

December 19, 2003

Dear Tribal Leaders and Friends:

Greetings and welcome to the U.S. Senate Committee on Indian Affairs' website. With the first half of the 108th Congress now behind us, we are pleased to tell you that much has been accomplished on the issues affecting tribes and Indian people.

By working together we have made significant strides on education, health care, energy policy, economic development, and other matters. This legislative update describes recent legislative successes as well as items that are pending.

I. Indian Energy and Natural Resource Issues

a. The *Native American Energy Development and Self-Determination Act of 2003* (S.522, Campbell) was introduced to amend the *Energy Policy Act of 1992*. The Committee also considered the *Tribal Energy Self-Sufficiency Act* (S.424, Bingaman) and in April, 2003, favorably reported a blended bill that included elements of both S.424 and S.522.

The blended bill establishes an Indian energy resource program, authorizes grants, loans and loan guarantees to tribes and tribal energy organizations, includes assistance for tribal regulatory and technical capacity, and reforms the Federal lease approval process for energy purposes.

When Congress re-convenes in January, 2004, the conference report to accompany the comprehensive energy

bill will again be considered by the Senate.

b. The *Gila River Indian Community Judgment Fund Distribution Act of 2003* (Pub.L. 108-022, Kyl) was enacted on May 14, 2003, and provides for the use and *per capita* distribution of certain funds awarded to the Community from the Indian Claims Commission, and waives repayment of the balance of expert assistance loans issued to the Community.

c. The *Zuni Indian Tribe Water Rights Settlement Act of 2003* (Pub.L. 108-034, Kyl) was enacted on June 23, 2003, and ratifies the Settlement Agreement concerning the tribe's water rights claims in the Little Colorado River Basin.

d. The *Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003* (S.551, Campbell) introduced on March 6, 2003, to implement air quality programs developed under the Inter-governmental Agreement between the Southern Ute Indian Tribe and the State of Colorado. S.551 requires the U.S. Environmental Protection Agency Administrator treat the tribe as a state (TAS) under the Clean Air Act. On November 21, 2003, the bill passed the Senate and is pending in the House.

e. The *Western Shoshone Claims Distribution Act*, (S.618, Reid) was introduced on March 13, 2003, to provide for the use and distribution of the funds awarded under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, and 326-K. The bill passed the Senate on October 17, 2003, and is pending in the House.

f. The *Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution Act of 2003* (S.428, Baucus) was introduced on February 24, 2003, to require the Secretary of the Interior, pursuant to the *Indian Tribal Judgment Funds Use or Distribution Act* (25

U.S.C. 1401 *et. seq.*), to submit to Congress for approval an Indian judgment fund use or distribution plan. The Committee favorably reported S.428 to the full Senate on July 30, 2003.

II. Indian Economic and Community Development

a. *The Native American Housing Assistance and Self-Determination Act Amendments* (Pub.L. 107-292, Campbell) was enacted on November 13, 2002, to re-authorize the act through 2007 and to strengthen housing assistance in a manner that recognizes tribal self-governance.

Of note are provisions to expand planning activities, authorize tribes to use NAHASDA funds and rental program income for housing needs, require negotiated rule-making, and require mold studies.

b. *The Indian Financing Amendments Act of 2002* (Pub.L. 107-331, Campbell) was enacted on December 13, 2002, and directs the Secretary of the Interior to establish a secondary market for loans issued under the Indian Loan Guaranty Fund, to increase the loan insurance limits from \$100,000 to \$250,000, and extend full faith and credit to future guaranteed loans.

c. *The Indian Lands Leasing Act of 2003* (S.521, Campbell) was introduced on March 5, 2003, to stimulate economic development by increasing the length of leasing terms on tribal lands from 25 years to 99 years. The bill is pending in the Senate.

d. *The Native American Technical Corrections Act of 2003* (S.523, Campbell) was introduced on March 5, 2003, to provide for certain land exchanges, distribute certain fisheries funds, reauthorize the Four Corners Interpretive Center Act through fiscal year 2008, extinguish restrictive covenants on certain trust land, and make an addition to the eligible institution list

under the *Equity in Educational Land Grant Status Act of 1994*. S.523 passed the Senate in July, 2003, and on October 29, 2003, the House Committee on Resources reported the bill to the House floor.

