

**Prepared Statement of Senator Ben Nighthorse Campbell
Vice Chairman - Senate Committee on Indian Affairs
Legislative Hearing on Legislation to Reform
the Indian Tribal Recognition Process (S.1392, S.1393)**

September 17, 2002

Good morning to everyone. Thank you Chairman Inouye.

Today the Committee will receive testimony on two bills to reform the Federal recognition process, S.1392 and S.1393, offered by our colleagues from Connecticut.

As we consider these bills, pending on the Senate floor is an amendment to the Fiscal Year 2003 Interior Appropriations bill to add administrative procedures to the process that is already in place.

This Committee has held many hearings on the issue of recognition and recognition reform. We have also heard how for some groups the process takes years — sometimes generations.

I believe the process that governs how the United States recognizes Indian tribes should be transparent, timely, and afford due process to petitioners. I also believe that fundamental fairness requires that truly affected communities be given an opportunity to be heard.

I find it ironic that descendants of Native people who have lived in of North America for thousands of years have to document who they are to the group of late-arriving immigrants.

The legislation before us would amend the current regulation in several significant ways and because of that I am anxious to hear the Department's views of this legislation.

For instance, the bills would

1. remove the decision-making authority from the Assistant Secretary and give it to the Secretary;
2. authorize "interested parties" to request that the Secretary conduct formal hearings on a petition, in addition to the hearings that are currently available;
3. alter the standard of proof from a "reasonable likelihood" standard to a "more likely than not" standard";
4. increase the authorized funding for the recognition process to \$10 million for each fiscal year after enactment.

Lets be honest here — those clamoring for reform must recognize that the process in place is made worse by a avalanche of lawsuits filed by local communities, State Attorneys General and some suits by already-recognized Tribes.

The BAR is also being flooded with requests under the “Freedom of Information Act” (FOIA) and these FOIAs are keeping the BAR in a state of disequilibrium with a “constant churning” of documents that is preventing BAR from performing its core functions.

If we are going to reform the recognition process, we should make sure we are providing reforms not just for states and attorneys general but also for the petitioners themselves.

With that I thank you Mr. Chairman.

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