

**TESTIMONY OF
PRINCIPAL CHIEF MICHELL HICKS
OF THE EASTERN BAND OF CHEROKEE INDIANS**

**LEGISLATIVE HEARING ON S.107, THE LUMBEE FAIRNESS ACT
BEFORE THE SENATE INDIAN AFFAIRS COMMITTEE**

November 5, 2025

Chairman Murkowski, Vice Chairman Schatz, and Members of the Committee on Indian Affairs, I am honored to testify today to express the views of the Eastern Band of Cherokee Indians on S.107, the “Lumbee Fairness Act.” I am particularly grateful to the Committee for holding a hearing that focused on the merits of Lumbee recognition, which is important to my Tribe but and tribal nations across Indian country.

Since before the arrival of Europeans on this continent, the Cherokee have lived in the southeastern part of what is now the United States, in the states of North Carolina, South Carolina, Alabama, Georgia, Kentucky, Tennessee, Virginia, and West Virginia. Since European contact, the Cherokee have faced unending threats to our very existence—including the tragic Trail of Tears, where more than 15,000 Cherokee Indians were forcibly removed by the U.S. Army from our ancestral homelands to the Indian Territory as part of the federal government’s American Indian Removal Policy. Thousands died. Our Eastern Band people call this event “Gay go whoa oh duh nuh ee,” or the “Removal.” We, the Eastern Band of Cherokee Indians, are the descendants of those Cherokees that resisted the Removal in the Great Smoky Mountains and escaped the Trail of Tears, or who were able to return to their homeland in the Smoky Mountains after enduring the Trail of Tears. The Great Smoky Mountains wrapped its arms around us, protected us, and helped us preserve our our lives and our culture. The mountains continue to provide us refuge and resources today.

Through all of this, the Cherokee people have fiercely protected our separate identity as Cherokees. There are three, and only three, Cherokee Tribal Nations: the Eastern Band of Cherokee Indians (“Eastern Band”), the United Keetoowah Band of Cherokee Indians, and the Cherokee Nation. Many of our Tribal members are fluent speakers of the Cherokee language. We have a separate culture that makes us different from any group of people in the world. The leadership of the Cherokee, and the Cherokee people ourselves, have fought with tenacity and determination for nearly 500 documented years to ensure that our way of life, our beliefs, and our sovereignty will survive. For over a century, Eastern Band Tribal leaders have been forced to actively protect the separate political and cultural identity of the Cherokee People from a multitude of groups that falsely claim to be Cherokee tribes. The Lumbees are one of these groups.

Irrefutable Facts About the Lumbee Group

I want to begin by highlighting the following irrefutable facts about the Lumbees:

- For over 125 years, the group of people that now calls themselves the “Lumbee Tribe” have sought federal recognition as a tribe from Congress. For over 125 years, Congress has rejected legislation that would federally acknowledge this group as a tribe.
- The group now indentifying as Lumbee has never had treaty relations with the United States.
- The group now identifying as Lumbee has sought federal recognition under different names: Croatan, Cherokee, Siouan, and Cheraw. One of these “tribes,” however, is not even a historical tribe but an Indigenous language group (Siouan).
- The group now calling itself Lumbee does not have a tribal language or tribal culture, according to Lumbee expert testimony before Congress.¹
- Independent experts Dr. Virginia DeMarce, the former Chair of the National Genealogical Society, and Paul Heinegg, an award-winning genealogist and author, have published detailed, pre-1900 research that undermines Lumbee claims to having Native ancestry.⁹ Heinegg summarizes his conclusions concerning Lumbee identity, referring to the Lumbee as “an invented North Carolina Indian tribe.”¹⁰
- The “Lumbee Fairness Act” specifically prohibits the Secretary of the Interior from reviewing the DeMarce and Heinegg research when verifying Lumbee rolls.
- For forty years, the State of North Carolina recognized the Lumbee group as, and the Lumbees held themselves out to be, “Cherokee” Indians.
- The name “Lumbee” does not come from a historic tribe—it comes from the geographical name of the river that runs through Robeson County, North Carolina, and was chosen by vote by this group from a list of options as their most recent identity.²
- The historical record surrounding the identity of the group calling itself Lumbee is replete with falsehoods and inconsistencies. For example, census records for Robeson County from the year 1900 identified families as “Croatan,” but never Lumbee. Confusingly, census records for Robeson County from the year 1910 identified those same families as “Cherokee,” but with the word “Croatan” stamped over the written word “Cherokee.”³ Exhibit 1.
- Unlike the Cherokee, the Choctaw, the Creek, the Seminole, the Shawnee, and many other established Tribal Nations with aboriginal lands in the South and East, the United States

¹ Congressional Record—House (Oct. 28, 1993), at 26545, available at <https://www.congress.gov/103/crecb/1993/10/28/GPO-CRECB-1993-pt18-7-1.pdf>.

² Hearing on H.R. 898, To Provide For Recognition of the Lumbee Tribe of North Carolina, Committee on Resources, House of Representatives, Apr. 1, 2004, p. 66 (Statement of Dr. Jack Campisi).

³ Notably, Dr. Jack Campisi, the Lumbee group’s expert who authored the group’s petition for federal recognition to the OFA, has testified to this Committee that “[t]he federal census records are by far the best source of evidence concerning the Lumbee community.” Testimony of Dr. Jack Campisi to the Senate Committee on Indian Affairs on S.420 (Sept. 17, 2003) p. 3.

never identified the Lumbee as as a tribe or even Indian and never sought to remove them from their claimed homelands when Indian removal was U.S. policy.

- The Lumbees submitted a petition for federal recognition to what is now the Office of Federal Acknowledgment (“OFA”) in 1987. No determination has been made regarding the Lumbees’ OFA petition.
- In accordance with the most recent Department of the Interior Solicitor’s M-Opinion on the matter, the Lumbees are eligible to seek federal recognition through the OFA process. Exhibit 2.

The foregoing facts are incontrovertible. Moreover, these facts 1) cast doubt on the validity of the Lumbees’ claim that they descend from a historic tribe, and 2) illustrate why Congress should defer to the OFA to determine the merits of the Lumbees’ claims.

Defects in Lumbee Tribal Identity Claims

If Congress recognizes groups whose tribal and individual identity as Indians is seriously in doubt, it will dilute the government-to-government relationships that existing federally recognized tribes have with the United States. Although the Lumbees have sought federal recognition under the assumed identities of four different “tribes,”⁴ they have yet to produce evidence demonstrating descent from a historic tribe. In 1955, a Lumbee leader testified to the House of Representatives that the Lumbees are an “‘admixture of seven different tribes of Indians, including the Cherokee, Tuscarora, Hatteras, Pamli and Croatan.’”⁵ To try to trace the Lumbees’ claimed identities is dizzying. We strongly believe that this bill would undermine the integrity of existing federally recognized Indian tribes due to the real problems the Lumbee group has in demonstrating that it is a tribe, including its inability to trace the genealogy of its roughly 60,000 members to a historic tribe.

Furthermore, even the Lumbees acknowledge that they cannot identify their origins. In 1953, a Lumbee leader recognized that:

The first white settlers found a large tribe of Indians living on the Lumbee River in what is now Robeson County—a mixture of colonial blood with Indian blood, not only [Raleigh’s] colony; but, with other colonies following and with many tribes of Indians; hence, we haven’t any right to be called any one of the various tribal names⁶

Although they have since changed their position, the historical fact remains—Lumbee leaders seventy years ago acknowledged the group’s lack of descent from a historical tribe.

⁴ One such assumed identity is Siouan, which is an Indigenous language group—not a historic tribe.

⁵ S. Rep. No. 110-409 (2008), p. 4 (quoting Statement of Rev. D.F. Lowery of Pembroke, North Carolina before the Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, U.S. House of Representatives, Hrg. on H.R. 4656 Relating to the Lumbee Indians of North Carolina, Jul. 22, 1955).

⁶ Congressional Record—House (Oct. 28, 1993), at 26544, available at <https://www.congress.gov/103/crecFb/1993/10/28/GPO-CRECB-1993-pt18-7-1.pdf>.

Lumbee's Self-Identification as "Croatan" Indians

In 2003, the Lumbees' own hired expert (Dr. Jack Campisi) stated in his testimony before this Committee that the Lumbee sought federal services from the Congress as "Croatan Indians" in the 1880s and early 1900s. However, in 1993, the House Resources Committee's Report regarding the then-pending Lumbee recognition bill contained the following relating to the history of the Lumbee group and its "Croatan" origins:

The story of how the progenitors of the Lumbee came to live in this area of North Carolina is a multifarious one. In fact, there are almost as many theories as there are theorists. Up until the 1920's, the most persistent tradition among the Indians in Robeson County was that they were descended primarily from an Iroquoian group called the Croatans. This theory, though highly conjectural, is as follows. In 1585, Sir Walter Raleigh established an English colony under Gov. John White on Roanoke Island in what later became North Carolina. In August of that year, White departed for England for supplies, but was prevented from returning to Roanoke for 2 years by a variety of circumstances. When he finally arrived at the colony, however, he found the settlement deserted; no physical trace of the colonists was found.

The only clue to their whereabouts were the letters "C.R.O." and the word "Croatoan" carved in a tree. From this it was surmised that the colonists fled Roanoke for some reason, and removed to the nearby island of Croatoan which was inhabited by a friendly Indian tribe. There, according to the theory, they intermarried with the Indians, and the tribe eventually migrated to the southwest to the area of present-day Robeson County. The theory is lent some credence by reports of early 18th century settlers in the area of the Lumber River who noted finding a large group of Indians—some with marked Caucasian features such as grey-blue eyes "speaking English, tilling the soil," "and practicing the arts of civilized life." In addition, many of the surnames of Indians resident in the county match those of Roanoke colonists.⁷

Lumbee's Self-Identification as "Cherokee" Indians

In 2015, the Secretary of the Interior informed this Committee that "[l]ong before historians began to study the origin of these people they claimed to be of Cherokee descent. In fact, they have always claimed that they were originally a part of the Cherokee Tribe and that they gave up their tribal relation after they had participated with the white man in the war against the Tuscaroras."⁸

⁷ *Id.* at 26543.

⁸ Letter from the Secretary of the Interior Transmitting, in Response to a Senate Resolution of June 30, 1914, a Report on the Condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina, S. Doc. No. 677, at 121 (1915).

The Lumbee group sought recognition from the North Carolina Legislature in 1913 as the “Cherokee Indians of Robeson County.” This legislation was passed, despite the Eastern Band’s opposition, and the group was recognized in North Carolina as “Cherokee” Indians. That continued for 40 years until 1953 when the North Carolina Legislature, at the Lumbee group’s request, passed legislation recognizing them as the “Lumbee” Indians instead of as the “Cherokee” Indians. Although the Lumbee group now claims the Cherokee identity was pushed upon them, there is significant evidence throughout history of the Lumbee group and its “members” affirmatively asserting Cherokee identity.

As the Lumbee group’s expert Dr. Campisi stated, after World War I, this Lumbee group sought legislation in Congress for recognition as “the Cherokee Indians of Robeson and adjoining counties.” Specifically, in 1924, Dr. Campisi noted that the now-called Lumbee group had legislation introduced in the U.S. Senate that would have recognized them as “Cherokee” Indians. However, Commissioner of Indian Affairs Charles H. Burke opposed the legislation and it failed to pass. Dr. Campisi went on to state that the Lumbee group renewed their efforts in 1932 and had a bill introduced in the Senate that would have recognized them as “the Cherokee Indians,” but this effort failed as well.⁹ The Eastern Band has, since the early 1900s when the Lumbee group sought formal recognition as Cherokee, consistently and strongly opposed these efforts of the Lumbees to be recognized as a tribe.

Additionally, from 1914 to 1916, several Lumbee individuals petitioned the United States Commissioner on Indian Affairs for admittance to the Carlisle Indian School in Pennsylvania. W.H. Oxendine claimed to be “an Indian of the Cherokee Tribe of Eastern N.C. in Robeson County.”¹⁰ In James Oxendine’s application to Carlisle, his mother, Charity, listed herself as being 3/4 Cherokee.¹¹ In his 1916 response to Lumbee applications to Carlisle, School Superintendent O.H. Lipps wrote to the Commissioner on Indian Affairs:

These applications have been consistently turned down for the reason that we have been advised by the office that the status of the indians of Robeson County is undetermined and that it is a question to be decided by Congress and, also, for the further reason that we understand Supervisor Charles F. Pierce some years ago made a very thorough investigation into the claims of these Indians for recognition by the Government and it was his opinion that it would be a great mistake for the Government to step in and assume guardianship over them even to the extent of giving them school privileges in Government schools.¹²

⁹ *Id.* Ms. Arlinda Locklear, in her testimony before the Senate Indian Affairs Committee in 2003, noted that the Lumbee group claimed that they were Cherokee and sought federal legislation to be recognized as Cherokees. “Testimony of Arlinda Locklear, Patton Boggs LLP, Of Counsel for the Lumbee Tribe of North Carolina in Support of S. 420 United States Senate Committee on Indian Affairs” (Sept. 17, 2003) p. 4.

¹⁰ Request for Enrollment from Robeson County Cherokee (Nov. 11, 1914), available at https://carlisleindian.dickinson.edu/sites/default/files/docs-documents/NARA_RG75_CCF_b028_f06_119133.pdf.

¹¹ James Oxendine Student File (1911), available at https://carlisleindian.dickinson.edu/sites/default/files/docs-ephemera/NARA_1327_b003_f0117.pdf.

¹² View of Oscar H. Lipps on Pupils Attending Non-Government School (Feb. 12, 1916), p. 1, available at https://carlisleindian.dickinson.edu/sites/default/files/docs-documents/NARA_RG75_CCF_b029_f013_16293.pdf.

Questions surrounding the Lumbee group's claims are not a recent phenomenon. Even in 1916, it was openly discussed and understood that the Lumbee group's claims of Indian ancestry were highly suspicious.

Lumbee's Self-Identification as "Siouan" Indians

According to the Lumbees, the Lumbee group sought federal recognition as "Siouan" Indians in 1924. Further, in the 1930s, for purposes of the Indian Reorganization Act, the Lumbees self-designated themselves as the "Siouan Indian Community of Lumber River."¹³ As stated above, the term "Siouan" is a reference to a generic linguistic classification that is spoken by many tribes in North America and is not a term that describes a distinct historical tribe.

It was not until 1952 that the Lumbees decided to refer to themselves as "Lumbee" based upon their geographic location next to the Lumber River. In 1956, Congress, at the request of the Lumbees, passed legislation commemorating their name change.¹⁴ Absent from this 1956 Act was any affirmation by Congress that recognized the Lumbees as descendants of specific historic tribes, entitled to a government-to-government relationship; rather, the Act refers to the Lumbees as a group that relies "on tribal legend" to trace their origin.¹⁵

The Lumbees' Tenuous Efforts to Link Themselves to the Cheraw Tribe

The federal recognition criteria require that the membership of a petitioning group consist of "individuals who descend from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity)."¹⁶ The regulations define "historical" in this context as "before 1900."¹⁷ The origin and ties of the Lumbee group to a historical tribe have been the subject of uncertainty not only among experts in the area but also among the Lumbee themselves.

Experts at the Bureau of Indian Affairs ("BIA") have testified that the Lumbee ties to the Cheraw Tribe are tenuous. On August 1, 1991, Director of the Office of Tribal Services Ronal Eden testified on behalf of the Administration regarding federal legislation that would Congressionally recognize the Lumbee group. Regarding the Lumbee group's petition for federal recognition, the Director testified to a "major deficiency" that "the Lumbee have not documented their descent from a historic tribe."¹⁸

The Director also testified that the 18th century documents used by the Lumbee group to support its claim that it primarily descends from a community of Cheraws living on Drowning

¹³ *Id.* at 9.

¹⁴ *Id.* at 9-10.

¹⁵ 70 Stat. 254.

¹⁶ 25 C.F.R. § 83.11(e).

¹⁷ *Id.* at 83.1.

¹⁸ Statement of Ronal Eden, Director, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, Before the Joint Hearing of the Select Committee on Indian Affairs, United States Senate, and the Interior and Insular Affairs Committee, United States House of Representatives, On S. 1036 and H.R. 1426 (Aug. 1, 1991) p. 3-5.

Creek in North Carolina in the 1730s needed extensive analysis corroborated by other documentation.¹⁹

In his September 17, 2003 testimony before this Committee, Lumbee expert Dr. Jack Campisi relied on a report by Dr. John R. Swanton of the Bureau of Ethnology to conclude “in the early 1930s that the Lumbees are descended [from] predominantly Cheraw Indians.” The House Report specifically refutes this claim, stating that Swanton chose “Cheraw” rather than another tribal name he identified—“Keyauwee”—because the Keyauwee name was not well known. “In other words, the choice of the Cheraw was apparently made for reasons of academic ease rather than historical reality.”²⁰

Furthermore, an Acting Deputy Assistant Secretary, Indian Affairs, has questioned the adequacy of the underlying proof of Cheraw descent. He testified in 1989 that:

The Lumbee petition . . . claims to link the group to the Cheraw Indians. The documents presented in the petition do not support [this] theory These documents have been misinterpreted in the Lumbee petition. Their real meanings have more to do with the colonial history of North and South Carolina than with the existence of any specific tribal group in the area in which the modern Lumbee live.²¹

In her 2003 testimony before this Committee, legal counsel to the Lumbee, Arlinda Locklear, admitted that these concerns continue today. “Department staff that administers the administrative acknowledgment process have expressed some concern about the absence of a genealogical connection between the modern-day Lumbee Tribe and the historic Cheraw Tribe.”²²

Claimed Lumbee Membership Not Tied to Cheraw Individuals

The various documents on which the Lumbee membership list is based similarly cast doubt as to the ability of the Lumbee group to meet the recognition criteria. The Lumbee group claims more than 60,000 enrolled members who are descended from anyone identifying as “Indian” in five North Carolina counties and two South Carolina counties in either the 1900 or 1910 federal census. The Lumbee Constitution refers to these census lists as the “Source Documents.” Yet, the individuals on these lists cannot be specifically identified and verified as Cheraw Indians. In fact, these individuals cannot be identified as belonging to any tribe whatsoever. These are lists of people who self-identified or were identified by census workers as “Indian.”

¹⁹ *Id.*

²⁰ Congressional Record—House (Oct. 28, 1993), at 26544, available at <https://www.congress.gov/103/crecb/1993/10/28/GPO-CRECB-1993-pt18-7-1.pdf>.

²¹ *To Provide Federal Recognition for the Lumbee Tribe of North Carolina: Hearing Before the House Committee on Interior and Insular Affairs on H.R. 2335*, 101st Cong. 25-27 (1989).

²² “Testimony of Arlinda Locklear, Patton Boggs LLP, Of Counsel for the Lumbee Tribe of North Carolina in Support of S. 420 United States Senate Committee on Indian Affairs” (Sept. 17, 2003) p. 4 n.1.

House Resources Committee members have recognized the weaknesses and complexities in the Lumbee group's claim to tribal recognition in the past:

The Lumbee . . . have never had treaty relations with the United States, a reservation, or a claim before the Indian Claims Commission; they do not speak an Indian language; they have had no formal political organization until recently; and they possess no "Indian" customs or cultural appurtenance such as dances, songs, or tribal religion. One of the groups consultant anthropologists, Dr. Jack Campisi, noted this lack of Indian cultural appurtenances in a hearing colloquy with then-Congressman Ben Nighthorse Campbell:

Mr. Campbell: Do [the Lumbee] have a spoken language . . . ?

Dr. Campisi: No.

Mr. Campbell: Do they have distinct cultural characteristics such as songs, dances and religious beliefs and so on? . . . Do the Lumbees have that?

Dr. Campisi: No. Those things were gone before the end of the 18th Century.

This absence of cultural appurtenances in part identify the Lumbee as part of what sociologist Brewton Berry has termed the "marginal Indian groups." As Berry notes:

These are communities that hold no reservation land, speak no Indian language, and observe no distinctive Indian customs. Although it is difficult to establish a firm historical Indian ancestry for them, their members often display physical features that are decidedly Indian. Because they bear no other historic tribal names, they often emphasize a *Cherokee* ancestry.

These characteristics . . . point out that this is a case replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those [Members of Congress] charged with the day-to-day oversight of Indian affairs do not have the necessary expertise – or even knowledge – in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do when this legislation reaches the floor?²³

It must also be noted that, due to the absence of their own culture, the Lumbee group has and continues to engage in heavy appropriation of cultures from legitimate Tribal Nations.

OFA's Unique and Exclusive Capability to Determine the Merits of Lumbee's Claims

The government-to-government relationship between a Tribal Nation and the United States begins at the point where each recognizes the sovereignty of the other. For this reason, it is crucial that the federal government have in place a credible, non-politicized process for determining which Tribal Nations it recognizes. The National Congress of American Indians (NCAI) expressed its support for such a process by resolution in 1977. Exhibit 3. In Spring of

²³ Congressional Record—House (Oct. 28, 1993), at 26545, available at <https://www.congress.gov/103/crecb/1993/10/28/GPO-CRECB-1993-pt18-7-1.pdf>.

1978, NCAI issued a Declaration of Principles on Tribal Recognition by the U.S. Government. Exhibit 4. NCAI declared: “There must be a valid and consistent set of criteria applied to every group which petitions for recognition. The criteria must be based on ethnological, historical, legal and political evidence.” *Id.* NCAI further declared that only those tribes or groups who satisfy such criteria may be recognized. *Id.* In large part due to pressure from NCAI, the Department of the Interior established the OFA and the federal recognition process (known as the “Part 83 process”) in Fall of 1978 to ensure that federal recognition determinations are made with rigorous scrutiny and based on factual and historical evidence, “free from the eddies and currents of partisan politics and influence.”²⁴

The Part 83 process requires the OFA to apply and consider seven mandatory criteria to evaluate a group’s petition for federal recognition. The purpose of these seven criteria is to prevent the recognition—and the rights, benefits, and duties that come with it—of groups that are not truly Tribal Nations entitled to government-to-government relationships with the United States.

As former Congressman and Chair of the House Natural Resources Committee George Miller has explained about the role of Congress and tribal recognition,

Properly done, the process of recognition requires an evaluation of complex and often ambiguous data and issues of ethnohistory, cultural anthropology, and genealogy. Not only do we lack that expertise, but there are precious few members of this Committee with any more than the most superficial knowledge on the subject at all. Such a decision is replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those of us charged with the day-to-day oversight of Indian affairs do not have the necessary expertise—or even knowledge—in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do when this legislation reaches the floor?²⁵

Congress does not have the expertise to determine whether a modern group descends from a historical tribe (or tribes), and whether the group is comprised of persons of Indian ancestry from that historical tribe (or tribes), and would base its recognition decision on politics and emotions rather than merit. In fact, as was pointed out by a Member of the House with respect to a previous Lumbee recognition bill, “[a] single, powerful member in the majority party is perfectly capable of moving a recognition bill through this body with little reference to its actual merits.”²⁶ The rights, benefits, and duties that accompany federal recognition must not be conveyed lightly, as doing so would have devastating consequences within and beyond Indian country. This is why it is imperative that the claims of groups like the Lumbee be vetted by the highly skilled, qualified, and experienced historians, anthropologists, and genealogists at the OFA who have the dedicated time and resources to properly evaluate them. There are simply too many unknowns and inconsistencies resulting in too many looming questions about the Lumbees’ claims to leave determination of those claims to the political whims of Congress.

²⁴ H.R. Rep. No. 103-621, at 17 (1994).

²⁵ *Id.* at 16-17.

²⁶ *Id.* at 17

Concerns of Eastern Band and Other Legitimate, Federally Recognized Indian Tribes

The integrity of the federal recognition process would be jeopardized by allowing political motivations to substitute for research and critical analysis of neutral, third-party experts if Congress recognizes the Lumbee group by legislation. Furthermore, the government-to-government relationship legitimate tribes hold with the United States would be diluted if groups that cannot demonstrate descent from a historical tribe(s) are federally recognized and vested with the sovereign rights of Tribal Nations. The OFA process protects established Tribal Nations that have treaty and trust relations with the United States and living languages and cultures from fraudulent or unmerited claims of tribal identity.

As historian and genealogist Jean Kelly explains:

Allowing Federal recognition for a group without clear antecedents of previous historical tribe(s) would dramatically redefine the standards for receiving Federal recognition, almost to the point of being meaningless. Such low standards would pave the way for groups with little to no evidence of Native ancestry to claim the cultures and identities of legitimate tribes and assume legal rights over their sacred places and ancestral remains under the Native American Graves Protection and Repatriation Act (NAGPRA). Imbuing such groups with the legal authorities to act as sovereigns would have significant consequences for communities across America.”²⁷

Passage of the bill would set a dangerous precedent, encouraging countless groups with entirely baseless claims to seek federal recognition from Congress. As former Congressman Walter B. Jones stated in a hearing on the 2004 iteration of the Lumbee recognition bill, “if we start passing private bills to recognize [the Lumbee group], then I think we are creating a problem that is going to be uncontrollable, because how can you say yes to one and no to 237 [other groups seeking recognition]?”²⁸

The Eastern Band’s opposition to this bill is driven by the threat Congressional recognition of the Lumbee group would pose to tribal sovereignty, the government-to-government relationship between Tribal Nations and the United States, Indigenous and tribal identity, and access to vital federal resources intended for legitimate Tribal Nations across Indian country—not the threat on the Eastern Band’s gaming operations. Robeson County, the Lumbees’ claimed homelands, is located approximately 225 miles away from the Eastern Band’s casino in Cherokee, North Carolina, and approximately 260 miles away from its casino in Murphy, North Carolina, as the crow flies. It takes over five and six hours, respectively, to drive from Pembroke, Robeson County, to the Eastern Band’s casinos. If the Lumbees were federally recognized and permitted to engage in Indian gaming, impacts of such activity on the Eastern Band’s gaming enterprises would be nominal. The Lumbees pose no threat to the Eastern Band

²⁷ Jean Kelley, M.A., “Analysis of Lumbee Historical and Genealogical Claims,” 2024, at 17-18, attached as Exhibit 5.

²⁸ H.R. Hrg. 108-90 (2004), p. 5-6.

from a gaming perspective, and gaming revenues are irrelevant to the Eastern Band’s opposition to this bill.