e. The *Native American Capital Formation and Economic Development Act of 2003* (S.519, Campbell) was introduced on March 5, 2003 to create an tribal development corporation whose shareholders would be Indian tribes and whose focus would be on economic development in Indian communities. A hearing on S.519 was held on April 30, 2003. Further hearings are expected in 2004.

f. On June 2, 2003, the *Indian Tribal Surface Transportation Act of 2003* (S.281, Campbell) was introduced to amend the *Transportation Equity Act for the 21st Century* (TEA-21) and re-authorize the Indian Reservation Roads program (IRR), launch new Indian transit and safety programs, and provide funding to carry out these activities. The substitute blends portions of S.725 (Bingaman), the *Tribal Transportation Program Improvement Act*; S.1165 (Domenici), the *American Indian Reservation Transportation Improvement Program Act*; and S.1122 (Johnson), the *Tribal Transportation Program Improvement Act of 2003*.

The substitute was favorably reported on June 24, 2003, and is pending on the Senate floor.

g. The *Indian Contracting and Federal Land Management Demonstration Project Act* (S.288, Campbell) was introduced on February 4, 2003, to establish a Demonstration Project for tribes to perform a variety of services and functions related to the management of Federal lands through tribal contracts, and proposes to increase Federal contracting opportunities. A hearing on S.288 is anticipated in 2004.

h. The *Tribal Government Tax-Exempt Bond Fairness Act of 2003* (S.1526, Campbell) was introduced on July 31, 2003, to provide equitable treatment to tribal governments for purposes of issuing private activity tax-exempt bonds. It also exempts interest on tribal bonds from taxes under certain circumstances. A hearing on this legislation is anticipated in 2004.

I. The *Indian Tribal Consolidated Funding Act* (S.1528, Campbell) was introduced on July 31, 2003, to assist tribes in their economic development efforts by authorizing the Secretary of the Interior to establish a Demonstration Project for tribes or tribal consortia to coordinate and integrate existing Federal economic development assistance to target specific business and project needs of Native communities. Hearings on S.1528 is anticipated in 2004.

III. Indian Trust Management and Probate Issues

a. In February, 2003, President Bush nominated Ross O. Swimmer to be Special Trustee - American Indians. After a February 12, hearing on the nomination, the Committee favorably reported Mr. Swimmer to the full Senate and the Senate confirmed the nomination in May, 2003.

b. A hearing on the Reorganization of the Bureau of Indian Affairs (BIA) was held on May 21, 2003. Additional hearings are anticipated in 2004.

c. The *American Indian Probate Reform Act of 2003* (S.550, Campbell) was introduced on March 6, 2003, to improve probate of individual Indian trust and restricted lands and address the problem of fractionated ownership of Indian land.

S.550 revises dispositions and inheritance rights of surviving spouses and other heirs under a uniform

probate code, and includes measures to address the problem of Indian land fractionation. A complete substitute, S.1721, was introduced on October 14, 2003, and a hearing was held on October 15, 2003. Consideration of S.1721 is expected early in 2004.

d. The *Indian Trust Asset and Trust Fund Management and Reform Act of 2003* (S.175, McCain) was introduced on January 15, 2003, to establish a direct line of authority for trust reform for Indian trust assets, outline specific Secretarial duties for managing assets, and authorize tribes to manage trust assets under an Indian Self-Determination and Education Assistance Act contract or compact.

e. With regard to *Cobell et al. v. Norton et al.*, the trust funds lawsuit, on April 8, 2003, we issued a joint letter to the parties in the 8-year old case encouraging the use of alternative methods to resolve this bitter, costly, and protracted litigation. On October 21, 2003, we also introduced S.Res. 248 to express the sense of the Senate that the individual Indian money account lawsuit ought to be settled.

f. On July 30, 2003 and October 29, 2003, in addition to oversight and legislative hearings on trust reform and probate issues, the Committee held a hearing to elicit possible methodologies and ideas on settling the lawsuit.

g. The *Indian Money Account Claim Satisfaction Act of 2003* (S.1770, Campbell) was introduced on October 21, 2003, to establish a voluntary alternative claims resolution process to reach a settlement of pending class action litigation. The Committee held a hearing on the bill on October 29, 2003 and additional hearings are expected.

