum degree of Indian blood or residency on lands set aside for Indians.<sup>6</sup> In modern times, however, neither Congress nor the Department has required clear, minimum membership standards, leaving this up to each tribe. In recent cases this has led to several tribes expanding membership rolls, and others expelling members.

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<sup>5</sup> Testimony of Michael D. Olsen, Counselor to the Assistant Secretary—Indian Affairs, Testimony before the House Committee on Resources, April 1, 2004.

<sup>6</sup> See, for example, Section 19 of the Indian Reorganization Act of 1934 (25 USC 479): “The term ‘Indian’ as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term ‘tribe’ wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words ‘adult Indians’ wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.”

In 1994, Congress enacted the Federally Recognized Tribes List Act to require the Secretary to publish annually a list of all recognized tribes. This Act, however, does not contain a delegation of authority to the Department to extend recognition to a tribe.

Over the years, Congress has enacted laws to extend recognition to specific tribes, and to restore the recognition of tribes that previously had been terminated by Congress in the 1950's or 1960's. Though groups such as those seeking recognition under H.R. 872 can and do petition Congress for recognition, hundreds have sent their petitions to the Department of the Interior.

### ***Department of Interior Regulations***

In 1978, the Department of the Interior crafted regulations under 25 CFR Part 54 to recognize any group that can meet seven mandatory criteria to establish a continuous existence as an autonomous Indian tribe throughout history to the present. The Department developed these regulations even as Congress discussed - but did not enact - a law to establish recognition standards and procedures. Such regulations were later placed in 25 CFR Part 83.

In 1994, the Department revised several key mandatory criteria in the regulations. One of the revisions relaxed the requirement that a petitioner must “inhabit[] a specific area or live[] in a community viewed as American Indian and distinct from other populations in the area.”

Recently, the Department finalized a revision of the “Part 83” regulations.<sup>7</sup> The revisions relax the criteria which a group must meet to obtain federal recognition by the Department under its regulations, thereby lowering the evidentiary standards a group must meet to be recognized. The Subcommittee on Indian, Insular, and Alaska Native Affairs on April 22, 2015, held an [oversight hearing](#) on what was then a proposed rule, opposed by a number of federally recognized tribes, and criticized as lacking criteria established by Congress. The FY 2016 Interior Appropriations bill, H.R. 2822, reported by the Committee on Appropriations includes a proviso prohibiting funds from being used to implement the new recognition rule. As the funding limitation is not yet enacted, the Department is currently administering the new rule.

Under the Department's rule, a petitioner must meet the following 7 mandatory criteria for establishing that it exists as an Indian tribe within the meaning of federal law (the following are in abbreviated form):

- (a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.

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<sup>7</sup> [25 CFR Part 83 Federal Acknowledgment of American Indian Tribes; Final Rule](#) July 1, 2015

(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

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

(d) 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 and current governing procedures.

(e) 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.

(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.

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

Since 1978, under Part 83 the Secretary has extended recognition to 17 tribes, while declining to recognize 34. More than 300 petitions for recognition are currently pending with the BIA, but many consist merely of letters of intent to seek recognition.

The Department has also recognized tribes outside of its own regulatory process. Dozens of Rancherias in California have been recognized as tribes by the Interior Department through stipulated settlements in federal court. Rancherias were originally federal land assignments for displaced Indians found homeless and itinerant in a number of California communities in the early 1900's. In the 1958 California Rancheria Act, Congress established a process for terminating federal supervision of the Rancherias and conveying title of these properties to their occupants. In several lawsuits beginning with the 1979 *Tillie Hardwick* class action, attorneys for the terminated Rancherias challenged Congress's authority to terminate federal supervision over them. Rather than utilize available legal defenses to dismiss these lawsuits or go to trial, Interior entered into stipulated settlements to recognize the Rancherias as sovereign Indian tribes.

The Department has also "reaffirmed" the recognition of at least three groups it claims to have overlooked or accidentally left off its list of recognized tribes. These are the Lower Lake

Koi, Ione Band of Miwoks, and Tejon Tribe, all of California. There is, however, no known regulation, guideline, statute, or court-ordered procedure for recognition through “reaffirmation.”

A comprehensive set of documents relating to the Department’s recognition of tribes may be found here: <http://www.bia.gov/WhoWeAre/AS-IA/OFA/index.htm>. These documents include the number of petitioners seeking recognition, where they are located, and the status of all recognition cases. The most recent group obtaining a positive finding that it is a tribe under Part 83 is the Pamunkey Tribe of Virginia.

