

TESTIMONY OF
PRINCIPAL CHIEF MICHELL HICKS,
THE EASTERN BAND OF CHEROKEE INDIANS
HEARING BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
H.R. 1324, THE “LUMBEE RECOGNITION ACT”

April 18, 2007

Chairman Rahall, Ranking Member Young, members of the House Natural Resources Committee, I appreciate the opportunity to testify today before this Committee to provide the views of the Eastern Band of Cherokee Indians.

The Eastern Band strongly believes that Congress should not enact H.R. 1324. As I testified on behalf of the Eastern Band three years ago before this Committee and last year before the Senate Indian Affairs Committee, this bill has factual and policy flaws that fundamentally make the bill unfair to the United States and existing federally-acknowledged Indian tribes.

First, there are serious problems with the tribal and individual identity of the Lumbee. Credible experts in the area of genealogy, who are not affiliated with the Eastern Band, have reached difficult conclusions concerning Lumbee identity that this Committee should not ignore. Paul Heinegg, whose work has been recognized by The American Society of Genealogists, concludes that the Lumbee are “an invented North Carolina Indian tribe,”¹ and that many of the persons who first self-identified as Indian in Robeson County, North Carolina, are not of Indian ancestry.

Another indisputable expert in this area is Dr. Virginia DeMarce, who formerly served as Chair of the National Genealogical Association and as an expert in this area at the Department of the Interior. Dr. DeMarce concludes from her genealogical studies that many Lumbee families do not originate from the Robeson, North Carolina, area, but migrated there from other places.

As you know, in past testimony before the Congress, Department of Interior officials also have raised serious concerns about Lumbee individual and tribal identity as well.

This uncertain background may somewhat explain why the Lumbee have sought federal recognition as descending from four different tribes over the years: Cherokee, Siouan, Croatan, and now Cheraw.

¹ “The Lumbees’ Long and Winding Road,” *Roll Call* 13 (July 17, 2006) (published following the Senate Indian Affairs Committee hearing on the Lumbee Recognition Act in 2006).

This leads to my second point. The cultural and political integrity of the Eastern Band and other tribes with living tribal languages and long standing government-to-government relations with the United States is undermined when Congress acts arbitrarily in federal acknowledgement matters, allowing politics and emotion to drive decision making, rather than facts about tribal identity. Eastern Cherokee leaders have raised these identity concerns about the Lumbee since at least 1910, when the Lumbees first claimed a Cherokee identity.

Third, the Department of the Interior's Office of Federal Acknowledgement (OFA), while imperfect, is the only federal entity equipped to make an informed, merits-based determination of Lumbee tribal identity and recognition. Congress, while it certainly has the power to recognize tribal groups, is not as well equipped to evaluate and make these decisions as the Department of Interior.

And finally, Congress should be absolutely certain that the Lumbees meet the objective criteria at Interior before it enacts a bill that could cost the taxpayers more than \$800 million over five years, undermine the integrity of existing federally-recognized tribes, and further decrease the funds existing tribes and Indians receive. But due to the problems with Lumbee identity, Congress cannot be confident in the merits of this bill.

A fair approach would be for Congress to clear the way for the Lumbees to get a fair shot at federal acknowledgement through the Department of the Interior's Office of Federal Acknowledgement.

Serious Problems with Claimed Lumbee Identity

"An Invented North Carolina Indian Tribe": Credible Experts Raise Serious Problems With Lumbee Identity

Dr. Virginia DeMarce, the former Chair of the National Genealogical Society, and Paul Heinegg, an award-winning genealogist and author, have published research on Lumbee family genealogies and reached conclusions that contradict the fundamental bases for the Lumbee Recognition Act. Heinegg summarizes his conclusions concerning Lumbee identity, referring to the Lumbee as "an invented North Carolina Indian tribe."²

Dr. DeMarce's research demonstrates that many Lumbee families migrated into the Robeson County, North Carolina, area from other places prior to 1800.³ These include the Brayboy, Chavis (Chavers), Cumbo, Gowen, Locklear, Kersey, and Sweat families. Heinegg concurs and adds the Lumbee families of Carter, Hammond, Jacobs, James, Johnston, Lowry,

² "The Lumbees' Long and Winding Road," *Roll Call* 13 (July 17, 2006) (published following the Senate Indian Affairs Committee hearing on the Lumbee Recognition Act in 2006).

³ Virginia DeMarce, "Looking at Legends—Lumbee and Melungeon: Applied Genealogy and the Origins of Tri-Racial Isolate Settlements," *National Genealogical Society Quarterly* 81 (March 1993): 27-31.