IV. Indian Health Care and Tribal Self-Governance

a. In March, 2003, President Bush nominated Dr. Charles Grim to be Director - Indian Health Service. A Doctor of Dental Surgery (D.D.S.), Dr. Grim is an enrolled member of the Cherokee Nation of Oklahoma and has served twenty years in the Indian Health Service. The Committee approved his nomination on June 26, 2003, and the Senate confirmed Dr. Grim on July 18, 2003.

b. The *Native American Alcohol and Substance Abuse Program Consolidation Act of 2003* (S.285, Campbell) introduced on February 4, 2003, authorizes tribes to consolidate administrative and other functions of alcohol and substance abuse programs, and reauthorizes the *Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986*. On July 23, 2003, the Senate passed S.285 and referred it to the House for further consideration.

c. The *Native American Health and Wellness Foundation Act of 2003* (S.555, Campbell) was introduced on March 6, 2003, to establish a Foundation to encourage, accept and administer private gifts of real or personal property to benefit the mission of the Indian Health Service and to conduct other activities furthering the health of Native Americans. The Senate passed S.555 on July 16, 2003, and referred it to the House for further consideration.

d. The *Elevation of the Director of the Indian Health Service to Assistant Secretary for Indian Health* (S. 558, McCain) was introduced on March 6, 2003, to establish the new position and office within the Department of Health and Human Services. This elevation will facilitate advocacy for the development of appropriate Indian health policy and promote consultation on Indian health matters. On July 16, 2003, the Senate passed S.558 and referred it to the House for its consideration.

e. The *Indian Health Care Improvement Act Reauthorization of 2003* (S.556, Campbell) was introduced on March 6, 2003, to reauthorize the main statutory authority making possible the delivery of health care to Native people. The bill provides incentives to increase the number of health professionals, codifies access to health insurance coverages and encourages improvements to health care standards by permitting tribes to set their own health care priorities and goals that reflect their needs.

As of July 23, 2003, the Committee has convened three hearings focusing on the "One-DHHS Initiative", health disparities, facilities, urban Indian clinics and health insurance coverage under Medicaid and Medicare. In addition, on July 16, 2003, the Committee convened a Joint Hearing with the House Committee on Resources. Additional hearings are expected in 2004.

f. The *Native American Languages Act Amendment Act of 2003* (S.575, Inouye) introduced on March 7, 2003, amends the *Native American Languages Act* to authorize the Secretary of Education to make grants or enter into contracts with Native entities that establish a language site-based educational program designed to revitalize or strengthen Native languages. The Committee held a hearing on May 15, 2003.

g. The *Tribal Government Amendments to the Homeland Security Act of 2002* (S.578, Inouye) introduced on March 7, 2003, recognizes that Indian tribes are first responders in emergency and critical situations by amending the Homeland Security Act of 2002 to include Indian tribes as entities consulted with regarding homeland security matters. The Committee held a hearing on July 30, 2003.

h. A *Bill Expressing the Policy of the United States Regarding the United States Relationship with Native Hawaiians* (S.344, Akaka) was introduced on February 11,

2003, to acknowledge the special political and legal responsibility of the United States, to promote the welfare of Native Hawaiians and their right to determine their own future and govern themselves through a Native Hawaiian governing body. The Committee favorably reported S.344 to the full Senate on June 27, 2003, where it is pending.

i. *The Three Affiliated Tribes Health Facility Compensation Act* (S.1146, Conrad) was introduced on May 23, 2003, to authorize the construction of health care facility on the Fort Berthold Indian Reservation. S.1146 was passed by the Senate on October 27, 2003, and referred to the House for its consideration.