### **Status of the Six Groups in Virginia Recognized under H.R. 872**

The groups recognized as tribes under H.R. 872 have submitted petitions to the Department pursuant to the Part 83 rule. According to records of the Office of Federal Acknowledgement (the Branch of the Department which administers the Part 83 process), each tribe has submitted partial documentation in support of their petition but none appear to be ready for final consideration. Below is the name of each tribe recognized in H.R. 872 and the date it submitted its initial petition to the Department:

1. **Chickahominy Indian Tribe** (petitioned 3/19/1996)
2. **Chickahominy Indian Tribe—Eastern Division** (9/6/01)
3. **Upper Mattaponi Tribe** (11/26/79)
4. **Rappahannock Tribe, Inc.** (11/16/79)
5. **Monacan Indian Nation** (7/11/95)
6. **Nansemond Indian Tribe** (9/20/01)

### **Major Provisions/Analysis of H.R. 872**

*Section 1. Short Title.* “Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2015.”

*Section 2. Indian Child Welfare Act of 1978.* Section 2 sets forth that the bill does not affect the application of section 109 of the Indian Child Welfare Act of 1978.<sup>8</sup>

#### ***Title I. Chickahominy Indian Tribe.***

*Sec. 101. Findings.* Sets forth in-depth Congressional findings pertaining to the history of the Chickahominy Indian Tribe dating from the time period of 1607 to 1985.

*Sec. 102. Definitions.* “Secretary” under the bill is to mean the Secretary of the Interior. “Tribal Member” means A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and B) an individual who has been placed on the membership rolls of the

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<sup>8</sup> 25 U.S.C. 1919

Tribe in accordance with this title. The term “Tribe” under section 102 refers to the Chickahominy Indian Tribe.

*Sec. 103. Federal Recognition.* Grants federal recognition to the Chickahominy tribe and full eligibility for all services and benefits provided by the Federal Government to Indian tribes.

*Sec. 104. Membership; Governing Documents.* Requires tribe to submit the most recent membership roll and governing documents to the Secretary prior to the date enactment of the bill.

*Sec. 105. Governing Body.* The governing body of the Tribe shall be the governing body in place as of the date of enactment of this Act or any subsequent body elected in accordance with the election process specified in the governing documents of the Tribe.

*Sec. 106 (a). Reservation of the Tribe.* At the request of the Tribe, the Secretary of the Interior will take into trust for the benefits of the Tribe any land held in fee by the Tribe that was acquired by the Tribe before January 1, 2007, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia; and may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

*Sec. 106 (b). Deadline for Determination-* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

*Sec. 106 (c). Reservation Status-* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 106 (d). Gaming-* The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

*Sec. 107. Hunting, Fishing, Trapping, Gathering, and Water Rights.* Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

**Title II. Chickahominy Indian Tribe-Eastern Division.**

*Sec. 201. Findings.* Sets forth in-depth Congressional findings pertaining to the history of the Chickahominy Indian Tribe-Eastern Division dating from the time period of 1607 to 1988.

*Sec. 202. Definitions.* The term “Secretary” means Secretary of the Interior. The term “Tribal Member” means A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title. The term “Tribe” means the Chickahominy Indian Tribe-Eastern Division.

*Sec. 203. Federal Recognition.* Federal recognition is extended to the Tribe and full eligibility for all services and benefits provided by the Federal Government shall be extended to all tribal members, regardless of the existence of a reservation for the Tribe. All laws and regulations of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians that are not inconsistent with this title shall be applicable to the Tribe and tribal members. For the purpose of providing delivery of Federal services to tribal members, the service area of the Tribe shall considered to be the area comprised of New Kent County, James City County, Charles City County, and Henrico County, Virginia.

*Sec. 204. Membership; Governing Documents.* The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

*Sec. 205. Governing Body.* The governing body of the Tribe shall be the governing body in place as of the date of enactment of this Act or any subsequent body elected in accordance with the election process specified in the governing documents of the Tribe.

*Sec. 206 (a). Reservation of the Tribe.* Upon the request of the Tribe, the Secretary of the Interior--(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia; and (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

*Sec. 206 (b). Deadline for Determination.* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.