Manuel, and Roberts to this list.⁴ Dr. DeMarce also states that genealogical evidence does not bear out that these families significantly married into Indian families upon arrival into the Robeson County area in the 1800s.⁵ In fact, there is evidence that non-Indians in the area did not consider these Lumbee families to be Indians in the 1840s.⁶ Beyond those families listed earlier, Dr. DeMarce also states that other notable genealogists frequently refer to other self-identified Lumbee families as residing in other areas prior to any settlement in the Robeson County area.⁷

More broadly, Heinegg states that the Lumbees from Robeson County were not Indians but “African American as shown by their genealogies.”⁸

DeMarce states that Lumbee families had good reason to identify themselves as Indian at the time. The “legal, social, educational, and economic disadvantages of being African-American were so great that it was preferable for a person to be considered almost anything else.”⁹ Heinegg adds that until about 1835, “free African Americans in Robeson County attended white schools and churches, voted, and [congregated] with whites. However, the relations between the whites and free African American communities deteriorated rapidly after 1835, and by the end of the Civil War they were strained to the breaking point.”¹⁰ The Lumbee claims of Indian ancestry allowed Lumbee children to go to different schools from the children of newly freed slaves.¹¹ According to DeMarce, not until after the Civil War did most communities of African Americans advance a claim of also being of Indian ancestry.¹²

In 1900, over 120 Lumbee families, including the ones above, self-identified as “Indian” in the federal census. Dr. Campisi relies on federal census records as the “best source of evidence concerning the Lumbee community.”¹³

The Lumbee Have Self-Identified As Four Different Tribes

⁴ Paul Heinegg, *Free African Americans of North Carolina and Virginia* (Baltimore, MD: Clearfield, 1997, 3rd Ed.): 23.

⁵ DeMarce, *Legends* at 37.

⁶ DeMarce, *Legends* at 27. These genealogical findings are supported by Historian John Hope Franklin quoting a petition from the North Carolina Legislative Papers for 1840-41 that showed Robeson County inhabitants during the first half of the nineteenth century did not agree with the theory that the Lumbees were Indians but were migrants from Virginia. *Id.*

⁷ DeMarce, *Legends* at 30.

⁸ Heinegg at 22.

⁹ Virginia DeMarce, “‘Verry Slitly Mixt’: Tri-Racial Isolate Families of the Upper South—A Genealogical Study,” *National Genealogical Society Quarterly* 81 (March 1992): 6.

¹⁰ Heinegg at 25.

¹¹ Heinegg at 25. According to the 1956 Lumbee Act, the Lumbees themselves were persons “owning slaves.”

¹² DeMarce, *Tri-Racial Isolates* at 7.

¹³ 109th Congress, Campisi testimony at 38.

This uncertain genealogical background illuminates the remarkable story of Lumbee efforts to attain federal acknowledgement as four different Indian tribes, including the “Cherokee Indians of Robeson and Adjoining Counties.”

The Lumbee group seeking Congress’s acknowledgment today has been before the Congress on numerous occasions in the past, beginning in 1899. The tribal identity of the Lumbees, who have over the course of history self-identified themselves as four different tribes before Congress –Croatan, Cherokee, Siouan, and now Cheraw – is highly in question. These appellations do not correlate with each other. Linguistically, the Croatan were Algonquian, the Cherokee Iroquoian, and the Cheraw were Siouan. Thus, these disparate references themselves implausibly covered three distinct and separate linguistic groups. Moreover, referring to themselves as the “Siouan Tribe” did not make sense because the term “Siouan” is simply a reference to a broad generic linguistic classification that encompassed many distinct tribal languages in North America, including Osage, Assiniboine, Dakota, Lakota, Catawba, Hidatsa, Crow, Mandan, Ponca, Biloxi, and Quapaw, to name a few.

The origin of the Lumbee name comes not from a historic tribe but from a geographic location in the State of North Carolina, a place along the Lumber River. The term “Lumbee” is a modern creation that the group selected as its name in 1952.

