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PROPOSED COMMITTEE AMENDMENT
4/9/2007 11:51 AM

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COMMITTEE AMENDMENT “.” To LD 1263, Resolve, To Continue the Tribal-State Work Group

Amend the Resolve by amending the title to read:

Resolve, To Continue the Work of the Tribal State Work Group

Further amend the Resolve to read:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve needs to take effect before the expiration of the 90-day period in order for the work of the tribal-state work group originally created by Executive Order 19 FY 06/07 to continue working during and after the First Regular Session of the 123rd Legislature and for its the study and report to be completed in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; ~~now,~~ ~~therefore, be it~~ ?

Sec. 1. Tribal-State Legislative Work Group established. Resolved: That the Tribal-State Legislative Work Group, referred to in this resolve as “the work group,” is established; and ~~be it further~~ ?

Sec. 2. Work group membership. Resolved: That the work group consists of 17 members appointed as follows:

1. Two members of the Senate, one belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the second largest number of seats in the Senate, appointed by the President of the Senate;

2. Six members of the House of Representatives, 3 belonging to the political party holding the largest number of seats in the House and 3 belonging to the political party

holding the second largest number of seats in the House, appointed by the Speaker of the House;

3. Seven representatives of the Native American community, one appointed by each of the top elected leaders of the 5 Wabanaki Tribal Governments: the Chief of the Aroostook Band of Micmacs, the Chief of the Houlton Band of Maliseet Indians, the Governor of the Passamaquoddy Tribe at Indian Township, the Governor of the Passamaquoddy Tribe at Pleasant Point and the Chief of the Penobscot Nation; the Passamaquoddy Tribal Representative to the Legislature ~~be appointed by the Joint Tribal Council of the Passamaquoddy Tribe;~~ and the Penobscot Tribal Representative to the Legislature ~~appointed by the Chief of the Penobscot Nation;~~

4. One member appointed by the Governor; and

5. One representative of the Maine Indian Tribal-State Commission; and be it further

Sec. 3. Cooperation and participation of the Attorney General. Resolved: That the Attorney General is requested to have a representative attend all meetings of the work group and respond to requests during the work group's deliberations regarding the Attorney General's opinion concerning the constitutionality and legal interpretation of any possible changes to AN ACT to Implement the Maine Indian Claims Settlement or related statutes and agreements; and be it further

Sec. 4. Chair. Resolved: That the first-named Senate member is the Senate chair of the work group and the first-named House of Representatives member is the House chair of the work group; and be it further

Sec. 5. Duties. Resolved: That the work group may hold up to 6 meetings and shall examine the issues identified in the framework document prepared for the Assembly of the Governors and Chiefs held May 8, 2006, the minutes for that meeting, Tribal-Maine Issues: Issues That Have Been Litigated or Are in Litigation, and Tribal-Maine Issues: Macro Issues prepared for the May 31, 2006 review of AN ACT to Implement the Maine Indian Claims Settlement, the federal Maine Indian Claims Settlement Act of 1980 and other settlement acts pertaining to the Wabanaki Tribes for the meeting held at Indian Island May 31, 2006, the minutes for the May 31, 2006 meeting and the final report of the tribal-state work group created by Executive Order 19 FY 06/07; and be it further

Sec. 6. Staff assistance. Resolved: That, ~~upon adequate appropriation by the Legislature, the Maine Indian Tribal-State Commission~~ the Legislative Council shall provide necessary staffing services to the work group; and be it further

Sec. 7 Compensation. Resolved: That the legislative members of the work group are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the work group. Public members not otherwise

compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a determination of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the work group; and be it further

Sec. 8 Report. Resolved: That no later than January 2, 2008, the work group shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 123rd Legislature, the Governor, the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Indian Township, the Passamaquoddy Tribe at Pleasant Point and the Penobscot Nation. The work group is authorized to introduce legislation related to its report to the Second Regular Session of the 123rd Legislature at the time of submission of its report; and be it further

Sec. 9 Extension. Resolved: That, if the work group requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

Sec. 10 Work group budget. Resolved: That the chairs of the work group, with assistance from the work group staff, shall administer the work group's budget. Within 10 days after its first meeting, the work group shall present a work plan and proposed budget to the Legislative Council for its approval. ~~Upon notice to the Executive Director of the Legislative Council that all seats on the work group have been filled, the personal services portion of the work group budget must be paid in full to the Maine Indian Tribal-State Commission. The work group may not incur expenses that would result in the work group's exceeding its approved budget.~~ Upon request from the work groups, the Executive Director of the Legislative Council shall promptly provide the work group chairs and staff with a status report on the work group's budget, expenditures incurred and paid and available funds; and be it further

