

BILL PROPOSING TO REDEFINE "NATIVE AMERICAN" INTRODUCED

September 22, 2006 - A scientist at Seattle's Burke Museum, affiliated with the University of Washington, analyzes one of Kennewick Man's femurs. Photo credit: Friends of America's Past, 2005.

On September 7, Representative Doc Hastings (R-WA) introduced H.R.6043, a bill that would amend the Native American Graves Protection and Repatriation Act (NAGPRA). NAGPRA is the federal policy that provides a process for museums and Federal agencies to return certain Native American cultural items -- human remains, funerary objects, sacred objects, and objects of cultural patrimony - to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations. The amendment, if passed, would require a "significant relationship" to be found between remains discovered on federal lands and presently existing Native American tribes to be considered under NAGPRA. The legislation was prompted by the controversy surrounding the 1996 discovery of Kennewick Man, one of the oldest human skeletons ever discovered in North America.

Once found, the U.S. Army Corps of Engineers attempted to turn the skeleton over to regional Indian tribes for immediate burial. At that time, preliminary evidence suggested that the remains were not related to present day tribes. Representative Hastings took interest in the issue, and raised questions about determining racial classification through scientific study.

NAGPRA was tested during what became a struggle between those advocating for scientific study and the Army Corps of Engineers and the Department of Interior who argued that the remains be turned over to the closest present day tribe, even if this meant prohibiting scientific study. Scientists sued the Corps for the right to study the remains. In 2004, the Ninth Circuit Court of Appeals ruled in favor of the scientists.

Hastings' Bill was proposed to prevent legislation that would overturn the court of appeals ruling and to clarify NAGPRA's definition of what is officially Native American. In the bill, Native American' means "cultural items that have a significant and substantial genetic or cultural relationship, based on factors other than geography alone, to a presently existing tribe, people, or culture that is now indigenous to the United States.' The bill currently defines Native American as "of or relating to, a tribe, people, or culture that is indigenous to the United States."