Lumbee’s Self-Identification as “Croatan” Indians

The Lumbee sought federal services from the Congress as “Croatan” Indians in the 1880’s and early 1900’s.¹⁴ In 1993, this Committee’s House Report contained the following relating to the history of the Lumbee group, including its “Croatan” origins:

The story of how the progenitors of the Lumbee came to live in this area of North Carolina is a multifarious one. In fact, there are almost as many theories as there are theorists. Up until the 1920’s, the most persistent tradition among the Indians in Robeson County was that they were descended primarily from an Iroquoian group called the Croatans. This theory, though highly conjectural, is as follows. In 1585, Sir Walter Raleigh established an English colony under Gov. John White on Roanoke Island in what later became North Carolina. In August of that year, White departed for England for supplies, but was prevented from returning to Roanoke for 2 years by a variety of circumstances. When he finally arrived at the colony, however, he found the settlement deserted; no physical trace of the colonists was found.

The only clue to their whereabouts were the letters “C.R.O.” and the word “Croatoan” carved in a tree. From this it was surmised that the colonists fled Roanoke for some reason, and removed to the nearby island of Croatoan which was inhabited by a friendly Indian tribe. There, according to the theory, they intermarried with the Indians, and the tribe eventually migrated to the southwest

¹⁴ “Testimony of Dr. Jack Campisi, in Support of S. 420, United States Senate Committee on Indian Affairs” (September 17, 2003) p. 6.

to the area of present-day Robeson County. The theory is lent some credence by reports of early 18th century settlers in the area of the Lumber River who noted finding a large group of Indians – some with marked Caucasian features such as grey-blue eyes –speaking English, tilling the soil, “and practicing the arts of civilized life.” In addition, many of the surnames of Indians resident in the county match those of Roanoke colonists.¹⁵

Genealogist Paul Heinegg refers to this theory of Lumbee tribal background as well as the one posited today by the Lumbee as “fantastic theories on [Lumbee] origin”¹⁶

Lumbee’s Self-Identification as “Cherokee” Indians

In the state of North Carolina, the Lumbee group sought recognition from the North Carolina legislature in 1913 as the “Cherokee Indians of Robeson County.” This legislation was passed, despite the Eastern Band’s opposition, and the group was recognized in North Carolina as “Cherokee” Indians. That continued for 40 years until 1953 when the North Carolina legislature, at the Lumbee group’s request, passed legislation recognizing them as the “Lumbee” Indians instead of as the “Cherokee” Indians.

After World War I, the Lumbees sought federal legislation in Congress for recognition as “the Cherokee Indians of Robeson and adjoining counties.” Specifically, in 1924, Dr. Campisi noted that the now-called Lumbee group had legislation introduced in the U.S. Senate that would have recognized them as “Cherokee” Indians. However, the Commissioner of Indian Affairs Charles H. Burke opposed the legislation and it failed to pass.

In 1932, the Lumbees sought legislation that was introduced in the Senate that would have recognized them as “the Cherokee Indians,” but this effort failed also.¹⁷

In 1933, another Lumbee acknowledgement bill failed because the Lumbees themselves did not agree on whether the tribal affiliation should be changed from “Cherokee Indians” to “Cheraw Indians.”¹⁸

Lumbee’s Self-Identification as “Siouan” Indians

According to the Lumbee, they sought federal recognition as “Siouan” Indians in 1924. In the 1930’s, for purposes of the Indian Reorganization Act, the Lumbees self-designated themselves as the “Siouan Indian Community of Lumber River.”¹⁹ As stated above, the term “Siouan” is a reference to a generic linguistic classification that is spoken by many tribes in North America and is not a term that describes a distinct historical tribe.

¹⁵ H.R. Rep. No. 103-290, 103rd Cong., 1st Sess. at 179 (1993).

¹⁶ Heinegg at 17.

¹⁷ *Id.*

¹⁸ Campisi testimony, 109th Congress at 40.

¹⁹ *Id.* at 9.

It was not until 1952 that the Lumbees decided to refer to themselves as “Lumbee” based upon their geographic location next to the Lumber River. In 1956, Congress, at the request of the Lumbees, passed legislation commemorating their name change.²⁰

The Lumbees’ Current Efforts to Link Themselves to the Cheraw Tribe Are Tenuous

The federal acknowledgment criteria require that the membership of a petitioning group consist of “individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.”²¹ The regulations define “historical” in this context as “dating from first sustained contact with non-Indians.”²² The origin and ties to a historical tribe have been the subject of uncertainty not only among experts in the area but also the Lumbee themselves.