Sec. 11 Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

~~MAINE INDIAN TRIBAL STATE COMMISSION~~

~~Tribal State Work Group~~

~~Initiative: Provides funds for administrative and staffing support for the Tribal State Work Group.~~

GENERAL FUND	2007-08	2008-09
Personal Services	\$4,400	\$4,400
All-Other	\$670	\$670

GENERAL FUND TOTAL	\$5,070	\$5,070
MAINE INDIAN TRIBAL STATE COMMISSION		
DEPARTMENT TOTALS	2007-08	2008-09
GENERAL FUND	\$5,070	\$5,070
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DEPARTMENT TOTAL - ALL FUNDS	\$5,070	\$5,070

LEGISLATURE

Tribal-State Work Group

Initiative: Provides funds for the legislative per diem and other expenses for 6 meetings of the Tribal-State Work Group.

GENERAL FUND	2007-08	2008-09
Personal Services	\$9,930	\$9,930
All Other	\$670	\$670

GENERAL FUND TOTAL	\$10,600	\$10,600
LEGISLATURE		
DEPARTMENT TOTALS	2007-08	2008-09
GENERAL FUND	\$10,600	\$10,600

DEPARTMENT TOTAL - ALL FUNDS	\$10,600	\$10,600
SECTION TOTALS		
GENERAL FUND	2007-08	2008-09
	\$15,670	\$15,670
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SECTION TOTAL - ALL FUNDS	\$15,670	\$15,670

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This amendment amends the Resolve to establish the Tribal State Legislative Work Group to continue the work started by the working group created by Executive Order 19 FY 06/07. This amendment provides that the Passamaquoddy Tribal Representative to the Legislature and the Penobscot Tribal Representative to the Legislature are members of the work group. This amendment also requires the Legislative Council to provide the staffing services to the work group, and deletes the appropriation originally included to cover staffing by the Maine Indian Tribal-State Commission.

Tribal Chief
Brenda Commander
Tribal Council
Tina Beaver
Michelle Barrows
Linda Raymond
Gloria Tomah
Brian Reynolds
Joshua Toner

HOULTON BAND OF MALISEET INDIANS

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April 23, 2008

Governor John E. Baldacci
1 State House Station
Augusta, ME 04333

Dear Governor Baldacci,

I was shocked to learn that the State of Maine unilaterally acted to cut its financial support of the Maine Indian Tribal-State Commission (MITSC). Perhaps even more startling was the failure to consult with my Tribe and the other Wabanaki Tribes that belong to MITSC.

As you know, the Houlton Band of Maliseet Indians did not become a member of MITSC until September 20, 2007. During the short period of time of our membership, we have deeply appreciated the benefits of belonging to MITSC. Too often in the past my Tribe has been unaware of important political developments originating from Maine State Government. MITSC does a superb job of keeping us informed and alerted to proposed policies that could affect the Maliseet People.

By unilaterally cutting its contribution to MITSC, Maine State Government has effectively decided what level of services MITSC can provide and constrained its operations. This action harms the Houlton Band of Maliseet Indians. The State of Maine does not have the right to do this under the Maine Implementing Act. MITSC is comprised of four sovereign governments. No individual member government should dictate to the other three how MITSC will function.

I was under the impression that all five chief executive leaders of the four member sovereigns strongly supported the recent direction of MITSC and its future agenda. I fear this budget cut will severely jeopardize MITSC's effectiveness.

My people took a leap of faith this past fall when we paid our voluntary contribution to MITSC of \$10,000. I believe that my Tribe's gesture has been poorly reciprocated by the State of Maine. Though I appreciate the budget challenges faced by the State of Maine, we are paying a far, far higher percentage of our annual budget toward supporting MITSC operations as compared to the State of Maine. Even more troubling is the State of Maine's failure to fully

support MITSC operations as originally agreed to in the original Maine Indian Claims Settlement.

Despite some positive initiatives to improve tribal-state relations, the last few months have involved substantially more setbacks to this relationship than progress. The extremely modest Tribal-State Work Group (TSWG) bill reported out by the Judiciary Committee, LD 2221, included only two of the seven unanimously endorsed Work Group recommendations. The Wabanaki Tribes' highest collective priority, clearly exempting the Passamaquoddy Tribe and Penobscot Nation from the Freedom of Access Act (FOAA) laws, failed because the Judiciary Committee decided not to support inclusion of the exemption in the Maine Implementing Act (MIA). Including the exemption in MIA is critical because it would represent an affirmation of the Tribes' inherent sovereignty and strengthen the protection afforded to Tribal Government under MIA section 6206(1). Ironically, if my Tribe approves LD 2221, we will become subject to nuisance Freedom of Access Act requests similar to the one filed in the *Great Northern Paper v. Penobscot Nation* case due to our inclusion in section 6206(1) of MIA.