Drastically Underestimated Cost of Lumbee Recognition— Harm to Existing Tribes and Waste of Taxpayer Money

Congress has been egregiously misled regarding the cost of Lumbee recognition. The most recent cost estimate prepared by the Congressional Budget Office (“CBO”) for Lumbee recognition (Exhibit 6), which was prepared in 2022 for H.R. 2758 (Lumbee Recognition Act), glaringly underestimated the price tag for taxpayers on recognition of the Lumbee. Specifically, the CBO cost estimate for H.R. 2758 contains the following deficiencies:

- Estimated BIA costs for H.R. 2758 (\$116M) are 28% lower than estimated BIA costs in the previously prepared CBO cost estimate for Lumbee recognition (\$160M), which was for the period from 2012 to 2016. *See* Exhibit 7. That BIA costs would have *decreased* by 28% over the roughly ten-year gap between the two cost estimates, and following an increase in the Lumbee population, defies all logic.
- In 2018, the Government Accountability Office issued a report demonstrating that Indian Health Service (“IHS”) spending for 2017 amounted to \$4,078 per user.²⁹ This figure, \$4,078, was again used by IHS in a fact sheet based on 2022 data.³⁰ However, the cost estimate for H.R. 2758 applies a per user figure of just \$1,700—which is even smaller than the per user figure applied in the previously prepared CBO cost estimate for Lumbee recognition for the 2012-2016 period. Again, for costs to decrease over the course of a decade, while inflation and the Lumbee population continued to grow, defies logic. Moreover, there is no justification for the CBO using a smaller per-user cost figure than IHS uses.
- Although the cost estimate for H.R. 2758 indicates that it is for the period 2023-2027 (a five-year period), it actually only attributes costs to the bill for the years 2024-2027 (a four-year period). Outlays for 2023 are estimated at \$0. Moreover, without explanation, outlays for 2024 are estimated at roughly half of the amounts estimated for years 2025, 2026, and 2027. Exhibit 8.
- Estimated IHS costs do not include the cost of developing necessary healthcare infrastructure, such as hospitals and clinics, to service the sizeable population of Lumbee service recipients.
- The CBO cost estimate accounts only for IHS and BIA costs. However, if recognized, the Lumbees would become eligible for significant funds from multitude of federal funding sources outside of these two agencies. These other funds are not accounted for in the H.R.

²⁹ “Indian Health Service: Spending Levels and Characteristics of IHS and Three Other Federal Health Care Programs,” GAO-19-74R, available at <https://www.gao.gov/products/gao-19-74r>.

³⁰ IHS Fact Sheet, available at

https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/factsheets/IHSProfile.pdf.

2758 CBO cost estimate. Estimated costs for other agencies that would provide services or benefits to the Lumbees as Indians, if recognized, must be included for the CBO cost estimate to be accurate and comprehensive. Exhibit 8.

The impact of Lumbee recognition on appropriations to other Indian tribes would be unprecedented in the history of federal acknowledgment. Accounting for the above-identified flaws with the previous CBO cost estimate, the Eastern Band estimates the cost of Lumbee recognition to be in the billions of dollars. Accordingly, this bill would have a huge, negative impact on the budgets of BIA and IHS and would decrease even further the sorely needed funds Indian people receive as a result of treaties and trust obligations of the United States to Indians and tribes. This Committee and the Congress should not support this legislation for emotional or political reasons, particularly without being absolutely certain that this group constitutes a recognizable Indian tribe in accordance with the objective criteria at the OFA, which it cannot.

Conclusion

If this Committee and the Congress choose to pass this legislation, the consequences will be dramatic for existing federally recognized tribes. First and foremost, politics will have won a decided victory over sound policy. The notion of “taking the politics out of federal recognition” will have suffered its most severe setback in history.

With federal recognition comes the ability of a group to engage in serious activities associated with sovereign status, such as the ability to tax and enjoy certain tax advantages, the ability to exercise civil jurisdiction over non-Indians as well as Indians, and the right to engage in gaming. Enacting legislation like this only arms those who seek to erode sovereign rights with evidence that some groups possessing such rights were haphazardly afforded them. That is, the sovereign status of federally recognized tribes is currently under attack, with opponents arguing that tribes should be treated as little more than racial groups, devoid of treaty rights and a government-to-government relationship with the United States. Accordingly, federal recognition of tribes should be able to withstand the scrutiny of the federal courts that are responsible for interpreting the laws that uphold the United States’ trust obligations.

EXHIBIT 1

7-404.
TWELFTH CENSUS OF THE UNITED STATES.

SCHEDULE No. 1.—POPULATION.
INDIAN POPULATION.

State Nb
County Robeson

Supervisor's District No. 4
Enumeration District No. 114

127

Sheet No. 29

Township or other division of county Saddle Creek Township
(Insert name of township, town, precinct, district, or other civil division, as the case may be. See instructions.)

Name of Institution, X

Name of incorporated city, town, or village, within the above-named division, X

Ward of city, X

Enumerated by me on the June 2 day of June, 1900, D. B. Humphrey, Enumerator.

LOCATION.			NAME of each person whose place of abode on June 1, 1900, was in this family. Enter surname first, then the given name and middle initial, if any. Include every person living on June 1, 1900. Omit children born since June 1, 1900.	RELATION.	PERSONAL DESCRIPTION.							NATIVITY.			CITIZENSHIP.			OCCUPATION, TRADE, OR PROFESSION of each person TEN YEARS OF age and over.	EDUCATION.				OWNERSHIP OF HOME.									
IN CITIES.		House number.			Number of dwelling in the order of visitation.	Number of family, in the order of visitation.	Relationship of each person to the head of the family.	Color or Race.	Sex.	DATE OF BIRTH.		Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years married.	Mother of how many children.	Number of these children living.	Place of birth of each person and parents of each person enumerated. If born in the United States, give the State or Territory; if of foreign birth, give the Country only.			Year of immigration to the United States.	Number of years in the United States.	Naturalization.	Months not employed. Attended school (in months).	Can read.	Can write.	Can speak English.	Owned or rented.	Owned free or mortgaged.	Farm or house.	Number of farm schedule.		
Street.										Month.	Year.						Place of birth of this PERSON.		Place of birth of FATHER of this person.												Place of birth of MOTHER of this person.	
			1	2	3	4	5	6	7	8	9	10	11	12		13	14	15		16	17	18	19	20	21	22	23	24	25	26	27	28
1					William D.	Son	W	M	Nov	1888	11	S				Nb	Nb	Nb					Farm Laborer	0	0	no	no	yes				
2					Mitch Edna	Daughter	W	F	May	1871	29	M	5	1	1	Nb	Nb	Nb					Farm Laborer	0		yes	yes	yes				
3					Julia	Granddaughter	W	F	Nov	1877	2	S				Nb	Nb	Nb														
4	8	8			Locklear Saml	Head	W	M	Jan	1878	22	M	5			Nb	Nb	Nb					Farmer	0		yes	yes	yes	0	0	9	9
5					Gale	Wife	W	F	May	1872	28	M	5	3	2	Nb	Nb	Nb														
6					John B	Son	W	M	Apr	1894	6	S				Nb	Nb	Nb														
7					Beale	Daughter	W	F	July	1895	4	S				Nb	Nb	Nb														
8	9	9			Samson Jasper	Head	W	M	May	1810	30	M	7			Nb	Nb	Nb					Farmer	0		yes	yes	yes	0	0	9	10
9					Marsden	Wife	W	F	Apr	1868	32	M	7	4	3	Nb	Nb	Nb								yes	yes	yes				
10					Dallis	Son	W	M	Jan	1894	6	S				Nb	Nb	Nb														
11					William W	Son	W	M	Oct	1895	4	S				Nb	Nb	Nb														
12					Joe	Son	W	M	Jan	1898	2	S				Nb	Nb	Nb														
13	10	10			Louise Jones	Head	W	M	Aug	1862	37	S				Nb	Nb	Nb					Farmer	0		yes	yes	yes	0	0	9	11
14					Minnie	Daughter	W	F			86	20	S	6	6	Nb	Nb	Nb					worker in factory	0		yes	yes	yes				
15					Oxendine John	Head	W	M	Nov	1879	20	S				Nb	Nb	Nb					worker in factory	5	0							
16					Louise Mary C	Sister	W	F			40	S				Nb	Nb	Nb					Farm Laborer			yes	yes	yes				
17					Emily	Sister	W	F			38	S				Nb	Nb	Nb														
18	11	11			Bell Caroline	Head	W	F			44	18	6	5		Nb	Nb	Nb					Farm Laborer	0		yes	no	yes				
19					William	Son	W	M			17	S				Nb	Nb	Nb					Farm Laborer	12	0	yes	no	yes				
20					Ernest	Son	W	M			13	S				Nb	Nb	Nb					Farm Laborer	0	0	no	no	yes				

SCHEDULE No. 1.—POPULATION—Continued.
SPECIAL INQUIRIES RELATING TO INDIANS.

OTHER NAME, IF ANY.	NATIVITY.			MIXED BLOOD. Has this Indian any white blood, if so, how much? (1/2, 3/4, or 5/8.)	CONJUGAL CONDITION.	CITIZENSHIP.			DWELLINGS.
	Tribes of this Indian.	Tribes of FATHER of this Indian.	Tribes of MOTHER of this Indian.			Is this Indian taxed? (See instructions.)	Year of acquiring citizenship.	Was citizenship acquired by allotment?	
29	30	31	32	33	34	35	36	37	38
1	William D.	Croatan	Croatan	Croatan	1/2	yes			Fixed
2	Mitchell Edna	Croatan	Croatan	Croatan	1/2	no			Fixed
3	Julia	Croatan	Croatan	Croatan	1/2	yes			Fixed
4	Locklear Saml	Croatan	Croatan	Croatan	1/2	no			Fixed
5	Gale	Croatan	Croatan	Croatan	1/2	yes			Fixed
6	John B	Croatan	Croatan	Croatan	1/2	yes			Fixed
7	Beale	Croatan	Croatan	Croatan	1/2	yes			Fixed
8	Samson Jasper	Croatan	Croatan	Croatan	1/2	no			Fixed
9	Marsden	Croatan	Croatan	Croatan	1/2	no			Fixed
10	Dallis	Croatan	Croatan	Croatan	1/2				Fixed
11	William W	Croatan	Croatan	Croatan	1/2				Fixed
12	Joe	Croatan	Croatan	Croatan	1/2				Fixed
13	Louise Jones	Croatan	Croatan	Croatan	1/2				Fixed
14	Minnie	Croatan	Croatan	Croatan	1/2				Fixed
15	Oxendine John	Croatan	Croatan	Croatan	1/2				Fixed
16	Louise Mary C	Croatan	Croatan	Croatan	1/2				Fixed
17	Emily	Croatan	Croatan	Croatan	1/2				Fixed
18	Bell Caroline	Croatan	Croatan	Croatan	1/2				Fixed
19	William	Croatan	Croatan	Croatan	1/2				Fixed
20	Ernest	Croatan	Croatan	Croatan	1/2				Fixed

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

This modified form of Schedule No. 1 is to be used in making the enumeration of Indians, both those on reservations and those living in family groups outside of reservations.

Detached Indians living either in white or negro families outside of reservations should be enumerated on the general population schedule (Form 7-224) as members of the families in which they are found; but detached whites or negroes living in Indian families should be enumerated on this schedule as members of the Indian families in which they are found. In other words, every family composed mainly of Indians should be reported entirely on this schedule, and every family composed mainly of persons not Indian should be reported entirely on the general population schedule.

This schedule contains on each side twenty horizontal lines, each running twice across the page, and it is consequently possible to enumerate on it only forty persons (twenty persons on the A side and twenty persons on the B side). Each Indian should be carried through from the beginning to the end of the line on which he is entered, as line 1, line 2, etc., and each inquiry from column 1 to column 38 which applies to the individual case should be answered.

COLUMNS 1 TO 28.—These columns are identical with those on the general population schedule. Fill each column, so far as the inquiry applies, in accordance with the instructions for filling the corresponding columns in the general population schedule, but note the following additional instructions in relation to filling columns 1, 2, and 19:

COLUMNS 1 AND 2.—If you are canvassing a given territory with both the general population schedule (Form 7-224) and this schedule for Indian population, make two independent series of numbers for these columns, one series in each kind of schedule, so that the last numbers on the two schedules when added together will correctly give the whole number of dwellings and of families visited and enumerated in your entire district.

COLUMN 19.—If the Indian has no occupation and is wholly dependent on the Government for support, write "Ration Indian." If he is partly self-supporting and partly dependent upon the Government, write the occupation and then the letter "R" (for ration). If the Indian is under ten years of age and receives rations, write "Under age—R."

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

LOCATION.	NAME	RELATION.	PERSONAL DESCRIPTION.	NATIVITY.			CITIZENSHIP.	Whether able to speak English; or, if not, give language spoken.	OCCUPATION.		Whether an employer, employee, or working on own account.	If an employee, whether out of work during year 1909.	EDUCATION.		OWNERSHIP OF HOME.		Whether a survivor of the Union or Confederate Army or Navy.	Whether blind (both eyes).	Whether deaf and dumb.
				Place of birth of this person.	Place of birth of Father of this person.	Place of birth of Mother of this person.			Trade or profession of, or particular kind of work done by this person, as spinner, salesman, laborer, etc.	General nature of industry, business, or establishment in which this person works, as cotton mill, dry-goods store, farm, etc.			Whether able to read.	Whether able to write.	Graded or not.	Graded free or mortgaged.			
21																			
22																			
23																			
24																			
25																			
26																			
27																			
28																			
29																			
30																			
31																			
32																			
33																			
34																			
35																			
36																			
37																			
38																			
39																			
40																			

SPECIAL INQUIRIES RELATING TO INDIANS.

Tribe of this Indian.	Tribe of Father of this Indian.	Tribe of Mother of this Indian.	PROPORTIONS OF INDIAN AND OTHER BLOOD.			Number of times married.	Whether now living in polygamy.	If living in polygamy, whether the wives are sisters.	GRADUATED FROM WHAT EDUCATIONAL INSTITUTION.	Is this Indian taxed?	If Indian has received allotment, give year of allotment.	RESIDENCE AND DWELLING.	
			Indian.	White.	Negro.							Residing on his own land.	Living in civilized or aboriginal dwelling.
21	Cherokee	Cherokee	3/4	1/4									Civ.
22	Cherokee	Cherokee	3/4	1/4									"
23	Cherokee	Cherokee	3/4	1/4									"
24	Cherokee	Cherokee	3/4	1/4									"
25	Cherokee	Cherokee	3/4	1/4									"
26	Cherokee	Cherokee	3/4	1/4									"
27	Cherokee	Cherokee	3/4	1/4									"
28	Cherokee	Cherokee	3/4	1/4									"
29	Cherokee	Cherokee	3/4	1/4									"
30	Cherokee	Cherokee	3/4	1/4									"
31	Cherokee	Cherokee	3/4	1/4									"
32	Cherokee	Cherokee	3/4	1/4									"
33	Cherokee	Cherokee	3/4	1/4									"
34	Cherokee	Cherokee	3/4	1/4									"
35	Cherokee	Cherokee	3/4	1/4									"
36	Cherokee	Cherokee	3/4	1/4									"
37	Cherokee	Cherokee	3/4	1/4									"
38	Cherokee	Cherokee	3/4	1/4									"
39	Cherokee	Cherokee	3/4	1/4									"
40	Cherokee	Cherokee	3/4	1/4									"

INSTRUCTIONS FOR FILLING THIS SCHEDULE.
CONTINUED FROM "A" SIDE OF SHEET.

The following instructions apply to columns 33 to 46:

Columns 33, 34, and 35. Tribal relations.—If the Indian was born in this country answers should be obtained, if possible, to inquiries 12, 13, and 14, relating to the state or territory of birth of the person and of his or her parents. In any event, take particular pains to secure the name of the tribe with which the person is connected and the name of the tribe of each of his or her parents, and enter the same in columns 33, 34, and 35.

Columns 36, 37, and 38. Proportions of Indian and other blood.—If the Indian is a full-blood, write "full" in column 36, and leave columns 37 and 38 blank. If the Indian is of mixed blood, write in columns 36, 37, and 38 the fractions which show the proportions of Indian and other blood, as (column 36, Indian) $\frac{3}{4}$, (column 37, white) $\frac{1}{4}$, and (column 38, negro) 0. For Indians of mixed blood all three columns should be filled, and the sum, in each case, should equal 1, as $\frac{3}{4}$, 0, $\frac{1}{4}$; $\frac{3}{4}$, $\frac{1}{4}$, 0; $\frac{3}{4}$, $\frac{1}{4}$, $\frac{1}{4}$; etc.

Wherever possible, the statement that an Indian is of full blood should be verified by inquiry of the older men of the tribe, as an Indian is sometimes of mixed blood without knowing it.

Column 39. Number of times married.—If the Indian is married, enter in this column the number of times he or she has been married.

Column 40. Whether now living in polygamy.—If the Indian man is living with more than one wife, write "Yes" in this column; otherwise, write "No."

Column 41. If living in polygamy, whether the wives are sisters.—If the Indian man is living with more than one wife, and if his wives are sisters, write "Yes" in this column. If his wives are not sisters, write "No."

Column 42. Graduated from what educational institution.—If the Indian is a graduate of any educational institution, give the name and location of such institution.

Column 43. Is this Indian taxed?—An Indian is to be considered "taxed" if he or she is detached from his or her tribe and is living among white people as an individual, and as such is subject to taxation (whether he or she actually pays taxes or not); or if he or she is living with his or her tribe but has received an allotment of land, and thereby has acquired citizenship. In either of these two cases write "Yes" in this column.

An Indian on a reservation, without an allotment, or roaming over unsettled territory, is considered "not taxed," and for such Indians the answer to this inquiry is "No."

Column 44. If Indian has received allotment, give year of allotment.—If the Indian has received an allotment of land, enter, in column 44, the year in which the allotment was made.

Column 45. Residing on his own lands.—If the Indian lives on his or her own land, write "Yes" in this column; if the Indian lives elsewhere, write "No."

Column 46. Living in civilized or aboriginal dwelling.—If the Indian is living in a house of civilized design, as a log, frame, brick, or stone house, write "Civ." (for civilized) in this column; but if the Indian is living in a dwelling of aboriginal design, as a tent, tepee, cliff dwelling, etc., write "Abor." (for aboriginal).

7-464.
TWELFTH CENSUS OF THE UNITED STATES.

SCHEDULE No. 1.—POPULATION.
INDIAN POPULATION.

State North Carolina
County Robeson

Township or other division of county Marten Township (No 1) Name of Institution, W. C. Martin
Name of incorporated city, town, or village, within the above-named division, W. C. Martin Ward of city, +
Enumerated by me on the 16th day of June, 1900, J. D. Jones Enumerator.

LOCATION.			NAME of each person whose place of abode on June 1, 1900, was in this family. Enter surname first, then the given name and middle initial, if any. INCLUDE every person living on June 1, 1900. OMIT children born since June 1, 1900.	RELATION. Relationship of each person to the head of the family.	PERSONAL DESCRIPTION.							NATIVITY.			CITIZENSHIP.			OCCUPATION, TRADE, OR PROFESSION of each person TEN YEARS of age and over.	EDUCATION.				OWNERSHIP OF HOME.							
IN CITIES.	dwelling, if the owner of the same.	Number of family, in the order of visitation.			Color or Race.	Sex.	DATE OF BIRTH.		Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years married.	Mother of how many children.	Number of those children living.	Place of birth of each person and parents of each person enumerated. If born in the United States, give the State or Territory; if of foreign birth, give the Country only.			Year of immigration to the United States.		Number of years in the United States.	Naturalization.	OCCUPATION. (See instructions below.)	Months not employed.	Attended school (in months).	Can read.	Can write.	Can speak English.	Owned or rented.	Taxes free or mortgaged.	Farm or house.	Number of farm schedule.
							Month.	Year.						Place of birth of this PERSON.	Place of birth of FATHER of this person.	Place of birth of MOTHER of this person.														
Street.	House number.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	
	15 13			Brooks ¹³⁻¹ Sharon	Head	W	M	May 1852	48	Mr	24			North Carolina	North Carolina	North Carolina				Farmer			Y	Y	Y	0	Y	Y	14	
				Waller O	Wife	W	F	Apr 1851	49	Mr	24	17	12	North Carolina	North Carolina	North Carolina							Y	Y	Y	Y	Y			
				Daughd	Son	W	M	June 1877	22					North Carolina	North Carolina	North Carolina				Farmer	0		Y	Y	Y					
				Fannie	Daughter	W	F	Jan 1879	21					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Harriet	Daughter	W	F	May 1880	20					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Lilly	Daughter	W	F	March 1883	17					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Lawson	Son	W	M	July 1884	15					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Rutherford	Son	W	M	Jan 1886	14					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				John R	Son	W	M	Nov 1887	12					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Zachariah	Son	W	M	Aug 1889	10					North Carolina	North Carolina	North Carolina				"	0		Y	Y	Y					
				Mary Lee	Daughter	W	M	June 1891	8					North Carolina	North Carolina	North Carolina														
				Ruth Ann	Daughter	W	F	Apr 1893	7					North Carolina	North Carolina	North Carolina														
				Rosette	Daughter	W	F	Oct 1895	4					North Carolina	North Carolina	North Carolina														
15-19	15 16			Chavis ⁹⁻ Rink	Head	W	M	Aug 1844	55	Mr	28			North Carolina	North Carolina	North Carolina				Farmer			Y	Y	Y	0	Y	Y	15	
				Mollie	Wife	W	F	May 1865	35	Mr	23	9	7	North Carolina	North Carolina	North Carolina														
				Elizabeth	Daughter	W	F	Apr 1887	13					North Carolina	North Carolina	North Carolina				Farmer	0		Y	Y	Y					
				Bramson	Son	W	M	March 1889	11					North Carolina	North Carolina	North Carolina				Farmer	0		Y	Y	Y					
				Mary	Daughter	W	F	Apr 1890	10					North Carolina	North Carolina	North Carolina				Farmer	0		Y	Y	Y					
				Cassidy	Daughter	W	F	July 1893	6					North Carolina	North Carolina	North Carolina														
				Rink	Son	W	M	May 1896	4					North Carolina	North Carolina	North Carolina														

SCHEDULE No. 1.—POPULATION—Continued.
SPECIAL INQUIRIES RELATING TO INDIANS.

OTHER NAME, IF ANY.	NATIVITY.			MIXED BLOOD.	CONJUGAL CONDITION.	CITIZENSHIP.			DWELLINGS.
	Tribe of this INDIAN.	Tribe of FATHER of this Indian.	Tribe of MOTHER of this Indian.			Is this Indian taxed? (See instructions.)	Year of acquiring citizenship.	Was citizenship acquired by allotment?	
29	30	31	32	33	34	35	36	37	38
Brooks Aaron	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Waller O	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Daughd	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Fannie	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Rachael	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Lilly	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Lawson	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Rutherford	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks John R	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Zachariah	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Mary Lee	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Ruth Ann	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Brooks Rosette	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Rink	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Mollie	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Elizabeth	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Branson	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Mary	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Cassiey	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed
Chavis Rink	Croatan	Croatan	Croatan	0	no	yes	1865	no	Fixed

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

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COLUMN 19.—If the Indian has no occupation and is wholly dependent on the Government for support, write "Ration Indian." If he is partly self-supporting and partly dependent upon the Government, write the occupation and then the letter "R" (for ration). If the Indian is under ten years of age and receives rations, write "Under age—R."

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

SUPERVISOR'S DISTRICT NO. 6 SHEET NO. 2832B
 ENUMERATION DISTRICT NO. 112
 WARD OF CITY 3573
 1910. Lewis C. Spurr ENUMERATOR.

NAME OF INSTITUTION

NAME OF INDIAN RESERVATION

ENUMERATED BY ME ON THE 23

DAY OF

1910. *L*

ENUMERATOR.

LOCATION.				NAME.	RELATION.	PERSONAL DESCRIPTION.						NATIVITY.			CITIZENSHIP.	OCCUPATION.										EDUCATION.			OWNERSHIP OF HOME.				
Street, avenue, road, etc.	House number in relation to corner.	Number of dwelling house in order of subdivision.	Number of family residing.	of each person whose place of abode on April 15, 1910, was in this family. Enter surname first, then the given name and middle initial, if any. Include every person living on April 15, 1910. Omit children born since April 15, 1910.	Relationship of this person to the head of the family.	Sex.	Age at last birthday.	Whether single, married, or divorced.	Number of years of present marriage.	Number born.	Number now living.	Place of birth of this person.	Place of birth of father of this person.	Place of birth of mother of this person.	Years of residence in the United States.	Whether naturalized or alien.	Whether able to speak English; or, if not, give language spoken.	Trade or profession, or particular kind of work done by this person, as engineer, salesman, laborer, etc.	General nature of industry, business, or establishment in which this person works, whether full time, part time, or otherwise.	Whether an employer, or not, on April 15, 1910.	If an employee, whether of work on or off, on April 15, 1910.	Whether able to read.	Whether able to write.	Whether able to read and write any time since September 1, 1900.	Owned or rented.	Owned or mortgaged.	Value or amount.	Number of acres.	Whether a part of the estate of a deceased person.	Whether a part of the estate of a deceased person.	Whether a part of the estate of a deceased person.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32		
Maxton & Lumber River Road	200	201	Locklear Elisha	Head	M	24	M	3				North Carolina	North Carolina	North Carolina			English	Farmer	General	0			yes	no									
			— Lellie	Wife	F	25	M	3	3	3		North Carolina	North Carolina	North Carolina			English	None					no	no									
			— Archie	Son	M	3	L					North Carolina	North Carolina	North Carolina				None															
			— Purcell	Son	M	2	L					North Carolina	North Carolina	North Carolina				None															
			— Earnest	Son	M	9	L					North Carolina	North Carolina	North Carolina				None															
	201	202	Brooks Nazon	Head	M	55	M	34				North Carolina	North Carolina	North Carolina			English	Farmer	General	0			yes	no									
			— Falsiada	Wife	F	58	M	34	15	11		North Carolina	North Carolina	North Carolina			English	None					no	no									
			— Mary Lee	Daughter	F	19	L					North Carolina	North Carolina	North Carolina			English	None					no	no	no								
			— Pruthi Ann	Daughter	F	17	L					North Carolina	North Carolina	North Carolina			English	None					yes	no	no								
			— Rozetta	Daughter	F	15	L					North Carolina	North Carolina	North Carolina			English	None					yes	yes	yes								
		— Colon	Son	M	13	L					North Carolina	North Carolina	North Carolina			English	Labourer	Home Farm				yes	yes	yes									
		— Archie	Grand son	M	5	L					North Carolina	North Carolina	North Carolina				None					no	no	yes									
	202	203	Brooks Dockery	Head	M	44	M	23				North Carolina	North Carolina	North Carolina			English	Farmer	General	0			no	no									
			— Callie	Wife	F	38	M	23	9	6		North Carolina	North Carolina	North Carolina			English	None					yes	yes									
			— June	Son	M	24	L					North Carolina	North Carolina	North Carolina			English	Labourer	Home Farm	0			yes	yes									
			— Mary	Daughter	F	16	M					North Carolina	North Carolina	North Carolina			English	None					yes	yes	no								
			— Lellie	Daughter	F	14	L					North Carolina	North Carolina	North Carolina			English	None					yes	yes	yes								
			— Ellen	Daughter	F	12	L					North Carolina	North Carolina	North Carolina			English	None					yes	yes	yes								
			— Wallington	Son	M	15	L					North Carolina	North Carolina	North Carolina			English	Labourer on Home Farm	0			no	no	no									
			— Locklear Lafell	Servant	M	15	L					North Carolina	North Carolina	North Carolina			English	Servant		W			no	no	no								

SPECIAL INQUIRIES RELATING TO INDIANS.