Experts at the Bureau of Indian Affairs have testified that the Lumbee ties to the Cheraw Tribe are tenuous. On August 1, 1991, Director of the Office of Tribal Services Ronal Eden testified on behalf of the Administration regarding federal legislation that would congressionally acknowledge the Lumbee. Regarding the Lumbee petition for federal recognition before the agency, the Director testified to a “major deficiency” that “the Lumbee have not documented their descent from a historic tribe.”²³

The testimony also stated that the 18th century documents used by Lumbee to support its claim that it is primarily descended from a community of Cheraws living on Drowning Creek in North Carolina in the 1730’s needed extensive analysis corroborated by other documentation.²⁴

In his September 17, 2003 testimony before the Senate Indian Affairs Committee, Lumbee expert Jack Campisi relies on a report of Dr. John R. Swanton of the Bureau of Ethnology for concluding “in the 1930s that the Lumbees are descended predominantly Cheraw Indians.”²⁵ The House Report specifically refutes this claim, stating that Swanton chose “Cheraw” rather than another tribal name he identified – “Keyauwee” – because the Keyauwee name was not well known. “In other words, the choice of the Cheraw was apparently made for reasons of academic ease rather than historical reality.”

²⁰ *Id.* at 9-10. Contrary to Lumbee claims that the 1956 Lumbee Act both acknowledged the Lumbee as a tribe and terminated that tribal status in the same law, the Act itself states that the Lumbee are individuals only “claiming joint descent from remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina . . .” The legislative history of the Act also makes clear that it only commemorates a name change. 102 Cong. Rec. 2900 (1956).

²¹ 25 C.F.R. § 83.7(e).

²² *Id.* at 83.1.

²³ Statement of Ronal Eden, Director, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, Before the Joint Hearing of the Select Committee on Indian Affairs, United States Senate, and the Interior and Insular Affairs Committee, United States House of Representatives, on S. 1036 and H.R. 1426 (August 1, 1991) p. 3-5.

²⁴ *Id.*

²⁵ Campisi Testimony at 21.

Furthermore, the head of the BIA's acknowledgment process questioned the adequacy of the underlying proof of Cheraw descent. He testified in 1989 that:

The Lumbee petition . . . claims to link the group to the Cheraw Indians. The documents presented in the petition do not support [this] theory These documents have been misinterpreted in the Lumbee petition. Their real meanings have more to do with the colonial history of North and South Carolina than with the existence of any specific tribal group in the area in which the modern Lumbee live.

Arlinda Locklear, Counsel to the Lumbee, in her 2003 testimony before the Senate Indian Affairs Committee admitted that these concerns continue today. "Department staff that administers the administrative acknowledgment process have expressed some concern about the absence of a genealogical connection between the modern day Lumbee Tribe and the historic Cheraw Tribe."²⁶

On July 12, 2006, an Interior official testifying before the Senate Indian Affairs Committee restated the problem the Lumbee have had in identifying their historic tribe.

"[T]he uniqueness is the lack of pinning down of the historical tribe. . . . There is a considerable period of time where evidence would be needed to fully understand who this group was and is [because] there have been approximately 26 bills introduced since 1899 [that] have provided possible historical tribes and there are quite a number of them One report indicated . . . the Cherokee, another . . . the Cheraw, another . . . the Croatan. One report included a whole group of different historical tribes, such as the Eno, the Hatteras, the Keowee, the Shakori. Even John R. Swanton, who is a renowned anthropologist, in a 1946 report for the Bureau of Ethnology, stated that there were several possibilities that the Lumbee could descend from either the Cheraw, the Siouan Indians of Lumber River, the Keowee, and another group known as the Washaw. There is a whole number of possibilities."

Claimed Lumbee Membership Not Tied to Cheraw Individuals

The various documents on which the Lumbee membership list is based similarly cast doubt as to the ability of the Lumbee to meet the acknowledgement criteria. The Lumbees claim over 62,000 enrolled members who are descended from anyone identifying as "Indian" in five North Carolina counties and two South Carolina counties in either the 1900 or 1910 federal census. The Lumbee Constitution refers to these census lists as the "Source Documents." Yet the individuals on these lists cannot be specifically identified and verified as Cheraw Indians. In

²⁶ "Testimony of Arlinda Locklear, Patton Boggs LLP, Of Counsel for the Lumbee Tribe of North Carolina in Support of S. 420 United States Senate Committee on Indian Affairs" (September 17, 2003) p. 4 fn. 1.

fact, these individuals cannot be identified as belonging to any tribe whatsoever. These are lists of people who self-identified or were identified by the census as “Indian.”