Governor Baldacci, I do appreciate you having sent Mike Mahoney to the Judiciary Committee work session on March 25 with a clear statement from you supporting inclusion of the FOAA exemption in LD 2221. Unfortunately, you and your staff seemed to be the only people in State Government willing to speak in support of this unanimous recommendation of the Tribal-State Work Group. I was troubled that not one legislative member of the TSWG testified before the Judiciary Committee in support of this recommendation.

The account of what certain State people did and did not do to support the TSWG recommendations points to a larger problem faced by the Tribes – who is the State of Maine? I appreciate that the State of Maine is far bigger than the Maliseet Nation with a population a thousand times larger than the Maliseets, and that it has Maine has three distinctive branches of government with an independent Attorney General with specific powers.

However, the Wabanaki have the recurring experience of reaching agreement with one part of Maine State Government to only have another block such agreements. At times Maine governmental officials expand the people at the bargaining table to include private economic interests that should never sit at the table as equals with Indian Nations. Though I understand and respect the division of powers within Maine State Government, I believe that actors in and outside Maine Government exploit this distribution of power at times to thwart Tribal initiatives to the detriment of tribal-state relations. I see a lack of leadership and coordination between the distinctive branches of State Government in the area of tribal-state relations. Maine needs to speak with one official voice on tribal-state relations.

This is the second time in my administration and yours that the Houlton Band of Maliseet Indians have entered into negotiations with the State of Maine in good faith while spending excessive amounts of time, energy and money for naught. The actions, or better yet inactions of the Legislators of the State, especially those who sit on both the Judiciary Committee and the TSWG speak volumes to the true intentions of the State in regards to Tribal/State relations. It has become painfully clear that the best interests of the Tribes and Tribal people are not a priority or even an afterthought of the State. Not in 1980, and certainly not now in 2008.

I urge you to review the Federal Maine Indian Land Claims Settlement Act of 1980, particularly section 1725(E) 2, which reads "Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the HBMI are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the Band and it's members."

Due to the recent TSWG failure and lack of an honest effort put forth by the State, I see no reason for the Houlton Band of Maliseet Indians and State of Maine to prolong it's strained relationship "as is". Without honesty and respect on both sides, there is no need for continued dialogue. I will continue to pray for you and the residents of the State of Maine.

However, I do want to have a positive relationship with the State of Maine. You are our neighbor. Unlike others who may take up temporary residence here and leave, this land is our home.

To begin rebuilding tribal-state relations, I believe that the State of Maine needs to demonstrate through concrete actions that this relationship is important. An initial step to rebuild my Tribe's confidence would involve the State of Maine restoring the \$38,000 it cut from the MITSC budget. That action would denote the State of Maine's acceptance that all the parties to MITSC enjoy equal authority, a prerequisite for healthy tribal-state relations. Until the State of Maine pays a more equitable share for MITSC operations, the Houlton Band of Maliseet Indians will suspend voluntary contributions to fund MITSC operations.

The second confidence building measure that I recommend is a half-day to day long summit between the top elected leaders of the five Wabanaki Tribal Governments, Legislative Leadership, and Attorney General Rowe. Leaders need to share what they perceive led to this breakdown in tribal-state relations and jointly identify how we rebuild a productive relationship founded on respect and recognition of each other's sovereignty. I would be willing to host such a meeting, and I would be equally willing to attend such a gathering elsewhere in Maine.

None of us want strained tribal-state relations. I believe that we can move this relationship forward with a genuine commitment on each leader's part. I look forward to your response.

Respectfully yours,



Chief Brenda Commander
Houlton Band of Maliseet Indians

Cc: Chief Kirk Francis, Penobscot Indian Nation
Chief Victoria Higgins, Aroostook Band of Micmacs

Governor William Nicholas, Passamaquoddy Tribe @ Motahkmikuk
Chief Richard Phillips-Doyle, Passamaquoddy Tribe @ Sipayik
High Commissioner Louise Arbour, UN Office of the High Commissioner, Committee
on the Elimination of Racial Discrimination
Assistant Secretary Carl Artman, Bureau of Indian Affairs
Chairman Gerald A. Reynolds, US Commission on Civil Rights
Senator Beth Edmonds, Senate President
Representative Glenn Cummings, Speaker of the House
Senator Elizabeth Mitchell, Senate Majority Leader
Representative Hannah Pingree, House Majority Leader
Senator Peggy Rotundo, Chair, Appropriations and Financial Affairs Committee
Representative Jeremy Fischer, Chair, Appropriations and Financial Affairs Committee
Senator Barry Hobbins, Chair, Judiciary Committee
Representative Deborah Simpson, Chair, Judiciary Committee
Passamaquoddy Tribal Representative Donald Soctomah
Penobscot Tribal Representative Donna Loring
Paul Bisulca, Chairman, Maine Indian Tribal-State Commission
HBMI Tribal Council