

**Opening Statement of Chairman Tom Davis
Government Reform Committee Hearing
“Betting on Transparency: Toward Fairness and Integrity in the Interior
Department’s Tribal Recognition Process”
May 5, 2004**

Good morning. The Committee on Government Reform will come to order. I would like to welcome everyone to today’s hearing on the process for recognition by the Federal government of American Indian tribes as sovereign Indian nations. The Committee will focus on the integrity, transparency and accountability of tribal recognition decisions made by the Interior Department's Bureau of Indian Affairs (BIA).

Federal recognition of a particular Indian tribe can have a profound effect on the tribe, the surrounding communities, the state, and the Federal government. For example, recognition is a prerequisite for a tribe to receive federal assistance and obtain other rights. Recognized tribes receive exclusive federal government funding for health, education, and other social programs. Also, tribal lands are eligible to be taken into trust for a tribe or its members by the Federal government. Over 54 million acres nationwide are currently held in trust.

This is particularly critical because tribal lands held in trust are exempt from most state and local laws, such as sales tax and gambling regulations. A tribe must meet additional requirements before it can exercise other rights. For instance, before a recognized tribe can operate a casino on tribal land held in trust, the tribe must comply with the requirements set forth in the Indian Gaming Regulatory Act of 1988.

Today, the Secretary of the Interior has authority to recognize American Indian tribes under regulations administered by the BIA. Congress may also recognize a tribe through legislation. Congress terminated recognition by treaty in 1871.

Until 1978, the Interior Department made tribal recognition decisions on a case-by-case basis. Then, Interior established a formal regulatory process for recognizing tribes and adopted seven criteria that a petitioning tribe must meet to receive Federal recognition. Before Interior implemented the current recognition regulations in 1978, BIA had received 40 petitions from groups seeking formal tribal recognition.

Since 1978, BIA has received an additional 254 petitions. As of February, 2004, a total of 57 petitions have been resolved, 13 petitions are ready for dispensation, nine petitions are in active status, two are in post-final decision appeals, one is in litigation, and 213 are not ready for evaluation.

The Connecticut Congressional delegation recently brought to my attention two BIA recognition petitions filed by Connecticut tribes and asked the Committee to hold a hearing to explore questions about the objectivity and transparency of the BIA recognition process in connection with the decisions to recognize the Historical Eastern Pequot and the Schaghticoke tribes.

I readily agreed to hold this hearing because I think it's imperative that the integrity of the BIA process be preserved. Interested parties and the public have a right to be assured that a critical procedure such as this one administered by an agency of the Federal government is completely fair, unbiased and in accordance with the law. That mission fits squarely within the jurisdiction of this Committee.

Both the Schaghticoke and Historical Eastern Pequot decisions are being challenged on various grounds by the Connecticut Attorney General, municipalities subject to Indian land claims, and other interested parties. In both cases, final recognition was granted by the Assistant Secretary for Indian Affairs despite proposed findings by the BIA that the tribes did not meet one or more of the seven mandatory criteria for status as a sovereign Indian nation.

Our goal today is to look at these decisions as a case study of the overall recognition process. Are these cases unique, or are they symptomatic of larger problems that call into question the integrity and fairness of the process? Do these cases demonstrate that the ground rules underlying the process are ever changing?

The Committee will hear from witnesses who can help us evaluate the fairness and efficiency of the BIA recognition process both generally and in the context of the two Connecticut tribal recognition decisions. We will hear from the Office of the Assistant Secretary for Indian Affairs of the Department of the Interior about the recognition process, as well as from the Interior Inspector General. The Committee will also hear from the Connecticut Attorney General, several Connecticut municipalities affected by the Schaghticoke and Eastern Pequot decisions, and the Schaghticoke Tribal Nation and the Historic Eastern Piquot Tribal Nation. Other witnesses will discuss their assessment of, and recommendations to improve, the BIA recognition process.