Members of this Committee have recognized the weaknesses and complexities in the Lumbee group’s claim to tribal recognition in the past:

The Lumbee . . . have never had treaty relations with the United States, a reservation, or a claim before the Indian Claims Commission; they do not speak an Indian language; they have had no formal political organization until recently; and they possess no autochthonous “Indian” customs or cultural appurtenance such as dances, songs, or tribal religion. One of the groups consultant anthropologists, Dr. Jack Campisi, noted this lack of Indian cultural appurtenances in a hearing colloquy with then-Congressman Ben Nighthorse Campbell:

Mr. Campbell: Do [the Lumbee] have a spoken language . . . ?

Dr. Campisi: No.

Mr. Campbell: Do they have distinct cultural characteristics such as songs, dances and religious beliefs and so on? . . . Do the Lumbees have that?

Dr. Campisi: No. Those things were gone before the end of the 18th Century.

This absence of cultural appurtenances in part identify the Lumbee as part of what sociologist Brewton Berry has termed the “marginal Indian groups.” As Berry notes:

These are communities that hold no reservation land, speak no Indian language, and observe no distinctive Indian customs. Although it is difficult to establish a firm historical Indian ancestry for them, their members often display physical features that are decidedly Indian. Because they bear no other historic tribal names, they often emphasize a *Cherokee* ancestry.

These characteristics . . . point out that this is a case replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those [Members of Congress] charged with the day-to-day oversight of Indian affairs do not have the necessary expertise – or even knowledge – in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do when this legislation reaches the floor?²⁷

Furthermore, in his 2006 Senate testimony, the BIA director identified “over 80 names of groups that derive from these counties....[including] the Cherokee Indians of Robeson and Adjoining Counties, the Lumbee Regional Development Association, the Cherokee Indians of

²⁷ H.R. Rep. No. 103-290, 103rd Cong., 1st Sess. at 186-87 (1993).

Hoke Count, Inc., the Tuscarora Nation of North Carolina, The Tuscarora Nation of Indians of the Carolinas....[in which] there is an overlapping of membership, there is an overlapping of some of the governing bodies and there is an overlap of the ancestry of these groups with the Lumbee.”²⁸

This Legislation Impacts the Integrity of Eastern Band and other Established Tribes

Since before the coming of Europeans to this continent, the Cherokee have lived in the southeastern part of what is now the United States, in the states of North Carolina, South Carolina, Alabama, Georgia, Kentucky, Tennessee, and Virginia. Through these years, the Cherokee have faced unending threats to our very existence – including the tragic Trail of Tears where more than 15,000 Cherokee Indians were forcibly removed by the U.S. Army from their ancestral homelands to the Indian Territory as part of the federal government’s American Indian Removal Policy. Thousands died. The Cherokee came to call the event Nunahi-Duna-Dlo-Hilu-I or Trail Where They Cried. The Eastern Band of Cherokee Indians are the descendants of those Cherokees that resisted removal in the Great Smoky Mountains and escaped the Trail of Tears or who were able to return to their homeland in the Smoky Mountains after the Trail of Tears.

Yet, through all of this, the Cherokee people have fiercely protected our separate identity as Cherokees. Many of our tribal members are fluent in the Cherokee language. We have a separate culture that makes us different than any group of people in the world. Leadership of the Cherokee and the Cherokee people themselves, with tenacity and determination, have fought to ensure that our way of life, our beliefs, and our sovereignty will survive. And we are still here today – proud and strong.

Like other tribes across the country, we hold in high regard the long-standing government-to-government relationship the Eastern Band of Cherokee Indians has with the United States. We are proud that the United States has entered into treaties with the Cherokee that helped shape the government-to-government relations with all tribes.

But today, like other tribes, we face a new threat to our separate identity: groups of people who claim, or who have claimed Cherokee, or other tribal affiliations whose legitimacy is doubtful at best. Unfortunately, we believe this to be the case with this bill.

If Congress recognizes groups whose tribal and individual identity as Indians is seriously in doubt, it will dilute the government-to-government relationships that existing federally recognized tribes have with the United States. We strongly believe that this bill would undermine the integrity of existing federally recognized Indian tribes due to the real problems that the Lumbee have in demonstrating that it is a tribe, including their inability to trace the genealogy of its 62,000 members to a historic tribe.

Interior’s Office of Federal Acknowledgement Is the Proper Forum for Deciding Whether the Lumbee Should be Federally Recognized

²⁸ S. Hrg. 109-610, Lumbee Recognition Act, July 12, 2006, page 16.