[illegible]

INSTRUCTIONS FOR FILLING THIS SCHEDULE.
CONTINUED FROM "A" SIDE OF SHEET.

The following instructions apply to columns 33 to 46:

Columns 33, 34, and 35. Tribal relations.—If the Indian was born in this country answers should be obtained, if possible, to inquiries 12, 13, and 14, relating to the state or territory of birth of the person and of his or her parents. In any event, take particular pains to secure the name of the tribe with which the person is connected and the name of the tribe of each of his or her parents, and enter the same in columns 33, 34, and 35.

Columns 36, 37, and 38. Proportions of Indian and other blood.—If the Indian is a full-blood, write "full" in column 36, and leave columns 37 and 38 blank. If the Indian is of mixed blood, write in columns 36, 37, and 38 the fractions which show the proportions of Indian and other blood, as (column 36, Indian) $\frac{3}{4}$, (column 37, white) $\frac{1}{4}$, and (column 38, negro) 0. For Indians of mixed blood all three columns should be filled, and the sum, in each case, should equal 1, as $\frac{1}{4}$, 0, $\frac{3}{4}$; $\frac{3}{4}$, $\frac{1}{4}$, 0; $\frac{2}{4}$, $\frac{1}{4}$, $\frac{1}{4}$; etc.

✓ Wherever possible, the statement that an Indian is of full blood should be verified by inquiry of the older men of the tribe, as an Indian is sometimes of mixed blood without knowing it.

Column 39. Number of times married.—If the Indian is married, enter in this column the number of times he or she has been married.

Column 40. Whether now living in polygamy.—If the Indian man is living with more than one wife, write "Yes" in this column; otherwise, write "No."

Column 41. If living in polygamy, whether the wives are sisters.—If the Indian man is living with more than one wife, and if his wives are sisters, write "Yes" in this column. If his wives are not sisters, write "No."

Column 42. Graduated from what educational institution.—If the Indian is a graduate of any educational institution, give the name and location of such institution.

Column 43. Is this Indian taxed?—An Indian is to be considered "taxed" if he or she is detached from his or her tribe and is living among white people as an individual, and as such is subject to taxation (whether he or she actually pays taxes or not); or if he or she is living with his or her tribe but has received an allotment of land, and thereby has acquired citizenship. In either of these two cases write "Yes" in this column.

An Indian on a reservation, without an allotment, or roaming over unsettled territory, is considered "not taxed," and for such Indians the answer to this inquiry is "No."

Column 44. If Indian has received allotment, give year of allotment.—If the Indian has received an allotment of land, enter, in column 44, the year in which the allotment was made.

Column 45. **Residing on his own lands.**—If the Indian lives on his or her own land, write "Yes" in this column; if the Indian lives elsewhere, write "No."

Column 46. Living in civilized or aboriginal dwelling.—If the Indian is living in a house of civilized design, as a log, frame, brick, or stone house, write "Civ." (for civilized) in this column; but if the Indian is living in a dwelling of aboriginal design, as a tent, tepee, cliff dwelling, etc., write "Abor." (for aboriginal).

TWELFTH CENSUS OF THE UNITED STATES.

SCHEDULE No. 1.—POPULATION.
INDIAN POPULATION.State North Carolina
County Robeson CountySupervisor's District No. 4
Enumeration District No. 100Sheet No. 22Township or other division of county Alfordville Township
(Insert name of township, town, precinct, district, or other civil division, as the case may be. See instructions.)Name of Institution, XName of incorporated city, town, or village, within the above-named division, XWard of city, XEnumerated by me on the 7 day of June, 1900, Stephen J. Willard, Enumerator.

LOCATION.				NAME of each person whose place of abode on June 1, 1900, was in this family. Enter surname first, then the given name and middle initial, if any. Include every person living on June 1, 1900. Omit children born since June 1, 1900.	RELATION.	PERSONAL DESCRIPTION.							NATIVITY.			CITIZENSHIP.			OCCUPATION, TRADE, OR PROFESSION		EDUCATION.				OWNERSHIP OF HOME.							
IN CITIES.		House number.	Number of dwelling house, in the order of visitation.			Number of family, in the order of visitation.	Relationship of each person to the head of the family.	Color or Race.	Sex.	DATE OF BIRTH.		Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years married.	Mother of how many children.	Number of these children living.	Place of birth of each person and parents of each person enumerated. If born in the United States, give the State or Territory; if of foreign birth, give the Country only.			Year of immigration to the United States.	Number of years in the United States.	Naturalization.	Occupation. (See instructions below.)	Months not employed.	Attended school (in months).	Can read.	Can write.	Can speak English.	Owned or rented.	Owned free or mortgaged.	Farm or house.	Number of farm schedule.
Street.										Month.	Year.						Place of birth of this Person.	Place of birth of Father of this person.	Place of birth of Mother of this person.													
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28					
	1	1	Davis Richard	Head	W	M	May	1876	24	M	11				North Carolina	North Carolina	North Carolina			Former												
			—, Fannybell	Wife	W	F	Feb	1870	30	M	11	4			North Carolina	North Carolina	North Carolina															
			—, Walker	Son	W	M	Mar	1890	10	S					North Carolina	North Carolina	North Carolina			Farm laborer												
			—, John W	Son	W	M	May	1893	7	S					North Carolina	North Carolina	North Carolina															
			—, Mary	Daughter	W	F	May	1896	4	S					North Carolina	North Carolina	North Carolina															
			—, Malinda	Daughter	W	F	May	1898	2	S					North Carolina	North Carolina	North Carolina															
	2	2	Porter John 9-1	Head	W	M	Mar	1858	42	M	23				North Carolina	North Carolina	North Carolina			Farm												
			—, Eliza 9-9	Wife	W	F	Apr	1863	37	M	22	7			North Carolina	North Carolina	North Carolina															
			—, Docter	Son	W	M	Aug	1887	12	S					North Carolina	North Carolina	North Carolina			Farm laborer												
			—, Matty	Daughter	W	F	Mar	1898	11	S					North Carolina	North Carolina	North Carolina			Farm laborer												
			—, George H	Son	W	M	Aug	1892	8	S					North Carolina	North Carolina	North Carolina															
			—, Richard	Son	W	M	July	1893	7	S					North Carolina	North Carolina	North Carolina															
			—, John C	Son	W	M	Dec	1894	5	S					North Carolina	North Carolina	North Carolina															
			—, Luthan	Son	W	M	Dec	1896	3	S					North Carolina	North Carolina	North Carolina															
			—, Anness	Daughter	W	F	Apr	1898	2	S					North Carolina	North Carolina	North Carolina															
	3	3	Berry Maderson 3-1	Head	W	M	May	1865	35	M	0				North Carolina	North Carolina	North Carolina			Farm laborer												
			—, Fenny	Wife	W	F	Apr	1876	24	M	0	0			North Carolina	North Carolina	North Carolina			Farm laborer												
			—, Lecklin John	Son	W	M	May	1875	25	S					North Carolina	North Carolina	North Carolina			Farm laborer												
	4	4	Lawrence Henderson 4-3	Head	W	M	Jun	1863	37	M	15				South Carolina	North Carolina	South Carolina			Blacksmith												
			—, Sarah	Wife	W	F	May	1864	36	M	15	6	3		South Carolina	North Carolina	North Carolina															

SCHEDULE No. 1.—POPULATION—Continued.
SPECIAL INQUIRIES RELATING TO INDIANS.

OTHER NAME, IF ANY.	NATIVITY.			MIXED BLOOD.	CONJUGAL CONDITION.	CITIZENSHIP.			DWELLINGS.
	Tribes of this Indian.	Tribes of father of this Indian.	Tribes of mother of this Indian.			Is this Indian taxed? (See instructions.)	Year of acquiring citizenship.	Was citizenship acquired by allotment?	
29	30	31	32	33	34	35	36	37	38
Davis Richard	Croatan	Croatan	Croatan	1/4	NO	Yes	1868	NO	Fixed
Fannybell	Croatan	Croatan	Croatan	None	NO	Yes	1868	NO	Fixed
Walter	Croatan	Croatan	Croatan	1/8	NO	Yes	1868	NO	Fixed
John W	Croatan	Croatan	Croatan	1/8		Yes	1868	NO	Fixed
Mary	Croatan	Croatan	Croatan	1/8		Yes	1868	NO	Fixed
Malinda	Croatan	Croatan	Croatan	1/8		Yes	1868	NO	Fixed
Porter John	Croatan	Croatan	Croatan	1/8	NO	Yes	1868	NO	Fixed
Eliza	Croatan	Croatan	Croatan	None	NO				Fixed
Docter	Croatan	Croatan	Croatan	None					
Matty	Croatan	Croatan	Croatan						
George	Croatan	Croatan	Croatan						
Richard	Croatan	Croatan	Croatan						
John C	Croatan	Croatan	Croatan						
Luthan	Croatan	Croatan	Croatan						
Anness	Croatan	Croatan	Croatan						
Lawrence Henderson	Croatan	Croatan	Croatan	None	NO	Yes	1868	NO	Fixed
Sarah	Croatan	Croatan	Croatan	None	NO	Yes	1868	NO	Fixed
Benny Maderson	Croatan	Croatan	Croatan	1/8	NO	Yes	1868	NO	Fixed
Sarah	Croatan	Croatan	Croatan	None	NO				Fixed
Lecklin John	Croatan	Croatan	Croatan	1/8	NO	Yes	1868	NO	Fixed

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

This modified form of Schedule No. 1 is to be used in making the enumeration of Indians, both those on reservations and those living in family groups outside of reservations.

Detached Indians living either in white or negro families outside of reservations should be enumerated on the general population schedule (Form 7-224) as members of the families in which they are found; but detached whites or negroes living in Indian families should be enumerated on this schedule as members of the Indian families in which they are found. In other words, every family composed mainly of Indians should be reported entirely on this schedule, and every family composed mainly of persons not Indian should be reported entirely on the general population schedule.

This schedule contains on each side twenty horizontal lines, each running twice across the page, and it is consequently possible to enumerate on it only forty persons (twenty persons on the A side and twenty persons on the B side). Each Indian should be carried through from the beginning to the end of the line on which he is entered, as line 1, line 2, etc., and each inquiry from column 1 to column 38 which applies to the individual case should be answered.

COLUMNS 1 TO 28.—These columns are identical with those on the general population schedule. Fill each column, so far as the inquiry applies, in accordance with the instructions for filling the corresponding columns in the general population schedule, but note the following additional instructions in relation to filling columns 1, 2, and 19:

COLUMNS 1 AND 2.—If you are canvassing a given territory with both the general population schedule (Form 7-224) and this schedule for Indian population, make two independent series of numbers for these columns, one series in each kind of schedule, so that the last numbers on the two schedules when added together will correctly give the whole number of dwellings and of families visited and enumerated in your entire district.

COLUMN 19.—If the Indian has no occupation and is wholly dependent on the Government for support, write "Ration Indian." If he is partly self-supporting and partly dependent upon the Government, write the occupation and then the letter "R" (for ration). If the Indian is under ten years of age and receives rations, write "Under age—R."

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

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DEPARTMENT OF COMMERCE AND LABOR—BUREAU OF THE CENSUS
THIRTEENTH CENSUS OF THE UNITED STATES: 1910—INDIAN POPULATION

{ SUPERVISOR'S DISTRICT No. 6
 { ENUMERATION DISTRICT No. 112

SHEET NO. 2731B

NAME OF INCORPORATED PLACE

ENUMERATED BY ME ON THE 21 DAY OF May

WARD OF CITY

Lewis & Lyman

ENUMERATOR

LOCATION.			NAME		RELATION.	PERSONAL DESCRIPTION.						NATIVITY.			CITIZENSHIP.		OCCUPATION.		EDUCATION.		OWNERSHIP OF HOME.		Whether a member of the Union or Confederate Army or Navy.		Whether blind, deaf, dumb, etc.										
Street, avenue, road, etc.	House number in city or town.	Number of dwelling house in order of valuation.	Number of family in order of valuation.	of each person whose place of abode on April 15, 1910, was in this family.	Relationship of this person to the head of the family.	Sex.	Color or race.	Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years of present marriage.	Number born.	Number now living.	Place of birth of this person.	Place of birth of Father of this person.	Place of birth of Mother of this person.	Year of immigration to the United States.	Whether naturalized or alien.	Whether able to speak English; if not, give language spoken.	Trade or profession of, or particular kind of work done by this person, as spinner, salesman, laborer, etc.	General nature of industry, business, or establishment in which this person works, mention mill, dry-goods store, farm, etc.	Whether an employer, or working on own account.	Whether employed, or not.	Number of weeks out of work during year April 15, 1909.	Whether able to read.	Whether able to write.	Attended school any time during year April 15, 1909.	Whether owned or rented.	Owned, free or mortgaged.	Farm or house.	Number of farm schedule.	Whether a member of the Union or Confederate Army or Navy.	Whether blind, deaf, dumb, etc.	Whether deaf and dumb.		
	194	195		Water	Sister	F	W	18	2				North Carolina	North Carolina	North Carolina			English	Labour Farm		OA				to	to	to								
				Locklear Filoyd	Head	M	W	28	2				North Carolina	North Carolina	North Carolina			English	Labour Law Mill		W				to	to	to								
				Maynor Maypa	Mother	F	W	75	Wd		7	7	North Carolina	North Carolina	North Carolina			English	None						to	to									
				James	Brother	M	W	21	2				North Carolina	North Carolina	North Carolina			English	Labour Law Mill		W				to	to									
				Magnolia	Sister	F	W	25	2				North Carolina	North Carolina	North Carolina			English	Odd Jobs		W				to	to									
	195	196		Davis Richard	Head	M	W	35	M	14			North Carolina	North Carolina	North Carolina			English	Farming Lumber		OA				to	to									
				Amabell	Wife	F	W	40	M	14	10	9	North Carolina	North Carolina	North Carolina			English	None						to	to									
				Walter	Son	M	W	20	2				North Carolina	North Carolina	North Carolina			English	Labour Home Farm		OA				to	to	to								
				John W	Son	M	W	18	2				North Carolina	North Carolina	North Carolina			English	Labour Home Farm		OA				to	to	to								
				Mayme	Daughter	F	W	16	2				North Carolina	North Carolina	North Carolina			English	Labour Home Farm		OA				to	to	to								
				Malinda	Daughter	F	W	14	2				North Carolina	North Carolina	North Carolina			English	Labour Home Farm		W				to	to	to								
				Richard	Son	M	W	12	2				North Carolina	North Carolina	North Carolina			English	Labour Home Farm		W				to	to	to								
				Archie	Son	M	W	6	2				North Carolina	North Carolina	North Carolina			English	None						to	to	to								
				Martha	Daughter	F	W	4	2				North Carolina	North Carolina	North Carolina			English	None						to	to	to								
	196	197		Locklear Britton	Head	M	W	35	M	11			North Carolina	North Carolina	North Carolina			English	Farming General						to	to									
				Florence	Wife	F	W	25	M	11	6	5	North Carolina	North Carolina	North Carolina			English	None						to	to									
				James	Son	M	W	12	2				North Carolina	North Carolina	North Carolina			English	Labourer on Hom Farm		OA				to	to	yes								
				Willie	Son	M	W	10	2				North Carolina	North Carolina	North Carolina			English	None						to	to	yes								
				Louisiana	Daughter	F	W	7	2				North Carolina	North Carolina	North Carolina			English	None						to	to	yes								
				Glassie	Son	M	W	3	2				North Carolina	North Carolina	North Carolina			English	None						to	to	yes								

SPECIAL INQUIRIES RELATING TO INDIANS.

[illegible]

INSTRUCTIONS FOR FILLING THIS SCHEDULE.
CONTINUED FROM "A" SIDE OF SHEET.

The following instructions apply to columns 33 to 46:

Columns 33, 34, and 35. Tribal relations.—If the Indian was born in this country answers should be obtained, if possible, to inquiries 12, 13, and 14, relating to the state or territory of birth of the person and of his or her parents. In any event, take particular pains to secure the name of the tribe with which the person is connected and the name of the tribe of each of his or her parents, and enter the same in columns 33, 34, and 35.

Columns 36, 37, and 38. Proportions of Indian and other blood.—If the Indian is a full-blood, write "full" in column 36, and leave columns 37 and 38 blank. If the Indian is of mixed blood, write in columns 36, 37, and 38 the fractions which show the proportions of Indian and other blood, as (column 36, Indian) $\frac{1}{2}$, (column 37, white) $\frac{1}{2}$, and (column 38, negro) 0. For Indians of mixed blood all three columns should be filled, and the sum, in each case, should equal 1, as $\frac{1}{2}$, 0, $\frac{1}{2}$; $\frac{3}{4}$, $\frac{1}{4}$, 0; $\frac{1}{4}$, $\frac{3}{4}$, 0; etc.

Wherever possible, the statement that an Indian is of full blood should be verified by inquiry of the older men of the tribe, as an Indian is sometimes of mixed blood without knowing it.

Column 39. Number of times married.—If the Indian is married, enter in this column the number of times he or she has been married.

Column 40. Whether now living in polygamy.—If the Indian man is living with more than one wife, write "Yes" in this column; otherwise, write "No."

Column 41. If living in polygamy, whether the wives are sisters.—If the Indian man is living with more than one wife, and if his wives are sisters, write "Yes" in this column. If his wives are not sisters, write "No."

Column 42. Graduated from what educational institution.—If the Indian is a graduate of any educational institution, give the name and location of such institution.

Column 43. Is this Indian taxed?—An Indian is to be considered "taxed" if he or she is detached from his or her tribe and is living among white people as an individual, and as such is subject to taxation (whether he or she actually pays taxes or not); or if he or she is living with his or her tribe but has received an allotment of land, and thereby has acquired citizenship. In either of these two cases write "Yes" in this column.

An Indian on a reservation, without an allotment, or roaming over unsettled territory, is considered "not taxed," and for such Indians the answer to this inquiry is "No."

Column 44. If Indian has received allotment, give year of allotment.—If the Indian has received an allotment of land, enter, in column 44, the year in which the allotment was made.

Column 45. **Residing on his own lands.**—If the Indian lives on his or her own land, write "Yes" in this column; if the Indian lives elsewhere, write "No."

Column 46. **Living in civilized or aboriginal dwelling.**—If the Indian is living in a house of civilized design, as a log, frame, brick, or stone house, write "Civ." (for civilized) in this column; but if the Indian is living in a dwelling of aboriginal design, as a tent, tepee, cliff dwelling, etc., write "Abor." (for aboriginal).

7-464.
TWELFTH CENSUS OF THE UNITED STATES.

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A

SCHEDULE No. 1.—POPULATION.
INDIAN POPULATION.

State North Carolina
County Robeson

Supervisor's District No. 4
Enumeration District No. 101

Sheet No. 23

Township or other division of county Boonville Township
(Insert name of township, town, precinct, district, or other civil division, as the case may be. See instructions.)

Name of Institution, X

Name of incorporated city, town, or village, within the above-named division, X

Ward of city, X

Enumerated by me on the 22nd day of June, 1900, Thomas H. McHargue, Enumerator.

LOCATION.			NAME of each person whose place of abode on June 1, 1900, was in this family. Enter surname first, then the given name and middle initial, if any. Include every person living on June 1, 1900. Omit children born since June 1, 1900.	RELATION. Relationship of each person to the head of the family.	PERSONAL DESCRIPTION.							NATIVITY.			CITIZENSHIP.			OCCUPATION, TRADE, OR PROFESSION of each person TEN YEARS of age and over.		EDUCATION.				OWNERSHIP OF HOME.						
IN CITIES.	House number.	Number of dwelling houses in the order of visitation.			Number of family, in the order of visitation.	Color or Race.	Sex.	DATE OF BIRTH.		Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years married.	Mother of how many children.	Number of these children living.	Place of birth of this Person.	Place of birth of FATHER of this person.	Place of birth of MOTHER of this person.	Year of immigration to the United States.	Number of years in the United States.	Naturalization.	OCCUPATION. (See instructions below.)	Months not employed.	Attended school (in months).	Can read.	Can write.	Can speak English.	Owned or rented.	Owned free or mortgaged.	Farm or house.	Number of farm schedule.
								Month.	Year.																					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28			
	361-367 356	Sanderson Percy	9-1 pt-9	Head	W	M	Aug	1859	40	W	19		North Carolina	North Carolina	North Carolina				Farmer	0		yes	yes	yes	R	7	308			
		" Maudie		Wife	F	7	Oct	1864	35	W	19	11	5	North Carolina	North Carolina	North Carolina							no	no	yes					
		" Simon		Daughter	F	2	Feb	1885	15	W	0		North Carolina	North Carolina	North Carolina								yes	no	yes					
		" Burton		Daughter	F	4	Apr	1887	13	W	0		North Carolina	North Carolina	North Carolina								yes	no	yes					
		" Robert H.		Son	M	10	July	1889	10	W	0		North Carolina	North Carolina	North Carolina				Farmer	0	0	no	no	yes						
		" Raymond		Son	M	9	Apr	1890	9	W	0		North Carolina	North Carolina	North Carolina															
		" LeRoy		Daughter	F	7	Oct	1896	3	W	0		North Carolina	North Carolina	North Carolina															
		" McLaughlin Sarah		Daughter	F	7	Nov	1890	4	W	0		North Carolina	North Carolina	North Carolina								yes	yes	yes					
		" Deere William		Daughter	F	7	Feb	1897	2	W	0		North Carolina	North Carolina	North Carolina				Farmer	0		yes	yes	yes						
	362-362 357	Dial John	7-1 pt-7	Head	M	7	Apr	1864	35	W	14		North Carolina	North Carolina	North Carolina				Farmer	1		no	no	yes	0	7	308			
		" Pottie		Wife	F	7	Nov	1865	35	W	14	6	5	North Carolina	North Carolina	North Carolina							no	no	yes					
		" Anders		Son	M	15	Dec	1884	15	W	0		North Carolina	North Carolina	North Carolina				Farmer	0	0	yes	yes	yes						
		" William B.		Son	M	12	Sep	1887	12	W	0		North Carolina	North Carolina	North Carolina				Farmer	0	0	yes	yes	yes						
		" John W.		Son	M	10	Jun	1890	10	W	0		North Carolina	North Carolina	North Carolina				Farmer	0	0	no	no	yes						
		" Richard A.		Son	M	9	Mar	1891	9	W	0		North Carolina	North Carolina	North Carolina															
		" Arch L.		Son	M	7	Feb	1892	7	W	0		North Carolina	North Carolina	North Carolina															
	368 358	Caulk Fannie	3-1 pt-3	Head	F	7	May	1866	33	W	11	0	0	North Carolina	North Carolina	North Carolina				Farmer	0		no	no	yes	0	7	309		
		" Lansing Mammie		Daughter	F	7	Mar	1891	9	W	0		North Carolina	North Carolina	North Carolina															
	359	" Dial Clifton		Daughter	F	7	Jul	1883	17	W	5		North Carolina	North Carolina	North Carolina				Farmer	1	0	yes	yes	yes						
	364 354	Sanderson Susan C.	2-1 pt-2	Head	F	7	Jul	1861	40	W	18	6	6	North Carolina	North Carolina	North Carolina				Farmer	1		yes	yes	yes	R	7	310		

SCHEDULE No. 1.—POPULATION—Continued.
SPECIAL INQUIRIES RELATING TO INDIANS.

OTHER NAME, IF ANY.	NATIVITY.			MIXED BLOOD.	CONJUGAL CONDITION.	CITIZENSHIP.			DWELLINGS.
	Tribes of this Indian.	Tribes of FATHER of this Indian.	Tribes of MOTHER of this Indian.			Is this Indian taxed? (See instructions.)	Year of acquiring citizenship.	Was citizenship acquired by allotment?	
29	30	31	32	33	34	35	36	37	38
1 Sanderson Betty	Croatan	Croatan	Croatan	0	Yes	yes			Fixed
2 Maudy	Croatan	Croatan	Croatan	0	Yes				Fixed
3 Sirius	Croatan	Croatan	Croatan	0					Fixed
4 Burke	Croatan	Croatan	Croatan	0					Fixed
5 Robert D.	Croatan	Croatan	Croatan	0					Fixed
6 Raymond	Croatan	Croatan	Croatan	0					Fixed
7 Leahann	Croatan	Croatan	Croatan	0					Fixed
8 McLachlin Sarah	Croatan	Croatan	Croatan	0					Fixed
9 Deere William	Croatan	Croatan	Croatan	0		yes			Fixed
10 Dial John	Croatan	Croatan	Croatan	0	No	yes			Fixed
11 Pellie	Croatan	Croatan	Croatan	0	No				Fixed
12 Anders	Croatan	Croatan	Croatan	0					Fixed
13 William B.	Croatan	Croatan	Croatan	0					Fixed
14 John W.	Croatan	Croatan	Croatan	0					Fixed
15 Richard A.	Croatan	Croatan	Croatan	0					Fixed
16 Arch L.	Croatan	Croatan	Croatan	0					Fixed
17 Caulk Fannie	Croatan	Croatan	Croatan	0	No				Fixed
18 Lansing Mammie	Croatan	Croatan	Croatan	0					Fixed
19 Dial Clifton	Croatan	Croatan	Croatan	0					Fixed
20 Sanderson Susan C.	Croatan	Croatan	Croatan	0					Fixed

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

This modified form of Schedule No. 1 is to be used in making the enumeration of Indians, both those on reservations and those living in family groups outside of reservations.

Detached Indians living either in white or negro families outside of reservations should be enumerated on the general population schedule (Form 7-224) as members of the families in which they are found; but detached whites or negroes living in Indian families should be enumerated on this schedule as members of the Indian families in which they are found. In other words, every family composed mainly of Indians should be reported entirely on this schedule, and every family composed mainly of persons not Indian should be reported entirely on the general population schedule.

This schedule contains on each side twenty horizontal lines, each running twice across the page, and it is consequently possible to enumerate on it only forty persons (twenty persons on the A side and twenty persons on the B side). Each Indian should be carried through from the beginning to the end of the line on which he is entered, as line 1, line 2, etc., and each inquiry from column 1 to column 38 which applies to the individual case should be answered.

COLUMNS 1 TO 28.—These columns are identical with those on the general population schedule. Fill each column, so far as the inquiry applies, in accordance with the instructions for filling the corresponding columns in the general population schedule, but note the following additional instructions in relation to filling columns 1, 2, and 19:

COLUMNS 1 AND 2.—If you are canvassing a given territory with both the general population schedule (Form 7-224) and this schedule for Indian population, make two independent series of numbers for these columns, one series in each kind of schedule, so that the last numbers on the two schedules when added together will correctly give the whole number of dwellings and of families visited and enumerated in your entire district.

COLUMN 19.—If the Indian has no occupation and is wholly dependent on the Government for support, write "Ration Indian." If he is partly self-supporting and partly dependent upon the Government, write the occupation and then the letter "R" (for ration). If the Indian is under ten years of age and receives rations, write "Under age—R."