j. *The Indian Child Protection and Family Violence Prevention Reauthorization Act of 2003* (S.1601, Campbell) was introduced on September 9, 2003, to assist tribes in reducing child abuse in their communities. On September 24, 2003, the Committee held a hearing on S. 1601 and favorably reported the bill to the Senate on October 29, 2003.

k. *The Department of Health and Human Services Tribal Self-Governance Amendments Act of 2003* (S.1696, Campbell) was introduced on October 1, 2003, to provide for further self-governance by Indian tribes. S.1696 authorizes tribal compacting of additional DHHS programs beyond the Indian Health Service. Hearings are anticipated in 2004.

l. *The Indian Needs Assessment and Program Evaluation Act of 2003* (S.1600, Campbell) was introduced on September 9, 2003, to require Federal agencies to perform periodic assessments of the needs of Federally-recognized tribes and to evaluate the effectiveness of Federal programs for Indian tribes. Hearings on the bill are anticipated in 2004.

m. *The Federal Acknowledgment Process Reform Act of 2003* (S.297, Campbell) was introduced on February 4, 2003, to provide reforms and resources to the Department of Interior in its role in acknowledging new Indian tribes. Hearings on the bill are anticipated in 2004.

n. *The Department of the Interior Tribal Self Governance Act of 2003* (S.1715, Campbell) was introduced in October, 2003, to expand the number of programs that Indian tribes can contract with the Department of Interior. Hearings on the bill are anticipated in 2004.

o. On September 12, 2003, President Bush announced the *Nomination of David Wayne Anderson* to be Assistant Secretary - Indian Affairs. The Senate confirmed Mr. Anderson to be Assistant Secretary on December 9, 2003.

p. *The Lumbee Acknowledgment Act of 2003* (S.420, Dole) was introduced on February 14, 2003, to provide for the acknowledgment of the Lumbee Tribe of North Carolina. The Committee favorably reported S. 420 to full Senate on October 29, 2003, where it is pending.

q. *The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2003* (S.1423, Allen) was introduced on July 17, 2003, and favorably reported to the full Senate on October 29, 2003, where it is pending.

r. *Senate Resolution Designating November 7, 2003, as "National Native American Veterans Day"* (S.Res. 239, Campbell) was introduced on October 3, 2003. The Senate passed S.Res. 239 on October 24, 2003.

s. *Senate Resolution Designating November 2003 as "National American Indian Heritage Month"* (S.Res. 240, Campbell) was introduced October 3, 2003. The Senate passed S.Res. 240 on October 24, 2003.

V. Tribal Government Gaming

While Indian gaming continues to draw media attention, to-date there has been little Congressional action on the issue. The Committee has held two hearings focusing on National Indian Gaming Commission fees, tribal regulation, and tribal-state gaming compacts and revenue sharing.

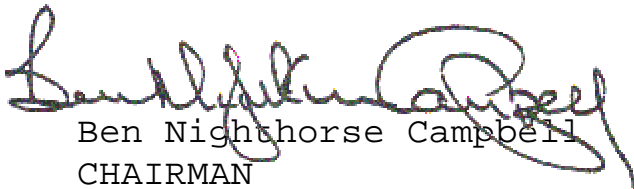
On July 31, 2003, the *Indian Gaming Regulatory Act Amendments of 2003* (S.1529, Campbell) were introduced to amend the *Indian Gaming Regulatory Act* to clarify the definition of "technological aids" and the powers of the Commission and Chairman, to codify revenue-sharing authority, to extend the compact review period to 90 days, and to make other amendments.

VI. Conclusion

This is a brief overview of Indian-related bills that have been considered in the first session of the 108th Congress. Looking ahead to 2004, we believe that if we work together we can reform the laws that affect tribes and Indian communities and improve the lives of Indian people everywhere.

We hope you will join us in these important efforts.

Sincerely,


Ben Nighthorse Campbell
CHAIRMAN


Daniel K. Anouye
VICE CHAIRMAN