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Legislative Bulletin.....June 3, 2009

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H.R. 1385—Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009

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Order of Business: The bill is scheduled to be considered on Wednesday, June 3, 2009, under an expected structured rule providing for one hour of general debate and making in order several amendments. The RSC will summarize each amendment made in order in a separate document.

Major Changes Since the Last Time This Legislation Was Before the House: There are no significant changes since the legislation was considered in the 110th Congress (H.R. 1294) and agreed to by a voice vote.

Summary: H.R. 1385 would provide for the federal recognition of the following six Indian tribes located in Virginia:

- Chickahominy
- Eastern Division of the Chickahominy
- Upper Mattaponi
- Rappahannock
- Monacan
- Nansemond

These groups are currently recognized as tribes by the Commonwealth of Virginia, and according to CBO, their combined membership is approximately 4,000 individuals. Through federal recognition, members of these tribes would now be eligible for the same programs and services as other federally recognized Indian tribes, such as the Bureau of Indian Affairs and the Indian Health Service. CBO estimates approximate 2,400 individuals would receive benefits each year.

In addition, H.R. 1385 would designate service areas for each tribe for the delivery of federal services to tribal members. The bill provides that Secretary of the Interior would take certain land areas into trust for the benefit of each tribe. The legislation also

prohibits the tribes from conducting gambling activities under the Indian Gaming Rights Act. As such, if the tribes were going to establish gambling facilities, they would be required to apply for a license under the same state-established requirements as any other non-Indian entity. The Committee Report provides a brief background for each tribe, which can be viewed [here](#).

Additional Background: Each of the six tribes currently have petitions pending with the Bureau of Indian Affairs (BIA) for federal recognition as an Indian tribe. Through a standard federal recognition process, the Secretary of the Interior determines if a petitioner has met the seven criteria necessary to become a tribe. According to the Natural Resources Committee, although the initial petitions have been submitted, each tribe is at different stages in the application process, and none of the tribes have provided all of the necessary documentation for the Secretary to review and make a final determination.

Proponents of the legislation contend that these groups should receive their federal recognition as tribes through the legislative process, since the destruction of records has made it difficult for the tribes to receive recognition through the standard procedure.

Committee Action: On March 3, 2009, the bill was introduced and referred to the Committee on Natural Resources. On May 12, 2009, the committee held a mark-up and ordered the bill to be reported by voice vote.

Possible Conservative Concerns: Some conservatives may be concerned that this legislation would subvert the standard federal recognition process through which groups apply to be recognized as an Indian tribe, and allow six groups recognized by the Commonwealth of Virginia to be federally recognized without going through the established review process. In addition, some conservatives may be concerned that the legislation would add over 2,000 individuals to be eligible for federal services through the Indian Health Service and the BIA. Finally, some conservatives may be concerned the legislation does not require that the Secretary of the Interior verify that the groups' members actually descend from historic Virginia tribes.

Administration Position: No Statement of Administration Position is available.

Cost to Taxpayers: According to CBO, H.R. 1385 would authorize \$67 million over the 2010-2014 period, assuming appropriation of the necessary funds.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to Committee Report 111-104, "H.R. 31

does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(t) of rule XXI.”

Constitutional Authority: The Natural Resources Committee cites Article I, Section 8 of the Constitution, but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution”

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