

106TH CONGRESS
2D SESSION

H. R. 5207

To clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2000

Mr. COBURN introduced the following bill; which was referred to the
Committee on Resources

A BILL

To clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Shawnee Tribe Status
5 Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Cherokee Shawnees, also known as the
9 Loyal Shawnees, are recognized as the descendants

1 of the Shawnee Tribe which was incorporated into
2 the Cherokee Nation of Indians of Oklahoma pursu-
3 ant to an agreement entered into by and between the
4 Shawnee Tribe and the Cherokee Nation on June 7,
5 1869, and approved by the President on June 9,
6 1869, in accordance with Article XV of the July 19,
7 1866, Treaty between the United States and the
8 Cherokee Nation (14 Stat. 799).

9 (2) The Shawnee Tribe from and after its in-
10 corporation and its merger with the Cherokee Na-
11 tion has continued to maintain the Shawnee Tribe's
12 separate culture, language, religion, and organiza-
13 tion, and a separate membership roll.

14 (3) The Shawnee Tribe and the Cherokee Na-
15 tion have concluded that it is in the best interests
16 of the Shawnee Tribe and the Cherokee Nation that
17 the Shawnee Tribe be restored to its position as a
18 separate federally recognized Indian tribe and all
19 current and historical responsibilities, jurisdiction,
20 and sovereignty as it relates to the Shawnee Tribe,
21 the Cherokee-Shawnee people, and their properties
22 everywhere, provided that civil and criminal jurisdic-
23 tion over Shawnee individually owned restricted and
24 trust lands, Shawnee tribal trust lands, dependent
25 Indian communities, and all other forms of Indian

1 country within the jurisdictional territory of the
2 Cherokee Nation and located within the State of
3 Oklahoma shall remain with the Cherokee Nation,
4 unless consent is obtained by the Shawnee Tribe
5 from the Cherokee Nation to assume all or any por-
6 tion of such jurisdiction.

7 (4) On August 12, 1996, the Tribal Council of
8 the Cherokee Nation unanimously adopted Resolu-
9 tion 96–09 supporting the termination by the Sec-
10 retary of the Interior of the 1869 Agreement.

11 (5) On July 23, 1996, the Shawnee Tribal
12 Business Committee concurred in such resolution.

13 (6) On March 13, 2000, a second resolution
14 was adopted by the Tribal Council of the Cherokee
15 Nation (Resolution 15–00) supporting the submis-
16 sion of this legislation to Congress for enactment.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) CHEROKEE NATION.—The term “Cherokee
20 Nation” means the Cherokee Nation, with its head-
21 quarters located in Tahlequah, Oklahoma.

22 (2) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (3) TRIBE.—The term “Tribe” means the
25 Shawnee Tribe, known also as the “Loyal Shawnee”

1 or “Cherokee Shawnee”, which was a party to the
2 1869 Agreement between the Cherokee Nation and
3 the Shawnee Tribe of Indians.

4 (4) TRUST LAND.—The term “trust land”
5 means land, the title to which is held by the United
6 States in trust for the benefit of an Indian tribe or
7 individual.

8 (5) RESTRICTED LAND.—The term “restricted
9 land” means any land, the title to which is held in
10 the name of an Indian or Indian tribe subject to re-
11 strictions by the United States against alienation.

12 **SEC. 4. FEDERAL RECOGNITION, TRUST RELATIONSHIP,**
13 **AND PROGRAM ELIGIBILITY.**

14 (a) FEDERAL RECOGNITION.—The Federal recogni-
15 tion of the Tribe and the trust relationship between the
16 United States and the Tribe are hereby reaffirmed. Except
17 as otherwise provided in this Act, the Act of June 26,
18 1936 (49 Stat. 1967; 25 U.S.C. 501 et seq.) (commonly
19 known as the “Oklahoma Indian Welfare Act”), and all
20 laws and rules of law of the United States of general appli-
21 cation to Indians, Indian tribes, or Indian reservations
22 which are not inconsistent with this Act shall apply to the
23 Tribe, and to its members and lands. The Tribe is hereby
24 recognized as an independent tribal entity, separate from
25 the Cherokee Nation or any other Indian tribe.

1 (b) PROGRAM ELIGIBILITY.—

2 (1) IN GENERAL.—Subject to the provisions of
3 this subsection, the Tribe and its members are eligi-
4 ble for all special programs and services provided by
5 the United States to Indians because of their status
6 as Indians.

7 (2) CONTINUATION OF BENEFITS.—Except as
8 provided in paragraph (3), the members of the Tribe
9 who are residing on land recognized by the Secretary
10 to be within the Cherokee Nation and eligible for
11 Federal program services or benefits through the
12 Cherokee Nation shall receive such services or bene-
13 fits through the Cherokee Nation.

14 (3) ADMINISTRATION BY TRIBE.—The Tribe
15 shall be eligible to apply for and administer the spe-
16 cial programs and services provided by the United
17 States to Indians because of their status as Indians,
18 including such programs and services within land
19 recognized by the Secretary to be within the Cher-
20 okee Nation, in accordance with applicable laws and
21 regulations to the same extent that the Cherokee
22 Nation is eligible to apply for and administer pro-
23 grams and services, but only—

1 (A) if the Cherokee Nation consents to the
2 operation by the Tribe of federally funded pro-
3 grams and services;

4 (B) if the benefits of such programs or
5 services are to be provided to members of the
6 Tribe in areas recognized by the Secretary to be
7 under the jurisdiction of the Tribe and outside
8 of land recognized by the Secretary to be within
9 the Cherokee Nation, provided that those mem-
10 bers are not receiving such programs or services
11 from another Indian tribe; or

12 (C) if under applicable provisions of Fed-
13 eral law, the Cherokee Nation is not eligible to
14 apply for and administer such programs or
15 services.