The Department of the Interior through the Office of Federal Acknowledgement (OFA) has an established, uniform administrative process with objective criteria that can make exactly the kind of substantive, merits-based determinations that the Congress is not able to make. To allow the Lumbees to circumvent that process would also undermine the federal recognition process, as it has evolved at the Department of Interior, and would be patently unfair to the hundreds of applicants that have gone through or are going through the process developed by the Department. Congressional approval of this legislation will short circuit the process and allow the Lumbee to avoid the proven regulatory process, which we believe the Lumbees seek to do because they have significant historic, cultural and genealogical gaps for which they can provide no proof of their existence as a sovereign entity, in favor of old-fashioned politics.

Members of the Resources Committee have noted the harm that would come to long-standing federally recognized tribes from legislation like this:

Bypassing the [administrative] process not only ignores the problem [with that process], but is unfair to all of the recognized tribes. There exists a formal government-to-government relationship between the recognized tribes and the United States. If Congress creates tribes at will, without meaningful uniform criteria or substantial corroborated evidence that the group is indeed a tribe, then we dilute and weaken that relationship.²⁹

Members of this Committee have acknowledged that a large number of tribes and tribal organizations supported strict adherence to a systematic administrative procedure, including:

[T]ribes in twelve states, from regional intertribal organizations representing all the tribes of the Pacific Northwest, Montana and Wyoming, the United South and Eastern Tribes (representing all the tribes from Maine to Florida and west to Louisiana), all of the ten southwestern Pueblo tribes, and twenty-five of the twenty-six tribes in Arizona.³⁰

Moreover, while the Lumbee have argued that the process is unfair, their bill, contrary to their argument, provides that the other North Carolina groups, who the Solicitor's office at Interior has also determined are barred from accessing OFA under the 1956 Lumbee Act, would be authorized to submit petitions to OFA for federal acknowledgment. If it is fair for these other groups to go through the OFA process, then it should be fair for Lumbee also.

When substantially similar legislation came up in the past, members of this Committee argued strongly that the Lumbee should be required to follow the administrative process:

[T]he argument that the Lumbee should be allowed to bypass the process because it is too cumbersome and backlogged is ... specious. While the BIA recognition process is in need of repair, it is not as decrepit as the majority would have us

²⁹ *Id.* at 202.

³⁰ *Id.* at 202-03.

believe. There is only a backlog of nine petitions, not the 120 cases often cited; and while we concede that the process is imperfect, the most rational solution is to fix it. Bypassing the process only ignores the problem, undermines the role of the BIA, and is unfair to both recognized and unrecognized tribes.³¹

Congress Should Not Obligate Enormous Spending Where the Identity of the Tribe is Uncertain at Best

The impact on appropriations to other Indian tribes would be unprecedented in the history of federal acknowledgment. The Congressional Budget Office has determined that, based on an estimate of 34,000 Lumbees, that the cost of this legislation would be \$430 million over four years. Yet the Lumbees claim over 62,000 members. Based upon the Congressional Budget Office's estimate and the 62,000 members claimed by Lumbee, the real cost of this bill would be over \$835 million dollars.

Accordingly, this bill would have a huge, negative impact on the budgets of Bureau of Indian Affairs and the Indian Health Service and would decrease even further the badly needed funds Indian people receive as a result of promises and trust obligations of the United States to Indians and tribes. This Committee and the Congress should not dive into support for this legislation for emotional or political reasons, particularly without being absolutely certain that this group constitutes an Indian tribe in accordance with the objective criteria utilized by the Office of Federal Acknowledgement for evaluating petitions for federal acknowledgement.

CONCLUSION

If this Committee and the Congress choose to pass this legislation, the consequences will be dramatic for existing federally recognized tribes.

First and foremost, politics will have won a decided victory over sound policy. The notion of "taking the politics out of federal recognition" will have suffered its most severe setback in history.

Second, with federal acknowledgement comes the ability of a group to engage in serious activities associated with sovereign status, such as the ability to tax and enjoy certain tax advantages, the ability to exercise civil jurisdiction over non-Indians as well as Indians, and the right to engage in gaming. Enacting legislation like this only arms those who seek to erode sovereign rights with evidence that some of those with such rights were haphazardly afforded them.

The Eastern Band of Cherokee Indians would welcome the Lumbees into the family of federally recognized tribes if they can successfully make it through the administrative process at the Department of the Interior. Absent their meeting the objective criteria at Interior, with complete vetting of their claimed tribal identity, membership lists, and other requirements, we

³¹ *Id.* at 206.

believe that passing this legislation would be a serious mistake, with politics winning out over sound policy.

If you determine that legislation is necessary to address this situation, we urge you to require the Lumbee provide evidence to Congress which shows that it meets the equitable and standardized requirements established in the administrative process.