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

TOWNSHIP OR OTHER DIVISION OF COUNTY Rock Swamp Township

NAME OF INCORPORATED PLACE

X _____
 (Insert proper name and, also, name of chas, as city, village, town, or barings. See instructions)
 ENUMERATED BY ME ON THE 26 DAY OF Apr

WARD OF CITYX

NAME-OF INSTITUTION

NAME OF INDIAN RESERVATION

ENUMERATED BY ME ON THE 26 DAY OF April, 1910. Alex B. Miner, ENUMERATOR.

Street, avenue, road, etc.	LOCATION.				NAME	RELATION.	PERSONAL DESCRIPTION.						NATIVITY.			CITIZENSHIP.			Whether able to speak English; or, if not, give language spoken.	OCCUPATION.		EDUCATION.			OWNERSHIP OF HOME.					Whether a native of this country, or born abroad, and when and where born.	Whether blind or deaf.	Whether deaf and dumb.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
	House number in city or town.	Number of families in city or town.	Number of families in ward or district.	Number of families in block.			Relationship of this person to the head of the family.	Sex.	Color or race.	Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years of present marriage.	Number of children born.	Number of children living.	Place of birth of this person.	Place of birth of father of this person.	Place of birth of mother of this person.	Years of immigration to the United States.		Whether naturalized or alien.	Trade or profession of, or particular kind of work done by this person, as spinner, salesman, laborer, etc.	General nature of industry, business, or establishment in which this person works, as cotton mill, dry-goods store, farm, etc.	Whether an employer, employee, or working on own account.	If unemployed, whether out of work on April 15, 1910, or during year 1909.	Whether able to read.	Whether able to write.	Attended school within year 1909.	Owned or rented.	Owned free or mortgaged.				Farm or home.	Number of farm or home.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
																																			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
of each person whose place of abode on April 15, 1910, was in this family. Enter surname first, then the given name and middle initial, if any. Include every person living on April 15, 1910. Omit children born since April 15, 1910.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
	14	14			Dial Wesley	Head	M	W	27	M	3			North Carolina	North Carolina	North Carolina			English	Farmer	General Farm	O.W.		yes	yes			0	7	14																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				</

* These are Enock Butcher's children
see opposite Page line 33.

SPECIAL INQUIRIES RELATING TO INDIANS.

[illegible]

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

This modified form of the general schedule for population is to be used in making the enumeration of Indians, both those on reservations and those living in family groups outside of reservations.

Detached Indians living either in white or negro families outside of reservations should be enumerated on the general population schedule (Form 8-1589) as members of the families in which they are found; but detached whites or negroes living in Indian families should be enumerated on this special Indian schedule as members of the Indian families in which they are found. In other words, every family composed mainly of Indians should be reported *entirely* on this special schedule, and every family composed mainly of persons not Indian should be reported *entirely* on the general population schedule.

Spaces are provided for entries for 20 persons on each side (A and B) of the sheet; the entries for each person running twice to the page. Columns 1 to 46 are to be filled for each individual case, if applicable, according to the instructions.

Columns 1 to 32.—These columns are identical with those on the general population schedule. Fill each column, so far as the inquiry applies, in accordance with the instructions for filling the corresponding column in the general population schedule (see book of instructions), but note the following additional instructions in relation to filling columns 1 and 2, column 7, and columns 18 and 19.

Columns 1 and 2. Visitation numbers.—If, in canvassing a given territory, you are using both the general population schedule (Form 8-1589) and this schedule for Indian population, make two independent series of numbers for these columns, one series in each kind of schedule, so that the last number in column 1 on this schedule added to the last number in column 1 on the general population schedule will give the whole number of dwellings visited, and, likewise, the last number in column 2 on this schedule added to the last number in column 2 on the general population schedule will give the whole number of families visited and enumerated in your entire district.

Column 7. Age at last birthday.—Some difficulty may be met in ascertaining the exact ages of Indians, as they frequently reckon their ages from notable events occurring in the history of the respective tribes. Endeavor to ascertain the years in which these notable events occurred, and with a little calculation on your part you should be able to ascertain the exact age of each Indian.

Columns 18 and 19. Occupation.—If the Indian is wholly self-supporting, enter his or her occupation in columns 18 and 19 in accordance with the general instructions for returning occupations. If the Indian—man, woman, or child—has no occupation and is wholly dependent on the Government for support, write "Ration Indian" in column 18. If the Indian is partly self-supporting and partly dependent upon the Government, write the occupation in columns 18 and 19, and then the letter "R" (for ration).

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

7-464.
TWELFTH CENSUS OF THE UNITED STATES.

SCHEDULE No. 1.—POPULATION.

INDIAN POPULATION.

State North Carolina
County Robeson

Township or other division of county

Burnt Swamp Township

Name of incorporated city, town, or village, within the above-named division.

Name of Institution,

Supervisor's District No. 4

Enumeration District No. 104

Ward of city,

Enumerated by me on the

5 day of June, 1900,

Adam Le Bridges

Enumerator.

LOCATION.			NAME	RELATION.	PERSONAL DESCRIPTION.							NATIVITY.			CITIZENSHIP.			OCCUPATION, TRADE, OR PROFESSION of each person TEN YEARS of age and over.	EDUCATION.				OWNERSHIP OF HOME.								
IN CITIES.	House number.	Number of dwelling houses, in the order of valuation.			Number of family, in the order of valuation.	Relationship of each person to the head of the family.	Color or Race.	Sex.	DATE OF BIRTH.		Age at last birthday.	Whether single, married, widowed, or divorced.	Number of years married.	Mother of how many children.	Number of these children living.	Place of birth of this person.	Place of birth of FATHER of this person.		Place of birth of MOTHER of this person.	Year of immigration to the United States.	Number of years in the United States.	Naturalization.	OCCUPATION. (See instructions below.)	Months not employed.	At least school (in months).	Can read.	Can write.	Can speak English.	Owned or rented.	Owned free or mortgaged.	Farm or house.
Street.							Month.	Year.																							
	42	42		3	5-1/2	Locklin Andrew	Head	M	Jan	1820	80	M	32		North Carolina	North Carolina	North Carolina				Farmer	0		No	No	Yes	0	Y	Y	48	
						Bessy A	wife	M	Mar	1830	70	M	32	11	8	North Carolina	North Carolina	North Carolina						No	No	Yes					
						Winnifred	Daughter	M	May	1872	8	F				North Carolina	North Carolina	North Carolina													
						Lannie	Son	M	Nov	1874	25	M	3			North Carolina	North Carolina	North Carolina				Farmer	4		Yes	Yes	Yes				
	43	43				Matilda	Daughter	M	May	1878	22	M	3	1	1	North Carolina	North Carolina	North Carolina						No	No	Yes					
	51	52				Oxendine Atlas	Head	M	Jan	1833	47	M	28			North Carolina	North Carolina	North Carolina				Farmer	0		Yes	Yes	Yes	0	Y	Y	49
						Martha	wife	M	May	1872	28	M	2	0	0	North Carolina	North Carolina	North Carolina						No	No	Yes					
						Appie D	Daughter	M	May	1881	19	F				North Carolina	North Carolina	North Carolina				Farmer	8	1	Yes	Yes	Yes				
						Rosetta	Daughter	M	May	1884	16	F				North Carolina	North Carolina	North Carolina				Farmer	4	4	Yes	Yes	Yes				
	44	44				Dorcia	Daughter	M	May	1871	9	F				North Carolina	North Carolina	North Carolina													
	53	58				James J. D	Head	M	Jan	1823	38	M	16			North Carolina	North Carolina	North Carolina				Farmer	0		Yes	No	Yes	0	Y	Y	50
						Almena	wife	M	Mar	1865	34	M	16	9	5	North Carolina	North Carolina	North Carolina						No	No	Yes					
						Mittie	Daughter	M	Nov	1885	14	F				North Carolina	North Carolina	North Carolina				Farmer	4	4	Yes	Yes	Yes				
						Hussie	Son	M	Nov	1887	12	F				North Carolina	North Carolina	North Carolina				Farmer	4	4	Yes	Yes	Yes				
						James	Son	M	Mar	1890	10	F				North Carolina	North Carolina	North Carolina				dog labor farm	4	4	Yes	Yes	Yes				
						Jeff Davis	Son	M	Apr	1895	5	F				North Carolina	North Carolina	North Carolina													
						Phillip	Son	M	July	1898	2	F				North Carolina	North Carolina	North Carolina													
	45	45				Locklin Mittie	Head	M	Jan	1835	65	W	4	3		North Carolina	North Carolina	North Carolina				Farmer	0		No	No	Yes	0	Y	Y	51
						Alexander	Son	M	Mar	1870	30	M	2			North Carolina	North Carolina	North Carolina				Farmer	3		No	No	Yes				
						Nancy	Daughter	M	May	1876	24	M	2	2	2	North Carolina	North Carolina	North Carolina						No	No	Yes					

SCHEDULE No. 1.—POPULATION—Continued.

SPECIAL INQUIRIES RELATING TO INDIANS.

OTHER NAME, IF ANY.	NATIVITY.			MIXED BLOOD.	CONJUGAL CONDITION.	CITIZENSHIP.			DWELLINGS.
	Tribes of this Indian.	Tribes of FATHER of this Indian.	Tribes of MOTHER of this Indian.			Is this Indian taxed? (See instructions.)	Year of acquiring citizenship.	Was citizenship acquired by allotment?	
29	30	31	32	33	34	35	36	37	38
Locklin A. A.	Choctaw	Choctaw	Choctaw	0	No	Yes			Fixed
Bessy A.	Choctaw	Choctaw	Choctaw	0	No				
Winnifred	Choctaw	Choctaw	Choctaw	0					
Lannie	Choctaw	Choctaw	Choctaw	0					
Matilda	Choctaw	Choctaw	Choctaw	0					
Oxendine Atlas	Choctaw	Choctaw	Choctaw	0	No	Yes			Fixed
Martha	Choctaw	Choctaw	Choctaw	0	No				
Appie D.	Choctaw	Choctaw	Choctaw	0					
Rosetta	Choctaw	Choctaw	Choctaw	0					
Dorcia	Choctaw	Choctaw	Choctaw	0					
James J. D.	Choctaw	Choctaw	Choctaw	0	No	Yes			Fixed
Almena	Choctaw	Choctaw	Choctaw	0	No				
Mittie	Choctaw	Choctaw	Choctaw	0					
Hussie	Choctaw	Choctaw	Choctaw	0					
James	Choctaw	Choctaw	Choctaw	0					
Jeff Davis	Choctaw	Choctaw	Choctaw	0					
Phillip	Choctaw	Choctaw	Choctaw	0					
Locklin Mittie	Choctaw	Choctaw	Choctaw	0		Yes			Fixed
Alexander	Choctaw	Choctaw	Choctaw	0		Yes			
Nancy	Choctaw	Choctaw	Choctaw	0					

INSTRUCTIONS FOR FILLING THIS SCHEDULE.

This modified form of Schedule No. 1 is to be used in making the enumeration of Indians, both those on reservations and those living in family groups outside of reservations.

Detached Indians living either in white or negro families outside of reservations should be enumerated on the general population schedule (Form 7-224) as members of the families in which they are found; but detached whites or negroes living in Indian families should be enumerated on this schedule as members of the Indian families in which they are found. In other words, every family composed mainly of Indians should be reported entirely on this schedule, and every family composed mainly of persons not Indian should be reported entirely on the general population schedule.

This schedule contains on each side twenty horizontal lines, each running twice across the page, and it is consequently possible to enumerate on it only forty persons (twenty persons on the A side and twenty persons on the B side). Each Indian should be carried through from the beginning to the end of the line on which he is entered, as line 1, line 2, etc., and each inquiry from column 1 to column 38 which applies to the individual case should be answered.

COLUMNS 1 TO 28.—These columns are identical with those on the general population schedule. Fill each column, so far as the inquiry applies, in accordance with the instructions for filling the corresponding columns in the general population schedule, but note the following additional instructions in relation to filling columns 1, 2, and 19:

COLUMNS 1 AND 2.—If you are canvassing a given territory with both the general population schedule (Form 7-224) and this schedule for Indian population, make two independent series of numbers for these columns, one series in each kind of schedule, so that the last numbers on the two schedules when added together will correctly give the whole number of dwellings and of families visited and enumerated in your entire district.

COLUMN 19.—If the Indian has no occupation and is wholly dependent on the Government for support, write "Ration Indian." If he is partly self-supporting and partly dependent upon the Government, write the occupation and then the letter "R" (for ration). If the Indian is under ten years of age and receives rations, write "Under age—R."

INSTRUCTIONS CONTINUED ON "B" SIDE OF SHEET.

STATE *North Carolina*
COUNTY *Robeson*

THIRTEENTH CENSUS OF THE UNITED STATES: 1910—INDIAN POPULATION

{ SUPERVISOR'S DISTRICT NO. 6 } SHEET NO. 128
 { ENUMERATION DISTRICT NO. 119 } **B**

TOWNSHIP OR OTHER DIVISION OF COUNTY

NAME OF INCORPORATED PLACE LAWARD OF CITY X

NAME OF INSTITUTION

NAME OF INDIAN RESERVATION X

ENUMERATED BY ME ON THE

1910. *GE*

ENUMERATOR

[Insert name of institution, if any, and indicate the lines on which the entries are made. See instructions.]

[illegible]

SPECIAL INQUIRIES RELATING TO INDIANS.

[illegible]

INSTRUCTIONS FOR FILLING THIS SCHEDULE.
CONTINUED FROM "A" SIDE OF SHEET.

The following instructions apply to columns 33 to 46:

Columns 33, 34, and 35. Tribal relations.—If the Indian was born in this country answers should be obtained, if possible, to inquiries 12, 13, and 14, relating to the state or territory of birth of the person and of his or her parents. In any event, take particular pains to secure the name of the tribe with which the person is connected and the name of the tribe of each of his or her parents, and enter the same in columns 33, 34, and 35.

Columns 36, 37, and 38. Proportions of Indian and other blood.—If the Indian is a full-blood, write "full" in column 36, and leave columns 37 and 38 blank. If the Indian is of mixed blood, write in columns 36, 37, and 38 the fractions which show the proportions of Indian and other blood, as (column 36, Indian) $\frac{1}{2}$, (column 37, white) $\frac{1}{2}$, and (column 38, negro) 0. For Indians of mixed blood all three columns should be filled, and the sum, in each case, should equal 1, as $\frac{1}{2}$, 0, $\frac{1}{2}$; $\frac{2}{3}$, $\frac{1}{3}$, 0; $\frac{1}{4}$, $\frac{3}{4}$, 0; $\frac{1}{4}$, $\frac{1}{2}$, $\frac{1}{4}$; etc.

Wherever possible, the statement that an Indian is of full blood should be verified by inquiry of the older men of the tribe, as an Indian is sometimes of mixed blood without knowing it.

Column 39. Number of times married.—If the Indian is married, enter in this column the number of times he or she has been married.

Column 40. Whether now living in polygamy.—If the Indian man is living with more than one wife, write "Yes" in this column; otherwise, write "No."

Column 41. If living in polygamy, whether the wives are sisters.—If the Indian man is living with more than one wife, and if his wives are sisters, write "Yes" in this column. If his wives are not sisters, write "No."

Column 42. Graduated from what educational institution.—If the Indian is a graduate of any educational institution, give the name and location of such institution.

Column 43. Is this Indian taxed?—An Indian is to be considered "taxed" if he or she is detached from his or her tribe and is living among white people as an individual, and as such is subject to taxation (whether he or she actually pays taxes or not); or if he or she is living with his or her tribe but has received an allotment of land, and thereby has acquired citizenship. In either of these two cases write "Yes" in this column.

An Indian on a reservation, without an allotment, or roaming over unsettled territory, is considered "not taxed," and for such Indians the answer to this inquiry is "No."

Column 44. If Indian has received allotment, give year of allotment.—If the Indian has received an allotment of land, enter, in column 44, the year in which the allotment was made.

Column 45. Residing on his own lands.—If the Indian lives on his or her own land, write "Yes" in this column; if the Indian lives elsewhere, write "No."

Column 46. Living in civilized or aboriginal dwelling.—If the Indian is living in a house of civilized design, as a log, frame, brick, or stone house, write "Civ." (for civilized) in this column; but if the Indian is living in a dwelling of aboriginal design, as a tent, tepee, cliff dwelling, etc., write "Abor." (for aboriginal).

EXHIBIT 2



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:

M-37040

DEC 22 2016

Memorandum

To: Secretary

From: Solicitor

Subject: Reconsideration of the Lumbee Act of 1956

Since the 1970s, the Department of the Interior ("Department") has vacillated over whether *An Act Relating to the Lumbee Indians of North Carolina* ("Lumbee Act" or "Act")¹ precludes the Department from considering a petition from the Lumbee Indians as an Indian tribe under the Department's *Procedures for Federal Acknowledgment of Indian Tribes*, set forth in 25 C.F.R. Part 83 ("Part 83").² Since 1989, however, the position of the Department has been that the Act is "legislation terminating or forbidding the Federal relationship"³ and, therefore, prohibits the Department from considering such a petition from the Lumbee Indians.⁴

Upon further review of the Act's text, its legislative history, the case law concerning the Act, the Department's varying interpretations of the Act, and decisions made pursuant to the relevant provisions of Part 83, I conclude that the Lumbee Act does not terminate or forbid the Federal relationship and, therefore, does not bar the Department from recognizing the Lumbee Indians by application of the Part 83 acknowledgment process. Accordingly, I withdraw and reverse

¹ 70 Stat. 254 (1956).

² The procedures for federal acknowledgment of an Indian tribe were first published in 1978 at 25 C.F.R. Part 54. 43 Fed. Reg. 39361 (Sept. 5, 1978). These procedures were revised and recodified at 25 C.F.R. Part 83 in 1994, 59 Fed. Reg. 9280 (Feb. 25, 1994), and were revised again in 2015. 80 Fed. Reg. 37862 (July 1, 2015).

³ Memorandum from William G. Lavell, Associate Solicitor, Indian Affairs, to the Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), at 5 (Oct. 23, 1989) ("1989 Assoc. Solic. Mem."). The version of Part 83 that was in effect in 1989 addresses "legislation terminating or forbidding the Federal relationship" in two places: first, in the context of the Department's authority in Section 83.3, which defines the scope of the regulations, 25 C.F.R. § 83.3(e) (1989) ("this part does not apply to groups which are, or the members of which are, subject to congressional legislation terminating or forbidding the Federal relationship"); and second, in the context of criteria for acknowledgment in Section 83.7, which sets forth the criteria a group must meet in order for tribal existence to be acknowledged, 25 C.F.R. § 83.7(g) (1989) ("The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship."). Unless otherwise indicated, all citations in this Memorandum are to the regulations as they existed in 1989.

The most recent revision of Part 83 maintains those two provisions in, respectively, 25 C.F.R. § 83.4(c) (2016) ("The Department will not acknowledge: . . . (c) Any entity that is, or any entity whose members are, subject to congressional legislation terminating or forbidding the government-to-government relationship."); and 25 C.F.R. § 83.11(g) (2016) ("*Congressional termination.* Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.").

⁴ Letter from Manuel Lujan, Jr., Secretary of the Interior, to Representative Morris K. Udall, Chairman, U.S. House Committee on Interior and Insular Affairs (Dec. 1, 1989) ("1989 Sec'y Letter").

contrary memoranda prepared by the Office of the Solicitor in 1989.⁵ In doing so, however, I do not opine on whether any petition for federal acknowledgment by the Lumbee Indians, if filed, would succeed;⁶ I merely conclude that the Lumbee Act does not preclude evaluating such a petition.

I. Statutory Interpretation

“The question whether federal law authorize[s] certain federal agency action is one of congressional intent.”⁷ Agency interpretation of a statute follows the same two-step analysis that courts follow when reviewing an agency’s interpretation. At the first step, the agency must answer “whether Congress has spoken directly to the precise question at issue.”⁸ If the language of the statute is clear, the court and the agency must give effect to “the unambiguously expressed intent of Congress.”⁹ If, however, the statute is “silent or ambiguous,” pursuant to the second step, the agency must base its interpretation on a “reasonable construction” of the statute.¹⁰

II. The Lumbee Act

The Lumbee Act provides that certain Indians then residing in and around Robeson County, North Carolina, “be known and designated as Lumbee Indians of North Carolina.”¹¹ The final sentence of Section 1 of the Act provides:

Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians.¹²

⁵ 1989 Assoc. Solic. Mem.; Memorandum from Martin L. Allday, Solicitor, to Secretary Manuel Lujan, Jr. (Nov. 20, 1989) (“1989 Solic. Mem.”).

⁶ Similarly, nothing in this Opinion would preclude the Lumbee Indians from seeking recognition by Congress.

⁷ *Wyoming v. United States*, 279 F.3d 1214, 1230 (10th Cir. 2002).

⁸ *Chevron v. Natural Resources Defense Council*, 467 U.S. 837, 842-43 (1984).

⁹ *Id.* at 843.

¹⁰ *Id.* at 840.

¹¹ 70 Stat. at 255. In its operative paragraph, the Lumbee Act designates the name for those individuals who were, at that time,

residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from the remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina.

Id. The Lumbee Indians have asserted that they are descended from several different tribes, including Cherokee, Tuscarora, Hatteras, Pamlico, and Croatan. *H.R. 4656: Relating to the Lumbee Indians of North Carolina: Hearing Before the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs*, 84th Cong. 12-13 (1955) (“1955 Hearing Report”) (statement of Rev. D.F. Lowery). Legislation introduced between 1910 and the 1930s, but never enacted, referred to these Indians as “Cherokee,” “Cheraw,” or “Siouan” Indians. *To Provide Federal Recognition for the Lumbee Tribe of North Carolina: Hearing Before the House Committee on Interior and Insular Affairs on H.R. 2335*, 101st Cong. 25-27 (1989) (“1989 Hearing Report”) (statement of Patrick A. Hayes, Acting Deputy to the Assistant Secretary – Indian Affairs).

¹² 70 Stat. at 255.

The question for the Department is whether this language prohibits the application of the Part 83 acknowledgement process to the Lumbee Indians.

A. Step 1: Congress has not spoken directly to this question

The text of the Lumbee Act does not definitively answer this question. The first clause of the final sentence of Section 1 of the Act provides that the Act does not make the Lumbee Indians eligible for services provided by the United States to Indians.¹³ The second clause of that sentence provides that federal statutes “which affect Indians because of their status as Indians” do not apply to the Lumbee Indians.¹⁴ However, the Act is ambiguous as to the scope of these provisions: the final sentence of Section 1 can be reasonably interpreted as merely providing that the Act, itself, did not confer benefits on Lumbee Indians who were not otherwise eligible for such benefits,¹⁵ or as foreclosing any future provision of federal services to Lumbee Indians. Therefore, I must proceed to the second step of the interpretive analysis and determine which reasonable interpretation of the Lumbee Act is consistent with Congress’s intent.

B. Step 2: A “reasonable construction” of the Lumbee Act

1. The legislative history

The legislative history makes clear that the final sentence of Section 1 of the Lumbee Act was intended merely to provide that the Act, itself, did not confer upon the Lumbee Indians eligibility for federal benefits or services for which they were not otherwise eligible, or extend to the Lumbee Indians federal statutes that did not already reach them. As originally introduced, the Act merely served to name the Lumbee Indians and to specify that such Indians would continue “to enjoy all rights, privileges, and immunities,” and “to be subject to all of the same obligations and duties,” as any other citizen of the State of North Carolina and of the United States, as they had “before the enactment of this Act.”¹⁶ When asked by Representative Wayne N. Aspinall

¹³ *Id.*

¹⁴ *Id.*

¹⁵ When the Lumbee Act was enacted, the Department provided services to as many as 22 Indians of North Carolina who had been certified as half or more Indian blood under the Indian Reorganization Act of 1934 (“IRA”). 25 U.S.C. § 5129 (recently redesignated from 25 U.S.C. § 479). In a 1935 memorandum, Assistant Solicitor Felix Cohen advised the Commissioner of Indian Affairs that the Siouan Indians of North Carolina, a landless group seeking to organize as a tribe under the IRA, would need to qualify for benefits under Section 19 of the IRA as persons of half or more Indian blood. Memorandum from Felix Cohen, Assistant Solicitor, to the Commissioner of Indian Affairs (Apr. 3, 1935). Under this definition, 209 persons applied for enrollment as half-blood Indians, and 22 were determined to be eligible for enrollment with the Bureau of Indian Affairs under the IRA’s half-blood provision. Letter from William Zimmerman, Assistant Commissioner, Indian Affairs, to Joseph Brooks (Dec. 12, 1939). Such enrollment, however, did not confer upon those 22 individuals “tribal status or any rights or privileges in any Indian tribe.” *Id.*; see also Letter from John Collier, Commissioner, Indian Affairs, to Lawrence Maynor (Jan. 28, 1939) (“This enrollment does not entitle you to membership in any Indian tribe, nor does it establish any tribal rights in your name. It entitles you solely to those benefits set forth in the [IRA] for which you may otherwise be eligible,” such as educational assistance and certain employment preferences). It is not clear how many of these 22 eligible Indians enrolled for or received IRA benefits, or how many were still receiving benefits in 1956, when the Lumbee Act was enacted. See *Maynor v. Morton*, 510 F.2d 1254, 1256 (D.C. Cir. 1975) (observing that, at the time the Lumbee Act was enacted, “[t]he Federal Government seems to have all but forgotten” the 22 individual Lumbee Indians eligible for IRA benefits as half-blood Indians).

¹⁶ 1955 Hearing Report at 2.

whether the bill might allow the Lumbee Indians to “come before Congress asking for the benefits that naturally go to recognized tribes,” the bill’s sponsor, Rep. F. Ertel Carlyle of North Carolina answered: “No one has ever mentioned to me any interest . . . in becoming a part of a reservation or asking the Federal Government for anything. Their purpose in this legislation is to have a name that they think is appropriate to their group.”¹⁷ When Representative Aspinall asked a similar question of the Rev. D.F. Lowery, who testified on behalf of the Lumbee Indians at the 1955 Hearing, Rev. Lowery answered that the Lumbee Indians had no interest in seeking services or benefits provided to Indians.¹⁸

Nonetheless the Department, in expressing its opposition to the bill, opined that “[i]f your committee should recommend the enactment of the bill, it should be amended to indicate clearly *that it does not make these persons eligible* for services provided through the Bureau of Indian Affairs to other Indians.”¹⁹ Adopting the Department’s suggestion, the House Committee on Interior and Insular Affairs amended the bill by adding the final sentence of Section 1.²⁰ Thus, the legislative history is clear that the Lumbee Act was amended, and the final sentence of Section 1 was added, in response to concerns raised by Reps. Aspinall and Ford and by the Department, merely to ensure that the Act did not confer upon the Lumbee Indians eligibility for services or benefits for which they were not otherwise eligible, and did not extend the reach of federal Indian statutes that did not already apply to the Lumbee Indians.