16 (4) DUPLICATION OF SERVICES NOT AL-
17 LOWED.—The Tribe shall not be eligible to apply for
18 or administer any Federal programs or services on
19 behalf of Indian recipients if such recipients are re-
20 ceiving or are eligible to receive the same federally
21 funded programs or services from the Cherokee Na-
22 tion.

23 (5) COOPERATIVE AGREEMENTS.—Nothing in
24 this section shall restrict the Tribe and the Cherokee
25 Nation from entering into cooperative agreements to

1 provide such programs or services and such funding
2 agreements shall be honored by Federal agencies,
3 unless otherwise prohibited by law.

4 **SEC. 5. ESTABLISHMENT OF A TRIBAL ROLL.**

5 (a) APPROVAL OF BASE ROLL.—Not later than 180
6 days after the date of enactment of this Act, the Tribe
7 shall submit to the Secretary for approval its base mem-
8 bership roll, which shall include only individuals who are
9 not members of any other federally recognized Indian tribe
10 or who have relinquished membership in such tribe and
11 are eligible for membership under subsection (b).

12 (b) BASE ROLL ELIGIBILITY.—An individual is eligi-
13 ble for enrollment on the base membership roll of the
14 Tribe if that individual—

15 (1) is on, or eligible to be on, the membership
16 roll of Cherokee Shawnees maintained by the Tribe
17 prior to the date of enactment of this Act which is
18 separate from the membership roll of the Cherokee
19 Nation; or

20 (2) is a lineal descendant of any person—

21 (A) who was issued a restricted fee patent
22 to land pursuant to Article 2 of the Treaty of
23 May 10, 1854, between the United States and
24 the Tribe (10 Stat. 1053); or

1 (B) whose name was included on the 1871
2 Register of names of those members of the
3 Tribe who moved to, and located in, the Cher-
4 okee Nation in Indian Territory pursuant to the
5 Agreement entered into by and between the
6 Tribe and the Cherokee Nation on June 7,
7 1869.

8 (c) FUTURE MEMBERSHIP.—Future membership in
9 the Tribe shall be as determined under the eligibility re-
10 quirements set out in subsection (b)(2) or under such fu-
11 ture membership ordinance as the Tribe may adopt.

12 **SEC. 6. ORGANIZATION OF THE TRIBE; TRIBAL CONSTITU-**
13 **TION.**

14 (a) EXISTING CONSTITUTION AND GOVERNING
15 BODY.—The existing constitution and bylaws of the Cher-
16 okee Shawnee and the officers and members of the Shaw-
17 nee Tribal Business Committee, as constituted on the date
18 of enactment of this Act, are hereby recognized respec-
19 tively as the governing documents and governing body of
20 the Tribe.

21 (b) CONSTITUTION.—Notwithstanding subsection
22 (a), the Tribe shall have a right to reorganize its tribal
23 government pursuant to section 3 of the Act of June 26,
24 1936 (49 Stat. 1967; 25 U.S.C. 503).

1 **SEC. 7. TRIBAL LAND.**

2 (a) LAND ACQUISITION.—

3 (1) IN GENERAL.—The Tribe shall be eligible to
4 have land acquired in trust for its benefit pursuant
5 to section 5 of the Act of June 18, 1934 (48 Stat.
6 985; 25 U.S.C. 465) and section 1 of the Act of
7 June 26, 1936 (49 Stat. 1967; 25 U.S.C. 501).

8 (2) CERTAIN LAND IN OKLAHOMA.—Notwith-
9 standing any other provision of law but subject to
10 subsection (b), if the Tribe transfers any land within
11 the boundaries of the State of Oklahoma to the Sec-
12 retary, the Secretary shall take such land into trust
13 for the benefit of the Tribe.

14 (b) RESTRICTION.—No land recognized by the Sec-
15 retary to be within the Cherokee Nation or any other In-
16 dian tribe may be taken into trust for the benefit of the
17 Tribe under this section without the consent of the Cher-
18 okee Nation or such other tribe, respectively.

19 **SEC. 8. JURISDICTION.**

20 (a) IN GENERAL.—The Tribe shall have jurisdiction
21 over trust land and restricted land of the Tribe and its
22 members to the same extent that the Cherokee Nation has
23 jurisdiction over land recognized by the Secretary to be
24 within the Cherokee Nation and its members, but only if
25 such land—

1 (1) is not recognized by the Secretary to be
2 within the jurisdiction of another federally recog-
3 nized tribe; or

4 (2) has been placed in trust or restricted status
5 with the consent of the federally recognized tribe
6 within whose jurisdiction the Secretary recognizes
7 the land to be, and only to the extent that the
8 Tribe's jurisdiction has been agreed to by that host
9 tribe.

10 (b) **RULE OF CONSTRUCTION.**—Nothing in this Act
11 shall be construed to diminish or otherwise limit the juris-
12 diction of any Indian tribe that is federally recognized on
13 the day before the date of enactment of this Act over trust
14 land, restricted land, or other forms of Indian country of
15 that Indian tribe on such date.

16 **SEC. 9. INDIVIDUAL INDIAN LAND.**

17 Nothing in this Act shall be construed to affect the
18 restrictions against alienation of any individual Indian's
19 land and those restrictions shall continue in force and ef-
20 fect.

21 **SEC. 10. TREATIES NOT AFFECTED.**

22 No provision of this Act shall be construed to con-
23 stitute an amendment, modification, or interpretation of
24 any treaty to which a tribe mentioned in this Act is a party

- 1 nor to any right secured to such a tribe or to any other
- 2 tribe by any treaty.

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