

Summary of H.R. 3764, the *Tribal Recognition Act of 2015*

The current tribal recognition process under the Bureau of Indian Affairs (BIA) is severely flawed. Recognition (“acknowledgment”), a solemn act of the federal government vested with Congress under Article I, is the process by which the U.S. acknowledges groups of native peoples as tribes within the meaning of federal law. Federally recognized tribes are political entities possessing unique powers of self-government, entitled to special privileges, immunities, and federal benefits and services available to Indians because of their status as Indians. The BIA system – or lack thereof – is fraught with delays, lacks public transparency and is susceptible to political exploitation. H.R. 3764, the *Tribal Recognition Act*, introduced by Chairman Rob Bishop (R-UT), will restore the constitutional framework for federal recognition and, finally, bring integrity, consistency, and accountability to the recognition process.

Under the bill, native peoples can receive federal recognition, including tribal status, but only by an Act of Congress. H.R. 3764 establishes procedures for any group to petition for federal recognition. It requires the Secretary of the Interior (acting through the Assistant Secretary—Indian Affairs) to examine the evidence in support of the petition using criteria and standards set forth in the bill, after which the Secretary shall submit the findings to Congress. Under the bill, the status of a lawfully federally recognized tribe or group prior to the date of enactment of the Act shall be unaffected. Further, the Secretary shall have no authority to recognize a tribe outside of the constitutionally prescribed process.

- **CREATES PROCESS INTEGRITY:** Creates consistent guidelines and processes, protecting the integrity of federal recognition for new and existing tribes.
- **RESTORES CONSTITUTIONALITY:** Invoking Article I, Section 8, Clause 3 of the Constitution, H.R. 3764 reasserts the plenary power of Congress over recognition.
- **CREATES ACCOUNTABILITY:** Establishes uniformity and informed, historical analysis.
- **PROVIDES TRANSPARENCY:** Assures public notice is given and that input from all sides is considered by Congress, as opposed to allowing the BIA to make up all the rules which may restrict notice and the fair consideration of input.

BACKGROUND

At a committee legislative hearing on Dec. 8 2015, Chairman Robert Martin of the Morongo Band of Mission Indians stressed the importance of federal recognition to all of Indian Country and the underlying failures with the current procedures that are addressed in Bishop’s legislation. *“The lack of consistency on issues such as reaffirmation and re-petitioning has convinced us that Congress should be directly involved in the acknowledgement process. [...] We have more faith in our locally elected representatives than in an untold number of bureaucrats that have no connection or direct accountability to our communities.”*

The committee held two legislative hearings on H.R. 3764, one on [October 29, 2015](#) and one on [December 8, 2015](#), as well as an oversight hearing on [“The Obama Administrations Part 83 Revisions and How They May Allow the Interior Department to Create Tribes, Not Recognize Them.”](#) Committee members sent a letter to Department of the Interior Secretary Sally Jewell related to Part 83 on March 26, 2015 that you can view [here](#).