There is no evidence whatsoever in the legislative history that would suggest an intent by the 84th Congress to preclude the Lumbee Indians from *ever* receiving federal services and benefits or falling within the ambit of federal Indian statutes. Rather, the evidence points inexorably to the conclusion that the final sentence of Section 1 was added merely to ensure that the Act, itself, was not interpreted as making Lumbee Indians eligible for such services and benefits and did not, itself, bring the Lumbee Indians within the ambit of such statutes.

¹⁷ *Id.* at 7. See also *id.* at 8 (“As to any ulterior motive that might be suggested – that[]is, that they would come in and ask for benefits now or later – that is not in this picture at all.”). A similar colloquy occurred between Representative Gerald Ford of Michigan and Representative Carlyle on the House floor:

Mr. FORD. Mr. Speaker, reserving the right to object, I should like to ask the author of the bill, the gentleman from North Carolina, whether or not this bill, if enacted, would in any way whatsoever commit the Federal Government in the future to the furnishing of services or monetary sums?

Mr. CARLYLE. Mr. Speaker, I am happy to say that the bill does not provide for that nor is it expected that it will cost the Government one penny.

Mr. FORD. There is no obligation involved, as far as the Federal Government is concerned, if this proposed legislation is approved?

Mr. CARLYLE. None whatsoever.

Mr. FORD. It simply provides for the change of the name?

Mr. CARLYLE. That is all.

Mr. FORD. Mr. Speaker, I withdraw my reservation of objection.

102 Cong. Rec. 2900 (Feb. 20, 1956).

¹⁸ 1955 Hearing Report at 16-18.

¹⁹ Letter from Orme Lewis, Assistant Secretary, to Representative Clair Engle, Chairman, House Committee on Interior and Insular Affairs (Aug. 3, 1955) (emphasis added), *printed in* H. Rep. No. 84-1654, at 2 (1956).

²⁰ S. Rep. No. 84-2012, at 2 (1956) (“The Committee has amended the bill to clearly indicate that the Lumbee Indians will not be eligible for any services provided through the Bureau of Indian Affairs to other Indians.”).

2. Judicial and executive interpretations of the Lumbee Act

This interpretation of the Lumbee Act is consistent with the only U.S. Circuit Court case interpreting the Act, *Maynor v. Morton*,²¹ and with a subsequent opinion of the U.S. Comptroller General.²²

In 1972, after certain individual Lumbee Indians sought to organize as an Indian tribe under the IRA, the Department concluded that the final clause of the Lumbee Act had extinguished any eligibility for federal services or benefits for the Lumbee Indians, including those 22 Lumbee Indians who were entitled to certain privileges as half-blood Indians under the IRA.²³ One of those 22 half-blood Indians, Lawrence Maynor, sued for declaratory judgment that he was still entitled to IRA benefits, notwithstanding the final sentence of Section 1 of the Lumbee Act.²⁴ The U.S. Circuit Court of Appeals for the District of Columbia, interpreting the final clause of Section 1 of the Act, rejected the Department's 1972 Memorandum. The court held that the final clause of Section 1 was not intended to divest Indians of benefits for which they were otherwise eligible under the IRA, but rather "to leave the rights of the 'Lumbee Indians' unchanged."²⁵ "The whole purpose of the clause," the court wrote, ". . . was simply to make sure that a simple statute granting the name 'Lumbee Indian' to a group of Indians, which hitherto had not had such designation legally, was not used in and of itself to acquire benefits from the United States Government."²⁶

Similarly, in 1979 the Comptroller General, relying in part on *Maynor*, opined that the purpose of the final clause of Section 1 of the Lumbee Act was "to assure that the Act was not used in and of itself to acquire Federal benefits," but it "does not deny to Lumbees benefits accorded Indians if they are otherwise entitled under the requirements of another Act."²⁷

The Interior Board of Indian Appeals ("IBIA") embraced a seemingly contrary interpretation of the Act last year in *Nakai v. Eastern Regional Director, Bureau of Indian Affairs*,²⁸ holding that the Act barred the plaintiff, a Lumbee Indian, from receiving Indian preference under the IRA and the Department's regulations.²⁹ For the reasons articulated below, I find the IBIA's rationale to be inconsistent both with *Maynor* and with the legislative history of the Act, and therefore I am not persuaded by the IBIA's decision.

²¹ 510 F.2d 1254 (D.C. Cir. 1975).

²² 58 Comp. Gen. 699 (1979) ("1979 Comp. Gen. Op.")

²³ Memorandum from William A. Gershuny, Associate Solicitor, Indian Affairs, to Commissioner, Indian Affairs (Nov. 28, 1972) ("1972 Memorandum") ("it is our conclusion that . . . the final clause reflects a clear congressional intent to terminate, from the date of its enactment, all Federal services that would normally be made available to the Lumbee Indians including the 22 individual Lumbees, because of their status as Indians.").

²⁴ *Maynor*, 510 F.2d at 1255.

²⁵ *Id.* at 1258.

²⁶ *Id.* at 1259; see also *id.* at 1258 ("Congress was very careful not to confer by this legislation any special benefits on these people so designated as Lumbee Indians" (emphasis in original)).

²⁷ 1979 Comp. Gen. Op. at 1.

²⁸ 60 IBIA 64 (2015).

²⁹ *Id.* at 71. Nakai claimed Indian preference under 25 C.F.R. § 5.1(c) as a person of one-half or more Indian blood of tribes indigenous to the United States, not as a tribal member.

3. Summary

The final sentence of Section 1 of the Lumbee Act is ambiguous as to whether it merely was intended to preserve the status quo *ante* concerning the eligibility of Lumbee Indians for federal services and the application of federal Indian statutes, or whether it was intended to affirmatively prohibit the Lumbee Indians from receiving such services or falling within the ambit of such statutes for all time. However, only the first interpretation is consistent with the evidence in the legislative history and with the subsequent interpretation of the Act by the Circuit Court in *Maynor*. Consequently, I interpret the final sentence of Section 1 of the Lumbee Act as merely providing that the Act did not, itself, confer upon the Lumbee Indians eligibility for services for which they were not otherwise eligible, and did not, itself, extend the reach of federal Indian statutes that did not already reach the Lumbee Indians. In light of that interpretation, I conclude that the Lumbee Act does not prohibit the Department from considering a petition from the Lumbee Indians under the federal acknowledgment process set forth in Part 83 and, if acknowledged, from availing themselves of the programs and services available to Indians because of their status as Indians.

III. The Department's Prior Interpretations of the Lumbee Act

In the years since the Lumbee Act was enacted, the Department has vacillated in its interpretation of the Act and, after the promulgation of the Part 83 regulations in 1978, whether the Act would serve as a bar to administrative acknowledgment of the Lumbee Indians as an Indian tribe.

A. 1956-1988

Before 1988, the question of the effect of the final sentence of Section 1 of the Lumbee Act appears to have received little attention in the Department. As previously noted, the Department opined in the 1972 Memorandum that the Act had extinguished eligibility for any services or benefits, including the right to organize as an Indian tribe, available to even those 22 individual Lumbee Indians who previously had been found to be eligible for IRA benefits as half-blood Indians.³⁰ The *Maynor* Court rejected this interpretation.³¹

From the mid-1970s into the 1980s, the Department's approach to the Lumbee Indians' requests was inconsistent. Beginning in the 1970s, several groups of Lumbee Indians sought various services and benefits available to Indian tribes.³² The Undersecretary advised the Hatteras Tuscaroras in 1976 that the Department could not recognize them as an Indian tribe unless the Lumbee Act was amended, although his letter provided no substantive legal analysis of the issue.³³ At this time, the Department was in the process of developing procedures for the

³⁰ *Maynor*, 510 F.2d at 1257; 1972 Memorandum.

³¹ *Maynor*, 510 F.2d at 1258-59.

³² See, e.g., Memorandum from Harry Rainbolt, Eastern Area Director, to the Commissioner of Indian Affairs (Sept. 26, 1975) (describing a meeting with the "Hatteras Tuscarora Indians of North Carolina," who were seeking federal recognition as an Indian tribe, as well as other services and benefits).

³³ Letter from Kent Frizzell, Undersecretary of the Interior, to Vernon Locklear (Jan. 20, 1978) (concluding that "Congress must modify the 1956 [Lumbee] Act before any federal recognition and services can be extended generally to a group such as the Hatteras Tuscaroras, as you request").

acknowledgment of Indian tribes, which were published as a final rule on September 5, 1978.³⁴ In a letter to Darlene Locklear of the Eastern Carolina Indian Organization, Inc., shortly before publication of the final rule, the Assistant Solicitor stated that the forthcoming Part 83 acknowledgment regulations “will not be applicable to groups which have been terminated or which are the subject of Congressional legislation similar to termination statutes,” and further stated that Lumbee Act, “while recognizing the Indians of Robeson County as Indians[,] clearly precluded the federal government from providing any services to them.”³⁵ This letter also contained no substantive legal analysis of the issue. Despite these statements, the United States provided the Lumbee Indians with grants and other assistance to support their petition for federal acknowledgment.³⁶ The Lumbee Indians submitted a petition in 1980.³⁷

In 1988, legislation was introduced in Congress that would have provided federal recognition to the Lumbee Indians.³⁸ At the time, the Department was concerned that deleting the final sentence of Section 1 of the Lumbee Act would, in and of itself, confer federal recognition upon the Lumbee Indians.³⁹ However, in a 1988 memorandum to the Assistant Secretary, Indian Affairs, the Associate Solicitor observed that deleting the final sentence of Section 1 of the Lumbee Act “would *remove any doubt* as to whether the Lumbee Indians may apply for recognition under the Department’s acknowledgment procedures.”⁴⁰ The Department advised Congress at that time that the *Maynor* opinion and the 1979 Comptroller General’s opinion “would seem to indicate that the 1956 [Lumbee] Act is not a bar to action as to” petitions for federal recognition made by Lumbee Indians under Part 83.⁴¹ Although the Department opposed the legislation on the grounds that “confirmation of tribal status on a group of people is something that should stand the test of the acknowledgment process and should continue to be a function of the administrative branch of Government,” the Department nonetheless acknowledged that an amendment to the Lumbee Act deleting the final sentence of Section 1 would “*make it clear* that [the Act] shall not be a bar for Lumbees coming into the system if they are acknowledged administratively.”⁴²

³⁴ 43 Fed. Reg. 39361.

³⁵ Letter from Scott Keep, Assistant Solicitor, Division of Indian Affairs, to Darlene Locklear, at 2-3 (Mar. 27, 1978) (“1978 Ass’t Solic. Letter”) (advising that the Department could not take land into trust for the benefit of the Eastern Carolina Indian Organization, Inc., because the organization “is not an Indian tribe within the meaning of the IRA and therefore the Secretary has no authority to take land into trust for that organization”).

³⁶ 1989 Sec’y Letter at 1 (“The Lumbee group has submitted a petition for Federal acknowledgment after many years of research funded by Federal grants.”); *see also* 1989 Solic. Mem. at 2 (Department staff provided “technical assistance to the Lumbees in the development of the documentation for their petition on the assumption that the Department would be able to consider the petition under our regulations”).

³⁷ *Federal Recognition of the Lumbee Indian Tribe of North Carolina: Hearing Before the Select Committee on Indian Affairs*, S. Hrg. 101-881, 100th Cong. 10-11 (Aug. 12, 1988) (“1988 Hearing Report”) (testimony of Hazel Elbert, Deputy to the Assistant Secretary, Indian Affairs). The Lumbee Indians submitted their undocumented petition on January 4, 1980; their documented petition on December 17, 1987; and supplements to their membership list on February 4, 1988, and February 22, 1988. *Id.*

³⁸ S. 2672 (100th Cong.).

³⁹ Memorandum from Dennis Daugherty, Associate Solicitor, Division of Indian Affairs, to the Assistant Secretary, Indian Affairs (Sept. 26, 1988) (“1988 Assoc. Solic. Mem.”).

⁴⁰ *Id.* at 4 (emphasis added).

⁴¹ S. Rep. No. 101-579, at 16 (1988) (“1988 Senate Report”) (statement of Ross O. Swimmer, Assistant Secretary, Indian Affairs).

⁴² 1988 Hearing Report at 8 (statement of Ross O. Swimmer, Assistant Secretary, Indian Affairs) (emphasis added).

B. 1989-present

In 1989, the Department concluded in two memoranda that the final clause of Section 1 prohibited the Department from recognizing the Lumbee Indians as a tribe through the Part 83 acknowledgment process.⁴³

1. The 1989 Associate Solicitor's Memorandum

In 1989, in response to requests from members of Congress for a statement concerning the eligibility of the Lumbee Indians to petition for federal acknowledgment through the Part 83 process, the Assistant Secretary, Indian Affairs, asked the Associate Solicitor, Indian Affairs, for an interpretation of the Lumbee Act.⁴⁴ The Associate Solicitor approached this question through the lens of the Part 83 regulations, and in particular the prohibition against using Part 83 to acknowledge any "groups which are, or the members of which are, subject to congressional legislation terminating or forbidding the Federal relationship."⁴⁵ The Associate Solicitor ultimately concluded that the Lumbee Act was an example of such legislation and, therefore, that it barred the Department from acknowledging the Lumbee Indians through the Part 83 acknowledgment process.⁴⁶

The Associate Solicitor acknowledged that "the meaning of the Lumbee Act is, unfortunately, not clear," and that the Department had taken inconsistent positions on the question in the 1970s and 1980s.⁴⁷ He opined, however, that the Department previously "may have read too much into the narrow holding of" *Maynor*.⁴⁸ The Associate Solicitor read *Maynor* as holding merely that the Lumbee Act "did not take away rights which had previously vested in *individuals* under the

⁴³ The IBIA in *Nakai* reached the same conclusion, but did so without reference to the Department's memoranda.

⁴⁴ 1989 Assoc. Solic. Mem. at 1; *see also* 1989 Solic. Mem. at 4 ("several members of Congress wrote the Department wanting to know the Department's position on the effect of the 1956 [Lumbee] Act").

⁴⁵ 1989 Assoc. Solic. Mem. at 1 (citing 25 C.F.R. §§ 83.3(e), 83.7(g)).

Despite his citation to the Part 83 regulations, the Associate Solicitor also appears to have been heavily influenced by the risk of litigation that might result from an administrative recognition of the Lumbee Indians. *See, e.g.*, 1989 Assoc. Solic. Mem. at 2 ("the Department would be exposed to substantial risks of litigation if it provided services or acknowledge[d] a government-to-government relationship with the Lumbee Indians . . . based solely on an administrative determination"); *id.* at 4 (citing recent litigation concerning an Indian group in Vermont and writing: "[t]he risk of litigation is even greater in light of the substantial concentration of Lumbees in the townships around Pembroke. Absent clarifying legislation, an administrative determination that the Lumbees exist as a tribe will certainly result in substantial litigation over jurisdiction in those townships."). This concern prompted the Associate Solicitor to write:

I do not believe that you as a prudent trustee for those Indian tribes which have been acknowledged would be justified in committing the resources at your disposal to reviewing and making an administrative determination on the Lumbee petition knowing that there are unique circumstances surrounding the Lumbees as a result of the prior legislation which make a serious challenge to your determination inevitable.

Id. at 2. My office understands that recognition decisions often result in litigation, and that both the likelihood of litigation and the scale of the litigation increase when considering a petitioner as numerous and concentrated as the Lumbee. Such concerns, however, do not illuminate the question of whether the Lumbee Act bars the Department from recognizing the Lumbee Indians as an Indian tribe through the Part 83 acknowledgment process, and do not form a basis for this Memorandum.

⁴⁶ *Id.* at 5.

⁴⁷ *Id.* at 2-3.

⁴⁸ *Id.* at 4.

IRA.”⁴⁹ He concluded that interpreting the Act in any manner other than a prohibition on any future services or benefits to Lumbee Indians who were not already eligible for such services as half-blood Indians under the IRA would render the final sentence of Section 1 “a nullity.”⁵⁰

In addition, the Associate Solicitor compared the Lumbee Indians with two other groups, the Pascua Yaqui Indians of Arizona,⁵¹ and the Ysleta del Sur or Tiwa Indians of Texas.⁵² In each case, the Indian group at issue had been subject to earlier legislation containing substantially the same language as the final sentence of Section 1 of the Lumbee Act.⁵³ Both the Pascua Yaqui and the Tiwa ultimately were recognized not through the Part 83 acknowledgment process, but rather by an act of Congress.⁵⁴

Ultimately, the Associate Solicitor concluded that the Lumbee Act was “legislation terminating or forbidding the Federal relationship within the meaning of 25 C.F.R. §§ 83.3(e) and 83.7(g) and that, therefore, [the Assistant Secretary was] precluded from considering the application of the Lumbees for recognition.”⁵⁵

2. *The 1989 Solicitor’s Memorandum*

Shortly after the Associate Solicitor conveyed his Memorandum to the Assistant Secretary, Indian Affairs, the Solicitor followed up with his own Memorandum to Secretary Lujan “to provide [the Secretary] with background on how the Department, and the Solicitor’s Office in particular, has interpreted” the Lumbee Act.⁵⁶ The Solicitor summarized the materials described above,⁵⁷ but did not contain a detailed legal analysis of the issue. Rather, it merely “explain[ed]

⁴⁹ *Id.* (emphasis added).

⁵⁰ *Id.*

⁵¹ *Id.* at 2-3 n.2 (the Department’s “informal position” that the Lumbee Act barred any federal relationship with the Lumbee Indians not already provided in the IRA “was similar to the position taken with regard to the 1964 Pascua Yaqui Act”).

⁵² *Id.* at 4 (“The position the Department took on the 1987 act to restore a Federal relationship with the Ysleta del Sur Pueblo (the Tiwas) is consistent with our present interpretation of the Lumbee Act.”).

⁵³ An Act to provide for the conveyance of certain land of the United States to the Pascua Yaqui Association, Inc., 78 Stat 1196, 1197 (Oct. 8, 1964) (“1964 Pascua Yaqui Act”) (“Nothing in this Act shall make such Yaqui Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Yaqui Indians.”); An Act Relating to the Tiwa Indians of Texas, 82 Stat 93 (Apr. 12, 1968) (“1968 Tiwa Act”) (“Nothing in this Act shall make such tribe or its members eligible for any services performed by the United States for Indians because of their status as Indians nor subject the United States to any responsibility, liability, claim, or demand of any nature to or by such tribe or its members arising out of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Tiwa Indians of Ysleta del Sur.”).

⁵⁴ An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, 92 Stat 712 (Sept. 18, 1978) (“1978 Pascua Yaqui Recognition Act”); An Act to provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes, 101 Stat. 666 (Aug. 18, 1987) (“1987 Restoration Act”).

⁵⁵ 1989 Assoc. Solic. Mem. at 5.

⁵⁶ 1989 Solic. Mem. at 1.

⁵⁷ The Solicitor’s Memorandum provided a recap of the 1972 Memorandum, and resulting *Maynor v. Morton* litigation; a petition for federal acknowledgment by Lumbee Indians, and Federal assistance provided to their petitions; the attempt to recognize the Lumbee Indian by an act of Congress in 1988, including Assistant Secretary

the course of the Department's and [the Solicitor's] office's consideration of the Lumbee legislation."⁵⁸

3. The 1989 Secretary's Letter

On December 1, 1989, Secretary Lujan advised Representative Morris K. Udall, the chairman of the House Committee on Interior and Insular Affairs, of the Department's opposition to legislative recognition of the Lumbee Indians, on the grounds that "we believe[] that the Lumbee group should go through the Federal acknowledgment process prescribed in 25 C.F.R. Part 83."⁵⁹ The Secretary conveyed to Chairman Udall copies of the 1989 Associate Solicitor's Memorandum and the 1989 Solicitor's Memorandum, and advised that further administrative review of the Lumbee Indians' acknowledgment petitions could be delayed in light of those opinions.⁶⁰ Citing the 1989 memoranda and the Department's preference for tribal acknowledgment through the administrative process, the Secretary urged the Chairman to push for "legislation that will provide the Lumbees an opportunity to receive the same thorough evaluation as all other groups petitioning for Federal acknowledgment."⁶¹

IV. The Flawed Analysis in the 1989 Associate Solicitor's Memorandum

Since 1989, the Department's position has been that the final sentence of Section 1 of the Lumbee Act bars the Department from considering a petition from the Lumbee Indians under the Part 83 acknowledgment process. That position, however, rests entirely on the 1989 Associate Solicitor's Memorandum, which does not withstand scrutiny.

A. The Lumbee Act's text and legislative history

The Associate Solicitor acknowledges that "[t]he meaning of the Lumbee act is, unfortunately, simply not clear."⁶² Nevertheless, he asserts that there is only one way to interpret the final sentence of Section 1 without rendering it "a nullity," and that the one acceptable interpretation is that the final sentence of Section 1 prohibits the Department from providing services or benefits to the Lumbee Indians.⁶³ However, the Associate Solicitor's analysis is too sweeping in its conclusion.

The legislative history discussed above demonstrates that, far from intending to permanently foreclose a trust relationship and all the attendant benefits and services for all time, Congress in the Lumbee Act sought to preserve the status quo, under which a small number of individual Lumbee Indians were eligible for benefits under the IRA, but the vast majority of Lumbee

Swimmer's statement to Congress that year that the Department did not believe the Lumbee Act prohibited the Department from recognizing the Lumbee Indians through Part 83; the 1988 Associate Solicitor's Memorandum that did not address whether the Lumbee Act barred the Department from recognizing the Lumbee Indians; and finally, the 1989 Associate Solicitor's Memorandum opining that the Act did, indeed, bar such administrative recognition.

⁵⁸ *Id.* at 4.

⁵⁹ 1989 Sec'y Letter at 1.

⁶⁰ *Id.*

⁶¹ *Id.* at 2.

⁶² 1989 Assoc. Solic. Mem. at 2.

⁶³ *Id.*

Indians did not receive federal Indian services and most federal Indian statutes did not reach the Lumbee Indians. This more plausible interpretation does not render the final sentence of Section 1 a nullity. On the contrary, it infuses that sentence with a specific meaning that is consistent with Congress's regular usage of the phrase "nothing in this act." Congress typically uses phrases such as "nothing in this act" or "nothing in this section" to preserve pre-legislation status quo.⁶⁴ Consistent with that approach, this Memorandum interprets the final sentence of Section 1 as an attempt to preserve the status quo *ante* by ensuring that the Act, itself, is not construed as making the Lumbee Indians eligible for federal services or benefits.

In addition, the interpretation of the Lumbee Act set forth in this Memorandum is the only interpretation that is consistent with the Act's legislative history. Despite his conclusion that the Lumbee Act was "legislation terminating or forbidding the Federal relationship within the meaning of 25 C.F.R. §§ 83.3(e) and 83.7(g),"⁶⁵ the Associate Solicitor offered no evidence whatsoever from the legislative history that Congress intended to foreclose the Lumbee Indians from ever having the opportunity to determine whether there exists a federal relationship – and certainly offered no evidence that Congress intended to foreclose the application of regulations that would not be promulgated until 22 years later. In fact, as demonstrated above, all of the evidence in the legislative history demonstrates that the 84th Congress was concerned that the Lumbee Act as originally introduced would be construed as recognition of the Lumbee Indians as an Indian tribe, and that the Act was amended and the final sentence of Section 1 added for the sole purpose of clarifying that the Act itself did not confer federal recognition of the Lumbee by virtue of a mere name designation.⁶⁶ If Congress had intended to take such a drastic measure of forever foreclosing a trust relationship with the Lumbee Indians, it could have expressly stated such intent.⁶⁷

B. The Maynor v. Morton opinion

Moreover, the Associate Solicitor's interpretation of the Lumbee Act is entirely inconsistent with the D.C. Circuit's opinion in *Maynor v. Morton*. The Associate Solicitor is correct that the *holding* in *Maynor* is narrow⁶⁸ – the Plaintiff sought declaratory judgment that the Lumbee Act had not extinguished his eligibility for IRA benefits as a half-blood Indian, and the Circuit Court reversed and remanded for just such an entry of judgment.⁶⁹ In reaching that holding, however, the *Maynor* court found that the sole purpose of the final sentence of Section 1 was to prevent the Act from being construed as recognizing the Lumbee Indians as an Indian tribe.⁷⁰ The Associate Solicitor's interpretation of the Lumbee Act embraces *Maynor*'s holding, but rejects *Maynor*'s reasoning without offering any analysis or reason for doing so.

⁶⁴ See, e.g., *Commonwealth Edison Co. v. Montana*, 453 U.S. 69, 631-33 (1981) (holding that savings clause beginning with "[n]othing in this chapter" preserved the status quo concerning State and local authority to levy taxes on coal producers mining for coal on federal lands pursuant to the Mineral Lands Leasing Act of 1920); *Wyoming v. United States*, 279 F.3d at 1231 (evaluating savings clause beginning with "Nothing in this Act" as preserving the status quo except as it was in conflict with the clause or any other portion of the overall statute at issue).

⁶⁵ 1989 Assoc. Solic. Mem. at 5.

⁶⁶ See Part II.B.1, *supra*.

⁶⁷ See Part IV.B.2, *infra*.

⁶⁸ 1989 Assoc. Solic. Mem. at 4.

⁶⁹ 510 F.2d at 1255, 1259.

⁷⁰ See Part II.B.2, *supra*.

C. The Pascua Yaqui and Tiwa analogies

In addition, the Associate Solicitor's analogies to legislation involving the Pascua Yaqui and Tiwa Indians are inapt. The Associate Solicitor observed that both the 1964 Pascua Yaqui Land Act and the 1968 Tiwa Act contained language that was substantially similar to the final sentence of Section 1 of the Lumbee Act, and that the Pascua Yaqui and the Tiwa subsequently achieved federal recognition as Indian tribes by acts of Congress, not by the Part 83 acknowledgment process.⁷¹ This simple and surface-level comparison disregards significant differences in the circumstances surrounding these Indian groups and their legislation.

1. Pascua Yaqui

The 1978 Yaqui Recognition Act was necessary to effect federal recognition of the Pascua Yaqui Indians as an Indian tribe *not* because the language in the 1964 Pascua Yaqui Act mirrored the final sentence of Section 1 of the Lumbee Act, but because the Pascua Yaqui were not indigenous to the continental United States and, therefore, were ineligible for Part 83 acknowledgment.

The Pascua Yaqui Indians came to the United States as political refugees from Mexico in the late 1800s and early 1900s.⁷² By the 1960s, most of the Pascua Yaqui Indians were United States citizens, either having completed the naturalization process or having been born in the United States, and most were squatting on land near Tucson, Arizona.⁷³ The 1964 Pascua Yaqui Act was enacted to facilitate the removal of the Pascua Yaqui Indians from the land upon which they were squatting, and to relocate them to a separate parcel nearby.⁷⁴ As he did during consideration of the Lumbee Act, Representative Aspinall expressed concern that the 1964 Pascua Yaqui Act would ultimately lead to the provision of federal services and benefits to the Pascua Yaqui Indians.⁷⁵ Assistant Commissioner of Indian Affairs Graham E. Holmes testified that the Department did not intend to provide services to the Pascua Yaqui Indians, "and we do not anticipate that they will request any."⁷⁶ The 1964 Pascua Yaqui Act subsequently was amended to include language mirroring the final sentence of Section 1 of the Lumbee Act.⁷⁷

⁷¹ See fn. 51-52, *supra*, and accompanying text.