*Sec. 206 (c). Reservation Status.* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 206 (d). Gaming.* The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

*Sec. 207. Hunting, Fishing, Trapping, Gathering, and Water Rights.* Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

***Title III. Upper Mattaponi Tribe.***

*Sec. 303 (a). Federal Recognition.* (1) Federal recognition is extended to the Tribe. (2) All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

*Sec. 303 (b). Federal Services and Benefits.* (1) On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe. (2) For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area within 25 miles of the Sharon Indian School at 13383 King William Road, King William County, Virginia.

*Sec. 306 (a). Reservation of the Tribe.* Upon the request of the Tribe, the Secretary of the Interior-- (1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of King William County, Caroline County, Hanover County, King and Queen County, and New Kent County, Virginia; and (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of King William County, Caroline County, Hanover County, King and Queen County, and New Kent County, Virginia.

*Sec. 306 (b). Deadline for Determination-* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

*Sec. 306 (c). Reservation Status-* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 306 (d). Gaming-* The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

***Title IV. Rappahannock Tribe, Inc.***

*Sec. 403 (a). Federal Recognition.* (1) Federal recognition is extended to the Tribe. (2) All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

*Sec. 403 (b). Federal Services and Benefits.* (1) On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe. (2) For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of King and Queen County, Caroline County, Essex County, and King William County, Virginia.

*Sec. 406 (a). Reservation of the Tribe.* Upon the request of the Tribe, the Secretary of the Interior-- (1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of King and Queen County, Stafford County, Spotsylvania County, Richmond County, Essex County, and Caroline County, Virginia; and (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of King and Queen County, Richmond County, Lancaster County, King George County, Essex County, Caroline County, New Kent County, King William County, and James City County, Virginia.

*Sec. 406 (b). Deadline for Determination.* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

*Sec. 406 (c). Reservation Status.* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 406 (c). Reservation Status.* (d) Gaming- The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

***Title V. Monacan Indian Nation.***

*Sec. 503 (a). Federal Recognition.* (1) Federal recognition is extended to the Tribe. (2) All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

*Sec. 503 (b). Federal Service and Benefits.* (1) On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe. (2) For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of all land within 25 miles from the center of Amherst, Virginia.

*Sec. 506 (a). Reservation of the Tribe.* Upon the request of the Tribe, the Secretary of the Interior-- (1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of Amherst County, Virginia; and (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of Amherst County, Virginia, and those parcels in Rockbridge County, Virginia (subject to the consent of the local unit of government), owned by Mr. J. Poole, described as East 731 Sandbridge (encompassing approximately 4.74 acres) and East 731 (encompassing approximately 5.12 acres).

*Sec. 506 (b). Deadline for Determination.* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

*Sec. 506 (c). Reservation Status.* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 506 (d). Gaming.* The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

***Title VI. Nansemond Indian Tribe.***

*Sec. 603 (a). Federal Recognition.* (1) Federal recognition is extended to the Tribe. (2) All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

*Sec. 603 (b). Federal Services and Benefits.* (1) On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe. (2) For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach, Virginia.

*Sec. 606 (a). Reservation of the Tribe.* (a) Upon the request of the Tribe, the Secretary of the Interior-- (1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of the city of Suffolk, the city of Chesapeake, or Isle of Wight County, Virginia; and (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of the city of Suffolk, the city of Chesapeake, or Isle of Wight County, Virginia.

*Sec. 606 (b). Deadline for Determination.* The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

*Sec. 606 (c). Reservation Status.* Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

*Sec. 606 (d). Gaming.* The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

***Title VII. Eminent Domain.***

*Sec. 701. Limitation.* Eminent domain may not be used to acquire lands in fee or in trust for an Indian tribe recognized under this Act.

**CBO Score:**

CBO does not currently have an official score for H.R. 872, however they have scored S. 465 the Senate companion bill. CBO estimates that implementing the legislation would cost \$78 million over the 2016-2020 period, assuming appropriation of all necessary funding. Enacting S. 465 would not affect direct spending or revenues: therefore, pay-as-you-go procedures do not apply. S. 465 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

**Administration's Position:**

On October 30, 2013, Assistant Secretary for Indian Affairs, Kevin Washburn delivered testimony on identical legislation at a hearing held in the Senate Committee on Indian Affairs. In his prepared statement the Assistant Secretary acknowledged that as of the date of that hearing, the six Indian groups were “awaiting technical assistance reviews to provide them with opportunities to supplement their petitions due to obvious deficiencies and significant omissions.” The Assistant Secretary stated that the BIA had not concluded their own review as to the merits of recognition for the six groups and also that the BIA had not developed views on the merits of Congressional recognition at that time.

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