⁷² S. Rep. No. 95-719, at 3 (1978) ("1978 Senate Report"); Letter from Ferne Nevitt Lees, M.A., to House Committee on Interior and Insular Affairs 1 (Aug. 24, 1963) ("Lees Letter"), *pub'd in To Provide for the Conveyance of Certain Land of the United States to the Pascua Yaqui Association, Inc.: Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, 90th Cong. (1964)* ("1964 Hearing").

⁷³ Lees Letter at 1; 1964 Hearing at 10 (statement of Graham E. Holmes, Assistant Commissioner for Legislation, Bureau of Indian Affairs).

⁷⁴ 1964 Hearing at 10 (statement of Graham E. Holmes, Assistant Commissioner for Legislation, Bureau of Indian Affairs).

⁷⁵ *Id.* at 14 (Representative Aspinall suggested that it would be "naïve" to believe that the Bureau of Indian Affairs would not eventually be asked to provide services to the Pascua Yaqui Indians).

⁷⁶ *Id.*

⁷⁷ See fn.53, *supra*.

The 1978 Pascua Yaqui Recognition Act was introduced at roughly the same time that the Department published the proposed regulations that would become Part 83.⁷⁸ At that time, the Department believed that the final sentence of Section 1 of the Lumbee Act would prevent the Department from recognizing the Lumbee Indians as an Indian tribe.⁷⁹ Consistent with that position, the Solicitor's Office advised Congress "in an informal opinion" that Section 4 of the 1964 Pascua Yaqui Act would prevent the Department from recognizing the Pascua Yaqui Indians as an Indian tribe through the Part 83 acknowledgment process.⁸⁰ Nevertheless, the Department opposed the 1978 Pascua Yaqui Recognition Act, and suggested instead that the 1964 Pascua Yaqui Act simply be amended to delete the Section 4 language that mirrored the last sentence of the Lumbee Act.⁸¹

However, the real impediment to administrative acknowledgment of the Pascua Yaqui was not the language in Section 4 of the 1964 Pascua Yaqui Act; rather, it was the fact that the Part 83 regulations limit their application to "those American Indian groups *indigenous to the continental United States*."⁸² Those same regulations define "indigenous" as "native to the continental United States in that at least part of the tribe's aboriginal range extended into what is now the continental United States."⁸³ The Pascua Yaqui Indians were indigenous to Mexico, not the United States,⁸⁴ which made them ineligible for Part 83 acknowledgment.⁸⁵ Thus, the Pascua Yaqui Indians needed Congressional recognition.

2. Tiwa

Similarly, the 1987 Restoration Act was necessary to effect federal recognition of the Tiwa Indians as an Indian tribe *not* because of the language in the 1968 Tiwa Act that mirrored the final sentence of Section 1 of the Lumbee Act, but because of other provisions of the 1968 Tiwa Act.

⁷⁸ 1978 Senate Report at 3 ("The introduction of S. 1633 coincided with the Secretary of the Interior's publication of proposed new federal regulations that would establish procedures for governing the determination that an Indian group is a federally recognized tribe" (citation to Fed. Reg. omitted)). Ultimately, the Part 83 regulations were promulgated on September 5, 1978. 43 Fed. Reg. 39362. The 1978 Pascua Yaqui Recognition Act was enacted on September 18, 1978, less than two weeks later. 92 Stat. 712.

⁷⁹ 1978 Ass't Solic. Letter at 3.

⁸⁰ 1978 Senate Report at 3; *see also id.* at 7 (statement of Forest J. Gerard, Assistant Secretary).

⁸¹ *Id.* at 7.

⁸² 25 C.F.R. § 83.3(a) (emphasis added).

⁸³ 25 C.F.R. § 83.1(n).

⁸⁴ 1978 Senate Report at 3; Lees Letter at 1.

⁸⁵ The 1978 Senate Report was published several months before the final Part 83 regulations were published, which might explain why the 1978 Senate Report does not contain a discussion of whether the Pascua Yaqui's origins outside the continental United States would bar them from administrative acknowledgment.

However, ten years later, when it was considering legislation that would have recognized the Lumbee Indians, Congress recognized that the Pascua Yaqui would not have been eligible for administrative acknowledgment because they were not indigenous to the continental United States. S. Rep. No. 100-579, at 5 (1988) (stating that Congress enacted the Pascua Yaqui Recognition Act because the Pascua Yaqui Indians, "having migrated from Mexico, [were] not indigenous to the United States and therefore [were] ineligible to file a petition" for Part 83 acknowledgment).

The Tiwa Indians were descendants of Indians who fled the Pueblo of Isleta during the Pueblo Revolt, eventually settling in what is now El Paso County, Texas.⁸⁶ The Tiwa Indians never entered a treaty or other agreement with the United States, and at the time of the 1968 Tiwa Act no land was held in trust for the Tiwa Indians.⁸⁷ In 1967, the Texas Legislature enacted legislation assuming a trust responsibility for the Tiwa Indians; however, there was a belief that in order for Texas to have the authority to exercise such a trust responsibility, an act of Congress was required.⁸⁸ By enactment of the 1968 Tiwa Act, “[r]esponsibility, if any, for the Tiwa Indians of Ysleta del Sur [was thereby] transferred [from the United States] to the State of Texas.”⁸⁹

The legislative history of the 1968 Tiwa Act demonstrates that it, like the Lumbee Act, was drafted so as to prevent it from being construed as an act recognizing the Tiwa Indians as an Indian tribe eligible for federal services and benefits. The Tiwa Act contained language that, in substance, mirrored the language of the Lumbee Act.⁹⁰ In fact, the Senate Report accompanying the Tiwa Act expressly states that the relevant language was “modeled after” the Lumbee Act.⁹¹ The Senate Report accompanying the Tiwa Act repeatedly states that the purpose of that language was to ensure that “its enactment will not *create* any trust responsibility” for the United States.⁹² By expressly stating that its purpose in adding the “nothing in this act” language to the 1968 Tiwa Act was to prevent that statute from being construed as creating a trust responsibility, and by expressly stating that this provision was “modeled after” the Lumbee Act, Congress implicitly acknowledged that the final sentence of Section 1 of the Lumbee Act merely ensured that that Act would not be read as creating a trust responsibility to the Lumbee Indians.

Moreover, the legislative history of the 1987 Restoration Act demonstrates that Congress rejected the idea that the 1968 Tiwa Act was the equivalent of a termination act. Congress made specific note of the language in the 1968 Tiwa Act that mirrored the final sentence of Section 1 of the Lumbee Act, and concluded “that the 1968 Tiwa Act *was not a ‘termination’ act.*”⁹³ Instead, Congress concluded that that language “did not, as a practical matter, alter the relationship between the United States and the Tiwa Tribe. The Tribe had not been subject to federal supervision and had received no federal Indian services before the 1968 Act, and that status continue[d] after its enactment.”⁹⁴ Because Congress expressly modeled the 1968 Tiwa Act after the Lumbee Act, and because Congress expressly found that the 1968 Tiwa Act was not a termination act, it follows that the Lumbee Act also was not a “termination act” for the Lumbee Indians.

⁸⁶ S. Rep. No. 90-1070, at 1 (1968) (“1968 Senate Report”).

⁸⁷ *Id.* at 5 (statement of Stanley S. Surrey, Assistant Secretary of the Treasury).

⁸⁸ *Id.* at 1.

⁸⁹ 82 Stat. 93.

⁹⁰ *Id.*; see also fn.53, *supra*.

⁹¹ 1968 Senate Report at 2.

⁹² *Id.* at 2 (emphasis added); *id.* at 3 (“The United States does not have any responsibility, and the bill clearly provides that its enactment will not create any responsibility” (emphasis added)).

⁹³ S. Rep. 100-90, at 7 (1987) (“1987 Senate Report”) (emphasis added). In contrast, the Alabama and Coushatta Tribes, which were also restored by the same Restoration Act, *were* expressly terminated by Congress. An Act to provide for the termination of federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof, and for other purposes, 68 Stat. 768 (1954).

⁹⁴ *Id.*

D. Contrasting the Lumbee Act with statutes terminating or forbidding the Federal relationship

The Associate Solicitor's conclusion that the Lumbee Act was "legislation terminating or forbidding the Federal relationship" was not specific as to whether the Lumbee Act "terminated" the Federal relationship, or "forbid" the Federal relationship, or both. A closer review demonstrates the substantial differences between the language of the Lumbee Act and the language Congress used when terminating tribes. In addition, the language of the Lumbee Act also differs from the language Congress has used to "forbid" a government-to-government relationship with a group of Indians.

1. Termination acts

Congress enacted the Lumbee Act during the Termination Era, which dominated federal Indian policy during the 1950s and 1960s.⁹⁵ Because the Lumbee Indians were not under federal supervision at the time of the Lumbee Act, that Act cannot technically be read as a termination act. Nonetheless, the Associate Solicitor concluded that the Act was "legislation terminating or forbidding the Federal relationship."⁹⁶ The stark contrast between the language Congress used in the Lumbee Act and the language it used in various termination statutes demonstrates that the Lumbee Act was not an act "terminating" a Federal relationship.

For example, in 1954, two years before enacting the Lumbee Act, Congress terminated the federal relationship with the Menominee Tribe of Wisconsin.⁹⁷ That act expressly ordered "termination of Federal supervision over the property and members" of the tribe, closed the tribal roll, and distributed all of the tribe's trust assets.⁹⁸ Later in 1954, Congress terminated the federal relationship with the Klamath Tribe of Indians.⁹⁹ That act, among other things, provided for "the termination of Federal supervision over the trust and restricted property of the Klamath Tribe of Indians . . . and of the individual members thereof," for "termination of Federal services furnished to such Indians because of their status as Indians," and for distribution of tribal property.¹⁰⁰ In addition, that act required the Secretary to publish in the Federal Register "a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated," and expressly terminated "[a]ny powers conferred upon the tribe" by the tribe's constitution.¹⁰¹ Other termination statutes enacted during this era contained similar

⁹⁵ See H. Con. Res. 108, 68 Stat. B122 (Aug. 1, 1953) (providing that "it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, [and] to end their status as wards of the United States," and stating "the declared sense of Congress that" Indian tribes in certain states and their members "should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians").

⁹⁶ 1989 Assoc. Solic. Mem. at 5 (citing 83 C.F.R. §§ 83.3(e), 83.7(g)).

⁹⁷ An Act to provide for per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Tribe from Federal jurisdiction, 68 Stat. 250 (1954).

⁹⁸ *Id.* at 250-51.

⁹⁹ An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes, 68 Stat. 718 (1954).

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 722.

language.¹⁰² However, no such language appears in the Lumbee Act. To the extent that the Associate Solicitor's opinion can be read as concluding that the Lumbee Act was legislation "terminating" a Federal relationship, I find that the differences between the Lumbee Act and contemporaneous termination acts undermines such a conclusion.

2. Statutes "forbidding" the Federal relationship

The Associate Solicitor engaged in no textual analysis to determine whether the Lumbee Act served to "forbid" any Federal relationship with the Lumbee Indians. When compared to other statutes found to include language "forbidding" the relationship, the Lumbee Act includes no such language.

For example, in 1839 Congress enacted An Act for the relief of the Brothertown Indians, in the Territory of Wisconsin ("1839 Brothertown Act"),¹⁰³ which, *inter alia*, provided for the partitioning of the reservation of the "Brotherton or Brothertown Indians"¹⁰⁴ and the division of those lands among the tribe's individual members.¹⁰⁵ The 1839 Brothertown Act further provided that, upon the division of the Tribe's lands and the completion of various administrative requirements, "the Brothertown Indians . . . shall then be deemed to be . . . citizens of the United States, . . . and their rights as a tribe or nation, and their power of making or executing their own laws, usages, or customs, as such tribe, *shall cease and determine*."¹⁰⁶

Following the publication of the Part 83 procedures, persons descended from the Brothertown Indians sought acknowledgment under Part 83.¹⁰⁷ In 2009, in its Proposed Finding Against Acknowledgment of the Brothertown Indian Nation ("Brothertown Proposed Finding"), the Department engaged in a lengthy analysis of the statutory language, finding that the word "'determine' added a meaning beyond a mere cessation of activity. . . . The phrase 'cease and determine' thus stated that Federal recognition of tribal rights and powers not only would be discontinued, but also would be *brought to a permanent end*."¹⁰⁸ The Department concluded that "[b]y denying the Brothertown Indians of Wisconsin a federally recognized right to act in the future as a tribal political entity with powers of self-government, Congress *has forbidden a Federal relationship* with a Brothertown political tribal entity."¹⁰⁹

¹⁰² For two examples enacted the same year as the Lumbee Act, *see* An Act to provide for the termination of Federal supervision over the property of the Wyandotte Tribe of Oklahoma and the individual members thereof, and for other purposes, 70 Stat. 893 (1956); An Act to provide for the termination of Federal supervision over the property of the Peoria Tribe of Indians in the State of Oklahoma and the individual members thereof, and for other purposes, 70 Stat. 937 (1956).

¹⁰³ 5 Stat. 349 (Mar. 3, 1839).

¹⁰⁴ The statute recognized that both names were used. *Id.*

¹⁰⁵ *Id.* at 349-51.

¹⁰⁶ *Id.* at 351.

¹⁰⁷ Proposed Finding Against Acknowledgment of the Brothertown Indian Nation (Aug. 17, 2009), *available at* <http://www.bia.gov/cs/groups/xofa/documents/text/idc-001523.pdf>. The group, which initially used the name "Brotherton Indians of Wisconsin" before changing its name to "Brothertown Indian Nation," filed a letter of intent in 1980, and provided materials in support of its application as late as 2008. *Id.* at 2-3.

¹⁰⁸ *Id.* at 135-36 (emphasis added).

¹⁰⁹ *Id.* at 136 (emphasis added). This finding was upheld in the Department's Final Determination, at 2, *available at* <http://www.bia.gov/cs/groups/xofa/documents/text/idc-021391.pdf>.

The Associate Solicitor in 1989 did not have the benefit of this analysis of congressional legislation “forbidding” the Federal relationship. Nevertheless, in contrast to the 1839 Brothertown Act, the Lumbee Act contains no such forward-looking language. To the extent that the 1989 Associate Solicitor’s Memorandum can be read as concluding that the Lumbee Act was legislation “forbidding” a Federal relationship, I find that the lack of any such forward-looking language undermines that conclusion.

E. The Department’s § 83.7(g) decisions

Finally, with regard to statutes “terminating” the federal relationship, a close review of the Department’s one existing decision at the time under 25 C.F.C. § 83.7(g) demonstrates that that decision was based on evidence far more concrete than the evidence that led the Associate Solicitor to conclude that the final clause of Section 1 of the Lumbee Act was language “terminating or forbidding” a Federal relationship.

At the time of the Associate Solicitor’s Memorandum, the Department had published decisions granting seven acknowledgment petitions and denying eleven. Of those 18 published decisions, only one discussed § 83.7(g) in depth: the decision denying federal acknowledgment to the Tchinouk Indians of Oregon. In its Proposed Finding against Federal Acknowledgment, the Department concluded that, even though the Tchinouk Indians had not been specifically identified for termination in the Western Oregon Termination Act,¹¹⁰ they nonetheless fell within its purview:

Many of the petitioning group’s members were given termination services under Section 13 of the termination act, although many had not received services previously and many if not most do not appear on the available rolls of Southwestern Oregon Indians. . . . It is clear the act was viewed by the BIA as applying to these individuals even though they were not part of a distinct recognized tribe. . . .

Based on the inclusive language of the [Western Oregon Termination A]ct and BIA policies and legislative records concerning the act, we conclude that the Western Oregon Termination Act applies to the Tchinouk even though they were not previously recognized as a distinct tribe. The Tchinouk are the subject of legislation forbidding the Federal relationship and therefore do not meet the requirements of the criterion in 25 C.F.R. 83.7(g).¹¹¹

The evidence presented as to the Lumbee Indians contrasts with that concerning the Tchinook, indicating that the Lumbee Act was not a termination act and that the Associate Solicitor’s conclusion that the Lumbee Act was “legislation terminating or forbidding the Federal relationship” should not be read as a conclusion as to “termination.” There is no evidence in the

¹¹⁰ 68 Stat. 724 (1954).

¹¹¹ Evidence for Proposed Finding against Federal Acknowledgment of the Tchinouk Indians of Oregon at 12 (May 30, 1985); after notice of the Proposed Finding was published, 50 Fed. Reg. 24709 (June 12, 1985), and comments received, the Final Determination That the Tchinouk Indians of Oregon Do Not Exist as an Indian Tribe was published on January 16, 1986. 51 Fed. Reg. 2437.

record that, after enactment of the Lumbee Act, the Department treated the Act as a termination act. There is no record of “termination services” having been provided to the 22 Lumbee Indians who were eligible for IRA benefits as half-blood Indians before the Lumbee Act, much less to any of the thousands of other Lumbee Indians. Instead, the Department allowed some 16 years to pass before concluding that the Lumbee Act extinguished the eligibility for benefits of those 22 half-blood Indians – a determination that the D.C. Circuit reversed.¹¹² In short, there is no evidence that the Department treated the Lumbee Act, at the time of its passage, as terminating or forbidding the federal relationship.

V. The Flawed Analysis in the IBIA’s Nakai Decision

Because the IBIA in *Nakai* construed the Lumbee Act in relation to the IRA, and not as it relates to the Part 83 acknowledgment process, I am not bound by the IBIA’s interpretation of the Act. Moreover, because the IBIA’s decision in *Nakai* rests upon a misreading of the Act, and is inconsistent with the D.C. Circuit’s holding in *Maynor*, I am not persuaded by the IBIA’s conclusion.

The plaintiff in *Nakai* was a Lumbee Indian who argued that, regardless of her affiliation with the Lumbee Indians, she also was 31/32 Indian blood and as such was eligible for the Indian employment preference provided in the IRA and the Department’s regulations.¹¹³ The Regional Director denied the plaintiff’s request for verification of Indian preference, finding that *Maynor* merely preserved the rights of those 22 Lumbee Indians who already had been certified to receive benefits under the IRA, and that the Lumbee Act precluded any other Lumbee Indians from services or benefits provided to Indians because of their status as Indians.¹¹⁴ On appeal, the plaintiff argued that *Maynor* “stands for the proposition that the Lumbee Act did not affect the eligibility of Lumbee Indians for Federal benefits under independent, prior legislation, such as the IRA.”¹¹⁵ The IBIA rejected this argument and affirmed the Regional Director, holding that “to accept [the plaintiff’s] arguments would effectively negate the prohibitory language of the Act. . . . Whatever rights may have attached under the IRA, before enactment of the Lumbee Act, to individuals with one-half or more Indian blood of the [Lumbee Indians], did not attach to [the plaintiff].”¹¹⁶

The Regional Director’s decision and the IBIA’s conclusion are inconsistent with both the text of the Act and the interpretation set forth in *Maynor*. First, as demonstrated above, there is no “prohibitory language” in the Act. Rather, the legislative history demonstrates that the language some have misinterpreted as prohibitory merely was intended to ensure that the Act, itself, was

¹¹² See 1972 Memorandum; *Maynor*, 510 F.2d at 1258.

¹¹³ *Nakai*, 60 IBIA at 64. The IRA provides that “qualified Indians shall hereafter have the preference to appointment in vacancies” in positions “in the administration of functions or services affecting any Indian tribe.” 25 U.S.C. § 5116 (recently redesignated from 25 U.S.C. § 472). The IRA defines “Indian” to include all persons who are “of one-half or more Indian blood.” 25 U.S.C. § 5129. The Department’s regulations further provide, in relevant part: “For purposes of making appointments to vacancies in all positions in the Bureau of Indian Affairs a preference will be extended to persons of Indian descent who are: . . . of one-half or more Indian blood of tribes indigenous to the United States.” 25 C.F.R. § 5.1(c).

¹¹⁴ *Nakai*, 60 IBIA at 68.

¹¹⁵ *Id.* at 70.

¹¹⁶ *Id.* at 71.

not construed as extending to Lumbee Indians benefits for which they were not already eligible. In addition, the Regional Director's action and the IBIA's decision, both of which turn on the idea that the Lumbee Act altered the legal status of the Lumbee Indians, are inconsistent with *Maynor*, in which the D.C. Circuit stated: "The whole purpose of this final clause of the one paragraph operative portion of the Lumbee Act was simply *to leave the rights of the 'Lumbee Indians' unchanged.*"¹¹⁷

For these reasons, I am not persuaded by the IBIA's decision in *Nakai*, which did not concern Part 83 acknowledgment, and which is inconsistent both with the text and with judicial interpretations of the Lumbee Act.

VI. Conclusion

Over the past four decades, the Department has vacillated in its interpretations of the Lumbee Act. Solicitor's Office memoranda in 1989 concluded that the Act barred the Department from acknowledging the Lumbee Indians as an Indian tribe through the Part 83 process. Because I find that neither the text of the Lumbee Act nor its legislative history precludes the Lumbee Indians from petitioning for Federal acknowledgment under the Department's regulations, I conclude that they may avail themselves of the acknowledgment process in 25 C.F.R. Part 83. If their application is successful, they may then be eligible for the programs, services, and benefits available to Indians because of their status as Indians.



Hilary C. Tompkins

¹¹⁷ *Maynor*, 510 F.2d at 1258 (emphasis added).

EXHIBIT 3

RECOGNITION

Policy Resolution No. 1
INDIAN RECOGNITION POLICY
Adopted September 22, 1977

WHEREAS: The Indian policy of the U.S. Government is administered inconsistently and somewhat to American Indian tribes and

WHEREAS: the procedures for establishing and maintaining the federal trust relationship between certain American Indian tribes and the U.S. Government has evolved primarily from a treaty and land base situation; and

WHEREAS: the committee on Indian Recognition Policy is recommending the adoption of a position paper and resolution to establish a format and certain criteria for extending federal recognition to groups, communities, and bands not presently recognized; and

WHEREAS: similar recognition criteria has been published in the Federal Register by the Department of Interior; and

WHEREAS: the deadline for tribal response to this criteria has been established as October 18, 1977;

NOW THEREFORE BE IT RESOLVED, that United Southeastern Tribes, Inc. along with other Eastern tribes requests that the National Congress of American Indians in its 34th Annual Convention, table the resolution on Indian Recognition Policy for further action by the Executive Council of NCAI in its next session; and

BE IT FURTHER RESOLVED, that the resolution and position paper on Indian Recognition Policy be forwarded to all eligible member tribes for action by their tribal council to ratify, amend, or reject the resolution, by the next Executive Council of the National Congress of American Indians; and

BE IT FURTHER RESOLVED, that the Executive Director of the NCAI be directed to notify Mr. Forrest Gerard, Assistant Secretary of the Interior for Indian Affairs, immediately of this action so that the deadline of October 18, 1977 be extended for additional tribal response; and

BE IT FURTHER RESOLVED THAT, the National Congress of American Indians does support the concept of establishing a procedure for recognizing Indian Tribes not presently protected by the United States.

EXHIBIT 4

The following were adopted at a Special Executive Council Meeting on Tribal Recognition in Nashville, Tennessee on March 29, 1978.

THE NATIONAL CONGRESS OF AMERICAN INDIANS DECLARATION OF
PRINCIPLES ON TRIBAL RECOGNITION BY THE U. S. GOVERNMENT

1. The United States Government has a permanent obligation to protect, preserve and defend the inherent sovereign rights of all Indian Tribes choosing to engage in a relationship with the United States.
2. The United States has on an arbitrary basis failed to fulfill its obligations to all Tribes weak and vulnerable.
3. The National Congress of American Indians, an organization which represents the common interests of all Tribes, demands that the United States fulfill its obligation and acknowledge the existence of these Tribes and protect their rights to the fullest extent of the law.
4. The failure of the United States to establish and maintain consistent policies for extending political recognition to all Indian Tribes, has allowed State and local Governments, and private interests, to infringe upon the sovereign rights and powers of such un-recognized Tribes over land, people, and resources.
5. The level of federal support and assistance should not be dependent upon the arbitrary aspects of budgetary considerations, but should be based on the protections and services to which the tribes are entitled.
6. As additional tribes are confirmed in their status, the federal government must appropriate funds above and beyond the operating levels presently received by currently-recognized tribes. Tribes recognized pursuant to any criteria must have their needs met out of additional appropriations that will be sought by the responsible federal agencies.
7. There must be a valid and consistent set of criteria applied to every group which petitions for recognition. The criteria must be based on ethnological, historical, legal and political evidence. It is the inherent right and responsibility of each and every existing tribe to determine its membership through its own defined criteria and no already federally recognized tribe should be required to accept newly recognized groups into tribal membership without the consent and approval of the existing tribe.
8. Only those tribes or groups who satisfy criteria to be established pursuant to principle #7 may be recognized.
9. Every determination that a group is not an Indian tribe must be clearly justified on the group's failure to meet the legitimate criteria.
10. Recognition must carry with it all the force and impact which recognition by treaties, legislation, or administrative actions has carried.
11. Recognition shall not negate or affect in any way the previous recognition granted other tribes by treaties, legislation, or administrative action nor affect or dilute tribal assets or existing reservations of any already federally recognized Indian tribe without the consent and approval of the already federally recognized tribe.
12. Upon recognition of a tribe's status, the United States should inform the tribe of the rights, benefits, and protection afforded by Federal Indian law. It shall be the responsibility of Congress to appropriate at the request of the tribes, additional funds to related federal agencies to fulfill these trust obligations.

EXHIBIT 5

Executive Summary: Analysis of Lumbee Historical and Genealogical Claims

By Jean M. Kelley, M. A.

- **Legislation Consideration:** Congress is evaluating legislation recognizing the Lumbee group from Robeson County, NC, as an Indian tribe. Recognition should be limited to groups with verifiable descent from a historic Indian tribe.
- **Historical Background and Shifting Claims**
 - The Lumbee have pursued federal recognition for many years, but Congress has repeatedly rejected their claims due to inconsistencies.
 - The group has shifted its historical narrative, sometimes claiming descent from the Cherokee, the Cheraw, and even the “Lost Colony” of Roanoke, but these claims lack sufficient documentation.
 - The 1956 Lumbee Act recognized the group's name change but withheld eligibility for federal services as Indians.
 - In 2016, the Department of the Interior determined that Lumbee could participate in the Office of Federal Acknowledgment (OFA) process.
- **Lumbee Historical and Genealogical Claims Lack Even Minimal Evidentiary Support**
 - The totality of Lumbee claims lacks properly attributed historical documentation and relies on speculative connections rather than verified facts.
 - Claimed ancestors cannot be identified as affiliated with any Indian tribe(s).
 - The claim of descent from the Cheraw tribe is inadequately supported, with little documentation.
 - Historical records do not support the Lumbee assertion that they were hiding out in the swamps of Robeson County for 100 years
 - The Lumbee have adopted various and inconsistent tribal identities, including "Cherokee Indians of Robeson County" and "Siouan Indians," reflecting an opportunistic approach rather than a deep-rooted historical identity.
- **Unprecedented Recognition Without Tribal Descent:**
 - If Congress grants recognition, the Lumbee would be the first and only group to receive federal acknowledgment without being able to identify a specific historic tribe or tribes from which they descend.
 - This would set a precedent for recognizing groups that cannot demonstrate a clear connection to a historical tribe, fundamentally altering the standards for federal recognition.
 - Extending recognition to groups with minimal evidence of Native ancestry would grant those groups legal rights to the identities, cultural resources, and sacred places of legitimate tribes.
- **Conclusion:**
 - The Lumbee's historical claims contain significant questions, gaps, and inconsistencies that make it impossible to determine their connection to any historic tribe.
 - Answering these questions requires careful evaluation beyond Congress's capabilities.
 - The OFA remains the only government entity capable of rigorously assessing the Lumbee's petition.
 - Granting recognition without meeting the established criteria would be unprecedented and harmful to tribal sovereignty, tribal identity, and the Federal trust responsibility.

Analysis of Lumbee Historical and Genealogical Claims

The United States Congress is considering legislation that would recognize a group which calls itself the Lumbee from Robeson County, North Carolina as an Indian tribe in a government-to-government relationship.¹ While the recognition of overlooked tribal communities is a laudable endeavor, it is an important responsibility of the Federal government to ensure that only groups that consist of persons who descend from a historical Indian tribe(s) are rightfully acknowledged as tribal sovereigns. As Tribal nations have seen over the past 30-some years, various states have extended “state recognition” to groups whose members do not have verifiable Indian ancestry, cannot identify descent from historical tribes, and have only recently come into existence claiming tribal identity. These types of government decisions endanger the solemn, Constitutionally-based relations between the United States and tribal sovereign entities that preexisted the creation of the United States, as well as the inherent sovereignty of Indian Nations of undisputed origin.

While the Lumbee of Robeson County have been pursuing Federal recognition for many years, shifting historical claims, uncertain development of the Lumbee group and other political factors have caused Congress to not pass Lumbee recognition legislation. One factor of concern is that the Lumbee have asserted descent from multiple, unrelated historic tribes and a mythical “lost Colony of Roanoke.” Between 1910 and the 1930s, the Lumbee community sought

¹ S. 521 and H.R. 1101—118th Congress (2023-2024), Lumbee Fairness Act. February 16 and 17, 2023. See: [Text - S.521 - 118th Congress \(2023-2024\): Lumbee Fairness Act | Congress.gov | Library of Congress.](#)

recognition as a Cherokee tribe, a Cheraw tribe and a Siouan tribe,² although Siouan is a language family, not a single historical tribe. Congress rejected each of these bills.

In 1956, Congress passed the Lumbee Act, a unique piece of legislation that “designates the name for the individuals who were, at that time, residing in Robeson and adjoining counties.”³ As this legislation simply acknowledged that the group previously calling themselves the “Cherokee Indians of Robeson County” or the “Siouan Indians of Robeson County” were now calling themselves the “Lumbee Indians of North Carolina,” it also made clear that its passage did not acknowledge any eligibility to receive Federal services as Indians.⁴ In 1975, the U.S. District Court for Maine’s decision in *Joint Tribal Council of Passamaquoddy v. Morton* drew a more general, land-based determination of the United States’ responsibilities to unrecognized Indian communities from the 1790 Non-Intercourse Act.⁵ By 1978, the Department of the Interior established the Branch of Acknowledgement and Research (BAR), the forerunner of the present Office of Federal Acknowledgement (OFA) to allow groups of individuals who claim tribal descent to seek tribal nation status through a rigorous petitioning process.

The Lumbee Group Can Access the OFA Process

In 1987, the Lumbee River Legal Services, Inc., in cooperation with the Lumbee Tribal Enrollment Office, filed a Petition with BAR for Lumbee recognition. BAR designated the Lumbee community as Petitioner number 65. Two years later, the Department of the Interior

² Tompkins, Hilary. *Reconsideration of the Lumbee Act of 1956*. United States Department of the Interior, Solicitor, 22 December 2016. See: [m-37040.pdf \(doi.gov\)](#) Accessed October 3, 2024, p. 2, FN 11.

³ Ibid.

⁴ 70 Stat. 375, “Relating to the Lumbee Indians of North Carolina.” See: [STATUTE-70-Pg254.pdf \(govinfo.gov\)](#)

⁵ 388 F. Supp. 649 (1975). See: [JOINT TRIBAL COUN. OF PASSAMAQUODDY TRIBE v. Morton, 388 F. Supp. 649 \(D. Me. 1975\) :: Justia.](#)

Solicitor released an Opinion stating the 1956 Lumbee Act precluded Lumbee participation in the administrative recognition process.

In 2016, the Department of the Interior Solicitor issued an updated Opinion which reconsidered the effect and scope of the 1956 Lumbee Act.⁶ Concluding her 19-page opinion, Solicitor Tompkins determined that the Lumbee community can put forth Petition #65 for consideration:

Over the past four decades, the Department has vacillated in its interpretation of the Lumbee Act...I find that neither the text of the Lumbee Act nor its legislative history precludes the Lumbee Indians from petitioning for Federal acknowledgment under the Department's regulations, I conclude that they may avail themselves of the acknowledgment process in 25 C.F.R. Part 83.

This revised Opinion made clear and enshrined into law that the Lumbee of Robeson County have the same right to participate in the OFA recognition process as any other group in America.

The 1987 Lumbee Petition #65

Over 35 years ago, in the first decade of the Department of the Interior's administrative recognition process, the Lumbee community filed Petition #65 to establish that the historical record and genealogical evidence demonstrate that the Lumbee community meets the criteria necessary under the 1978 regulations. Unfortunately, the citations to source documents in the Petition are not consistent, sometimes missing altogether, and often unhelpful when trying to reconstruct the base sources for various assertions within the Petition.⁷ There are tables in the

⁶ Tompkins, Hilary. *Reconsideration of the Lumbee Act of 1956*. United States Department of the Interior, Solicitor, 22 December 2016. See: [m-37040.pdf \(doi.gov\)](#) Accessed October 3, 2024.

⁷ If there were Exhibits attached to the Petition narrative, they have not followed the Petition into the Library of Congress.

Petition which, at a minimum, need more informative titles and/or introductions, and they tend to appear without attributions or citations back to source documents.⁸

In short, the Petition does not provide even a minimal level of properly attributed historical documentation to support Lumbee's claims made in the Petition and instead relies almost exclusively on unidentified people groups, glosses over the gaps between earlier groups and the people settled in the lands around the Lumber River, and uses the speculative manufacture of history to arrive at their desired conclusion.

Issues of Descent from Historical Tribe(s)

The Introduction to the Petition makes several concerning remarks regarding Indian communities or “historically identified groups” and some over-arching issues in identifying tribal communities that contributed to the development of the Lumbee community.⁹ The Petition asserts “the data show that the present-day Lumbee population derives from diverse origins, the core of which is Cheraw.”¹⁰ This theory was not explained or specifically supported by any sources in the Petition. This Cheraw identification requires more and clearer documentation. The claim of Cheraw descent relies on a 1725 map by John Herbert which did identify a Saraw settlement on the Pee Dee River to the southwest of the historical settlements that could be Indian on Drowning Creek, but this in itself is not enough to make a connection.¹¹ In 1739, there is an account of a dispute brought to the South Carolina Council by the Welsh settlers of lands purchased from the Saraw and Pee Dee Indians, who were still using the lands as their usual

⁸ Given the advances in technology since the late 1980s, the Petition could greatly benefit from hyperlinking and updated citation formats.

⁹ 1987 Lumbee Petition, Vol. 1, pp. 3-4.

¹⁰ Ibid., p. 4.

¹¹ 1725 00 00 Herbert, John. Map of the Carolinas. See: [New map of his majesty's flourishing province of South Carolina - Digital Library of Georgia \(usg.edu\)](#). This village on the Pee Dee was approximately 200 miles northwest of historic Robeson County Lumbee settlements. “Saraw” is an earlier spelling of Cheraw.

hunting grounds.¹² The Welsh settlers complained that a “Robert” and 14 other head men signed two land conveyances covering the lands of their settlement.¹³ Certainly, if this conveyance exists anywhere, even as a transcript with the signers’ names, this would begin to document the people living there. Such a document was not provided in the Petition. In addition, the Petition cites a 1771 news account of the capture of fugitives at “Charraw.”¹⁴ The article locates the capture “near Drowning-Creek, in the Charraw Settlement.” This is the first mention of any Cheraw living in a settlement near Drowning Creek, rather than on the Pee Dee River or in the Charraw village associated with the Catawba.¹⁵ If this 1771 settlement is the “Cheraw core” asserted by the Petition as the primary historical tribe, why is this argument not expanded to further document this claim of descent?

There also appears to have been confusion between the presence of the Cheraw and Pee Dee Indians and a separate “mix’d crew” of families in the Drowning Creek area during the 18th century. In 1739, Welsh settlers on the Pee Dee River complained to the South Carolina Council in March that Peedee and Cheraw Indians were “running amongst their settlements under the pretense of hunting.”¹⁶ In July, 1739, the Welsh settlers made a second complaint to the Council, this time of “outlaws and fugitives, most of whom are mullato (sic) or of a mixed blood, living adjacent to them are a pest and a nuisance.”¹⁷ Contrary to the Petition’s assertions, it is not

¹² Lumbee Petition, Vol. 1, p. 15. The location is still well to the northwest of the Drowning Creek area.

¹³ Ibid. The names of the reserved old fields owners, Laroche and Thomas Grooms, are listed.

¹⁴ South-Carolina Gazette, *Winsler Driggers*. Charleston, South Carolina. October 3, 1771. See: [Oct 03, 1771, page 2 - The South-Carolina Gazette at Newspapers.com](#).

¹⁵ See: [Feb 06, 2011, page A1 - The Herald at Newspapers.com](#). The villages further west in South Carolina are the historically better known. The Catawba town site of Charraw was excavated along with five other townsites in western South Carolina during 2010-2011. The town of Cheraw is located west-northwest of Robeson County on the Pee Dee River. The mention of another Cheraw settlement in the Drowning Creek area is consistent with indications the Cheraw may have split up before or after some families going to Catawba. However, if the 1771 settlement is on Drowning Creek, additional research to more firmly document this is necessary for evidence of a previous historic tribe.

¹⁶ Lumbee Petition, Vol. III, p. 3.

¹⁷ Ibid., pp. 3-4.

logical to draw the conclusion that these complaints refer to the same group. The March complaint clearly states it was Peedee and Cheraw Indians who the Welsh were having difficulties with, and that these Indians were “running through” their settlements while on hunting trips. The July complaint just four months later, however, refers to a much more ambiguous group, and the quote in the Petition does not make clear the specific complaint or composition of this group, except that they were seen as “outlaws and fugitives.”¹⁸ The lack of specific identification of the second group, so soon after the first complaint specifically of the Peedee and Cheraw, does not lead to the conclusion that the Welsh were complaining about the same group. The complaint about the Peedee and Cheraw never described them as “outlaws and fugitives.” Indeed, as the former occupants of the Welsh settler lands, the Cheraw and Peedee may have considered the lands still open to traditional hunting. The specific complaints about the “outlaws and fugitives” are ambiguous (as was their identity), and were limited to the Welsh settlers’ statement that “living adjacent to them are a pest and a nuisance.” In 1754, a second group, never identified as Indians, appeared to be similar in description to the 1739 group, although this “mix’d crew” was located well south of the Indians noted in 1739 “on Drowning Creek on the head of the Little Pedee.”¹⁹ Dr. Robert K. Thomas, in his “A Report on Research of Lumbee Origins,” came to the same conclusion, finding that the group referred to were not Indian or mixed-blood Indians:

I think his (Wesley White) citation of 1754 does not refer to Indians or to even people of mixed racial background. In 1754, there were, in fact, Scots settlers living on Drowning Creek...The were in 1750 settled on Drowning Creek which was the border between Anson and Bladen Counties, now the border between Hoke and Scotland Counties. There are family traditions that many Scots in these early days were squatters on the land...I think that if they had been mixed

¹⁸ Ibid.

¹⁹ Ibid., p. 4.

racially they would have been referred to simply as Mulattoes...I would think “mixed crew” would mean perhaps mixed in language spoken, in nationality, in geographical origins...It is very possible that a group of Scots on Drowning Creek, some speaking English, some speaking Gaelic, perhaps of varied educational backgrounds, might seem like a “mixed crew” to a standard Englishman from further south on the North Carolina coast.²⁰

Additionally, the 1754 “mix’d crew” was said to have been comprised of 50 families.

This was larger than the first enumeration of the individuals claimed as Indian ancestors in Petition #65 on the 1790 Federal census. In 1790, the number of Robeson households of “All other Free” people was 47, numbering 245 individuals. An additional 32 “All other Free” people were present in white households.²¹ If the “mix’d crew” had been a developing tribal community in 1754, the expected increase over the next 3+ decades would be much greater. The assertion in the Petition that correlates to Section 83.7(A) of the 1978 regulations that “the first recorded contact with the Lumbee was in 1753 when 50 families were recorded as living as (sic) Drowning Creek” is inaccurate and unsupportable without further investigation of the composition of that community.²² The use of the 1739 “outlaws and fugitives” and the 1754 “mix’d crew” as antecedents for the Lumbee, aside from lack of Indian identification, does not make sense from multiple historical aspects.

The Petition repeats the tribal identity claims attached to the Lumbee by North Carolina and then noted by the United States in the 1956 Lumbee Act, and the frequency and ease with which those labels were changed at the request or with the approval of the Lumbee. There is great concern among the tribes whose identities are not in dispute regarding the incorrect or

²⁰ Robert K. Thomas, *A Report on Research of Lumbee Origins*. c. 1977, pp. 11-12.

²¹ U.S. Federal Census, 1790, North Carolina, Robeson, Not Stated. See: [Ancestry.com](https://www.ancestry.com) - [1790 United States Federal Census](https://www.ancestry.com).

²² Lumbee Petition, Vol. II, p. 4. This community was also located well south of Robeson County, at the confluence of the Little Pee Dee and Drowning Creek.

fabricated tribal names the Lumbee have allowed to be attached to their group. Affording recognition to a group of people that does not know and cannot name, let alone demonstrate its tribal origins and descent from those tribes, would be the first of its kind in United States history.

Congressional testimony from the Department of the Interior officials also supports the notion that Petition #65 does not demonstrate descent from a historic tribe or tribes. As noted in his 1991 testimony before the Joint Committee, then-Director of the Office of Tribal Services Ronal Eden stated that, “the Lumbee have not documented their descent from a historic tribe...The documents presented in the petition do not support this (Cheraw) theory...”²³ The Cheraw descent asserted in the 1987 Petition, in order to be substantiated as the previous historic tribe, requires more evidence and documented connections than provided in the Petition. Even Dr. Jack Campisi, consulting anthropologist to the Lumbee and an author of the 1987 Lumbee Petition, testified under oath that the Lumbee have no remnant of an Indigenous language, and that any identifiable tribal traditions “were gone before the end of the 18th century.”²⁴ The lack of documenting connections to a previous historic Indian tribe, combined with the attempted appropriations of another Indian tribe’s identity, specifically Cherokee, within the 1987 Petition exhibit fundamental failings in laying a foundation for recognition as an Indian tribe.

Further Issues of Indian Descent

Since the late 19th century, various and ill-considered claims of identification with historical tribes or even entire linguistic families have been accepted and used by the Lumbee

²³ Eden, Ronal. *Testimony of Ronal Eden, Director of the Office of Tribal Services, The Department of the Interior before the Joint Hearing of the Select Committee on Indian Affairs, United States Senate, and the Interior on Insular Affairs Committee, United States House of Representatives, Hearing on S. 1036 and H.R. 1426*, August 1, 1991, pp. 3-5.

²⁴ H.R. Rep. No. 103-290, 103rd Cong., 1st Sess., pp. 186-187 (1993).

group. Each of these theories share a common fallacy. Rather than studying history to *determine* whether the group in question are in fact Natives, each theory fiats the conclusion that Lumbee are a tribe and seeks to contort history to fit that theory. In 1885, Hamilton McMillan, a Robeson County politician and local historian, proposed his theory that the Lumbee group was composed of descendants of the 1587 English “Lost Colony” from Roanoke Island and “Croatan” Indians from the Outer Banks of North Carolina. Most of his informants are not named, and his methodology and ability to record any oral traditions he heard faithfully and without his own personal lens are questionable. Further, he posits that surnames found on the list of 1587 colonists were present “among the Indians residing in Robeson County and in other counties of North Carolina.”²⁵ The 41 surnames he identifies as “present among the Indians” are not Robeson County surnames from 1790, with the exception of Brooks. Brooks is a common English surname which wasn’t unique to the Roanoke Island colonists. Sampson was listed as a surname at Roanoke and shows up during the 19th century in Robeson County, but like the other surnames, was not traced by McMillan genealogically. A link, especially a claim of *lineal descent*, between a historic list of individuals and a later group, must be traced definitively and verifiably through the generations to be considered as meeting the definition of lineal descent. Vague and uncorroborated tales of having come from somewhere else without clear attribution of the community or families moving does not provide the evidence necessary to identify a group as a historical tribe.

²⁵McMillan, Hamilton. *Sir Walter Raleigh's Lost Colony*. Wilson, North Carolina, *Advance Presses*, 1888. pp. 22-24. See: [Sir Walter Raleigh's Lost Colony - Google Books](#).

McMillan admits that the region of the Outer Banks and northeastern North Carolina was little known during the period of 1587 to 1690.²⁶ Without further evidence, he then asserts the Croatans “removed farther into the interior where portions of that tribe had previously located.”²⁷ These ideas and conclusions are based on speculation drawn from echoes of the author’s own suppositions which may have been overlaid or inserted into what he wanted to hear from his informants. This is the work of an amateur historian who, as sincere as he may have been, never tested his supposition or conclusions to ensure there weren’t more solid, less fanciful traditions on which to base his theories.

In 1891, another North Carolinian, Steven Weeks, published a more formal version of McMillan’s theory. Although Weeks used good citations when going over the known history of English exploration, the circumstances of the Roanoke Island colony, and early historical maps showing various supposed locations of the Croatoan or Dasamonguepeuk sites, the citations end when he theorized about what may have happened to the colonists after the Roanoke Island settlement was found to be abandoned. Weeks supposed the Hatteras Indians, who he found were likely the tribe referred to earlier as “Croatoans,”²⁸ “may have come into communication with kindred tribes on the Chowan and Roanoke rivers, to which they seem to have gone at a later period.”²⁹ Weeks then indicates that his supposition was “one end of the chain of evidence

²⁶ Ibid., p. 25.

²⁷ Ibid.

²⁸ Ibid. The meaning and spellings of “Croatoan” and “Croatan” were used flexibly from 1587 through the 19th century. “Croatoan,” although used in the 17th century as a name for the people who lived at Croatoan village, was rectified during the 18th century, when the people of that village told colonists they were the Hatteras. “Croatan” was another attribution to the people of Croatoan village.

²⁹ Weeks, Stephen B. *The Lost Colony of Roanoke: Its Fate and Survival*. New York, New York, Knickerbocker Press, 1891, p. 25. See: [00013444.pdf \(ecu.edu\)](#)

in this history of survivals”³⁰ without evidence, documents indicating a chain of evidence, or a supportable history of survivals.

He then continued his “chain of evidence” theme:

The other end of the chain is to be found in a tribe of Indians now living in Robeson county (sic) and the adjacent sections of North Carolina, and recognized officially by the State in 1885 as Croatan Indians. These Indians are believed to be the lineal descendants of the colonists left by John White on Roanoke Island in 1587. The migrations of the Croatan tribe from former homes farther to the east can be traced by their traditions...³¹

The fallacy presented here is the lacking evidence of the amalgamation of the Roanoke Island colonists and the Croatoan or Hatteras Indians following the abandonment of the colony, as well as the lack of correlating sources of a migration from the Outer Banks, through northeastern North Carolina, and then heading southwest into the Robeson County environs. Attempting to bridge a 300-year silence between a historical tribe and a group several hundred miles away without clear knowledge of that specific tribe or indigenous language, clans, or cultural traditions to connect with the earlier tribe does not demonstrate descent. Weeks also described the Lumbee group as “lineal descendants” from the Roanoke Island colonists and the Croatan/Hatteras, which was then and is now a claim which cannot be made absent an actual genealogy showing such descent.

The Lumbee group itself did not appear to be heavily invested in this origin theory or in affiliating with the historic Croatan. By 1911, the group was intent on changing its name again due to whites of Robeson County shortening the name “Croatan” to “Cro” to make a slur from it.³² One would expect, if the Roanoke Island-Croatan origin theory was viewed as a valid

³⁰ Ibid.

³¹ Ibid.

³² Lowery, Malinda M. *Lumbee Indians in the Jim Crow South*. The University of North Carolina Press, 2010. p. 87.

origin, the Lumbee group would be more likely to ignore the slur. The North Carolina General Assembly passed an Act changing the name of the Lumbee group from the “Croatan Indians of Robeson County” to the “Indians of Robeson County.”³³ A mere two years later in 1913 and because the Lumbee group “wanted a more clearly identifiable name for themselves,” the legislature approved re-labeling the group the “Cherokee Indians of Robeson County.”³⁴ This designation may have stemmed from Angus McLean, a Robeson County banker who would later become the governor of North Carolina, declaring that “several of the Cherokees” “were located in Robeson County” after hearing “several stories about the Tuscarora War from local Indians.”³⁵ This story has not been substantiated, and even if several men had stayed in Robeson County, that would not have made the entire Lumbee group a “Cherokee” society. Thomas summed up the problems with this theory:

If one looks at Cherokee tradition, there is no evidence whatsoever that Cherokees ever got as far east as Robeson County, except perhaps on war parties, and have no traditions of having relatives in Robeson County whatsoever. In fact, Cherokees are very tied to a mountain environment...I cannot imagine Cherokees migrating to an area like Robeson County...Clear creek water, which is very important in the Cherokee religion, is absent in Robeson County. Cherokees today have no notion of ever having lived east of the Blue Ridge Mountains.³⁶

With the new name, the Lumbee group contacted Congress with the object of the recognition of the new name and possibly funds for education. The U.S. Senate passed Resolution 410 on June 30, 1914, directing the Secretary of the Interior “to cause an investigation to be made of the condition and tribal rights of the Indians of Robeson and

³³ Dial, Adolph, and David K. Eliades. *The Only Land I Know: The History of the Lumbee Indians*. 1st ed., Syracuse University Press, 1996. p. 185.

³⁴ Ibid., p. 94.

³⁵ Lowery, Malinda M. *The Lumbee Indians: An American Struggle*. The University of North Carolina Press, 2018. p. 110.

³⁶ *A Report on Lumbee Origins*, p. 7.

adjoining counties in North Carolina...and report to Congress what tribal rights, if any, they have with any band or tribe.”³⁷ Special Indian Agent O.M. McPherson submitted this report, noting that the Indian Office had no knowledge of the group until late 1888, when a petition was received from the Lumbee group requesting “such aid as you may see fit to extend to us” under the name of the Croatan Indians of Robeson County. McPherson summed up the situation to Congress as follows:

Much doubt and uncertainty has existed as to the source of the Indian blood of this people and as to whether their ancestors comprised a part of White’s lost colony...Some of these Indians hold to a tradition that they are of Cherokee origin and affect to believe that the action of the General Assembly of North Carolina in designating them as “Cherokee Indians of Robeson County” in some way confirms this tradition. I find that the question of the source of their Indian blood, and whether their ancestors were part of Gov. White’s lost colony are so inextricably bound together that it will be necessary to treat both subjects under the same heading.³⁸

As to the “lost colony” theory, McPherson wrote he regarded it “as of little value.” He then cited James Mooney writing in the Handbook of Indians:

The theory of descent from the lost colony may be regarded as baseless, but the name itself serves as a convenient label for a people who combine in themselves the blood of the wasted native tribes, the early colonists or forest rovers...³⁹

McPherson also referenced the comments of Samuel A’Court Ashe, a historian, regarding the “lost colony” theory. Mr. Ashe was likewise unconvinced by the theory and the “surname evidence”:

³⁷ U.S. Senate, Senate Document No. 677, “*Indians of North Carolina, Letter from the Secretary of the Interior Transmitting, in Response to a Senate Resolution of June 30, 1914, A Report on the condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina.*” 63rd Cong. 3rd Sess. (1915), p. 5. See: [O. M. \(Orlando M.\) McPherson. Indians of North Carolina: Letter from the Secretary of the Interior, Transmitting, in Response to a Senate Resolution of June 30, 1914, a Report on the Condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina \(unc.edu\)](#)

³⁸ Ibid., p. 9.

³⁹ Ibid., p. 10.

Because names born by some of the colonists have been found among a mixed race in Robeson County, now called “Croatans, an inference has been drawn that there was some connection between them. It is highly improbably that English names would have been preserved among a tribe of [Indians] beyond the second generation, there being no communication except with other [Indians]. If English names had existed among the Hatteras Indians in Lawson’s time [1714], he probably would have mentioned it...⁴⁰

McPherson concluded that if the “lost colony” theory had basis, “I do not find that the Hatteras Indians or the so-called Croatan Indians ever had any treaty relations with the United States, or that they have any tribal rights with any tribe or tribe of Indians, neither do I find that they have received lands or that there are any moneys due them.”⁴¹

As to the Lumbee group’s claim of Cherokee origin, McPherson wrote:

The history and traditions of the Cherokee Indians of North Carolina, in my judgment, do not confirm the claim of the Robeson County Indians to Cherokee origin. The Cherokees were the mountaineers of the South, originally holding the entire Appalachian region from the headwaters of the Kanawha on the north to middle Georgia on the south...As far as I can learn, there is no tradition that they ever occupied the coast country in North Carolina or elsewhere.⁴²

Recognition by Congress under the “Cherokee Indians of Robeson County” failed in 1915, 1924, and 1932. The lack of a treaty relationship and the continued lack of clear and demonstrable tribal descent meant neither the Office of Indian Affairs nor Congress was persuaded to extend either recognition or educational services to the Lumbee group.

During the 1930s, another name for the Lumbee group emerged following the failure of 1932 recognition legislation. While the “Cherokee Business Committee” organization remained, a new organization, the “General Council of Siouan Indians” or “Siouan Council” emerged as

⁴⁰ Ibid.

⁴¹ Ibid., p. 17.

⁴² Ibid., p. 18.

frustrations with the lack of recognition under the “Cherokee” label arose. This political split meant the Office of Indian Affairs would not consider recommending funding or recognition. This new label of “Siouan,” while not appropriating another tribe’s name, does not refer to any specific tribes. “Siouan” is a linguistics term describing language families, not a tribal community.

During these multiple name changes, the Lumbee group seemed to have accepted the influential outsider theories of the day, rather than knowing the previous historical tribe they descend from and telling outsiders with whom they identify. As Malinda M. Lowery wrote in 2010, “Robeson County Indians displayed a willingness to work with whatever name the state and federal governments accepted, regardless of how foreign it was to their own approach to identity.”⁴³

Historical Records Do Not Support Claims of “Hiding Out”

In the narrative for Section 83.7(A) of the Federal acknowledgment regulations, Petitioner stated (after the erroneous assertion of the “mix’d crew”) that for “the next 100 years the Lumbee remained relatively isolated in the swamps of Robeson County.”⁴⁴ “Relatively isolated” here seems a conveniently loose term. The Lumbee individuals (although not yet identified as Lumbee, as the term did not come into existence until the 1950s) were apparently known well enough that they were located and enumerated on all U.S. Censuses from 1790 forward. While the self-sufficiency of the enclaves within the swamps may have allowed families to have little interaction with outsiders, there were commercial products even in the early 19th century which most rural Americans, including the individuals from this community,

⁴³ Lowery (2010), p. 106.

⁴⁴ Lumbee Petition, Vol. II, p. 4.

usually purchased ‘in town,’ such as cloth, flour, sugar, plows, harnesses, etc. The claim of exclusive enclaves of individuals claiming Lumbee in the swamps of Robeson County has not been substantiated. It is clear that, by the mid-19th century, white farms were beginning to locate closer to these settlements, and paying taxes on land under threat of losing acreage was an issue throughout the 19th century.⁴⁵ As was the case in many rural areas of that time, there may have been isolation in interacting with the larger Robeson County population, but Federal and state authorities certainly knew of the existence of the enclaves. After approximately 1831, men from these enclaves were required to obtain gun permits, along with other “free people of color.”⁴⁶ There was not a separate process for these permits between ethnic variations of “free people of color,” and as it was a yearly permit, it was an onerous burden for the men who needed firearms as part of their families’ survival during this period. While some individuals may have preferred isolation to being known in the wider Robeson County society, this was never an option where the County government was concerned.

Unsupported Claims that Ancestors and Communities Identified as “Indian”

Despite Lumbee claims that the community may have identified itself as “Indian,” the Petition does not attempt to clearly demonstrate a previous autonomous Indian tribe as the antecedent for the Lumbee. One of the issues in the ability to do this is the lack of data connecting early ancestors with the known late-18th century community. While several ancestors are mentioned as having served in the Revolutionary War as well as the War of 1812, the citations and lacking genealogical evidence have not been specific enough to identify Lumbee

⁴⁵ For example: The Raleigh Register, *Sheriff’s Sale*. Raleigh, North Carolina. November 7, 1843, p. 1. See: [Nov 07, 1843, page 1 - The Raleigh Register at Newspapers.com](#). Several Lumbee ancestors are listed, including several Locklears, Oxendine, Revels, Hunt, and Bullard.

⁴⁶ Lumbee Petition, Vol. II, p. 59.

ancestors.⁴⁷ While pre-1800 genealogical research may have been quite a difficult undertaking during the 1980s, present-day databases, abstracts of various colonial and early United States land documents, court proceedings, and especially electronic genealogy programs should allow more documentation and answer foundational questions about what, if any connection with historic tribe(s) existing among the Lumbee past.

Conclusion

The Office of Federal Acknowledgement within the Department of the Interior issued updated regulations in 2015 for the recognition of Indian tribes. This administrative process currently uses seven criteria to evaluate all petitioning groups. The regulations do explicitly require a petitioning entity to identify a previous historic Indian tribe as the recognition of a sovereign entity must originate from a previous Indian tribe with political authority over its members as well as the ability to deal with outside entities as a sovereign unit. To recognize a petitioner as a tribe without meeting these seven criteria ensures dramatic consequences for Indian policy and federally recognized tribes.

The issue of Lumbee recognition is not only an issue for the Lumbee group itself. Allowing Federal recognition for a group without clear antecedents of previous historical tribe(s) would dramatically redefine the standards for receiving Federal recognition, almost to the point of being meaningless. Such low standards would pave the way for groups with little to no evidence of Native ancestry to claim the cultures and identifies of legitimate tribes and assume legal rights over their sacred places and ancestral remains under the Native American Graves

⁴⁷ For instance, on a Revolutionary War Land Warrant list, there were three listings of James Lowry, each approved for 100 acres. There appear to be additional men with the same names as those listed in the Petition, who served from North Carolina. Additional genealogical research and citations are needed to clearly identify these men.

Protection and Repatriation Act (NAGPRA). Imbuing such groups with the legal authorities to act as sovereigns would have significant consequences for communities across America. It would enable those voices in America today who call for another era of Termination to paint such a decision, absent clear descent from historic tribe(s), as an illegal tier of benefits to racial groups. The issue of Lumbee recognition must be considered on the basis of verifiable historical facts in a process that remains unmoved by emotions, historical grievances, or purely political motives.

The historical and genealogical research required to properly evaluate and verify the Lumbee claims clearly exceeds the capabilities of Congress. It would be extremely reckless for Congress to overlook the extreme historical gaps, shifting claims, and assumed history that underpin the Lumbee's claims. Thus, the OFA is the only entity capable of examining Lumbee's request for Federal recognition.

EXHIBIT 6

At a Glance

H.R. 2758, Lumbee Recognition Act

As passed by the U.S. House of Representatives on November 1, 2021

By Fiscal Year, Millions of Dollars	2023	2023-2027	2023-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	363	not estimated

Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The legislation would

- Provide federal recognition to the Lumbee Tribe of North Carolina
- Extend services and benefits to the tribe provided by the Bureau of Indian Affairs and the Indian Health Service
- Authorizes the Bureau of Indian Affairs to take land into trust for the benefit of the tribe

Estimated budgetary effects would mainly stem from

- Providing federal benefits to the newly recognized tribe

Detailed estimate begins on the next page.



Legislation Summary

H.R. 2758 would extend federal recognition to the Lumbee Tribe of North Carolina, thereby making the tribe and its members eligible for various federal programs.

Estimated Federal Cost

The estimated budgetary effect of H.R. 2758 is shown in Table 1. The costs of the legislation fall within budget functions 450 (community and regional development) and 550 (health).

Table 1.
Estimated Increases in Spending Subject to Appropriation Under H.R. 2758

	By Fiscal Year, Millions of Dollars					2023-2027
	2023	2024	2025	2026	2027	
Bureau of Indian Affairs						
Estimated Authorization	0	15	33	37	43	128
Estimated Outlays	0	10	27	36	43	116
Indian Health Service						
Estimated Authorization	0	39	79	80	81	279
Estimated Outlays	0	29	65	75	78	247
Total Changes						
Estimated Authorization	0	54	112	117	124	407
Estimated Outlays	0	39	92	111	121	363

Basis of Estimate

For this estimate, CBO assumes that the legislation will be enacted by the end of 2022. Providing federal recognition to the Lumbee Tribe of North Carolina would allow the tribe and its members to receive benefits from various programs administered by the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). CBO expects that those agencies and the tribe would require over a year to document the tribe's membership and approve contracts for services, so no federal spending would occur until 2024. CBO estimates that implementing H.R. 2758 would cost \$363 million over the 2023-2027 period, assuming appropriation of the estimated amounts.

Bureau of Indian Affairs

The Department of the Interior, primarily through BIA, provides funding to federally recognized tribes for various purposes, including child welfare services, adult care, community development, and general assistance. Based on recent per capita expenditures for other federally recognized tribes located in the eastern United States, CBO estimates that providing BIA services would cost \$116 million over the 2023-2027 period, assuming appropriation of the estimated amounts. CBO expects that most of that funding would go toward law enforcement and infrastructure needs on the tribe's reservation.



Indian Health Service

H.R. 2758 also would make members of the Lumbee Tribe eligible to receive health benefits from the IHS. Using information from the tribe, CBO estimates that about 44,000 of the tribe's 63,000 members live in the service area that is covered by IHS. CBO expects that the cost to service those people would be similar to current IHS beneficiaries—about \$1,700 for each person annually over the 2023-2027 period. Assuming appropriation of the estimated amounts and adjusting for anticipated inflation, CBO estimates that providing IHS benefits for the Lumbee Tribe would cost \$247 million over the 2023-2027 period.

Other Federal Agencies

In addition to BIA and IHS funding, certain Indian tribes also receive support from other federal agencies, including the Departments of Education, Housing and Urban Development, and Health and Human Services. Based on their status as a tribe recognized by North Carolina, the Lumbee already receive funding from those agencies. Thus, CBO estimates that implementing H.R. 2758 would not increase spending for those programs.

Pay-As-You-Go Considerations: None.

Increase in Long-Term Deficits: None.

Mandates: None.

Estimate Prepared By

Federal Costs:

Julia Aman (Bureau of Indian Affairs)

Rob Stewart (Indian Health Service)

Mandates: Rachel Austin

Estimate Reviewed By

Justin Humphrey

Chief, Finance, Housing, and Education Cost Estimates Unit

H. Samuel Papenfuss

Deputy Director of Budget Analysis

EXHIBIT 7



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 12, 2011

S. 1218 **Lumbee Recognition Act**

*As ordered reported by the Senate Committee on Indian Affairs
on July 28, 2011*

SUMMARY

S. 1218 would provide federal recognition to the Lumbee Tribe of North Carolina, thereby making the tribe eligible to receive funding from various federal programs. CBO estimates that implementing this legislation would cost \$846 million over the 2012-2016 period, assuming appropriation of the necessary funds. Enacting S. 1218 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1218 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1218 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 550 (health).

	By Fiscal Year, in Millions of Dollars					
	2012	2013	2014	2015	2016	2012-2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Bureau of Indian Affairs						
Estimated Authorization Level	33	33	34	35	35	170
Estimated Outlays	25	32	34	34	35	160
Indian Health Service						
Estimated Authorization Level	132	135	139	145	151	702
Estimated Outlays	118	135	139	144	150	686
Total Changes						
Estimated Authorization Level	165	168	173	180	186	872
Estimated Outlays	143	167	173	178	185	846

Notes:: Components may not sum to totals because of rounding.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1218 will be enacted early in fiscal year 2012. The bill would provide federal recognition to the Lumbee Tribe of North Carolina. Such recognition would allow the Lumbee, with membership of about 54,000 people, to receive benefits from various programs administered by the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). Based on the average expenditures from those agencies for other Indian tribes, CBO estimates that implementing S. 1218 would cost \$846 million over the 2012-2016 period, assuming appropriation of the necessary funds.

Bureau of Indian Affairs

BIA provides funding to federally recognized tribes for various purposes, including child welfare services, adult care, community development, and general assistance. In total, CBO estimates that providing BIA services would cost \$160 million over the 2012-2016 period, assuming appropriation of the necessary funds. This estimate is based on recent per capita expenditures for other federally recognized tribes located in the eastern United States.

Indian Health Service

S. 1218 also would make members of the Lumbee Tribe eligible to receive health benefits from the IHS. Based on information from the IHS, CBO estimates that about

55 percent of tribal members—or about 30,000 people—would receive benefits each year. CBO assumes that the cost to serve those individuals would be similar to funding for current IHS beneficiaries—about \$3,500 per individual in 2011. Assuming appropriation of the necessary funds and adjusting for anticipated inflation, CBO estimates that IHS benefits for the Lumbee Tribe would cost \$686 million over the 2012-2016 period.

Other Federal Agencies

In addition to BIA and IHS funding, certain Indian tribes also receive support from other federal programs within the Departments of Education, Housing and Urban Development, Labor, and Agriculture. Based on their status as a tribe recognized by North Carolina, the Lumbee are already eligible to receive funding from those departments. Thus, CBO estimates that implementing S. 1218 would not increase spending from those programs.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1218 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Martin von Gnechten—Bureau of Indian Affairs
Robert Stewart—Indian Health Service

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Amy Petz

ESTIMATE APPROVED BY:

Theresa Gullo
Deputy Assistant Director for Budget Analysis

EXHIBIT 8

Factors to Consider in the Creation of the Next CBO Score for the Lumbee

It is the belief of the Eastern Band of Cherokee Indians (EBCI) that the most recent Congressional Budget Office (CBO) score for the Lumbee recognition bill (for the period 2023-2027), \$363 million, is severely underestimated. Over the past two decades, the Lumbee group, the Little Shell Tribe of Chippewa Indians, and the Thomasina E. Jordan Indian Tribes of Virginia are the only state groups for which the CBO has prepared cost estimates for five-year periods. These estimates cover five-year time periods to determine the estimated cost of federally recognizing such groups. Summaries of the CBO data for these three groups are shown below:

Lumbee CBO History ¹									Change from last 2 CBOs
Bill Name	S. 420	S. 660	H.R. 65	H.R. 65	H.R. 31	S. 1735	S. 1218	H.R. 2758	
Time Period	2004-2008	2007-2011	2008-2012	2009-2013	2010-2014	2010-2014	2012-2016	2023-2027	
BIA (\$M)	\$100	\$104	\$105	\$113	\$138	\$138	\$160	\$116	-28%
IHS (\$M)	330	369	375	655	648	648	686	247	-64%
Other (\$M)	0	0	0	0	0	0	0	0	
Total (\$M)	\$430	\$473	\$480	\$768	\$786	\$786	\$846	\$363	-57%
Population	34,000	39,700	39,700	54,000	54,000	54,000	54,000	63,000	+17%
IHS Area Population	34,000	22,000	22,000	39,700	31,000	31,000	30,000	44,000	+47%
BIA Per Capita*	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
IHS Per Capita	\$1,800	\$3,100	\$3,200	\$4,000	\$4,000	\$4,000	\$3,500	\$1,700	-57%

Little Shell Tribe of Chippewa Indians CBO History¹						
Bill Name	S. 546	S. 161	S. 35	S. 39	H.R. 3764	S. 51
Time Period	2012-2017	2015-2019	2016-2020	2018-2022	2019-2024	2019-2024
BIA (\$M)	\$17	\$14	\$15	\$15	\$16	\$17
IHS (\$M)	64	24	25	20	21	24
Other (\$M)	0	0	0	0	0	0
Total (\$M)	\$81	\$38	\$40	\$35	\$37	\$41
Population	4,300	2,400	2,400	2,600	2,600	2,600
IHS Area Population	2,400	1,330	1,350	1,400	1,400	1,400
BIA Per Capita	Unknown	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200
IHS Per Capita	\$3,500	\$3,050	\$3,300	\$2,650	\$2,680	\$2,875

Thomasina E. Jordan Indian Tribes of Virginia CBO History¹								
Bill Name	S. 1423	H.R. 1294	H.R. 1385	S. 1178	S. 1074	S. 465	S. 691	H.R. 984
Time Period	2004-2009	2008-2012	2010-2014	2010-2014	2015-2019	2016-2020	2017-2022	2018-2022
BIA (\$M)	\$19	\$10	\$14	\$9	\$28	\$29	\$30	\$30
IHS (\$M)	27	30	51	43	51	49	37	37
Other (\$M)	54	0	0	0	0	0	0	0
Total (\$M)	\$100	\$40	\$65	\$52	\$79	\$78	\$67	\$67
Population	2,800	3,175	4,200	3,400	4,700	4,800	4,700	4,700
IHS Area Population	2,800	1,800	2,400	1,900	2,600	2,650	2,600	2,600
BIA Per Capita	\$1,500	Unknown	Unknown	Unknown	\$1,200	\$1,200	\$1,200	\$1,200
IHS Per Capita	\$1,850	\$3,200	\$4,000	\$4,000	\$3,050	\$3,300	\$2,650	\$2,650

The 2023-2027 CBO score for the Lumbee recognition bill is drastically underestimated due to the following reasons:

First, the estimated BIA costs are underestimated. The BIA costs decreased from \$160 million in the 2012-2016 CBO down to \$116 million in the 2023-2027 CBO, a decline of 28% – yet, the Lumbee population was estimated to increase 17%, from 54,000 in the 2012-2016 CBO report to 63,000 in the 2023-2027 CBO report. In addition, inflation over the 11-year period has increased. These factors have led to underestimated BIA costs.

Second, the estimated Indian Health Service (IHS) costs are underestimated. The expenditure per user in the 2023-2027 CBO (\$1,700) does not consider earlier cost data from the Government Accountability Office (GAO) or internal IHS data, it is less than half the per user cost from 11 years earlier (\$3,500), and it does not account for healthcare cost increases or population increases. A 2018 U.S. GAO report entitled “Indian Health Service: Spending Levels and Characteristics of IHS and Three Other Federal Health Care Programs” demonstrated that IHS per user spending was \$4,078 for Fiscal Year 2017². Also, the IHS produced a Fact Sheet using 2022 data that demonstrated the Fiscal Year 2023 IHS expenditure per user was the same rate—\$4,078.³ The Lumbee IHS population being served increased by 47% (from 30,000 to 44,000) while estimated IHS costs decreased by 64% (from \$686 million to \$246 million) according to the CBO reports. The IHS estimated cost in the 2023-2027 CBO score of \$247 million is less than each of the seven previous CBO scores for the Lumbee dating back to 2004. The IHS estimated cost from the CBO score for the Lumbee from 19 years earlier in 2004-2008 at \$330 million was \$87 million larger than the IHS cost in the 2023-2027 CBO score.

Third, the most recent five-year CBO report for Lumbee recognition (for 2023-2027) shows estimated costs for only four years (2024-2027), not five, causing the total cost of the bill to be underestimated.¹ The CBO assumed that there would be no costs in 2023 in the 2023-2027 CBO report. All seven other CBO reports created previously for Lumbee recognition bills presented estimated costs for all of the five years. The 2017-2022 CBO report for S. 691 (recognition of the Thomasina E. Jordan Indian Tribes of Virginia) showed estimated costs of \$0 for the first year, but it added costs for a sixth year to its total estimate to demonstrate estimated costs for a five-year period. The same approach (the addition of a sixth year to capture five years of costs) was taken with respect to S. 51 and H.R. 3764 (recognition of the Little Shell Tribe of Chippewa Indians¹).

Fourth, the calculation of estimated IHS outlays in the most recent CBO report for Lumbee recognition is drastically and unjustifiably low, using only \$29M of outlays for 2024.¹ Not only is 2023 excluded from costs in the CBO estimate, but estimated costs for 2024 are also reduced. The 44,000 users multiplied by \$1,700 per year equals \$74.8 million annually, not \$29 million as shown for 2024 in the CBO report. Thus, not only are the outlays estimated at \$0 for 2023, but they are also dramatically lower for 2024 than the actual data shows.

Fifth, the BIA per capita data is missing for all of the CBO reports for the Lumbee, including the most recent one. The BIA per capita data is available for both the Thomasina E. Jordan Indian Tribes of Virginia and the Little Shell Tribe of Chippewa Indians.¹ Using the most recent figure for BIA expenditures per capita based on the CBO reports of other tribes (\$1,200), and using the \$4,078 figure from the 2017 GAO report for IHS per capita expenditures, the following costs are estimated for Lumbee recognition:²

Agency	Per Capita	Population	Years	Total
IHS	\$4,078 (GAO from 2017)	44,000 (service area)	5	\$897,160,000
BIA	\$1,200 (BIA since 2015)	63,000 (overall)	5	\$378,000,000
			Total	\$1,275,160,000

The analysis produces a cost estimation based on per capita financial data that is approximately a decade old totaling \$1.275 billion. This figure does not include Other Costs, which are addressed below. This amount—\$1.275 billion—is remarkably higher than the cost estimation of \$363 million in the 2023-2027 CBO.

Sixth, the IHS costs in the CBO from 2023-2027 do not include infrastructure costs to service 44,000 Lumbee with health care needs. The cost to build hospitals and/or clinics for what would be the largest tribe east of the Mississippi River (if recognized) would be significant based on FY 2024 Indian Housing Block Grant (IHBG) data.⁴ The cost of additional infrastructure needed for a four-county service area to serve 44,000 Lumbee living in the service area per the 2023-2027 CBO must be incorporated into the CBO estimate.

Seventh, Other Costs (expenditures from agencies other than IHS and BIA) are not considered in the Lumbee CBO estimate, leading to an underestimation of the total cost. Per the IHBG 2024 data, the Lumbee have the fifth largest population out of IHBG recipients. Each of the four largest tribes in the country were provided federal

awards in 31 areas in FY 2023. This analysis compares those awards to the Lumbee in the FY 2023 time period. The Lumbee were awarded funds in only 6 of the 31 areas in which the four largest tribes received funds. In other words, each of the four largest tribes were funded through 25 different programs from which the Lumbee were not funded. Many of these federal programs were funded from other agencies besides IHS and BIA. Costs from Other Federal Agencies can and should be considered in a CBO, as evidenced by the 2004-2009 CBO for the Thomasina E. Jordan Indian Tribes of Virginia (S. 1423).

PROGRAM NAME	CFDA NUMBER	PROGRAM AGENCY
WIC Special Supplemental Nutrition Program for Women, Infants, and Children	10.557	Agriculture
Food Distribution Program on Indian Reservations	10.567	Agriculture
Economic Adjustment Assistance & Indian Economic Development (both focus on economic development)	11.307 & 15.023	Commerce & Interior-BIA
Indian Community Development Block Grant Program	14.862	HUD
Aid to Tribal Governments & Tribal Self-Government (both focus on tribal self-governance)	15.020 & 15.022	Interior-BIA
Tribal Courts & Tribal Court Assistance Program (both focus on tribal courts)	15.029 & 16.608	Interior-BIA & Justice
Indian Law Enforcement & Public Safety Partnership and Community Policing Grants	15.030 & 16.710	Interior-BIA & Justice
Historic Preservation Fund Grants-in-Aid	15.904	Interior
VOCA Tribal Victim Services Set-Aside Program	16.841	Justice
Highway Planning and Construction	20.205	Transportation
Formula Grants for Rural Areas and Tribal Transit Program	20.509	Transportation
Coronavirus State and Local Fiscal Recovery Funds	21.027	Treasury (Covid)
State and Tribal Response Program Grants	66.817	EPA
Special Education Grants to States	84.027	Education
Education Stabilization Fund & Governor's Emergency Education Relief	84.425 & 84.425C	Education (Covid)
Special Programs for the Aging Title VI, Part A, Grants to Indian Tribes Part B, Grants to Native Hawaiians	93.047	HHS
Nutrition Services Incentive Program	93.053	HHS

Special Diabetes Program for Indians diabetes Prevention and Treatment Projects	93.237	HHS
Promoting Safe and Stable Families	93.556	HHS
Child Care and Development Block Grant	93.575	HHS
Head Start	93.600	HHS
Stephanie Tubbs Jones Child Welfare Services Program	93.645	HHS
Family Violence Prevention and Services/domestic Violence Shelter and Supportive Services	93.671	HHS
Tribal Public Health Capacity Building and Quality Improvement Umbrella Cooperative Agreement	93.772	HHS
Opioid STR	93.788	HHS

A comparison of the Lumbee to the fourth largest tribe, which is from South-Central U.S. shows:

	4th Largest Tribe	Lumbee	Lumbee % Of
Enrollment Population in FY2024 IHBG	72,169 (4 th largest in FY2024 IHBG) ⁴	62,610 (5 th largest in FY2024 IHBG) ⁴	$62,610/72,169 = 86.7\%$ (rounded)
FY2019-2023 Actual Federal Funding Awards	\$3.0 billion rounded ⁵	\$251 million rounded ⁵	$251/3,000 = 8.4\%$ (rounded)

The Lumbee had 86.7% of the population of the fourth largest tribe according to the FY2024 IHBG data, but they received only 8.4% of the federal funds of that fourth largest tribe during the same period (FY 2019-2023).

Estimated Federal Funding for Lumbee in FY 2019-2023 if federally recognized and funded at the same per Member level as the fourth largest tribe in FY2024 IHBG allocations (\$3 billion X 86.7%)	\$2.6 billion
Less (–) actual Lumbee federal funding FY 2019-2023 per Federal Audit Clearinghouse	\$251 million ⁵
Equals (=) estimated additional funding the Lumbee would have received for FY 2019-2023 if they had received federal funds on a per Member level equal to the fourth largest tribe in FY 2024 IHBG allocations.	\$2.35 billion (rounded)

This data demonstrates that the \$363 million CBO score for 2023-2027 for Lumbee recognition is significantly underestimated. This approach considers not just IHS and BIA costs, but all Other Costs as well. There is a large disparity between the \$363 million to implement the Lumbee Recognition Act shown in the 2023-2027 CBO report and the \$2.35 billion difference calculated above for the five-year period of FY 2019-2023. If the Lumbee group had been awarded an additional \$2.35 billion in federal funds during FY2019-2023, that would have caused decreased funding of federally recognized tribes across Indian Country as some federal funding would have been from block grants or other specific grants with defined annual maximums.

Recommendations to Improve the Accuracy of the CBO Score

In conclusion, due to the reasons listed above, the EBCI believes that the last CBO score for the Lumbee recognition bill (for the period 2023-2027) is underestimated. The EBCI would like to see the following implemented for the creation of the next CBO report and score for the Lumbee:

- The next CBO report should contain cost estimates for five years. If a startup year is needed, the time period for the CBO score should be extended to six years in order to capture five years of costs. This aligns with the process that the CBO has previously followed for other tribal recognition bills.
- Current per capita expenditure costs for BIA and IHS should be included in the next CBO estimate. This will require consulting with the GAO about IHS and BIA per capita expenditures to determine more accurate and up to date per capita expenditure figures.
- The per capita expenditure cost for the BIA should be identified in dollars, as has been done for other tribes.
- IHS estimated costs should include infrastructure costs to build new facilities, such as hospitals and clinics, in the four-county service area of the Lumbee group.
- Since the Lumbee group would be the fifth largest tribe if federally recognized, the next CBO report should consider Other Costs (expenditures from agencies other than IHS and BIA) in order to be more comprehensive and accurate and to bring it into alignment with the funding sources of all of the four largest tribes.

Disclaimer: This is an estimation based only on federal funding per tribal member of the fourth largest tribe in the U.S. based on FY24 IHBG data when compared to the Lumbee. During the period from 2019 to 2023, tribes received more federal funding due to additional COVID awards, but both the Lumbee and the fourth largest tribe were impacted with funding above typical norms during those years. The reason the Lumbee federal funding in FY19-23 was far below the funding of all of the largest 10 federally recognized tribes in FY 2024 IHBG data is that the Lumbee were ineligible to take advantage of all federally funded programs—programs they would be eligible for if they become federally recognized⁵.

References:

- (1) Cost Estimates | Congressional Budget Office
- (2) GAO-19-74R, Indian Health Service: Spending Levels and Characteristics of IHS and Three Other Federal Health Care Programs
- (3) The Indian Health Care System - Fact Sheet
- (4) Final IHBG Allocation and Formula Data Sheets - FY 2024 - IHBG Formula Customer Service Center
- (5) The Federal Audit Clearinghouse